

Sandleford Park

Appellants' Opening Submissions

Context

1. *".. it remains the firm belief of the Council that Sandleford Park is the most appropriate location for strategic housing delivery in Newbury."*¹
2. The appeal site is Sandleford Park.
3. At 114 hectares it constitutes **85%** of the 134 hectares "Sandleford Strategic Site Allocation" in Policy CS3 of the West Berkshire Core Strategy (2006 – 2026).²
4. Amongst other things the allocation is for *"up to 2,000 dwellings, of which at least 40% will be affordable and with an emphasis on family housing"*; with *"development to be limited to the north and west of the site"* with *"a country park .. in the southern part of the site"*; *"a local centre"*, *"a new primary school .. and the extension of Park House School"* and *"Two vehicular accesses .. off Monks Lane .."*
5. The Council now envisages the wider site *".. comprising approximately 1,500 dwellings"*³ (rather than up to 2,000) which simply reflects the appeal application for some 1,080 homes on the lion's share of the Strategic Site Allocation coupled with the planning application for New Warren Farm, which includes the rest of the Strategic Site Allocation, for 500 homes.
6. As envisaged in the Core Strategy, the Council went on to prepare the Sandleford Park SPD *"to set out the detailed guidelines for the distribution of uses and design of the site."*⁴ Over its 95 pages the Sandleford Park SPD⁵ includes a "Vision for Sandleford Park"⁶, 14 "Strategic Objectives"⁷, 49 "Development Principles"⁸ and at Figure 13 a "Masterplan Framework".⁹

¹ West Berkshire Local Plan Review 2020 – 2037: Emerging Draft, para. 6.29-page 63 CD 8.13

² CD 8.5 page 46 [2012]

³ Policy SP16 page 61 CD 8.13

⁴ 5.14 on page 47 of CD 8.5

⁵ CD 8.14 [2015]

⁶ Page 7

⁷ Pages 7 & 8

⁸ Pages 30 - 82

⁹ Page 57

7. The appeal application, remembering that (as the SPD contemplated¹⁰) it is an outline rather than full application, incorporates everything in Policy CS3¹¹ that this, the by far and away larger part of the overall Strategic Site Allocation, can reasonably be expected to deliver, and is a close fit with those of the detailed guidelines in the SPD which relate to this, the major part, of the wider allocation.
8. The appeal application includes 1,080 homes, of which 40% will be affordable, and with an emphasis on family housing – the proposals are predominantly houses for families; development is limited to the north and west of the site, with a country park which at 86 hectares is some 75% of the appeal site in the southern part of the site; the application includes a local centre, and makes provision for a new primary school and the expansion, including land for a new playing field, of Park House School; detailed permission is sought for the two vehicular accesses off Monks Lane.
9. To a reader of Policy CS3 this should sound familiar.
10. The same reader would be hard pressed to spot the difference between the key plans for the appeal proposals¹² and the SPD's Masterplan Framework¹³ and would appreciate that as an outline application, reserved matters and appropriately drafted conditions and planning obligations would secure the delivery at the detailed design stage of the multitude of things the SPD aims to achieve.
11. The same goes for many of the requirements of the Core Strategy as well.
12. Just to give one example (the logic of which applies to a great many other things too) Policy CS 3 requires “.. *appropriate buffers between the development and the ancient woodland* ..” on the site¹⁴ and the SPD states that the buffer zones should be 15 metres for all the woodland on the site (most of which are ancient woodlands) and explains what can and can't happen within these zones¹⁵; it is *obvious* that this can be secured by conditions, as indeed is acknowledged in the Statement of Common Ground¹⁶.

¹⁰ Paras. 129, 140, 142 on pages 83 & 84

¹¹ Page 46 of CD 8.5

¹² As listed in condition 5 of the Council's Draft Suggested Conditions

¹³ Figure 13-page 57 CD 8.14

¹⁴ See the last bullet point in the policy, page 46 CD 8.5.

¹⁵ Items a) and b) under L4 on page 33 and the 1st “key design principle” in CA8 on page 80, CD 8.14

¹⁶ CD 9.1 para. 8.1 page 10

Why then are we here?

13. Given all this any sensible person should be bewildered by the Council's refusal of the appeal application for an extraordinary 14 reasons.
14. The reasons¹⁷ extend to more than 8 pages, are rambling and repetitious, and for good measure culminate in the Orwellian statement that they are the result of the Council having "*approached this decision in a positive way*".
15. We can see only two, limited, inconsistencies between the appeal application and the 13 development plan policies referred to in the reasons for refusal, namely (1) the application covers 85% rather than 100% of the Strategic Site Allocation and so is not: "A single planning application for [the] allocated site" and as such does not tally with part of the 1st of the 10 criteria in Policy GS 1 of the West Berkshire Housing Site Allocations DPD¹⁸, and (2) the proposed homes are not "Code for Sustainable Homes Level 6" as required by Policy CS 15.¹⁹
16. As is well known, in working out whether the grant or the refusal of planning permission would be in accordance with the development plan²⁰ the plan is to be read as a whole; inconsistencies with bits and bobs in a plan do not necessarily mean that what is proposed does not accord with the plan.
17. It is our case that the determination which would be in accordance with the plan, when read as a whole, would be to allow the appeal.
18. But in any event there are material considerations²¹ which dilute the meaningfulness of these inconsistencies, not least (1) the Council now proposes to delete Policy GS 1 and its aspiration for a single planning application²² and (2) the Code for Sustainable Homes no longer exists.²³
19. Latterly, the Council has sought to make something of the fact that part of the proposed "Development Parcel North 1"²⁴ lies outside the settlement boundary of

¹⁷ CD 4.2

¹⁸ Pages 10 & 11 CD 8.6

¹⁹ Page 75 CD 8.5

²⁰ As per the first part of s.38(6) of the Planning and Compulsory Purchase Act 2004

²¹ As per the second part of s.38(6) of the 2004 Act

²² December 2020, CD 8.13 para. 6.32 page 63 **which explains that the Council's new approach would also "[take] precedence over the SPD requirement for a single planning application .."** (Emphasis added.)

²³ References in Policy CS 15 (page 75, CD 8.5) to "Zero Carbon" development are footnoted (FNs 74, 75) with the caveats that these are "*in line with stated Government aspirations, which may be subject to change*" which has indeed proven to be the case. (Emphasis added.)

²⁴ See the Parcelisation Plan CD 1.23

Newbury²⁵ and thus is subject to the presumption against residential development in the countryside set out in Policy C 1²⁶ but this is a flimsy point which, rightly, did not make it into the reasons for refusal, as: (a) the area in question, which is shown on the plan in Mr Jones' Appendix 14, comprises 0.35 of a hectare, some 0.3% of the 114 hectares application site, and (b) this is a "boundary" created entirely by policy - it runs through a field with nothing to distinguish what lies on its eastern side (within Newbury) from what lies on its western side ("countryside").²⁷

20. Turning to the SPD, which of course is not part of the development plan but is a material consideration, our proposals include a highway link (the "Crooks Copse Link") to the south of Crooks Copse; this link is not found in the SPD but is required by the Council²⁸ and Mr Cooper for the Appellants has shown how it can be designed in a sensitive manner.²⁹

There are no showstoppers here.

21. The issues raised in the reasons for refusal are helpfully set out in tabular form on pages 16 – 25 of the Statement of Common Ground.³⁰ Taking each in turn:

- 1) *Comprehensive development*: the appeal proposals neither preclude nor inhibit but instead facilitate the bringing forward of the remaining 15% of the overall allocation in accordance with the requirements and aspirations of the Core Strategy and the SPD to the extent that they relate to New Warren Farm. That should be more than good enough.
- 2) *Landscape and visual impact*: Mr Flatman for the Council considers that Mr Cooper for the Appellants has understated the degree of impact. We don't think Mr Cooper has but whoever's assessment is preferred this must be seen in the context of the radical changes to the site mandated by the Core Strategy and the SPD, with no change of tack in the Emerging Local Plan.
- 3) *Affordable housing*: this concerns the drafting of the s106 Unilateral Undertaking and either will be resolved or the issues will be narrowed down.

²⁵ As defined on the Map on page 137 of the HSA DPD, CD 8.6

²⁶ Page 83 CD 8.6

²⁷ As explained by Mr Jones in paras. 5.49 – 5.52 pages 64 & 65 of Mr Jones' Proof

²⁸ Para. 6.12 of the S of CG page 8 CD 9.1

²⁹ Mr Cooper's Appendix G Figure L1 page 106

³⁰ CD 9.1

- 4) *Carbon*: this can be dealt with in an appropriately worded condition.
- 5) *The Central Valley Crossing*: this is necessitated by the terms of the overall allocation in Policy CS 3 and is required by the SPD. The application does not seek detailed approval of the crossing. The Appellants have illustrated via the “Wheatcroft” consultation how this can be achieved in an appropriate manner, including emergency access³¹; the rest is for the detailed design stage.
- 6) *Park House School Expansion Land for an additional playing field*: there is ample space within the application site adjacent to the school to accommodate this in a satisfactory manner.
- 7) *Woodland and trees*: the appeal proposals need not result in the loss or deterioration of irreplaceable habitats to wit ancient woodland, ancient or veteran trees, the satisfactory protection of all of which can be secured by appropriately worded conditions and planning obligations.
- 8) *Ecology*: the appeal proposals need not result in significant harm to biodiversity, the satisfactory protection of ecological interests can be secured by appropriately worded conditions and planning obligations. The Appellants consider that there would be a net gain in biodiversity. This issue needs to be seen in its proper context, namely the allocation of the site in the Core Strategy and the detailed guidelines in the SPD. To give an example, Mrs Deakin giving evidence for the Council says that *the Council* wishes to preclude public access to the ancient woodlands on the site³² doubtless this is her opinion, but it certainly isn't *the Council's* as eight times over the SPD explicitly encourages the provision of public access to the ancient woodlands.³³
- 9) *Drainage / SuDS*: the SPD envisages the provision of “a variety of Sustainable Drainage systems”³⁴ the details of which can be secured by an appropriately worded condition.³⁵

³¹ The Council agree that the emergency access shown on Drawing No. VD17562-STR-SK-003 Rev 1 is satisfactory

³² See for example paras. 3.3.9 and 3.3.11 on pages [unnumbered but it is] 18, and 19 of her Proof.

³³ CD 8.14 Strategic Objective 5 (page 7), para. 105 (page 25), **Development Principle L4 at d** (page 33), the caption to Picture 18 (page 36), the “indicative circulation” shown on Figure 7 (page 42), and Figure 13 (page 57), **Development Principle CA8 5th “key design principle”** (page 80), Development Principle CA9 2nd “key design principle” (page 81)

³⁴ Development Principle H2 page 43 CD 8.14

³⁵ The Council's suggestion is draft condition 14.

10) *Infrastructure Provision*: this is all to do the terms of the section 106 Unilateral Undertaking which are being discussed between the Appellants and the Council; any issues either will be resolved or narrowed down.

The proposals would deliver extremely worthwhile public benefits.

22. Not least:

- i. 1,080 homes.
- ii. Which would mostly be *houses* for families.
- iii. Of the 1,080 homes, 432 (40%) would be affordable homes.
- iv. An 86 hectares (over 200 acres) Country Park.

23. And that's just some of the good that would be done by allowing this appeal.

Christopher Katkowski QC

Constanze Bell

5th May 2021