

Planning

Proof of Evidence

Town and Country Planning Act 1990 Section 78 appeal against the refusal of planning permission

Witness: Nikolaos Grigoropoulos BSc (Hons) MA MRTPI

Subject of Evidence: Planning

Appeal: APP/W0340/W/20/3265460

Site: Sandleford Park, Newtown Road, Newbury

Proposal: Outline planning permission for up to 1,000 new homes; an 80 extra care housing units (Use Class C3) as part of the affordable housing provision; a new 2 form entry primary school (D1); expansion land for Park House Academy School; a local centre to comprise flexible commercial floorspace (A1-A5 up to 2,150 sq m, B1a up to 200 sq m) and D1 use (up to 500sq m); the formation of new means of access onto Monks Lane; new open space including the laying out of a new country park; drainage infrastructure; walking and cycling infrastructure and other associated infrastructure works. Matters to be considered: Access.

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Council Reference: 20/01238/OUTMAJ

Proof of Evidence

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Contents

1. SUMMARY	5
2. INTRODUCTION	8
QUALIFICATIONS AND EXPERIENCE.....	8
PURPOSE AND SCOPE OF EVIDENCE	9
3. RELEVANT BACKGROUND.....	10
THE APPEAL SITE AND THE NEWBURY SETTLEMENT BOUNDARY.....	10
THE REFUSED AND THE ‘WHEATCROFT’ APPEAL PROPOSALS	11
INCONSISTENCIES IN THE SUBMITTED DOCUMENTATION	11
REASONS FOR REFUSAL AND MAIN ISSUES.....	12
RELEVANT PLANNING HISTORY	13
4. THE DEVELOPMENT PLAN.....	14
5. OTHER MATERIAL CONSIDERATIONS.....	20
THE WEST BERKSHIRE LOCAL PLAN REVIEW (LPR) 2020-2037: EMERGING DRAFT.....	20
THE NATIONAL PLANNING POLICY FRAMEWORK (NPPF) (FEBRUARY 2019).....	20
PLANNING PRACTICE GUIDANCE	22
THE SANDLEFORD PARK SUPPLEMENTARY PLANNING DOCUMENT (SANDLEFORD PARK SPD) (ORIGINALLY ADOPTED ON 2013 AND AMENDED IN MARCH 2015)	22
PLANNING OBLIGATIONS SUPPLEMENTARY PLANNING GUIDANCE (POSPD)	23
QUALITY DESIGN SPD.....	24
RELEVANT LANDSCAPE CHARACTER AND SENSITIVITY ASSESSMENTS.....	24
BERKSHIRE BIODIVERSITY STRATEGY.....	25
NEWBURY TOWN DESIGN STATEMENT.....	25
THE PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990	25
THE HIGHWAYS ACT 1981	25
6. PRINCIPLE OF DEVELOPMENT.....	27
7. ASSESSMENT OF THE PROPOSAL AGAINST MAIN ISSUES.....	31
LANDSCAPE AND VISUAL IMPACT	31
TREES AND WOODLANDS.....	35
ECOLOGY	37
DRAINAGE	39
HIGHWAYS (ACCESS AND LOCAL ROAD NETWORK)	39
EDUCATION	40
AFFORDABLE HOUSING.....	40
RENEWABLES	41
INFRASTRUCTURE PROVISION AND S.106 PLANNING OBLIGATION.....	42
COMPREHENSIVE DEVELOPMENT	42
<i>Relevant Policy Background.....</i>	<i>43</i>
<i>The two proposals across the SSSA.....</i>	<i>46</i>
<i>Warren Road Trees</i>	<i>48</i>
<i>Inconsistencies – Green links, Buffers, Trees.....</i>	<i>49</i>
<i>Duplication – School Expansion Land.....</i>	<i>50</i>
<i>Development Parcel Central – Connectivity and Permeability.....</i>	<i>51</i>
<i>Need for Emergency Access for Development Parcel Central.....</i>	<i>52</i>
<i>Piecemeal Approach.....</i>	<i>54</i>
8. BENEFITS OF THE APPEAL PROPOSAL	56

HOUSING PROVISION.....	56
COUNTRY PARK	58
ECONOMIC BENEFITS.....	58
PEDESTRIAN/CYCLING FACILITIES	58
INCIDENTAL MINERAL EXTRACTION	59
ARCHAEOLOGICAL ASSETS.....	59
EDUCATION MITIGATION	59
FALKLAND SURGERY EXTENSION/EXPANSION	60
TREE PLANTING.....	60
LOCAL CENTRE	60
LOCAL FINANCE CONSIDERATIONS	60
THE RUGBY CLUB	62
9. DIS-BENEFITS OF THE APPEAL PROPOSAL	63
LOCAL HIGHWAY NETWORK	63
ACCESS ARRANGEMENTS	64
CENTRAL VALLEY CROSSING	65
RENEWABLES	66
WOODLANDS AND TREES	66
PRIORITY HABITATS AND SPECIES.....	67
AGRICULTURAL LAND.....	68
10. HERITAGE ASSETS BALANCE.....	69
11. ASSESSMENT AGAINST THE ‘MOST IMPORTANT POLICIES’ IN THE DEVELOPMENT PLAN AND OTHER MATERIAL CONSIDERATIONS	70
12. THE PLANNING BALANCE.....	73
13. CONCLUSION.....	74

1. Summary

- 1.1 My name is Nikolaos Grigoropoulos. I hold an honours Bachelor of Science in Civil Engineering from Southampton University, and a Master of Arts in Environmental Planning from the University of Nottingham. I am a Chartered Member of the Royal Town Planning Institute.
- 1.2 My Planning evidence should be read alongside the proofs of evidence presented by the other expert witnesses for West Berkshire Council.
- 1.3 Section 3 of my proof provides and refers to some of the relevant background to the case.
- 1.4 Section 4 relates to the Development Plan, identifies the relevant and most important policies for the determination of this appeal. I refer to the Council's robust five year housing land supply, as agreed between the parties. I find that both the Development Plan and its 'most important' Policies are all up to date and carry full weight (with the of only part of one policy, which is out-of-date). I conclude that the NPPF paragraph 11(d)(ii) tilted balance is not get engaged in this case.
- 1.5 Section 5 identifies the relevant other material considerations, including the Emerging Local Plan Review, the NPPF, PPG, the Sandleford Park SPD, the Planning Obligations SPD and other relevant documents.
- 1.6 Section 6 deals with the Principle of Development on part of this allocated site (SSSA). I conclude that the residential development of the appeal site would be acceptable in principle, given its allocation, provided it is part of the satisfactory, holistic, comprehensive, co-ordinated and coherent development of the whole of the SSSA. However, part of the appeal proposal encroaches beyond the settlement boundary into the Countryside, with adverse harmful effects. I conclude that the appeal proposal is not acceptable in principle.
- 1.7 Section of my proof 7 assesses the appeal proposal against the main issues at appeal, summarising the case put forward in the proofs of evidence of my fellow witnesses in respect of the impacts relating to Landscape, Trees and Woodland,

Ecology, Drainage, Highways/ Access, Education, Affordable Housing, Renewables, Infrastructure / s. 106. I deal in more detail with the central issue of the failure of the appeal proposals to deliver the Comprehensive Development of the SSSA.

- 1.8 In sections 8 and 9 I identify the whole range of benefits and dis-benefits of the appeal proposals respectively and I apportion the weight that I consider each of those should attract in the planning balance.
- 1.9 In section 10, I carry out the Heritage Assets balance, and I find that the very low level of 'less-than-substantial' harm to the significance of the setting of the Sandford Priory Grade I Listed Building and the Grade II registered park and garden is outweighed by the public benefits of the appeal proposals and the appeal development would have an acceptable effect in terms of heritage assets with regard to the s.66 statutory duty.
- 1.10 In section 11, I find that notwithstanding the strategic site allocation, the appeal proposal as refused and under 'Wheatcroft' is contrary to parts of all the Policies forming the basket of 'Most Important' Development Plan Policies and is in conflict with and a departure from the up-to-date Development Plan as a whole. I find that the appeal proposals are also contrary to the Vision, a number of strategic objectives and a whole range of Development Principles of the adopted Sandford Park SPD and also with the provisions of other SPDs. I also find the appeal proposal to be in conflict with a number of NPPF policies and provisions, including paragraph 170 in respect of valued landscape and paragraph 175(c) in respect of impact on irreplaceable habitats. The appeal proposals are also contrary to the relevant policies of the Emerging Local Plan Review. In accordance with s.38 (6) and s.70(2) the appeal should be determined in accordance with the Development Plan, unless there are material considerations that indicate otherwise.
- 1.11 In section 12, I carry out the Planning Balance and I find that for both the refused and the 'Wheatcroft' appeal proposals the identified benefits do not outweigh the dis-benefits, nor the extensive conflict with the up-to-date Development Plan and its policies. I find that neither conditions, nor the draft s.106 legal agreement would overcome the unacceptability, adverse impact and policy conflict of the appeal proposals.

1.12 In section 13, I conclude that the appeal should be respectfully dismissed and outline planning permission should be refused accordingly.

2. Introduction

Qualifications and Experience

- 2.1 My name is Nikolaos Grigoropoulos. I hold an honours Bachelor of Science in Civil Engineering from Southampton University, and a Master of Arts in Environmental Planning from the University of Nottingham. I am a Chartered Member of the Royal Town Planning Institute.
- 2.2 I have thirty four years' experience as a planning professional and a planning manager, primarily within local planning authorities in England, and in a wide range of roles: from project assistant through to development management manager, and also as a planning consultant. I have extensive experience of setting up and leading teams of technical specialists in assessing major residential and mixed use development proposals, including project managing complex planning appeals and appearing at appeal hearings and inquiries, as an expert planning witness for the local planning authority.
- 2.3 I am currently contracted with West Berkshire Council in a Team Leader role, within the Development Control Service.
- 2.4 I was the case officer dealing with the refused planning application, 20/01238/OUTMAJ, the subject of this appeal and I have project managed the Council's team of witnesses for this appeal.
- 2.5 I am familiar with the surrounding area, the appeal site and the appeal proposal, and I have visited the area and the appeal site on a number of occasions.
- 2.6 I confirm that the evidence which I have prepared and provided for this appeal is true to the best of my knowledge and belief and it has been prepared and is given in accordance with the guidance of the RTPI, my professional institution. I confirm that the opinions expressed are my true and professional opinions.

Purpose and Scope of Evidence

2.7 I have prepared this proof of evidence in respect of the appeal lodged by Bloor Homes and Sandlesford Farm Partnership (“the Appellants”), against the refusal of outline planning application (Council reference 20/01238/OUTMAJ) for a residential-led development at Sandlesford Park, Newtown Road, Newbury.

2.8 My Planning evidence should be read alongside the proofs of evidence presented by the other expert witnesses for West Berkshire Council, namely:

Mr Goddard on Transport;

Mr Flatman on Character and appearance of Landscape;

Mr Giles on Trees, Woodland and Connectivity;

Mrs Deakin on Ecology, Habitats and Biodiversity;

Ms Robinson on Affordable Housing;

Mr Haines on Education; and

Mr Bowden on Drainage;

as well as the Inquiry Note appended to my proof as Appendix NG2, produced by Mr Slaughter on Renewables and Zero Carbon Issues.

2.9 The scope of my proof is to summarise / have regard to the evidence of my colleagues on their respective issues, review the issues of the principle of development and the failure to propose a comprehensive development of the strategic site allocation, assessing the proposals (‘Wheatcroft’ and refused) against the policies of the Development Plan and other material considerations, such as the policies of the emerging Local Plan Review, relevant Supplementary Planning Guidance and the NPPF.

2.10 In my proof I also identify the benefits and dis-benefits associated with the appeal proposals, apportioning the appropriate weight that should be afforded to each. I address the heritage assets balance as required by the NPPF and the planning balance as required under s.38(6) of the Planning and Compulsory Purchase Act 2004 and s.70 of the Town and Country Planning Act 1990. Taking all these matters into account I then reach my conclusion and recommendation.

3. Relevant Background

The Appeal site and the Newbury Settlement Boundary

- 3.1 The appeal site and locality are described in Section 5 of the Officer's Report (CD4.1 p.13) and Section 5 of the Statement of Common Ground (CD9.1 pp. 5-6) and a description is not repeated here.
- 3.2 However, further to the reference in paragraph 5.2 of the Officer's Report (CD4.1 p.13), I wish to clarify the following matters in relation to the location of the site vis-à-vis the Newbury Settlement Boundary:-
- i) the overwhelming majority of the actual proposed development area within the appeal site, i.e. the three proposed development parcels comprising Development Parcel North 1 (DPN1), Development Parcel North 2 (DPN2) and Development Parcel Central (DPC), is contained within the adopted Newbury Settlement Boundary, as it was reviewed, extended and adopted by the Housing Site Allocations Development Plan Document (HSA DPD) (CD8.6 p.137 Newbury (South) Settlement Boundary Map);
 - ii) however, the south western part of Development Parcel North 1 (as per all the submitted drawings CD1.18 through to CD1.24 and CD1.27 through to CD1.31 including CD1.22 Country Park: Phasing Plan) extends beyond the adopted Newbury Settlement Boundary on the east side of the north valley of the appeal site. This part of DPN1, considerable in area, which lies outside of the adopted settlement boundary is therefore within the Countryside in planning policy terms;
 - iii) similarly, a further, albeit much more marginal, encroachment appears to also be proposed as part of DPN2, extending beyond the adopted Newbury Settlement Boundary and into the Countryside on the west side of the north valley (as per the appeal drawings set out in paragraph 3.2 above); and
 - iv) the proposed country parkland area, including the proposed NEAP, is located outside the adopted Newbury Settlement Boundary and within the Countryside, otherwise referred to as the open countryside both in the Core Strategy (CD8.5

Policy ADPP1 p.20) and the Local Plan Review : Emerging Draft (CD8.13 Policies SP1 p.17 and DC1 p. 138).

The Refused and the 'Wheatcroft' Appeal Proposals

- 3.3 The appeal proposal as assessed and refused by the Council as part of the planning application is described in Section 6 of the Officer's Report, which is appended to the Council's statement of Case Appendix SoC1 (CD 5.2 pp. 13). The associated planning application (20/01238/OUTMAJ) submission documents comprise the documents in section CD1 of the Core Documents list.
- 3.4 As part of the appeal submission the Appellants submitted additional and amended information. This was the subject of the 'Wheatcroft' consultation. These 'Wheatcroft' documents are listed in CD6.1. They comprise:
- i) the Appellants' submission dated 25th September 2020, which includes comments on the consultation responses to the planning application, together with four appended reports, including an amended Flood Risk Assessment (FRA);
 - ii) two appendices to the Appellants' appeal statement, in respect of the valley crossings and the Park House School expansion land; and
 - iii) an adjusted Arboricultural Impact Assessment (AIA).
- 3.5 My proof and the proofs of the other expert witnesses for the Council have sought to address both the 'Wheatcroft' proposals as well as the refused proposals as requested by the Inspector.

Inconsistencies in the Submitted Documentation

- 3.6 In addition to the refused appeal proposal, Section 6 of the Officer's Report (CD4.1 pp.6-9) also references a number of the inconsistencies contained within the submitted planning application documentation, some of which are also explicitly referred to in the Reasons for Refusal.
- 3.7 The Council has compiled a list/s of the inconsistencies it has identified in the documentation, including in the 'Wheatcroft' submissions. It has shared these

with the Appellants. I have hereby included the lists of inconsistencies in Appendix NG1 to my proof of evidence. The inconsistencies lists are structured by reference to the various individual submission documents in turn, to assist with navigation, in a way which each instance of inconsistent information is identified and cross-referenced against how it appears in other submitted documents. As such this presentation results in inevitable duplication/repetition of identified instances of inconsistencies within the list appended in Appendix NG1.

Reasons for Refusal and Main Issues

3.8 The planning application proposals were refused for the 14 reasons set out in the Decision Notice (CD4.2) and replicated in paragraph 1.2 of the Council's Statement of Case (CD5.2) under the following headings:

1. Comprehensive Development of the Site
2. Strategic Landscape and Green Infrastructure
3. Landscape and Visual Impact Assessment
4. Affordable Housing
5. Sustainable Development and Renewables
6. Development Parcel Central, Emergency Access and the Central Valley Crossing
7. The A34
8. Ancient Woodlands
9. Impact on and Loss of Ancient, Veteran and Tree Preservation Order Trees
10. Education Land
11. Ecology
12. Impact on SACs
13. Drainage / Sustainable Drainage Systems (SuDS)
14. Infrastructure provision and Planning Obligation(s)

3.9 As set out in paragraph 1.5 of the Council's Statement of Case (CD5.2), the Council is no longer pursuing Reasons for Refusal (RfR): i) RfR 7 on the A34; ii) RfR 12 on Impact on SACs; iii) the Woodpasture and Parkland Priority BAP Habitat issue referred to in the Ecology RfR 11; and iv) the first point in the Drainage RfR13 as to the inter-relationship of surface water run-off with the adjoining site.

- 3.10 The Council will be addressing the remaining matters set out in the Reasons for Refusal (RfR) in respect of the refused appeal proposals in the proofs of evidence of its witnesses.
- 3.11 At the time of preparing this proof of Evidence, it is anticipated that the proofs will also be addressing the same remaining matters in respect of the 'Wheatcroft' submissions. The proofs of evidence of the Council's witnesses, including my proof of evidence shall advise whether any parts and/or alternative options of the 'Wheatcroft' submissions improve and/or address any of the concerns and objections set out in the reasons for refusal.
- 3.12 The Appellants have also submitted a draft s106 Unilateral Undertaking (UU). The Council's and the Appellants' teams are discussing a number of the Planning Obligations in the UU. Were, on a without prejudice basis, any or all of those Planning Obligations to be agreed, then the Council will not pursue the corresponding points relating to RfR14 on Infrastructure Provisions and Planning Obligation(s), either in part or in whole, accordingly.
- 3.13 In the context of the 'Wheatcroft' submissions and of the emerging s106 UU discussions, the Council shall also consider whether associated concerns could be overcome by way of conditions.
- 3.14 The likely main issues / considerations at this appeal were identified by the Inspector at the Case Management Conference (CMC) on 5th March 2021 and listed in the Inspector's post Case Management Conference note (CD17.30).

Relevant Planning History

- 3.15 A summary of the relevant planning history is set out in paragraph 2.2 Table 2.1 of the Council's Statement of Case (CD5.2 pp. 17-20) and it is not intended to repeat it here. The decision notices relating to the three previous refusals at the appeal site are included as Core Documents CD13.1, CD13.2 and CD13.3.

4. The Development Plan

4.1 Section 8 of the Officer's report (CD4.1 pp. 38-40), section 3 of the Council's Statement of Case (CD5.2 pp. 23-25) and section 2 of the Statement of Common Ground (SoCG) (CD9.1 pp. 3-4) set out the documents of the Development Plan of relevance to this appeal as follows:

- West Berkshire Core Strategy Development Plan Document (CS) (2006-2026) adopted July 2012;
- Housing Sites Allocation Development Plan Document (HAS DPD) (2006-2026) adopted May 2017;
- West Berkshire District Local Plan (DLP) (1991-2006) Saved Policies 2007 as amended in 2012 and 2017;
- Replacement Minerals Local Plan for West Berkshire incorporating alterations adopted in December 1997 and May 2001; and
- Waste Local Plan for Berkshire adopted December 1998.

4.2 The Development Plan policies of relevance to this appeal are set out in Table 3.1 of the Council's Statement of Case (CD5.2 p.23) and I have replicated these relevant policies in the following table (Table 1):

Table 1 – Relevant Development Plan Policies

Development Plan Document	Relevant Policies
West Berkshire Core Strategy 2006-2026 (WBCS) http://info.westberks.gov.uk/corestrategy	ADPP1, ADPP2, CS1, CS3, CS4, CS5, CS6, CS9, CS11, CS13, CS14, CS15, CS16, CS17, CS18, and CS19
Housing Site Allocations Development Plan Document 2006-2026 (HSA DPD) http://info.westberks.gov.uk/hsa	GS1, C1 and P1
West Berkshire District Local Plan 1991-2006 Saved Policies 2007 (WBDLP) http://info.westberks.gov.uk/article/28783	OVS.5, OVS.6, TRANS.1, SHOP.5, RL.1, RL.2 and RL.3
Replacement Minerals Local Plan for Berkshire (1997/2001) https://info.westberks.gov.uk/CHttpHandler.ashx?id=34864&p=0	1, 2 and 2a

4.3 As stated in Table 3.2 of the Council's Statement of Case (CD5.2 p.24), I consider the policies set in that table comprise a subset of the above relevant policies, comprising those Development Plan policies, which I consider to be 'the

most important' for determining this outline appeal proposal and which I replicate in Table 2 below:

Table 2 – Development Plan Policies Most Important for determining the appeal

Development Plan Document	Most Important Policies
West Berkshire Core Strategy 2006-2026 (WBCS) http://info.westberks.gov.uk/corestrategy	ADPP1 (Spatial Strategy), ADPP2 (Newbury), CS1 Delivering New Homes and Retaining the Housing Stock), CS3 (Sandleford Strategic Site Allocation), CS4 (Housing Type and Mix), CS5 (Infrastructure Requirements and Delivery), CS6 (Provision of Affordable Housing), CS13 (Transport), CS14 (Design Principles), CS15 (Sustainable Construction and Energy Efficiency), CS16 (Flooding), CS17 (Biodiversity and Geodiversity), CS18 (Green Infrastructure), and CS19 (Historic Environment and Landscape Character)
Housing Site Allocations Development Plan Document 2006-2026 (HSA DPD) http://info.westberks.gov.uk/hsa	GS1 (General Site Policy) and C1 (Location of Housing in the Countryside)

- Policy ADPP1 (Spatial Strategy) of the Core Strategy sets out the spatial strategy for the plan period and directs development within or adjacent to the settlements included in the settlement hierarchy. This policy requires development to be comprehensively planned in order to deliver maximum social, environmental and economic benefits to the wider area. It restricts development in the open countryside.
- Policy ADPP2 (Newbury) of the Core Strategy identifies Sandleford as an urban extension to Newbury. The policy sets out that the urban extension will provide new residential neighbourhoods with supporting facilities and green infrastructure, will be well designed and built to high environmental standards and integrated with the rest of the town through public transport and pedestrian/cycle links.
- Policy CS1 (Delivering New Homes and Retaining the Housing Stock) of the Core Strategy considers that new homes will be primarily developed on strategic sites

and broad locations identified on the Core Strategy Key Diagram and within settlement boundaries.

- Policy CS3 (Sandleford Strategic Site Allocation) of the Core Strategy allocates Sandleford Park as a strategic site for a sustainable and high quality mixed use development of up to 2,000 dwellings with associated community facilities, infrastructure and services.
- Policy CS4 (Housing Type and Mix) of the Core Strategy considers that the housing mix on an individual site should have regard to the accessibility of the location and availability of existing and proposed local services, facilities and infrastructure. Development proposals will be expected to demonstrate how this has been addressed within the proposed dwelling mix.
- Policy CS5 (Infrastructure Requirements and Delivery) of the Core Strategy states that the Council will work with infrastructure providers and stakeholders to identify requirements for infrastructure provision and services for new development and will seek to co-ordinate infrastructure delivery whilst protecting local amenities and environmental quality. The key infrastructure schemes required to facilitate development and secure the delivery of the Core Strategy include, but are not limited to, those schemes set out in the Infrastructure Delivery Plan.
- Policy CS6 (Provision of Affordable Housing) of the Core Strategy requires 40% affordable housing on greenfield land of 15 dwellings or more (or 0.5ha or more) with a tenure split of 70% social rented and 30% intermediate affordable units. This policy requires affordable housing to be appropriately integrated within the development and to remain affordable to meet the needs of current and future occupiers.
- Policy CS13 (Transport) of the Core Strategy sets out a number of criteria which new development that generates a transport impact will be required to achieve, including: improving travel choice and facilitating sustainable travel; demonstrating good access to key services and facilities; minimising the impact of all forms of travel on the environment and help tackle climate change; and mitigating of the impact of development on the highway network.
- Policy CS14 (Design Principles) of the Core Strategy considers that good design relates not only to the appearance of a development, but the way in which it functions, and, considerations of design and layout must be informed by the wider context, having regard not just to the immediate area, but to the wider locality. This policy expects developments to, amongst others:
 - Create safe environments, addressing crime prevention and community safety.
 - Make good provision for access by all transport modes.
 - Ensure environments are accessible to all and give priority to pedestrian and cycle access providing linkages and integration with surrounding uses and open spaces.
- Policy CS15 (Sustainable Construction and Energy Efficiency) of the Core Strategy requires non-residential development a minimum standard of construction achieving BREEAM Excellent and requires all major development to achieve reductions in total CO2 emissions from renewable energy or low/zero

carbon energy generation on site or in the locality of the development as long as a direct physical connection is used, unless it can be demonstrated that such a provision is not technically or economically viable.

- Policy CS16 (Flooding) of the Core Strategy requires surface water on all development sites to be managed in a sustainable manner through the implementation of Sustainable Drainage Methods (SuDS) in accordance with best practice and proposed national standards, to provide attenuation to greenfield run-off rates and volumes and provide other benefits such as water quality, biodiversity and amenity.
- Policy CS17 (Biodiversity and Geodiversity) of the Core Strategy states that habitats designated or proposed for designation as important biodiversity or geodiversity at an international or national level or which support protected, rare or endangered species, will be protected and enhanced. This policy requires all new development to maximise opportunities to achieve net gains in biodiversity in accordance with the Berkshire biodiversity Action plan, including opportunities to create links between natural habitats.
- Policy CS18 (Green Infrastructure) of the Core Strategy seeks to protect and enhance green infrastructure (GI) within the District. New development must make provision for high quality and multifunctional open spaces of an appropriate size and provide links to the existing green infrastructure network. For the purposes of this policy, the definition of GI includes parks, natural and semi-natural green spaces, green corridors and amenity green space.
- Policy CS19 (Historic Environment and Landscape Character) of the Core Strategy seeks to ensure that the diversity and local distinctiveness of the landscape character of the District is conserved and enhanced. This policy requires proposals for development to be informed by and respond to: (a) the distinctive character areas and key characteristics identified in relevant landscape character assessments including Historic Landscape Characterisation for West Berkshire and Historic Environment Character Zoning for West Berkshire; (b) features identified in various settlement character studies including Quality Design SPD, the Newbury Historic Character Study, Conservation Area Appraisals, and community planning documents which have been adopted by the Council such as Parish Plans and Village Design Statements; and (c) the nature of and the potential for heritage assets identified through the Historic Environment Record for West Berkshire and the extent of their significance.
- Policy GS1 (General Site Policy) of the HSA DPD requires all allocated sites to be developed in accordance with the West Berkshire development plan and adopted SPDs and SPGs. This Policy also requires each allocated site to be masterplanned and delivered as a whole to achieve a comprehensive development that ensures the timely and coordinated provision of infrastructure, services, open space and facilities. Explicitly, Policy GS1 requires a single planning application to be submitted for each allocated site, either an outline or full application, to ensure that a comprehensive approach to development is achieved. Policy GS1 of the HSA DPD also sets out a number of policy criteria that apply to the Sandleford Strategic Site Allocation.
- Policy C1 (Location of Housing in the Countryside) of the HSA DPD introduces a presumption in favour of development within the adopted boundaries of settlements, including of Newbury, as well as a presumption against new

residential development outside of the settlement boundaries, subject to exceptions. This policy states that planning permission will not be granted where a proposal harms or undermines the existing relationship of the settlement within the open countryside or where development would have an adverse cumulative impact on the environment.

- 4.4 As set out in paragraph 8.6 of the Officer's Report (CD5.2 p.39) and further to the Council's five year housing land supply position published in December 2019 (CD17.31) and reaffirmed with the five year supply position published in March 2021 (CD17.32), and further to NPPF footnote 7 provisions, the Council, can currently demonstrate
- i) an updated 107% Housing Delivery Test measurement, meaning that it is a 5% buffer authority; and
 - ii) an updated 7.75 years housing supply using the standard methodology to calculate Local Housing Need (LHN) over a period to March 2026 (CD17.32 p.10).
- 4.5 The Council's "robust" five year housing land supply position has been agreed in section 17 of the SoCG (CD9.1 p.15) and is not in dispute between the parties.
- 4.6 In view of the above, and further to NPPF provisions (paragraphs 11(d), 212 & 213) (CD8.1), I consider that the Development Plan is up to date. I have also considered the most important Development Plan policies for the determination of this appeal listed in table 2 above and have found them to be consistent with the objectives, provisions and policies of the NPPF, with the exception of the first part of Core Strategy Policy CS15 on Sustainable Construction and Energy Efficiency, as it relates to the Code of Sustainable Homes, which is no longer applicable.
- 4.7 I therefore consider that, with the exception of the aforesaid first part of CS15, the most important Development Plan policies listed in Table 2 above remain up-to-date. Both the Development Plan and the most important policies should carry full weight and the NPPF para. 11(d)(ii) presumption in favour of sustainable development tilted balance is not engaged.

- 4.8 Furthermore, there are Ancient Woodlands, one Ancient tree and several veteran trees on site, which, in accordance with NPPF paragraph 175(c) are irreplaceable habitats. This policy of the NPPF protects such assets of particular importance and as per reasons for refusal RfR8 and RfR9, its application provides a clear reason for refusing the proposed development, in which case further to NPPF paragraph 11(d)(i) provision, the NPPF paragraph 11(d)(ii) presumption in favour of sustainable development tilted balance is again not engaged.

5. Other Material Considerations

The West Berkshire Local Plan Review (LPR) 2020-2037: Emerging Draft

- 5.1 The Emerging Draft of the LPR (CD8.13) was out to consultation for 8 weeks until the 5th February 2021. The responses are currently being reviewed. The plan is at an early stage and its policies carry limited weight. However, its emerging policies continue the objectives and thrust of and also develop and update the Development Plan policies and provide a clear and consistent direction of travel in terms of the future planning policy framework for West Berkshire.
- 5.2 The relevant policies of the LPR are identified in Table 3 below and may be referred to as appropriate in this and other proofs of evidence submitted by the Council's expert witnesses.

Table 3 Relevant Emerging Plan policies

Emerging Policy Document	Relevant Policies
West Berkshire Local Plan Review (2020-2037) Emerging Draft, Regulation 18 Document	SP1, SP3, SP5, SP6, SP7, SP8, SP9, SP10, SP11, SP12, SP13, SP16, SP18, SP19, SP22, SP23, DC1, DC2, DC3, DC4, DC5, DC6, DC7, DC9, DC10, DC11, DC13 and DC14.

The National Planning Policy Framework (NPPF) (February 2019)

- 5.3 The status of the NPPF and the Presumption in Favour of Sustainable Development. In paragraph 21 of his judgment on the Suffolk Coastal / Cheshire East cases, Lord Carnwath stated (CD15.1):

"It is important ... in assessing the effect of the Framework, not to overstate the scope of this policy-making role. The Framework itself makes clear that as respects the determination of planning applications (by contrast with plan-making in which it has statutory recognition), it is no more than "guidance" and as such a "material consideration" for the purposes of section 70(2) of the 1990 Act ... It cannot, and does

not purport to, displace the primacy given by the statute and policy to the statutory development plan. It must be exercised consistently with, and not so as to displace or distort, the statutory scheme”.

- 5.4 I adopt this approach in my consideration of the relevant parts of the 2019 National Planning Policy Framework (NPPF) (CD8.1). My fellow witnesses and I shall refer to relevant parts and the whole of the NPPF as necessary and appropriate in our proofs of evidence.
- 5.5 NPPF chapter 2 states that *“the purpose of the planning system is to contribute to the achievement of sustainable development”* (para. 7). NPPF para. 8 sets out three overarching objectives (economic, social and environmental), which in accordance with NPPF para. 9 *“are not criteria against which every decision can or should be judged”*. NPPF paragraph 10 says *“so that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11)”*.
- 5.6 It is important to note that the scope of the presumption in favour of sustainable development, previously set out in the 2012 NPPF paragraph 14 (CD8.3), was considered by the Court of Appeal (CoA) in the East Staffordshire (Barwood) case (2017) (CD15.2), in view of earlier conflicting High Court decisions on the issue. The CoA clarified and confirmed that the presumption in favour of development was confined solely to NPPF paragraph 14. The 2012 NPPF did not therefore contain a general presumption in favour of sustainable development, which could be applied, should the requirements of presumption in favour of development in NPPF paragraph 14 not be triggered (CD15.2). The CoA also confirmed that the NPPF presumption in favour of development, unlike the s.38(6) presumption, is not a statutory presumption, and rather one of planning policy which requires the exercise of planning judgement by a decision maker (CD15.2).
- 5.7 The East Staffordshire (Barwood) case findings in respect of the 2012 NPPF in paragraph 5.6 above also apply to the 2019 NPPF, given the similar drafting between the 2012 NPPF (CD8.3) and the 2019 NPPF (CD8.1) in this respect.
- 5.8 NPPF para. 11 (CD8.1) sets out *“the presumption in favour of sustainable development”* which needs to be applied and *“for **decision-taking** this means:*

- c) approving development proposals that accord with an up-to-date development plan without delay; or*
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date [7], granting permission unless:*
- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed [6]; or*
- 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.”*

5.9 The NPPF (CD8.1) is an important up-to-date material consideration in the assessment of this appeal and it carries significant weight.

5.10 In addition, in February 2021, the Government published a consultation draft with a number of amendments to the NPPF (Draft 2021 NPPF) (CD8.11), which clarify and re-inforce the policies and provisions of the NPPF and which again indicates the direction of travel. The consultation period ended on 27th March 2021. The amendments of the Draft 2021 NPPF carry moderate weight.

Planning Practice Guidance

5.11 I shall refer to relevant parts of the Planning Practice Guidance (CD8.2) in this proof of evidence, as appropriate and necessary, where they are relevant and material to the appeal.

The Sandlesford Park Supplementary Planning Document (Sandlesford Park SPD) (originally adopted on 2013 and amended in March 2015)

5.12 The Sandlesford Park SPD (CD8.14) was adopted pursuant to Core Strategy Policy CS3 Sandlesford Strategic Site Allocation (SSSA). As the appeal site forms part of the SSSA, the Sandlesford Park SPD is directly relevant to the appeal proposal.

5.13 The primary purposes of the Sandlesford Park SPD (as amended) are to:

- Guide future development at the Sandlesford Strategic Site Allocation (SSSA) and investment and to provide a framework for a planning application for the SSSA.
- To assist in the delivery of a comprehensive and sustainable development across the SSSA as a whole.

- To set out a whole range of planning and design principles and requirements for the development of land and buildings at the SSSA.
 - To help inform the local community and other stakeholders regarding the potential future development of the SSSA and to engage them in the process.
- 5.14 To address some concerns that there was potential that the SSSA may not come forward in a comprehensive manner, the Sandlesford Park SPD was then amended to reflect the need for a single planning application for the whole site, to ensure that its development is comprehensively delivered, with timely and well planned provision of infrastructure, which maximises its potential as a well-planned and sustainable urban extension. The amended Sandlesford Park SPD includes development principle S1, requiring a single planning application for the site (CD8.14 p. 31).
- 5.15 This was also subsequently reflected in the adopted HSA DPD policy GS1 (CS8.6 p. 10) which requires a single planning application to be submitted for each allocated site to ensure the comprehensive approach to development was achieved, with timely and coordinated provision of infrastructure, services, open space and facilities.
- 5.16 The Sandlesford Park SPD accords and is consistent with the provisions and requirements of the statutory Development Plan. It is an up-to-date SPD, as are its Vision, Strategic Objectives and Design Principles. I consider that they all carry significant weight. I shall refer to them as appropriate and necessary in my proof of evidence.

Planning Obligations Supplementary Planning Guidance (POSPD)

- 5.17 The Planning Obligations Supplementary Planning Document (POSPD) (CD8.15) was adopted on 11th December 2014. The guidance applies to all applications or appeals determined on or after 1st April 2015 alongside the Community Infrastructure Levy (CIL), which also took effect at the same time.
- 5.18 The POSPD (CD8.15) is pursuant to Core Strategy Policy CS5 on Infrastructure Requirements and Delivery (CD8.5) and provides the Council's policy and guidance in dealing with matters such as S106 planning obligations, in light of the CIL regime which was also introduced in April 2015. It includes inter alia detailed guidance on: delivery of affordable housing through Section 106 planning obligations (Part 1); transport infrastructure through either Section 106

planning obligations and/or Section 278 of the Highways Act 1980 legal agreement (Part 2); education (part 3); Section 106 planning obligations regarding relevant open space provision (Part 7); Environmental Enhancements (Part 9); and Provision of Fire and Rescue Infrastructure (Part 11).

5.19 The POSPD (CD8.15) will be referred to as required within the proofs of evidence of the Council's witnesses as appropriate. I consider the POSPD guidance attracts significant weight as material consideration.

Quality Design SPD

5.20 The West Berkshire Quality Design Supplementary Planning Document (QDSPD) (CD8.17) was adopted on 19th June 2006. It comprises a suite of documents. The relevant parts in this case are:

Part 1- Achieving Quality Design (CD8.17), which includes references to permeability and connectivity. This attracts considerable weight as a material consideration;

Part 4 – Sustainable Design Techniques (CD8.17), which includes references to incorporating renewable energy within development proposals. I consider this attracts significant weight as a material consideration.

Relevant Landscape Character and Sensitivity Assessments

5.21 Mr Flatman's Proof of Evidence identifies, reviews and refers to the relevant contents and provisions of the various Landscape Character and Sensitivity Assessments, which relate to the area and the appeal site. These include:

- i) the West Berkshire Newbury Landscape Sensitivity Study (April 2009) (CD8.22);
- ii) the West Berkshire Landscape Sensitivity Study: Potential Strategic Development Sites (2009) (CD17.8); and
- iii) the West Berkshire Landscape Character Assessment (2019) (CD8.21).

5.22 Both the 2009 and 2019 documents are relevant, up-to-date and in my view carry significant weight as material considerations.

5.23 The latter replaced two earlier Landscape Character Assessments mentioned in Mr Flatman's proof and currently superseded, namely:

- i) the Newbury District Council District-Wide Landscape Assessment (October 1993);
- ii) the Berkshire Landscape Character Assessment (October 2003);

Berkshire Biodiversity Strategy

5.24 The Berkshire Local Nature Partnership (LPN) has produced the Berkshire Biodiversity Strategy (2014-2020) which identifies 17 Biodiversity Opportunity Areas (BOA) within West Berkshire e(CD17.27),. These are areas where conservation action, such as habitat creation, restoration or expansion, is likely to have the greatest benefit for biodiversity. This includes the Greenham and Cookham Plateau BOA, which includes the appeal site BOA, and is a material consideration that carries significant weight.

Newbury Town Design Statement

5.25 The Newbury Town Design Statement (NTDS) (adopted July 2108) (CD8.24) covers a strip at the north part of the appeal site along the south side of Monks Lane and north of Crooks Copse. It will be referred to in the proofs of evidence as appropriate. The NTDS is fairly recent and carries significant weight as a material consideration.

The Planning (Listed Buildings and Conservation Areas) Act 1990

5.26 S.66 of the LBs&CAs Act sets out the statutory duty for the Planning Authority to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses (CD15.3).

The Highways Act 1981

5.27 S.130 of the Highways Act sets out the statutory duty of the highway authority to assert and protect the rights of the public to the use and enjoyment of any

highway (CD15.4). This includes public rights of way (PROWs) and it is a material consideration in this appeal.

6. Principle of Development

6.1 Core Strategy Policy CS3 (CD8.5) made a strategic site allocation (SSSA) to the South of Newbury outside of the settlement boundary, within the area identified at Sandford Park to provide *“a sustainable and high quality mixed use development”* in accordance with a number of parameters, including *“a phased delivery of up to 2,000 dwellings, of which at least 40% will be affordable and with an emphasis on family housing”*.

6.2 This strategic allocation of the greenfield site at Sandford reflects and effects the housing delivery objectives of the Core Strategy (CD8.5) as set out in

- i) Area Delivery Plan Policy ADPP1 *“Spatial Strategy (including District Settlement Hierarchy)”* and explanatory text in paragraph 4.9;
- ii) Area Delivery Plan Policy ADPP2 *“Newbury”*; and
- iii) Policy CS1,

which identify Newbury as a focus for new housing, including by way of a sustainable urban extension at Sandford (the SSSA).

6.3 Paragraph 5.4 of the explanatory text to Policy CS3 refers to a *“concept plan (set out at Appendix C)”* which shows an extensive *“Proposed Development Area”* in blue. It also states that *“the concept plan is indicative only and a masterplan or SPD will be prepared to set out the detailed guidelines for the distribution of uses and design of the site.”*

6.4 Pursuant to the above, the Sandford Park SPD was prepared and adopted. It identifies and defines the extent of the *“Potential Areas for Development”* in orange in all the various plans, including the *Figure 13 Masterplan Framework* (CD8.14 p.57), by having regard to the constraints of the site.

6.5 The subsequent HSA DPD inter alia reviewed, extended and adopted the Newbury settlement boundary (CD8.6 p. 137) to reflect and include the extent of

the potential development area identified in the Sandlesford Park SPD Masterplan Framework (CD8.14 p.57).

6.6 Furthermore HSA DPD Policy C1 “Location of New Housing in the Countryside” introduces “a presumption in favour of development” within the adopted boundaries of settlements, including of Newbury, as well as a presumption against new residential development outside of the settlement boundaries, subject to exceptions (CD8.6 p.83-84).

6.7 The above approach to the allocation of the SSSA in connection with the focus of development in urban areas is also supported and reflected in the Emerging Local Plan Review (LPR) (CD8.23) Policies:

- i) SP1 “Spatial Strategy”;
- ii) SP3 “Settlement Hierarchy”;
- iii) SP13 “Sites allocated for residential development and mixed-use development in Newbury and Thatcham”; and
- iv) SP16 “Sandlesford strategic site allocation”,

which seek to continue the SSSA allocation (Sandlesford Park).

6.8 Thus the residential-led development of the whole of the SSSA, which is contained within the Newbury settlement boundary, is acceptable in principle, provided it complies with the various policy requirements.

6.9 In this respect I consider that the residential-led development of the part of the appeal site that falls within the adopted Newbury settlement boundary, would also be acceptable in principle, given its allocation, provided it is part of the satisfactory, holistic, comprehensive, co-ordinated and coherent development of the entire SSSA.

6.10 However, further to paragraph 3.2 of my proof of evidence above, the proposed development areas of DPN1 and DPN2 extend beyond the confines of the Newbury settlement boundary and down the shallow slopes of the north valley,

which provides vital connectivity for the important and high quality Crooks Copse Ancient Woodland, to the Ancient Woodlands of Slockets Copse and Highwood to the south, reducing it to an alarming extent, with tangible and unacceptable harmful impacts as it is demonstrated in the proofs of evidence of Mrs Deakin, Mr Giles and Mr Flatman.

- 6.11 As such the proposed development areas of DPN1 primarily and considerably, and to a lesser extent of DPN2, encroach materially into what is defined as “*Open Countryside*” in Core Strategy Policy ADPP1 (CS8.5) and HSA DPD Policy C1 (CD8.6) which has introduced “*a presumption against new residential development outside of the settlement boundaries*” and where none of the expressly identified exceptions apply in this case. Furthermore HSA DPD Policy C1 (CD8.6) states that “*planning permission will not be granted where a proposal harms or undermines the existing relationship of the settlement within the open countryside, where it does not contribute to the character and distinctiveness of a rural area, ... or where development would have an adverse cumulative impact on the environment... “.*
- 6.12 The issue of considering the area of the District outside of settlement boundaries as Open Countryside is stated in the emerging LPR Policy SP1 (CD8.13), which cross refers to LPR Policy DC1 ‘Development in the Countryside’ (CD8.13), which reinforces the “*presumption against new development outside of adopted settlement boundaries*” and introduces many more exceptions, whereby none of them apply in this case, while it reiterates the restrictive requirements of HSA DPD policy C1 whereby “*planning permission will not be granted where a proposal harms or undermines the existing relationship of a settlement within the open countryside, where it does not enhance the character and distinctiveness of the rural area, ... or where development would have an adverse cumulative impact on the environment... “.* All of these demonstrate a strong and consistent direction of travel.
- 6.13 I therefore consider that by reason of the unjustified and unacceptable material incursions of the proposed development areas of the appeal scheme into the Countryside, with harmful effects in terms of the adjacent Ancient Woodlands, biodiversity and landscape, the appeal proposals, both as refused as well as per the ‘Wheatcroft’ submissions, do not amount to development which is acceptable in principle and it is harmful, unnecessary, inappropriate and unacceptable.

6.14 In this respect the appeal proposals are contrary to:

- i) the last provision in Core Strategy Policy ADPP1 in relation to the open countryside, as well as not meeting the criteria of Core Strategy Policy CS1 (CD8.5);
- ii) HSA DPD Policy C1 (CD8.6) in terms of the unjustified breach of the presumption against development in the Countryside, causing harm and undermining the relationship of the settlement within the countryside and having an adverse cumulative impact on the environment;
- iii) LPR(CD8.13) Policies SP1 and DC1 for the same reasons as above; and also
- iv) the extent of the potential development areas shown in the Masterplan Framework of the Sandford Park SPD (CD8.14 p.57) (reflected in the extent of the adopted Newbury settlement boundary (CD8.6 p. 137)).

6.15 A scheme which would ensure that the potential development areas, including the proposed LEAP, are strictly confined to within the area of the Newbury settlement boundary and do not encroach into the area of Countryside would overcome this in principle policy objection.

7. Assessment of the Proposal against Main issues

Landscape and visual impact

- 7.1 Mr Flatman's evidence explores the range of landscape and visual aspects and impacts of the appeal proposal in the light of the current prevailing landscape and visual conditions and relevant policy considerations. It spans across a number of Reasons for Refusal (RfR), either in whole and/or in part, namely RFR2 on 'Strategic Landscape and Green Infrastructure', RfR3 on 'Landscape and Visual Assessment'; RfR6 on 'Development Parcel Central, Emergency Access and the Central Valley Crossing'; and RfR8 on 'Ancient Woodlands'. Mr Flatman has assessed both the refused and the 'Wheatcroft' proposals. He has reviewed the LVIA and considered the proposed landscape mitigation.
- 7.2 The site does not lie within the large part of the district covered by the North Wessex Downs AONB national designation. The site is not specifically designated as a valued landscape in the Development Plan; however, the Development Plan deliberately does not specifically designate any site in the District as a valued landscape, because it was not proposed to have local designations. Mr Flatman considers the appeal site to comprise a valued landscape for the purposes of paragraph 170 of the NPPF (CD8.1).
- 7.3 Mr Flatman's evidence demonstrates the following in respect of the submitted Landscape and Visual Impact Assessment (LVIA), which forms part of and also is appended to the Environmental Statement (CD1.8 Chapter 7 and CD1.9 Volume 3 Appendix G):
- i) the LVIA is deficient and requires updating to reflect the 2019 Landscape Character Assessment (CD8.21);
 - ii) the LVIA fails to adequately assess the landscape and visual impact of a number of important elements and components of the refused appeal proposal. These include the proposed embankment structure for the Central

Valley Crossing; the North Valley Crossing and encroachment of the proposed development into the sides of the shallow north valley corridor beyond the extent of the adopted Newbury settlement boundary; the proposed location of the NEAP beyond the extent of the Development Parcel Central (DCP) and the LEAP within the North Valley; the impact of SuDS features, paths, football pitch, emergency vehicular access and watercourse crossings on ancient woodlands and their buffers, and ancient, veteran and other trees; (including category A TPO), as well as the aggregation/accumulation of new built features being proposed within the 15m buffer zones of the ancient woodlands, which also form part of the shallow valley corridor;

- iii) the LVIA does not address the 'Wheatcroft' amended submissions, including the Central Valley Crossing options, the North Valley Crossing details, the amended details for the Park House School expansion land or the updated AIA;
- iv) the LVIA Landscape Effects fail to assess the change to the character in Year1 Post Construction, or Year 15 Post Establishment;
- v) the LVIA understates the Value, Susceptibility and Sensitivity of a number of key intrinsic and linked landscape features/elements within the character area, such as woodland, arable land and the central valley and footpath network, the topography, open views, importance of woodland block (Ancient Woodland), which form an attractive and valuable mosaic in the southern setting of the town;
- vi) the LVIA overstates the landscape effect (of Major Magnitude and Substantial Significance) of the appeal scheme in relation to the clear change in character resulting from the proposed change in use of an agricultural landscape to a well-used accessible country park land associated with an enlarged urban edge with public access;
- vii) the LVIA fails to recognise the scale of change arising through the direct loss of trees and hedge vegetation affecting the change in character and views along the Monks Lane frontage, resulting from the introduction of the three proposed accesses along Monks Lane with associated infrastructure; these

are not reserved matters and the proposals do not provide sufficient confidence that they have allowed for sufficient land to provide adequate mitigation in the form of a structural replacement landscaping scheme; and

- viii) whilst the location/selection of the visual receptors in the LVIA are agreed, the assessment of visual effects have been underestimated and are not agreed. Mr Flatman also notes that the photographs used date back to the 2017 assessment, and the LVIA is not clear if the assessment considers any baseline changes that may have occurred, while the assessment does not appear to distinguish between winter or summer effects.

7.4 Mr Flatman also considers the submitted documentation includes a whole series of inconsistencies and unresolved issues which have the potential for adverse impacts on landscape and visual resources. At the same time the failure to come forward with a comprehensive, coherent and fully co-ordinated development, across the whole SSSA, means the refused appeal proposal would result in unnecessary duplication of:

- i) proposed provision of expansion land and playing pitch for Park House School across the two developments within the SSSA;
- ii) the need to provide unnecessary emergency vehicular access/es to Development Parcel Central (DPC) via a combination of a more complex and larger scale central valley crossing embankment solution, as well as the provision of an emergency access route through the country parkland, resulting in a direct impact on Waterleaze Copse, which has been overlooked in the LVIA.

7.5 Mr Flatman has assessed the 'Wheatcroft' proposals and considers that the curved abutment proposal does not address any of the concerns raised in relation to the refused appeal proposal.

7.6 Mr Flatman considers that the appeal proposal fails to explore a better all transport mode access point through to the Sandford Park West site in terms of impact on boundary vegetation. As a result the appeal proposals would cause unnecessary harm to the landscape and visual resources along the western boundary, than they might otherwise have done.

7.7 In respect of the two additional 'Wheatcroft' options for the Central Valley Crossing, Mr Flatman considers:

- i) the curved proposal with abutments design which extends further up the valley would fail to maintain the character of the Central Valley, losing the views up the valley, which is unacceptable in landscape terms, causing harm to the visual character of the valley; while
- ii) the straight design with double parallel structures on a series of supports seeking to provide the necessary emergency vehicular access to PDC in the absence of securing a through route to Andover Road to the west via Sandford Park West and Warren Road, is a less intrusive solution and an improvement in relation to the other two options. However Mr Flatman considers that the duplication of the parallel structures is unnecessary and inappropriate, as it is a result of the failure of the Appellants in pursuing their proposal in the manner that they do, to bring forward the required comprehensive and co-ordinated development for the whole of the SSSA. Despite the improvement, Mr Flatman considers that the double structure with considerable side abutment/s remains an unacceptable visual intrusion within the central valley adversely affecting the character of this valued landscape.

7.8 Mr Flatman accepts that were the 'Wheatcroft' option referred to in 7.7(ii) above to be, without prejudice, considered acceptable in respect of vehicular emergency access provision and in landscape and visual terms by the Inspector and the Secretary of State, then there would not be a need to provide the alternative vehicular emergency access to DCP as part of a widened cycle route running parallel to the PROW Greenham9 within the proposed country park. This would assist in reducing the introduction of 'domesticating' elements within the important landscape of the country park area.

7.9 Mr Flatman considers that the 'Wheatcroft' submission in relation to the school expansion land appears that it would retain the ancient oak tree T34, the two veteran trees T31 and T33 and other TPO trees and hedgerow along the south western boundary of the school expansion land. Subject to adequate safeguarding measures the earlier concerns in terms of these existing important trees and planting are now acceptable in landscape terms.

- 7.10 Mr Flatman also finds that despite the submission of a Strategic Landscape and Green Infrastructure (SLGI) Plan together with a combined SLGI Plan for the two adjoining sites within the SSSA, the appeal proposals remain uncertain and contradictory, as a consequence of inconsistencies, omissions and unnecessary duplication within and between submitted drawings and associated reports. The proposal fails to secure a clear and consistent Strategic Landscape and Green Infrastructure Plan for the whole of the allocated site, which integrates the proposed development with and provides a holistic approach to the landscape, visual impact and green infrastructure for the whole of the SSSA as required by the Sandleford Park SPD Development Principle L1.
- 7.11 In this respect Mr Flatman considers that the appeal proposals fail to take account of key characteristics and special features, which are sensitive and form highly valued components in this complex and valued landscape and will result in an unacceptable level of harm, with significant adverse effects on the landscape character and visual resources of the site. The appeal proposal would fail to protect or conserve a valued landscape and is in conflict with NPPF paragraph 170, which also recognises the intrinsic character and beauty of the countryside.
- 7.12 The appeal proposals, both the refused and the 'Wheatcroft', are contrary to Core Strategy Policies CS3, CS5, CS14, CS18 and CS19; HSA DPD Policies GS1 and C1; Local Plan Review Emerging Draft Policies SP7, SP8 and SP16 and Sandleford Park SPD Vision and Development Principles L1, L4, L7, F1, CA4, CA7 and CA9.

Trees and Woodlands

- 7.13 Mr Giles' evidence refers to the network of six Ancient Woodlands and one other woodland with a number of Ancient Woodland indicator species. There are also many other trees on site. All the trees, including all the woodlands, on the appeal site and in the remainder of the SSSA and the locality are the subject of a Tree Preservation Order (TPO 201/21/1016-W15-MIXED). The Council confirmed the TPO in March 2021.
- 7.14 Mr Giles' proof of evidence refers to the Ancient Oak T34 on the site within the proposed expansion area to Park House School. In addition there are a number

of veteran trees on site. The Ancient Woodlands on the site are mostly Ancient Semi-Natural Woodland (ASNW), which are composed mainly of native trees and shrubs and are generally more biodiverse types of Ancient Woodlands than replanted Ancient Woodland. The ASNWs on the appeal site are a rare and irreplaceable resource, of not just local, but also of national importance.

- 7.15 Mr Giles advises that the refused appeal proposal will result in the unjustified, unnecessary and unacceptable removal of the Ancient Oak T34 and veteran tree T127, and loss of / harm to other veteran trees, which are irreplaceable habitats and other notable TPO trees. The refused proposal is contrary to NPPF paragraph 175(c), which directs refusal as there are no exceptional reasons pursuant to Footnote 58 and a suitable compensation strategy does not exist.
- 7.16 Mr Giles advises that the 'Wheatcroft' school expansion land proposals and associated proposed football pitch, appears to seek to retain the Ancient Oak T34. This objective is welcome. However, the proposals as they stand do not provide sufficient reassurance as to the continued protection of T34 and the veteran and other TPO trees and hedgerow vegetation along the existing western boundary with Park House School, while the proposed associated works would still result in an unnecessary and unwelcome incursion into the buffer zone of the Barns Copse Ancient Woodland. Furthermore the 'Wheatcroft' appeal submission would still result in either the loss or deterioration of veteran tree T127 and other veteran trees and notable TPO trees. The 'Wheatcroft' proposals would still be contrary to NPPF paragraph 175(c).
- 7.17 Mr Giles' evidence explains the concerns in respect of the proposed appeal proposals, as refused and also under the 'Wheatcroft' submission, in respect of the unnecessary potential harm on Ancient and other woodlands on site and their connectivity, without any exceptional justification pursuant to NPPF Footnote 58 and contrary to NPPF paragraph 175(c).
- 7.18 Mr Giles' evidence also sets out the concerns about the proposed extensive loss of TPO trees and hedgerow along the important Monks Lane frontage and thoroughfare and harm to its character. In this respect the proposed submitted drawings and reports do not appear to make sufficient provision for space to accommodate adequate structural replacement landscape mitigation to that harm.

- 7.19 The appeal proposals as refused and under the 'Wheatcroft' submission remain harmful in respect of their impact on trees and woodlands, including irreplaceable habitats, with no exceptional reason to justify such loss or harm.
- 7.20 Both the refused and the 'Wheatcroft' proposals would have an unnecessary and unacceptable harmful effect on irreplaceable habitats and other woodland, trees and hedges on site. The proposals therefore would be contrary to Core Strategy Policies CS3, CS14, CS17 and CS18: HSA DPD Policy GS1; Local Plan Review Emerging Draft Policies SP10 and SP16 and Sandford Park SPD Development Principle L4.

Ecology

- 7.21 Mrs Deakin's proof of evidence demonstrates that the appeal proposals as refused and also under the 'Wheatcroft' submission have the potential to cause unavoidable deterioration of and harm to Ancient and other Woodlands on the appeal site, through the loss of connecting habitat, the insertion of built environment effectively isolating Crook's Copse and severely compromising the ecological inter-relationships (including wildlife corridors) between the other five Ancient and other Woodlands, which make up the High Wood Complex Local Wildlife Site (LWS) and also the nearby Waterleaze Copse LWS, thereby compromising the integrity and biodiversity potential of the combined LWS complex. There are also specific concerns in respect of the effect of the appeal proposals on the hydrology / buffering of the Ancient Woodlands, through SuDS basin and conveyance channel installation, particularly in the northern valley.
- 7.22 Mrs Deakin's proof of evidence shows that vulnerable protected species inhabiting the woodlands and their connecting corridors, and other associated habitats on site, including dormice, bats, badgers, barn owls and reptiles, will likely be marginalised and population numbers decline, as a result of substantial fragmentation of habitats and disturbance factors, including incremental deterioration of ecosystem conditions through lighting, noise, physical ingress, vehicular mortality, pollution and pet predation.
- 7.23 Mrs Deakin considers that the appeal proposals in relation to the buffers of the Ancient Woodlands are insufficient and ineffective in part, with considerable incursions of inappropriate features, which are contrary to guidance and the

ethos of Ancient Woodland protection. Furthermore proposed public access to four of the Ancient Woodlands will result in further incremental, but inevitably significant, harm to the integrity of the woodland irreplaceable habitats, which by definition cannot be compensated and should not be included in the Biodiversity Net Gain calculation (BNG). Any such harm or loss means that project level BNG cannot be achieved. This is contrary to the objectives in the NPPF on habitats and biodiversity and therefore unsound on ecological grounds.

- 7.24 Mrs Deakin considers that the proposed loss of / harm to the Ancient tree (T34) and also a number of veteran and other notable trees under the refused appeal proposal would be unacceptable and unjustified. However, the 'Wheatcroft' proposals may be able to retain a number of these trees, although various disturbance factors are likely to harm their residual biodiversity value. There remains considerable uncertainty regarding specific design / engineering details (including SuDS features, Park House School expansion, playing field construction and access infrastructure) which has precluded adequate ecological assessment at this stage. Mrs Deakin considers that such assessment should not be delayed until Reserved Matters due to the potentially serious consequences of the proposals on irreplaceable and other habitats and species.
- 7.25 Mrs Deakin considers that the proposed losses of a number of veteran and other notable trees associated with the proposed cycle route / emergency access / Warren Road access, the western boundary with New Warren Farm, access along Monks Lane and the NE part of the country park, with bat and barn owl interests, would be unjustified losses of habitats, including irreplaceable ones, and would again result in net loss of biodiversity.
- 7.26 Mrs Deakin considers that the refused and 'Wheatcroft' appeal proposals would have considerable long term adverse effects on other retained habitats throughout the appeal site (including sensitive wetland habitats), which forms part of a Biodiversity Opportunity Area (BOA), including the country park. These effects are currently under-assessed and lack comprehensive mitigation, to counteract the adverse effects of high intensity recreational use and other disturbance. The proposals fail to provide sufficient information in respect of long-term impacts on various protected and other species and likely effects with regard to population decline appear to have been under-assessed.

7.27 The appeal proposals are contrary to Core Strategy Policies S3, CS14, CS17 and CS18; HSA DPD Policies GS1 and C1; Local Plan Review Emerging Draft Policies SP10, SP11 and SP16; and Sandleford Park SPD Development Principles L4, E1

Drainage

7.28 Mr Bowden's Proof of Evidence demonstrates that the appeal proposals as refused and under 'Wheatcroft' raises concerns and objections in respect of ground and surface water drainage and the effect on Ancient Woodlands.

7.29 In this respect the appeal proposals are contrary to Core Strategy Policies CS3, CS14, CS16, CS17 and CS18; Local Plan Review Emerging Draft Policies SP10, SP11 and SP16; and Sandleford Park SPD Development Principle H1.

Highways (Access and Local Road Network)

7.30 Mr Goddard's proof of evidence raises his concerns in terms of the failure of the proposal to secure access through to Andover Road to the west as a result of the piecemeal development.

7.31 Mr Goddard considers that the refused embankment appeal proposal and the proposed curved abutment option submitted under 'Wheatcroft' are unacceptable in terms of vehicular emergency access to Development Parcel Central. He also considers that the alternative/additional proposed vehicular emergency access route along the country park is also unacceptable. However he advises that the straight twin bridge Central Valley Crossing option can be made to provide adequate vehicular emergency access. Furthermore, no such access arrangements will be necessary along the country park.

7.32 Mr Goddard maintains his concerns in the absence of a completed s.106 Planning Obligation to ensure the timely and appropriate delivery of highway network infrastructure. However he advises that he is in discussions with the Appellants in relation to the draft S106 Unilateral Undertaking in terms of the highways network, travel plan and bus service infrastructure.

7.33 In highways/transport terms the appeal proposals remain contrary to Core Strategy Policies ADPP2, CS3, SC5 and CS13; HSA DPD Policy GS1; Local

Plan Review Emerging Draft Policies SP16, SP22 and SP23; and Sandleford Park SPD Strategic Objective 2 and Development Principle S1.

Education

7.34 Mr Haines' proof of evidence advises that the Appellants acknowledge that planning policies require the delivery of early years, primary and secondary education facilities. However, he demonstrates why the appeal proposals fail to deliver the additional and improved educational facilities in mitigation necessary to meet the requirements of the future residents of the site. Furthermore the Park House School expansion land appeal proposals, as refused and under 'Wheatcroft', remain unacceptable as they stand and they would fail to provide the required land and facilities to a satisfactory standard and in a suitable condition to be fit for purpose.

7.35 The appeal proposals are contrary to Core Strategy Policies CS3 and SC5; HSA DPD Policy GS1; Local Plan Review Emerging Draft Policies SP16 and SP23; and Sandleford Park SPD Vision and Development Principles S1 and F1.

Affordable Housing

7.36 Ms Robinson's Proof of Evidence explains that West Berkshire has a high level of need for affordable housing, and therefore will seek affordable housing to be secured via a s.106 planning obligation, in line with government policy.

7.37 Sandleford is allocated as a strategic site and it is policy requirement that at least 40% of the scheme will be for affordable housing. This allocation is proposed to be carried forward in the Emerging Draft Local Plan.

7.38 Mrs Robinson's proof of evidence advises that social rent is the priority tenure which has been assessed at 70% to meet the housing needs of the district, and evidenced in housing needs assessments. The remaining 30% is intended for intermediate tenures, with the preference being for shared ownership. The submitted draft s106 legal agreement has combined social rent with affordable rent to form 70%, which is not acceptable, and risks the social rent element being reduced to less than 70%.

- 7.39 Furthermore, due to the cascade mechanism in the draft s.106 Unilateral Undertaking, social/affordable rent tenure as described by the developer could revert to intermediate housing, should an agreement not be secured with a registered provider within 3 months. This timeframe would not allow enough time to negotiate and secure agreement between all parties. This tenure could then be further lost to market housing, which will ultimately result in the loss of the whole of the affordable housing provision, which would be contrary to policy, and totally unacceptable to the Council.
- 7.40 As proposed in the submitted draft s.106 legal agreement and current draft s.106 Unilateral Undertaking, the extra care provision, if not concluded in time, is proposed to revert to 'general affordable housing' which will distort the size mix and location of the affordable housing throughout the whole of the scheme, and potentially result in the loss of affordable housing.
- 7.41 The appeal proposals are therefore contrary to Core Strategy Policies CS3, CS4 and SC6; Local Plan Review Emerging Draft Policies SP16, SP18 and SP19; Sandford Park SPD Vision, Strategic Objective 1 and Development Principled F1; and planning Obligations SPD, topic Paper 1 on Affordable Housing.

Renewables

- 7.42 Mr Slaughter's Inquiry Note, hereby appended as Appendix NG2 sets out the concerns in terms of the failure of the refused and the 'Wheatcroft' appeal proposals, to propose any renewable and/or low/zero carbon energy generation in respect of the 1080 proposed dwellings on this unencumbered, south facing, sloping, greenfield, strategic site, which is ideal for that purpose and which should have been an exemplar site in terms of renewables and at the forefront of the drive to assist West Berkshire with its stated target of achieving carbon neutrality by 2030.
- 7.43 In this respect the proposal (as refused and also under the 'Wheatcroft' submission) is unacceptable, inadequate and inappropriate, in conflict with NPPF paragraphs 148, 150, 151 and 153. It is contrary to Core Strategy Policies ADPP2, CS3, CS14 and CS15; Local Plan Review Emerging Draft Policies SP5 and SP16: and Sandford Park SPD Vision, strategic objective 13 and Development Principle R1.

Infrastructure Provision and s.106 Planning Obligation

7.44 Reason for Refusal RfR14 relates to the fact that currently there is no completed s.106 Planning Obligation which would ensure the delivery of the necessary infrastructure, mitigation and enabling works both on and off-site, including in terms of: affordable housing, travel plan, highway works including pedestrian and cycle facilities (off-site), country parkland, public open space and play facilities, sports pitch provision, other green infrastructure, public transport, primary and secondary education, healthcare and local centre, including community and commercial uses.

7.45 As I make the case in the next section of this proof of evidence on the issue of Comprehensive Development, in the absence of a single proposal for the whole of the SSSA, sufficient reassurance could be provided with a formally completed developers' agreement and also the satisfactory completion of a s.106 Planning Obligation, covering the entirety of the SSSA and signed by both developers to ensure the co-ordinated and timely delivery of the associated infrastructure.

7.46 The Appellants have provided a draft s.106 Unilateral Undertaking to which the Council has provided its considered response and suggestions, on a without prejudice basis. Were the Appellants to agree to the Council's suggested changes, then it may be the case that RfR14 is no longer pursued at appeal, despite the Council's misgivings about the potential risks of being able to negotiate a satisfactory s.106 Planning Obligation with the developers of Sandford Park West.

Comprehensive Development

7.47 Reasons for Refusal RfR1 and RfR2 deal primarily with the issue of the failure of the appeal proposal to put forward a scheme for the comprehensive development of the SSSA. This is an issue of concern, which has been central to previous refused proposals in respect of the piecemeal development of the SSSA and associated risk to delivering timely and co-ordinated infrastructure. This issue is also reflected in other reasons for refusal including RfR6 and RfR14. This matter is explored in this section.

Relevant Policy Background

- 7.48 The NPPF (paragraph 15) requires that *“the planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings”*.
- 7.49 The Development Plan, comprises the Core Strategy and was consolidated by the adoption of the HSA DPD. As I set out in section 4 of my proof of evidence, it provides an up-to-date framework for development planning in West Berkshire.
- 7.50 Core Strategy policy C3 allocated the SSSA. It seeks a network of green infrastructure to be provided across the SSSA. It requires infrastructure improvements to be delivered in accordance with the Council’s IDP. The provision of green infrastructure is considered as necessary infrastructure in the Council’s IDP.
- 7.51 The Sandleford Park SPD was developed and adopted pursuant to the provision of Core strategy (CD8.5) paragraph 5.14. One of the primary purposes of the Sandleford Park SPD (CD8.14) is *“to assist in the delivery of a comprehensive and sustainable development across the site as a whole”* (paragraph 5). Paragraph 12 clarifies that *“references throughout the SPD to ‘the application’ or ‘the planning application’ all refer to the single planning application for the site as set out in Section G”*.
- 7.52 Sandleford Park SPD (CD8.14) Strategic Objectives 11 and 14 consider the delivery of the SSSA *“holistically as one community”* and the respective infrastructure needs to be *“planned and delivered comprehensively in a timely and coordinated manner which keeps pace with the development”* (p. 9), to be two of *“the key delivery outcomes that the Sandleford Park development should achieve”* (p.8).
- 7.53 Paragraph 24 of the Sandleford Park SPD notes the Core Strategy Examination Inspector’s Report comment in respect of the Sandleford allocation (SSSA), *“to ensure that the optimum approach to development in the area is achieved by*

planning for the area as a whole rather than development taking place over time in a series of smaller proposals resulting in a more piecemeal approach”.

7.54 Sandford Park SPD (CD8.14) was first adopted in 2013 and subsequently updated in 2015 to include Development Principle S1, which explicitly *“requires proposals for the allocated site to be brought forward by means of a single planning application for the site (SSSA) in order to achieve a comprehensive development and to ensure the timely provision of infrastructure, services, open space and other facilities in a properly coordinated fashion”.*

7.55 As confirmed in the supporting text to Principle S1 (CD8.14 p.31),

“The Core Strategy allocates Sandford Park as a single site to ensure the optimum approach to the development and to deliver one community. A single application will therefore enable a holistic approach to a comprehensive development across the site which maximises its potential as a well-planned and sustainable urban extension.

A single application will also enable the development to be properly assessed as a whole to ensure that it achieves the vision and objectives for the site as set out within this SPD. This will enable the required infrastructure to be properly planned and delivered in an integrated and timely way across the site. It will also ensure that the site is designed as a whole in a cohesive manner”.

7.56 Development Principle L1 of the Sandford Park SPD requires that: *“The development will have a clear Strategic Landscape and Green Infrastructure Plan for the whole site which integrates the development with the landscape, makes best use of the landscape as a function of the site and shows how the built form and open spaces will be designed and managed. This plan will accompany the planning application”.*

7.57 Section G of the Sandford Park SPD (CD8.14 paragraph 129 p.83) reiterates *“the requirement for a single planning application for the entire site (either outline or full) which is to be accompanied by an Infrastructure Delivery Plan (IDP)”.* The SPD goes on to confirm that *“planning applications for only part of the site, or planning applications which are not accompanied by such an IDP, are likely to be unacceptable as they would not ensure the comprehensive development of the site”.*

- 7.58 HSA DPD Policy GS1 (adopted in 2017) (CD8.6) then included the express requirement that each allocated site in the Development Plan, *“to be masterplanned and delivered as a whole to achieve a comprehensive development that ensures the timely and coordinated provision of infrastructure, services, open space and facilities. A single planning application (to) be submitted for each allocated site, either an outline or full application, to ensure this comprehensive approach to development is achieved”*. This applies to all allocated sites, including Sandleford Park, as one of the two strategic allocations allocated previously (CD8.6 p.12 paragraph 2.5). This remains the Development Plan adopted policy requirement to date.
- 7.59 In considering the emerging draft of the Local Plan Review (2020-2030) (LPR), paragraph 6.28 of the explanatory text to Policy SP16 ‘Sandleford strategic site allocation’ acknowledges the above policy requirement and justification (CD8.13 p. 63).
- 7.60 Furthermore LPR (CD8.13) paragraph 6.29 recognises that *“whilst applications for developing the site have been considered by the Council, it does not yet benefit from planning permission. it remains the firm belief of the Council that Sandleford Park is the most appropriate location for strategic housing delivery in Newbury”*. Paragraph 6.30 considers that *“hence, Sandleford remains allocated for development. ... Whilst the site has not delivered housing to date, the Council is confident that the site will deliver housing within the plan period of the Local Plan Review and is actively working to ensure this. Delivery of approximately 1,000 dwellings is anticipated within the plan period ...”*.
- 7.61 Paragraphs 6.32 and 6.33 go on to say that as part of the LPR (CD8.13), HSA DPD policy GS1 *“has been reviewed, and deleted”* and LPR allocation policy SP16 *“now ensures that a comprehensive approach to development at Sandleford is achieved. This policy takes precedence over the SPD requirement for a single planning application, but makes clear that the site must be delivered to achieve comprehensive development and ensure the timely and co-ordinated provision of infrastructure. ... In addition, the importance of the SPD is highlighted such that the Council will be supportive of proposals which have regard, and positively respond, to it as it provides a framework for the future development of the site”*.

7.62 LPR emerging Policy SP16 (CD8.13 p. 61) allocates Sandleford Park “for a residential development comprising approximately 1,500 dwellings. ... The site will be delivered to achieve a sustainable, comprehensive development and ensure the timely and co-ordinated provision of infrastructure. The Council will be supportive of proposals which have regard, and positively respond, to the Sandleford Park SPD (2015) which provides a framework for the future development of the site”.

The two proposals across the SSSA

7.63 The appeal proposal (as refused, as well as amended by the ‘Wheatcroft’ submission) seeks planning permission for only part and not for the whole of the SSSA. Furthermore the remainder of the SSSA is the subject of a currently outstanding planning application by Donnington New Homes (DNH) (18/00828/OUTMAJ), seeking outline planning permission for 500 dwellings, with access not comprising a reserved matter.

7.64 The Appellants’ Planning Statement (CD1.3) paragraph 1.5 makes reference to the DNH application as amended in December 2019. Paragraph 1.7 refers to another DNH application for the widening of Warren Road (19/02707/FUL). Paragraph 1.25 makes reference to the submitted set of illustrative Combined Plans, which extend across the two sites. The set of combined plans includes a Combined Strategic Landscape and Green Infrastructure Plan (Combined SLGI plan) (CD1.30)

7.65 The DNH application was the subject of a number of submissions of additional and amended information, which was consolidated into one revised submission package in September 2020, which was the subject of re-consultation. In addition DNH submitted a new and different planning application (20/03041/FUL) for the widening of Warren Road, which has been screened and found to comprise Environmental Impact Assessment (EIA) development requiring the submission of an Environmental Statement ES. The residential application would also require the submission of an updated ES. The Applicants have indicated that they intend to submit the required ES, which would be subject to further consultation. The DNH applications therefore remain outstanding.

- 7.66 The appeal submission is accompanied by a 'Memorandum of Understanding' (MoU) (CD1.16) between the two developers. It is dated 6th May 2020, which includes the set of illustrative combined plans mentioned above as Appendix 1 and a table of respective Infrastructure Commitments as Appendix 2.
- 7.67 The DNH application (18/00828/OUTMAJ) is also accompanied by a near identical 'Memorandum of Understanding' (CD14.8) between the two developers, dated 10th June 2020. However, it includes a subsequent revision/version of the Combined Strategic Landscape and Green Infrastructure Plan in Appendix 1 and also an adjusted, but similar, table of Infrastructure Commitments in Appendix 2. Both versions of the MoU refer to corresponding draft s.106 Planning Obligations accompanying each of the respective proposals.
- 7.68 The Appellants' submitted Planning Statement (CD) paragraph 1.6 considers that together, the two (the appeal and the DNH) proposals "*provide co-ordinated development schemes and the comprehensive provision of infrastructure to serve the whole development*" of the SSSA. In paragraph 1.26 the Appellants also assert that "*whilst the application site does not include New Warren Farm, the fact that complementary development proposals are being brought forward at New Warren Farm shows how granting planning permission individually does not prejudice the co-ordinated development and comprehensive provision of infrastructure and facilities in accordance with the thrust of ... Policy...*".
- 7.69 Notwithstanding the submission of the illustrative Combined Plans (CD1.27 to CD1.30), the Combined Ecological Mitigation and Management Plan (CD1.9 EMMP, ES Appendix F19) and the Memorandum of Understanding (CD1.16), the appeal proposal seeks approval only for part of the SSSA. The Appellants consider that the appeal scheme is acceptable on its own merits and that it should go ahead if necessary on that basis, irrespective of the future fortunes of the proposed development at Sandleford Park West. The appeal proposal does not in any way provide any binding commitment nor any certainty and reassurance that it will facilitate, ensure and deliver the required comprehensive and cohesive development of the whole of the SSSA. Indeed the appeal proposal does not seek to guarantee to-date, that an acceptable and consistent proposal emerges for the development of Sandleford Park West and to ensure that such a scheme secures planning approval and that it will be delivered alongside the

development of the appeal site, to provide sufficient certainty of the co-ordinated and timely delivery of the desired sustainable urban extension across the whole of the SSSA and provide the associated necessary infrastructure in mitigation.

- 7.70 Without prejudice to the Council's case at appeal, were the appeal proposal to be considered acceptable by the Inspector and/or the Secretary of State, the illustrative Combined Plans, including the Combined SLGI Plan, cannot be conditioned as part of a planning permission, as such a condition would seek to require potential future development of the remainder of the SSSA, which is not in the Appellants' control to accord with the Combined Plans. This would be unreasonable and unenforceable, failing the test/s for use of conditions set out in the NPPF (CD8.1) and PPG (CD8.2). Therefore the Combined Plans cannot be secured or relied on to be complied with for the future development of the remainder of the SSSA. The submitted Combined SLGI plan therefore does not satisfy the requirement of Sandlesford Park SPD Development Principle L1 which requires the development to have a clear Strategic Landscape and Green Infrastructure Plan for the whole of the SSSA (CD8.14).

Warren Road Trees

- 7.71 The submitted Combined Plans as refused (they were not adjusted by the Wheatcroft' submission") do not put forward a satisfactory proposal for the provision of an acceptable fourth access through to Andover Road to the west via Warren Road to serve the SSSA. The works to Warren Road already approved to date shown on the combined plan are of restricted width (4.8m) and can only serve a maximum of 100 units and would therefore be insufficient to serve the 500 DNH development on its own, or the SSSA as a whole. The withdrawn planning application proposal for Warren Road (CD13.8), would have resulted in the loss of a number of important mature TPO trees along and within the southern boundary of Park House School and it would have been unacceptable. Although they are outside the appeal site, the documentation submitted with the appeal proposals (including the LVIA and the AIA) indicates the potential and unnecessary threat to the retention of that important row of trees along the north side of Warren Road, which would be harmful and unacceptable in landscape, arboricultural and ecological terms. Warren Road is identified in the Appellants' submitted ES (Chapter 7) (CD1.6) as a historic track/landscape feature. However DNH's submitted LVIA does not consider it to

be a historic track/landscape feature. This unacceptable situation and inconsistent submissions are a symptom of the piecemeal nature of the proposal in its failure to bring forward the comprehensive development of the whole of the SSSA.

Inconsistencies – Green links, Buffers, Trees

7.72 Appendix NG1 of my proof of evidence sets out a number of identified inconsistencies contained between the contents of the various appeal plans and documents (both as refused and 'Wheatcroft'), which have been shared with the Appellants' side. This list is non-exhaustive. The inconsistencies reflect upon the quality of the appeal submission. It is accepted that the appeal proposal is in outline and it is possible to accommodate some flexibility. Nevertheless were the submitted documentation to be approved, the included inconsistencies (omissions and contradictions) would entail a degree of uncertainty and ambiguity at reserved matters stage, as to what exactly would have been approved in outline. This will not facilitate the objective of the well-planned and comprehensive development of the SSSA and it does not provide confidence that the appeal proposal would deliver the required successful and sustainable urban extension to south Newbury.

7.73 The submitted set of Combined Plans are put forward by the Appellants as an indicator that their proposal would not prejudice the comprehensive and co-ordinated development of the SSSA. This includes the Combined SLGI plan (CD1.30). However when compared with the proposed individual plans and submissions by the Appellants, as well as those submitted by DNH, such as for example the Green Infrastructure Plan for Sandford Park West (CD14.4), they are inconsistent, especially in relation to important matters such as the provision of green links and hedgerow, to provide east west connectivity between Gorse Covert and Brick Kiln Copse and in respect of proposed buffer zones to those two woodlands.

7.74 The Combined SLGI plan is also inconsistent with regards to the proposed size and extent of the proposed school expansion land within the appeal site, when compared with that shown on the submitted parameters plans and illustrative layout. The size and shape of the expansion land area has again changed as part of the 'Wheatcroft' amendment shown in Appendix 5 of the Appellants'

statement of case. The same applies to the ancient, veteran and other TPO trees at the proposed school expansion land, affected by the refused proposals, which the 'Wheatcroft' proposal now seeks to retain, albeit unsuccessfully, in accordance with Mrs Deakin's and Mr Giles' assessment in their proofs of evidence.

7.75 Thus, the piecemeal nature of the separate proposals for the two separate and distinct parts of the SSSA raises serious concerns in relation to the apparent shortcomings in relation to the future retention and connectivity of the above mentioned woodlands, which include a number of ancient indicator species, are Local Wildlife Sites (LWSs), form part of the wider patchwork / network of woodlands at Sandleford and merit protection, as well as in relation to important trees within the site. The appeal proposal is therefore problematic, inadequate and unacceptable in this respect.

Duplication – School Expansion Land

7.76 Pursuant to Core Strategy Policy CS3, Sandleford Park SPD Development Principle F1 and the Appellant's submitted feasibility study for secondary education mitigation at the adjacent Park House School, a sport-centred academy (CD1.3 Appendix 3 to the Planning Statement), the development of the SSSA requires only one instance of mitigation in the form of an acceptable education land expansion to serve the entire SSSA.

7.77 In promoting separate proposals for the two parts of the SSSA, the appeal and the DNH schemes have instead put forward two parallel and competing proposals, both seeking to set aside expansion land for Park House School to provide additional secondary education land and to accommodate the required provision of a full size football pitch for the school. This is unnecessary duplication of required proposed facilities in mitigation and a direct result of the proposed piecemeal development of the SSSA.

7.78 The Combined SLGI plan is also inconsistent with regards to the proposed size and extent of the proposed school expansion land within the appeal site, when compared with that shown on the submitted parameters plans and illustrative layout. The size and shape of the expansion land area has again changed as

part of the 'Wheatcroft' amendment shown in Appendix 5 of the Appellant's statement of case.

- 7.79 Furthermore, all the specific proposals put forward in relation to the Park House School expansion land to date, i.e. the refused and 'Wheatcroft' appeal proposals, as well as the DNH proposal, raise issues of concern and are not considered acceptable mitigation in terms of secondary education facilities for a number of reasons. In particular the appeal proposals raise serious concerns in terms of their adverse impact on ancient and veteran trees, other TPO trees and vegetation as well as the buffer zone to the Barns Copse Ancient Woodland (as set out in Mrs Deakin's and Giles' proofs of evidence), while they do not satisfy all the requirements of the Council's Education Service and the school (as per Mr Haines' proof of evidence).
- 7.80 Both the unnecessary duplication of provision and the unacceptability of the proposals, failing to ensure protection, retention and enhancement of important trees is to a large part due to the piecemeal approach to the development of the SSSA.

Development Parcel Central – Connectivity and Permeability

- 7.81 The appeal proposal fails to come forward with a comprehensive scheme across the SSSA that guarantees the provision of vehicular access to the west (New Warren Farm, Warren Road through to Andover Road). Furthermore the submitted draft s.106 legal agreement proposed a 1m wide "contribution" strip along the western boundary, which complicated matters further in respect of providing an access road through to the west.
- 7.82 This has meant that were Sandleford Park West not able to secure a planning permission and/or not be developed for whatever reason, then the proposed Development Parcel Central (DPC) at the appeal site, with its 450+ residential units and local centre would form an isolated large cul-de-sac, accessible by vehicles solely from the north via the Central Valley Crossing. It is acknowledged that a pedestrian and cycle link is proposed along the existing public right of way (PROW Newbury5) through to Warren Road. However, this would not provide any vehicular connectivity through to the west and the permeability of half of the

development proposed in the appeal scheme would be greatly curtailed and compromised.

7.83 In that case the proposal would therefore fail to: i) provide a bus link through to the west as required by Core Strategy Policy CS3; ii) “*maximise the opportunities for permeability through the site*” and providing “*an all vehicle access link through Warren Road*” as envisaged and preferred by section A on Access and Movement in the Sandleford Park SPD (CD8.14 p. 39); and iii) provide the “*four primary all vehicle accesses ... (including) one through to Andover Road via Warren Road*”, nor “*sustainable transport through routes connecting the A339, Monks Lane and Andover Road for ... (including) public transport*” as required by policy SP16 of the LPR. These concerns echo those expressed by Mr Goddard in his proof of evidence. They are unnecessary and result in an unacceptable situation, solely because the appeal site is being promoted in a piecemeal fashion, without any binding requirement that would guarantee and ensure the comprehensive and cohesive development of the SSSA. This applies equally to the refused and the ‘Wheatcroft’ proposals.

Need for Emergency Access for Development Parcel Central

7.84 In addition to the above, the Appellants accept that the nature of their proposal for only part of the SSSA does not guarantee the comprehensive development of the whole of the SSSA. In this respect the Appellants have accepted that the appeal proposal needs to provide sufficient vehicular emergency access to DPC to deal with the distinct possibility whereby the development of Sandleford Park West may not materialise to allow a through route to the west.

7.85 As such the appeal scheme as refused, proposes the embankment structure for the Central Valley Crossing, with the partly separated roadways, which, unfortunately, still did not provide sufficient and acceptable vehicular emergency access to DPC, as set out in Mr Goddard’s evidence.

7.86 The refused large Central Valley Crossing embankment structure is also unacceptable in landscape / visual terms for the reasons set out in Mr Flatman’s proof of evidence and unacceptable in terms of ecology and trees as set out in Mrs Deakin’s and Mr Giles’ proofs of evidence.

- 7.87 The refused appeal proposal also sought to provide alternative vehicular emergency access to DPC from the A339 to the south east by widening the proposed cycle route along the country park to 4m. As set out in Mr Goddard's proof of evidence again this is not considered to be an acceptable solution in highways terms. It is also apparent that none of the Appellants' Parameter and other Plans (CD1.18 – CD1.24) nor the submitted Combined Plans (CD127 – CD1.31) provide for such an emergency access through the country park. This is also indicated as part of the inconsistencies in Appendix NG1.
- 7.88 As set out in Mr Flatman's proof of evidence, the refused alternative vehicular emergency access arrangements would be a detracting element within the country park in landscape terms and has potential impacts on trees and ecological interests as set out in Mrs Deakin's and Mr Giles' proofs of evidence.
- 7.89 Thus the piecemeal nature of the refused appeal proposal, has given rise to the requirement for provision of vehicular emergency access, with the refused proposals also being unacceptable in highway and landscape/visual terms. A proposal for the comprehensive and cohesive development of the whole of the SSSA would negate the need for and avoid these unacceptable elements of the refused appeal proposal.
- 7.90 As to the 'Wheatcroft' proposals for the Central Valley Crossing, the option for the curved abutment structure would not address any of the concerns expressed above. I do not therefore consider it to be an acceptable or realistic solution and it should be disregarded.
- 7.91 However, I note that Mr Goddard's proof of evidence considers that the 'Wheatcroft' proposals for the Central Valley Crossing option with the straight span, twin parallel bridges addresses his concerns in respect of the issue of vehicular emergency access for DCP in highways terms. It also negates the need for alternative vehicular emergency access alongside the public right of way within the country park. This is welcome; the straight twin span option is acceptable in highways terms.
- 7.92 Mr Flatman's proof of evidence finds that the proposed straight twin span 'Wheatcroft' option for the Central Valley Crossing is also an improvement compared to the refused proposal in landscape and visual terms. However, Mr

Flatman still considers it to remain detrimental and unacceptable in landscape and visual terms. This option is also beneficial in terms of reducing ecological impacts and harm to trees as set out in Mrs Deakin's and Mr Giles' proofs of evidence although residual concerns remain regarding loss of ecological connectivity and potential impacts on trees.

7.93 Clearly were the appeal scheme to be proposing the comprehensive and cohesive development of the whole of the SSSA, then satisfactory vehicular access would be provided through to the west, negating the need for any vehicular emergency access arrangements for DCP. This would enable the provision of a single lightweight Central Valley Crossing which would maintain the landscape character and minimise its visual impact on this valued landscape and resolve the residual concerns in relation to ecology and trees, pursuant to the requirements of the Sandleford Park SPD (CD8.14 pp. 36 and 79).

Piecemeal Approach.

7.94 As set out above the appeal scheme has put forward the development of part of the appeal site in a piecemeal fashion. This is contrary to the adopted HSA DPD Policy GS1 and the Sandleford Park SPD in relation to the failure to submit a single planning application.

7.95 I acknowledge that the LPR emerging draft Policy SP16 has taken stock of the situation to date and in the interest of facilitating the development of the Sandleford Park urban extension is suggesting a relaxation of the above requirement. However this is at a very early stage towards its adoption and carries limited weight. Nevertheless it points to the current thinking and the direction of travel. At the same time Policy SP16 is seeking to strengthen the strategic site allocation policy, with a view to achieving all the Sandleford Park SPD objectives and comprehensive development of the SSSA.

7.96 I consider that the proposed MoU, which is not legally binding, the Combined EMMP, the Combined Plans which are only illustrative, the draft s106 legal agreement which relates solely to the appeal site, and the inconsistencies in the submission cannot be relied on to ensure, and to provide sufficient certainty, that the appeal proposal will secure the sustainable, comprehensive and cohesive

development of the whole SSSA and the timely and co-ordinated delivery of the necessary associated infrastructure.

- 7.97 Notwithstanding the policy conflict in respect of the Appellants' failure and inability to come forward with a single application, they have not sought to enter into and effect a legally binding developers' agreement, and/or to seek to effect a single s.106 planning obligation to cover and reflect the development of the whole of the SSSA and its associated infrastructure. Furthermore the appeal proposal scheme fails to propose a comprehensive SLGI plan for the whole of the SSSA, while it contains unnecessary duplication of proposals resulting in unnecessary and harmful impacts, inconsistencies, contradictions and uncertainty. Therefore the appeal proposals fail to propose the satisfactory comprehensive development of the SSSA.
- 7.98 No convincing explanation, based on material considerations has been submitted by the Appellants to adequately and satisfactorily demonstrate why a departure from the strategic approach to the holistic, comprehensive and cohesive planning of this allocated site should be permitted contrary to the requirements of the Development Plan, The Sandford Park SPD and the Emerging Local Plan Review.
- 7.99 I consider that in this respect the refused and 'Wheatcroft' appeal proposals are contrary to Core Strategy Policies CS3, CS5, CS18 and CS19; HSA DPD Policy GS1; LPR Policy SP16 and strategic objectives 11 and 14 and various Development Principles, including S1, L1, L4, A1, U4, CA4 and CA7 of the Sandford Park SPD.

8. Benefits of the Appeal Proposal

8.1 I have identified a number of public benefits in respect of the appeal proposal, which carry positive weight in the planning balance. Unless it is indicated specifically each entry relates to both scenario of the refused and the 'Wheatcroft' submissions. The range of weight I apply in this case is as per the following ascending order: neutral, limited, moderate, considerable, significant and substantial.

Housing Provision

8.2 The appeal proposal seeks to provide a total of 1080 residential units on this allocated greenfield site. Of those 432 units (40%) are intended to comprise affordable housing and 648 (60%) market housing. The proportion of affordable housing is in accordance with the 40% affordable housing requirement of Core Strategy Policy CS6 and the "at least" 40% requirement in the Sandleford Strategic Site Allocation (SSSA) Policy CS3 (both carried forward in Local Plan Review emerging Policies SP19 and SP16 respectively). The 40% CS6 requirement is also set out in the Planning Obligations SPD (Topic Paper 1 on Affordable Housing), while the Sandleford Park SPD repeats the "at least" 40% minimum requirement for affordable housing at Sandleford Park.

8.3 However as per Reason for Refusal 4 and Ms Robinson's evidence, the proposed cascade effect in the draft s.106 legal agreement accompanying the refused planning application and repeated in the Appellants' first iteration of the draft s.106 Unilateral Undertaking, does not guarantee that the development will provide the required minimum 40% permanently available affordable housing, as intermediate units could become market housing. In this respect the appeal proposal is not policy compliant.

8.4 Furthermore the proposal fails to also guarantee the provision of policy compliant tenure split, whereby 70% of the affordable housing is required to be specifically for social rent, as per Core Strategy Policy CS6 and repeated in emerging Local Plan Review Policy SP19 as well as the Planning Obligations SPD Topic Paper 1. The proposal as put forward in the submitted draft s.106 legal agreement and repeated in the current draft of the Unilateral Undertaking, seeks to provide 70%

of the affordable housing but for a mixture of affordable rent units and social rent. As evidenced in Ms Robinson's evidence this is not policy compliant and is unacceptable and inadequate.

- 8.5 In addition and as explained in Ms Robinson's proof, the cascade effect set out in the submitted draft s.106 legal agreement and repeated in the Appellants' first iteration of the draft s.106 Unilateral Undertaking, would potentially meant that the proposed 80 affordable extra care units are not guaranteed, which provides a concern that the development could end up with a concentration predominantly 1-bed flats in one location, without the required pepper-potting and with an unbalanced unit size mix, it would thus result in unacceptable and inadequate provision of affordable housing on the site and the failure to provide a balanced community, contrary to the requirements of Core Strategy Policy CS6, Local Plan Review emerging Policy SP19 and the provisions of the Planning Obligations SPD Topic Paper 1.
- 8.6 The proposal therefore as it stands at the time of writing this Proof of Evidence does not guarantee a fully policy compliant minimum permanent available affordable housing provision on site of the required tenure split, size mix and spatial distribution throughout the development. This large major strategic allocated greenfield site is counted on in order to provide the necessary affordable housing requirement and if it is not able to do so, it is a waste of a finite resource in West Berkshire and would be harmful to the community's need for affordable housing.
- 8.7 In this respect the provision of the affordable housing component of the appeal proposal is sizeable and an important public benefit. I consider that in the context of the above failure of the appeal proposal to provide and guarantee fully policy compliant permanently available affordable housing means that it should attract reduced weight, which in my view, as this is an allocated site it should be at best less than significant weight in the planning balance.
- 8.8 In respect of the 648 units of market housing, it is considered that in the context of the Council's robust five year housing land supply (5YHLS) of 7.75 years and the Council's stated and clear intention and objective to ensure the delivery of a satisfactory sustainable urban extension at Sandford Park again means that the social benefit of market housing as part of the appeal proposal should attract

reduced weight and in my view again in the context of this allocated site this should be at best “less than significant” weight in the planning balance.

- 8.9 In this respect I note other appeals where Inspectors have apportioned reduced or even moderate weight to affordable housing and market housing provision, as per attached decisions, one to the south west of the appeal proposal at Garden Close Lane (CD15.5) and one in Tunbridge Wells (CD15.6).

Country Park

- 8.10 The provision of the country park is a policy requirement and it will be an important facility primarily provided in mitigation for the development. In this respect the weight to be attached is neutral. However the country park will also be a publicly accessible facility and in this respect it is a public benefit. At the same time its use by the wider public would balance out the pressure resulting on the nearby Greenham and Cookham Common SSSI by the future residents of this development. As such I consider the proposed provision of the country park to overall attract reduced weight, which again at best it should be less than significant.

Economic benefits

- 8.11 The appeal development would generate temporary construction employment opportunities for the duration of the build out. This should attract considerable weight.
- 8.12 The future residents will support secondary employment in the local area through their spending, while a number of them are also likely to be involved and/or employed in the local economy. In my view this is economic benefit that in the case of the appeal development should attract considerable weight.

Pedestrian/cycling facilities

- 8.13 These are provided in mitigation, however they will not be used solely by the future residents. They are therefore a public benefit that in my view should carry limited weight.

Incidental Mineral extraction

8.14 The development will allow incidental mineral extraction for the construction industry. This is a benefit of limited weight

Archaeological assets

8.15 Archaeological assets on site will be identified and recorded. This is a benefit that carries limited weight.

Education mitigation

8.16 New primary school with early years provision is provided in mitigation and attracts no weight in the planning balance.

8.17 Proportionate contribution towards the feasibility study scheme for Park House School is also in mitigation and should attract no weight.

8.18 Expansion land and football pitch as per the 'Wheatcroft' proposal, is also provided in mitigation, but although this is an improvement to the refused scheme, it remains unacceptable as set out in the evidence of the Council's witnesses and therefore a dis-benefit attracting negative weight. However, were, without prejudice, this to be considered acceptable it will be available to all pupils of the school and potentially for limited dual community use. I would then consider that to be a benefit which should attract limited positive weight in the planning balance.

8.19 However it should be noted that the refused appeal proposal is unacceptable in terms of the proposed playing pitch arrangement within the school expansion land. As such and further to Mr Haines' evidence, the refused proposal would fail to effect and deliver the totality of the feasibility study at Park House School and would thus fail to deliver satisfactory mitigation for the appeal development in terms of secondary education facilities and should thus carry significant negative weight in the planning balance.

Falkland Surgery extension/expansion

8.20 Proportionate health care contribution is to be made towards the identified extension of Falkland Surgery to allow the expansion of its capacity to accommodate the future residents of the SSSA. This is to be provided in mitigation and should therefore carry no weight in the balance. If however the Appellants fail to agree the required funding to effect the extension this would be a dis-benefit and should carry significant negative weight in the planning balance.

Tree planting

8.21 This is provided in mitigation and should attract no weight. As per the evidence of Mr Giles the proposed tree planting is not sufficient to support, safeguard and strengthen the connectivity and resilience of the existing Ancient Woodlands. In this respect the failure to provide more tree planting on the site should carry considerable negative weight in the planning balance.

Local Centre

8.22 Local hub with retail / employment floorspace and a small community facility, comprise a policy requirement and are provided in mitigation. They would not be used solely by residents of the appeal development, but all from Sandford Park West and other residents from further afield, while future residents shall use existing facilities outside of the site. On balance I consider that the local centre will be a benefit which can carry limited positive weight in the balance.

8.23 However if the proposal does not secure the provision of the local centre the proposal would not deliver an acceptable and sustainable urban extension. Should that be the case the failure to provide the local centre amounts to a dis-benefit that should carry significant negative weight in the planning balance.

Local Finance Considerations

8.24 The market housing and commercial floorspace would be subject to CIL. In addition the proposal would give rise to Council Tax income and New Homes Bonus receipts. These would contribute towards local services. Such moneys are also not ring-fenced and would only amount to at best part-mitigation of the infrastructure costs of the appeal proposal.

8.25 PPG Paragraph:011 Reference ID:21b-011-20140612 (CD8.2) advises that:-

“Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a local finance consideration as far as it is material. Section 70(4) of the 1990 Act (as amended) defines a local finance consideration as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by a Minister of the Crown (such as New Homes Bonus payments), or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy.

Whether or not a ‘local finance consideration’ is material to a particular decision will depend on whether it could help to make the development acceptable in planning terms. It would not be appropriate to make a decision based on the potential for the development to raise money for a local authority or other government body.

In deciding an application for planning permission or appeal where a local financial consideration is material, decision takers need to ensure that the reasons supporting the decision clearly state how the consideration has been taken into account and its connection to the development.

New Homes Bonus payments recognise the efforts made by authorities to bring residential development forward. Even where anticipated Bonus payments are not a material consideration in making planning decisions”.

8.26 Further to this guidance and the above provisions of the 1990 TCP Act (as amended) in this case any of these payments are local financial considerations. As such regard is to be had to them in so far as they are material.

8.27 In this respect CIL payments are material local finance considerations. They are not ring-fenced and are to part contribute towards local infrastructure in mitigation. CIL payments should carry no weight in the balance.

8.28 Planning Practice Guidance is clear that New Homes Bonus receipts are not a material consideration and in this respect neither are Council Tax receipts. New Homes Bonus and Council Tax receipts would not help in themselves to make the development acceptable in planning terms and they are not therefore material to the proposal and should not carry any weight in the planning balance.

The Rugby Club

8.29 The proposal to return part of the land to the rugby club to avoid the loss of a playing pitch, along with a financial contribution, are proposed in lieu of the provision of recreational sport facilities in mitigation of the needs of the proposed development. But as the facilities will be not used solely by future residents I consider this to be a benefit that should attract limited weight in the planning balance.

9. Dis-Benefits of the Appeal Proposal

9.1 Further to benefits (and in some cases dis-benefits) which I have identified in section 8 above, I consider that the appeal proposals will also have a number of additional adverse impacts and will give rise to a whole range of additional dis-benefits, which carry negative weight in the planning balance. The ones I have identified are listed below. Similar to the benefits, the range of weight I apply in this case is as per the following descending sequence (in the negative): neutral, limited, moderate, considerable, significant and substantial.

Local Highway Network

9.2 Mr Goddard's evidence refers to highway modelling which shows that the appeal proposal, without any highway infrastructure improvements would have a material adverse and indeed severe impact on the local highway network, causing unacceptable levels of congestion. The impact arises from the entirety of the SSSA. In this respect and notwithstanding the fact that there are two separate developers for the SSSA, despite the submitted illustrative combined drawings and the memorandum of understanding, in the absence of a satisfactory and completed developers' agreement and a single co-ordinated s.106 Planning Obligation, the Appellants have failed to procure and effect the holistic, comprehensive and cohesive development of the SSSA and the timely and co-ordinated delivery of the required infrastructure, including transport infrastructure.

9.3 As such were the identified required highways infrastructure improvements not to be secured and delivered, the resulting adverse impact on the local highways network would result in great harm in terms of traffic congestion in the area and as such the appeal proposal would be entirely unacceptable and should attract substantial negative weight in the planning balance.

9.4 The Council is in liaison with the Appellants in respect of the local highways infrastructure, but this cannot secure nor deliver the full range of required local highways network improvements required in relation to the development of the whole of the SSSA. Were the Appellants to undertake to contribute on a proportionate basis for the relevant local highways network improvements in

mitigation of the appeal proposal, I understand the proposal would continue to cause some considerable traffic problems in the locality, which it would not be possible to address and eliminate completely. As such this continued adverse impact should carry moderate negative weight in the planning balance.

Access arrangements

- 9.5 Mr Goddard's proof of evidence explains that in respect of the refused appeal proposal, in the absence of the comprehensive development of the SSSA, Development Parcel Central (DPC) is accessed by vehicles solely via the Central Valley Crossing of the proposed embankment design option. Mr Goddard considers that the refused appeal proposal fails to provide DPC with adequate and acceptable emergency vehicular access. As access is not a reserved matter, the refused appeal proposal fails to provide acceptable access to all the parts the whole of the appeal site in all respects. As such I consider that the proposed access arrangement would amount to a dis-benefit which carries significant negative weight in the planning balance'
- 9.6 In respect of the submitted 'Wheatcroft' option for the Central Valley Crossing comprising the curved abutment proposal, Mr Goddard's evidence considers it to be unacceptable and inadequate in providing emergency vehicular access terms to DPC and therefore unacceptable in overall access terms, similar to the refused proposal. As such that option would also result in a dis-benefit which carries significant negative weight in the planning balance.
- 9.7 However, Mr Goddard's evidence considers that the submitted 'Wheatcroft' option for the Central Valley Crossing comprising the straight twin parallel structure is capable of being designed to provide acceptable emergency vehicular access to DPC, without the need for alternative emergency access in conjunction with the cycle route through the country park. As such this option would mean that access arrangements for the appeal proposal would be acceptable in highways terms and in that respect this 'Wheatcroft' option would not result in a dis-benefit and would not carry any negative weight in the balance.
- 9.8 In addition, were the development of Sandleford Park West not to materialise, then both the refused and the 'Wheatcroft' appeal proposals, would fail to deliver the comprehensive development of the SSSA and an all vehicle access through

Sandleford Park West to Andover Road to the west via Warren Road (including for public transport). This would result in an isolated cul-de-sac of circa 450+ units plus a local centre, which is not considered an ideal arrangement and would not be acceptable in permeability and connectivity terms and would fail to provide a connected and sustainable urban extension, integrated into the southern fabric of Newbury. As such the failure to secure and be able to deliver a vehicular access via Warren Road through to the west would result in a dis-benefit in urban design, connectivity and permeability terms, which should carry significant negative weight in the planning balance.

Central Valley Crossing

- 9.9 Mr Flatman's proof of evidence considers the refused Central Valley Crossing proposed embankment option unacceptable because of its harmful impacts in landscape and visual terms in respect of the character, integrity and connectivity of the central valley. I consider this harmful and unnecessary impact results in a dis-benefit which should carry significant negative weight in the planning balance.
- 9.10 Mrs Deakin's proof of evidence also considers the refused Central Valley Crossing proposed embankment option unacceptable because of its harmful impacts in terms of habitat and species fragmentation, including losses and discontinuity of wetland corridor priority habitat. I consider this harmful and unnecessary impact results in a dis-benefit which would carry significant negative weight in the planning balance Mrs Deakin's proof of evidence also considers the refused Central Valley Crossing proposed embankment option unacceptable because of its harmful impacts in ecological terms, including in relation to the wetland corridor priority habitat. I consider this harmful and unnecessary impact results in a dis-benefit which would carry significant negative weight in the planning balance.
- 9.11 The above applies equally to the curved 'Wheatcroft' Central Valley Crossing option, as per Mr Flatman's and Mrs Deakin's evidence. The harmful impact of that option would also carry significant negative weight in the planning balance in respect of both landscape and ecology considerations.

9.12 In respect of the other 'Wheatcroft' Central Valley Crossing option comprising the straight span twin bridge structure, Mr Flatman considers it to be an improvement to the other options in landscape/visual terms. However and despite the more lightweight design, it is still considered unacceptably bulky and with considerable abutments at either end. It continues to have a harmful (although reduced) impact in landscape/visual terms, the scale and extent of which is unnecessary, because it only arises as a result of the failure of the proposal to bring forward and secure the comprehensive development of the whole of the SSSA, as required by adopted and emerging policy and the Sandford Park SPD. The proposal remains unacceptable in this respect and in my view despite the improvement, it continues to attract significant negative weight in the planning balance in landscape and visual terms.

9.13 In ecology terms Mrs Deakin's proof also considers this double span bridge 'Wheatcroft' option to be an improvement compared to the refused scheme. However again due to the failure of the appeal proposal to put forward and secure a comprehensive development across the SSSA, this would still have an unnecessarily harmful effect in ecological connectivity terms. In my view it should continue to attract considerable negative weight in the planning balance.

Renewables

9.14 Mr Slaughter's Inquiry Note makes it clear that the appeal scheme, as refused and under 'Wheatcroft', fails to put forward any proposals for renewable and/or low/zero carbon energy generation on this greenfield site, as required by adopted and emerging policy and the Sandford Park SPD. It fails to take advantage of the favourable circumstances and seize the opportunity to deliver the required exemplar sustainable development in the current climate emergency situation and to assist West Berkshire towards its ambitious objective of carbon neutrality by 2030. In my view this is a great dis-benefit which should carry significant negative weight in the planning balance.

Woodlands and trees

9.15 Mrs Deakin's, Mr Giles' and Mr Bowden's proofs of evidence raise concerns that the appeal proposals (as refused and under 'Wheatcroft') the proposals would involve works within and at close proximity to existing Ancient Woodlands (and

other woodland) within the appeal site. Such works would include public access to some of these woodlands, provision of conveyance channels and other SuDS within close proximity to the woodlands, potentially affecting root systems as well as ground water levels, potential direct surface water run-off from proposed development areas into woodland areas, as a result of the drainage strategy, works in connection with the cycle route affecting Waterleaze Copse, while development within the area of the north valley would reduce the connectivity of Crooks Copse and isolate it from other woodlands to the south. Buffering of the ancient and other woodlands within the Site is considered insufficient and /or to contain inappropriate features in some instances, thereby offering insufficient protection to vulnerable and irreplaceable woodland habitats. The adverse and harmful impacts on these woodlands would amount to dis-benefits which would carry significant negative weight in the planning balance.

9.16 Mr Giles' and Mrs Deakin's proofs of evidence demonstrate that the refused development proposals would result in the avoidable loss of one ancient tree and loss and/or deterioration to various veteran trees, without exceptional reasons and compensation to justify such harmful impact. This amounts to a dis-benefit that should carry significant negative weight. . There is some reduction in the quantum of harm to trees as a result of the 'Wheatcroft' proposals, but there remain residual concerns regarding loss / deterioration of these irreplaceable habitats.

9.17 Mr Giles' proof of evidence demonstrates loss of notable and other TPO trees and hedgerows without adequate mitigation and compensation, would amount to a dis-benefit which should attract considerable negative weight.

Priority habitats and species

9.18 Mrs Deakin's proof of evidence demonstrates that both the appeal proposals and the 'Wheatcroft' proposals would have an adverse impact on habitats on site and their suitability for a number of European and UK protected and notable species, through loss, fragmentation and deterioration of habitat. This would amount to a dis-benefit which should carry significant negative weight in the planning balance.

Agricultural land

9.19 The appeal proposal would result in loss of best and most versatile agricultural land, which should attract limited negative weight in the planning balance.

10. Heritage Assets Balance

- 10.1 As set out in the section on the historic environment, the country parkland area has open views both from and to Sandlesford Priory. It is meant to reflect the Capability Brown landscape on Sandlesford Priory and it forms part of the setting of the Sandlesford Priory Grade I listed building and the Grade II registered park and garden. In accordance with NPPF paragraph 193 great weight should be given to the assets' conservation. The proposed introduction of various elements of the refused appeal proposal in the country parkland, such as the cycleway and Grasscrete surface to provide emergency access (the latter will not be necessary as part of the 'Wheatcroft' proposal), associated bollards, stream crossing structure, effect on Waterleaze Copse ancient woodland at the point where it cuts through, detention basins, NEAP, will have a domesticating effect and a negative impact on the significance of the setting of the identified designated heritage assets. I consider that the proposals will result in less than substantial harm to the significance of these heritage assets, and that such impact would be at the lower end of the 'less-than-substantial' scale.
- 10.2 In addition the appeal proposal would not have any material adverse impact on the setting of other nearby heritage assets, such as the Grade II Listed Buildings at Sandlesford Place to the South East and Warren Lodge and Squirrel Cottage to the west.
- 10.3 I consider that when the evidence is taken as a whole (in accordance with NPPF paragraph 196), the benefits of the scheme range from 'neutral' and 'limited' to 'less than significant' in magnitude as set out in section 8 of my proof of evidence. They can be regarded as public benefits and set against the low level of harm on the significance of the stated heritage assets. The public benefits would provide clear and convincing justification for that harm and they outweigh the low level of less than substantial harm in this case (NPPF paragraph 194).
- 10.4 Having special regard to the desirability of preserving listed buildings and their setting in accordance Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the development would have an acceptable effect in terms of heritage assets.

11. Assessment against the 'Most Important Policies' in the Development Plan and other Material Considerations

- 11.1 Further to the strategic site allocation (Core Strategy Policy CS3 and taken forward in Local Plan Review Policy SP16), the residential-led development of the parts of the SSSA which are contained within the reviewed, extended and adopted Newbury settlement boundary accords with the Core Strategy spatial strategy provisions of Policy ADPP1 and Policy CS1 relating to housing development, as well as the presumption in favour of development within the settlement boundary as set out in HSA DPD Policy C1, which reviewed and adopted an extended Newbury settlement boundary to include the development area of the SSSA.
- 11.2 Thus in my view the residential development of that part of the appeal site, which falls within the adopted Newbury settlement boundary is not objected to in principle and would be supported, provided it would first be assessed against the requirements of the basket of the 'most important' policies of the Development Plan, to gauge whether the proposal is in accordance with the Development Plan as a whole.
- 11.3 However, as I describe in section 6 of my Proof of evidence, the appeal proposal extends beyond the adopted Newbury settlement boundary and encroaches into the Countryside, causing harm to interests of acknowledged importance in relation to the character and landscape of the north valley and the connectivity of the adjacent Ancient Woodlands, namely Crooks Copse to the north of and Highwood and Slockett's Copse to the south of the north valley. In this respect the proposed encroachment is contrary to the parts of Core Strategy Policies ADPP1 and CS1 in relation to development in the countryside and also the HSA DPD Policy C1 part which relates to the presumption against development in the countryside.
- 11.4 Further to the evidence of the Council's witnesses, the proposal is contrary to the whole suite of Core Strategy Policies namely ADPP1, ADPP2, CS3, CS4, CS5, CS6, CS13, CS14, CS15, CS16, CS17, CS18 and CS19, as well as HSA DPD Policies GS1 and C1. Policy GS1 developed the need for comprehensive

planning of major sites, which was first cited in ADPP1. As explained in Section 4 of my proof of evidence, all of the above policies (with the exception of the first part of CS15, which is out-of-date) are up-to-date and should carry full weight.

- 11.5 The Local Plan Review (Emergency Draft) includes policies that closely reflect the Development Plan policies, which re-affirms the continued consistency, relevance and up-to-datedness of the thrust of the currently adopted Development Plan policies.
- 11.6 The proposal is also contrary to the Vision, a number of the Strategic Objectives and many of the Development Principles of the supporting Sandlesford Park SPD, and it is also contrary to the provisions of other West Berkshire SPDs.
- 11.7 In respect of the NPPF the refused appeal proposals are also contrary to a number of its policies and provisions including paragraphs 108, 109, 110, (Highways), 127, 130, 131 (Design), 148, 150, 151, 153 (Renewables), 170 (Valued landscape, countryside and biodiversity), 174, 175 (Biodiversity and habitats and ancient woodland and ancient / veteran trees).
- 11.8 I consider that the appeal proposals as refused and also pursuant to the 'Wheatcroft' submission" are contrary to parts of all of the identified 'most important' policies in the development plan, which are up-to-date. This includes identified in-principle conflict of the part of the development areas of the proposal on either side of the north valley, which extend beyond the adopted settlement boundary into what is open countryside, where there is a presumption against development. At the same time I have had regard to the in-principle policy acceptability and presumption in favour of the part of the development contained within the Newbury settlement boundary.
- 11.9 I find that the appeal proposals result in extensive and wide-ranging conflict with the Development Plan basket of most important policies, which is also reflected in the conflict with various policies, provisions and development principles in the NPPF, the emerging Local Plan Review, as well as the Sandlesford Park SPD and also other SPDs.
- 11.10 I therefore consider that the proposal is contrary to the Development Plan as a whole and if approved would represent a departure from the adopted plan. The

appeal proposal does not represent sustainable development for the purposes of the NPPF. The appeal therefore cannot be approved without delay pursuant to NPPF paragraph 11(c).

11.11 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 and Section 70(2) of the Town and Country Planning Act 1990 (as amended), the appeal should be determined in accordance with the Development Plan, unless there are material considerations that indicate otherwise.

11.12 As I mentioned above, in addition to the conflict with the development plan in this case the appeal proposals are contrary to various NPPF policies, the Sandford Park SPD and provisions of other SPDs, which are material considerations in the assessment of this appeal.

12. The Planning Balance

- 12.1 In considering the planning benefits of the refused appeal proposal, I consider that these are outweighed by the resulting dis-benefits for both the refused and the 'Wheatcroft' proposals.
- 12.2 In addition the policy conflict with the up-to-date development plan attracts substantial weight and indicates that the proposal should be refused unless there are material considerations that would justify a different decision.
- 12.3 In this case none of the benefits, individually and/or in their totality, outweigh the dis-benefits and/or the extensive policy conflict of the appeal proposals.
- 12.4 Furthermore the NPPF and SPDs are material considerations which carry significant weight. The Emerging Local Plan Review at the moment carries limited weight, but it is clear as to the direction of travel, and that is one of consistency and reinforcement of the policy framework in West Berkshire. Assessment against the policies and principles of these material considerations reinforces further the 'policy' conflict and adds to the unacceptability and inappropriateness of the proposal.
- 12.5 Notwithstanding the Council's suggested list of planning conditions, which have been provided on a without prejudice basis to its case at appeal, I consider that the totality of the concerns, the resulting harm and the unacceptability of the proposals could not be overcome through conditions, while there have been great concerns in respect of the provisions of the submitted draft s.106 legal agreement, as well as of the draft s.106 Unilateral Undertaking, to which the Council has provided extensive comments on a without prejudice basis. Nevertheless and without prejudice to its case at appeal, the Council has commented extensively on the Appellant's draft s.106 Unilateral Undertaking and is in discussion with the Appellant on suggested conditions.

13. Conclusion

13.1 In view of the above the refused appeal proposal is unacceptable, inappropriate and unsatisfactory, fails to secure the comprehensive development of the SSSA, with timely and co-ordinated delivery of the associated infrastructure and it needs to address its serious shortcomings on all the identified areas.

13.2 I respectfully request that the appeal is dismissed and outline planning permission is refused.