

**From:** [REDACTED]  
**To:** [PlanningPolicy](#)  
**Cc:** [REDACTED]  
**Subject:** Representation to the Draft Submission West Berkshire Local Plan on behalf of Commercial Estates Group (CEG)  
**Date:** 03 March 2023 16:16:41  
**Attachments:** [W Berks LP reps WBP for CEG - 3.3.pdf](#)  
[CEG Submission LPR Comment Form SP13.pdf](#)  
[CEG Submission LPR Comment Form SP12.pdf](#)  
[Donnington Appeal Decision 3143214.pdf](#)  
[St Albans ED40 Inspectors Post Hearings Letter 14.4.20.pdf](#)

---

**This is an EXTERNAL EMAIL. STOP. THINK before you CLICK links or OPEN attachments.**

---

Dear Sir/Madam,

Please find attached duly completed representation forms together with a statement detailing the objections to draft policies SP12 and SP13. A copy of the appeal decision for the land north of Newbury together with the Inspector's letter on the St Albans Local Plan referenced in the statement is also attached.

As the attached representation form confirms, I wish to be notified of the relevant remaining steps for the preparation of the Local Plan and also to appear at the examination.

I would be grateful if you could confirm receipt of this representation.

Yours faithfully,

Graham Ritchie BSc(Hons) MA MRTPI

Woolf Bond Planning  
The Mitfords  
Basingstoke Road  
Three Mile Cross  
Reading  
RG7 1AT

Tel: 0118 988 4923  
[REDACTED]

[www.woolfbond.co.uk](http://www.woolfbond.co.uk)



**Woolf Bond Planning**  
Chartered Town Planning Consultants

IMPORTANT: This e-mail (including any attachments) is intended only for the recipient(s) named above. It may contain confidential or privileged information and should not be read, copied or otherwise used by any other person. If you are not a named recipient please contact the sender and delete this e-mail from your system.

Cybercrime Alert: Please be aware that we will not notify you of any changes to important information, such as and

specifically bank account details, by email. If you receive any email suggesting there has been such a change, please talk to us by telephone as soon as you can.



**West Berkshire Local Plan Review 2022-2039**  
**Proposed Submission Representation Form**

**Ref:**

*(For official use only)*

<b>Please complete online or return this form to:</b>	<b>Online:</b> <a href="http://consult.westberks.gov.uk/kse">http://consult.westberks.gov.uk/kse</a>
	<b>By email:</b> <a href="mailto:planningpolicy@westberks.gov.uk">planningpolicy@westberks.gov.uk</a>
	<b>By post:</b> Planning Policy, Development and Regulation, Council Offices, Market Street, Newbury, RG14 5LD
<b>Return by:</b>	<b>4:30pm on Friday 3 March 2023</b>

This form has two parts:

- Part A - Your details: need only be completed once
- Part B - Your representation(s): please fill in a separate sheet for each representation you wish to make

**PART A: Your Details**

*Please note the following:*

- *We cannot register your representation without your details.*
- *Representations cannot be kept confidential and will be available for public scrutiny, however, your contact details will not be published.*
- *All information will be sent for examination by an independent inspector*
- *All personal data will be handled in line with the Council's Privacy Policy on the Development Plan. You can view the Council's privacy notices at <http://info.westberks.gov.uk/privacynotices>*

	<b>Your details</b>	<b>Agent's details (if applicable)</b>
Title:		Mr
First Name:*		Steven
Last Name:*		Brown
Job title <i>(where relevant):</i>		
Organisation <i>(where relevant):</i>	Commercial Estates Group (CEG)	Woolf Bond Planning
Address* <i>Please include postcode:</i>	c/o agent	The Mitfords, Basingstoke Road, Three Mile Cross Reading RG7 1AT
Email address:*		████████████████████
Telephone number:		0118 988 4923

\*Mandatory field

## Part B – Your Representation

### *Please use a separate sheet for each representation*

The accompanying guidance note available at: <https://www.westberks.gov.uk/lpr-proposed-submission-consultation> will assist you in making representations.

*Your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested change(s) as there will **not normally** be a subsequent opportunity to make further representations, **further submissions will ONLY be at the request of the Inspector, based on the matters and issues they identify for examination.***

Your name or organisation (and client if you are an agent):	Commercial Estates Group (CEG)
---	--------------------------------

**Please indicate which part of the Local Plan Review this representation relates to:**

Section/paragraph:	
Policy:	SP13
Appendix:	
Policies Map:	
Other:	

### 1. Legally Compliant

*Please see the guidance notes for an explanation of what 'legally compliant' means.*

**Do you consider the Local Plan Review is legally compliant?**

Yes

No

*Please give reasons for your answer:*

*As detailed in the accompanying statement, the Plan as prepared is not legally compliant as the Sustainability Appraisal/Strategic Environmental Assessment has not considered reasonable alternatives, especially non-strategic sites of less than 1,000 dwellings around Newbury/Thatcham.*

### 2. Soundness

Please see the guidance notes for an explanation of what ‘soundness’ means.

### Do you consider the Local Plan Review is sound?

The soundness of the LPR should be assessed against the following criteria from the National Planning Policy Framework (NPPF)

Please tick all that apply:

NPPF criteria	Yes	No
<b>Positively Prepared:</b> The plan provides a strategy which, as a minimum, seeks to meet the area’s objectively assessed need and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where practical to do so and is consistent with achieving sustainable development		✓
<b>Justified:</b> the plan is an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence		✓
<b>Effective:</b> the plan is deliverable over the plan period and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground	✓	
<b>Consistent with national policy:</b> the plan should enable the delivery of sustainable development in accordance with the policies of the NPPF		✓

Please give reasons for your answer:

As outlined in the accompanying Statement, it is not considered that the plan as draft is sound under these matters as:

- a) It is **not positively prepared** as it does not seek to contribute sufficiently to the Government’s wider objective of significantly boosting the supply of housing;
- b) It is **not justified** with regard to the timeframe that the examination of the Local Plan will take resulting in a delayed adoption of the document;
- c) It is also **inconsistent with national policy** in the failure to both boost housing supply and make a contribution towards addressing the housing needs of neighbouring authorities as required by paragraphs 60 and 61 of the NPPF.

### 3. Complies with the Duty to Co-operate

Please see the guidance note for an explanation of what ‘Duty to Cooperate’ means.

### Do you consider the Local Plan Review complies with the Duty to Co-operate?

Yes

No

Please give reasons for your answer:

**4. Proposed Changes**

**Please set out what change(s) you consider necessary to make the Local Plan Review legally compliant or sound, having regard to the tests you have identified above (Please note that non-compliance with the duty to co-operate is incapable of modification at examination).**

*You will need to say why this change will make the LPR legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.*

*The changes are detailed in the statement and include the allocation of land to the north of Newbury, either side of the A339 for housing.*

**5. Independent Examination**

**If your representation is seeking a change, do you consider it necessary to participate at the examination hearing session(s)?**

Yes  No

*If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:*

*To explain why the plan is unsound and requires the inclusion of the allocation of land north of Newbury (either side of A339) for housing.*

*Please note the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination.*

**6. Notification of Progress of the Local Plan Review**

**Do you wish to be notified of any of the following?**

*Please tick all that apply:*

*Tick*

The submission of the Local Plan Review for Independent Examination	✓
The publication of the report of the Inspector appointed to carry out the examination	✓
The adoption of the Local Plan Review	✓

*Please ensure that we have either an up to date email address or postal address at which we can contact you. You can amend your contact details by logging onto your account on the Local Plan Consultation Portal or by contacting the Planning Policy team.*

<b>Signature</b>	<i>Woolf Bond Planning</i>	<b>Date</b>	<b>3<sup>rd</sup> March 2023</b>
------------------	----------------------------	-------------	----------------------------------

**Your completed representations must be received by the Council by 4:30pm on Friday 3 March 2023.**



**West Berkshire Local Plan Review 2022-2039**  
**Proposed Submission Representation Form**

**Ref:**

*(For official use only)*

<b>Please complete online or return this form to:</b>	<b>Online:</b> <a href="http://consult.westberks.gov.uk/kse">http://consult.westberks.gov.uk/kse</a>
	<b>By email:</b> <a href="mailto:planningpolicy@westberks.gov.uk">planningpolicy@westberks.gov.uk</a>
	<b>By post:</b> Planning Policy, Development and Regulation, Council Offices, Market Street, Newbury, RG14 5LD
<b>Return by:</b>	<b>4:30pm on Friday 3 March 2023</b>

This form has two parts:

- Part A - Your details: need only be completed once
- Part B - Your representation(s): please fill in a separate sheet for each representation you wish to make

**PART A: Your Details**

*Please note the following:*

- *We cannot register your representation without your details.*
- *Representations cannot be kept confidential and will be available for public scrutiny, however, your contact details will not be published.*
- *All information will be sent for examination by an independent inspector*
- *All personal data will be handled in line with the Council's Privacy Policy on the Development Plan. You can view the Council's privacy notices at <http://info.westberks.gov.uk/privacynotices>*

	<b>Your details</b>	<b>Agent's details (if applicable)</b>
Title:		Mr
First Name:*		Steven
Last Name:*		Brown
Job title <i>(where relevant):</i>		
Organisation <i>(where relevant):</i>	Commercial Estates Group (CEG)	Woolf Bond Planning
Address* <i>Please include postcode:</i>	c/o agent	The Mitfords, Basingstoke Road, Three Mile Cross Reading RG7 1AT
Email address:*		████████████████████
Telephone number:		0118 988 4923

\*Mandatory field



## Part B – Your Representation

**Please use a separate sheet for each representation**

The accompanying guidance note available at: <https://www.westberks.gov.uk/lpr-proposed-submission-consultation> will assist you in making representations.

*Your representation should cover succinctly all the information, evidence and supporting information necessary to support/justify the representation and the suggested change(s) as there will **not normally** be a subsequent opportunity to make further representations, **further submissions will ONLY be at the request of the Inspector, based on the matters and issues they identify for examination.***

Your name or organisation (and client if you are an agent):	Commercial Estates Group (CEG)
---	--------------------------------

**Please indicate which part of the Local Plan Review this representation relates to:**

Section/paragraph:	
Policy:	SP12
Appendix:	
Policies Map:	
Other:	

### 1. Legally Compliant

*Please see the guidance notes for an explanation of what 'legally compliant' means.*

**Do you consider the Local Plan Review is legally compliant?**

Yes

No

*Please give reasons for your answer:*

### 2. Soundness

Please see the guidance notes for an explanation of what ‘soundness’ means.

**Do you consider the Local Plan Review is sound?**

The soundness of the LPR should be assessed against the following criteria from the National Planning Policy Framework (NPPF)

Please tick all that apply:

NPPF criteria	Yes	No
<b>Positively Prepared:</b> The plan provides a strategy which, as a minimum, seeks to meet the area’s objectively assessed need and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where practical to do so and is consistent with achieving sustainable development		✓
<b>Justified:</b> the plan is an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence		✓
<b>Effective:</b> the plan is deliverable over the plan period and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground	✓	
<b>Consistent with national policy:</b> the plan should enable the delivery of sustainable development in accordance with the policies of the NPPF		✓

Please give reasons for your answer:

As outlined in the accompanying Statement, it is not considered that the plan as draft is sound under these matters as:

- a) It is **not positively prepared** as it does not seek to contribute sufficiently to the Government’s wider objective of significantly boosting the supply of housing;
- b) It is **not justified** with regard to the timeframe that the examination of the Local Plan will take resulting in a delayed adoption of the document;
- c) It is also **inconsistent with national policy** in the failure to both boost housing supply and make a contribution towards addressing the housing needs of neighbouring authorities as required by paragraphs 60 and 61 of the NPPF.

**3. Complies with the Duty to Co-operate**

Please see the guidance note for an explanation of what ‘Duty to Cooperate’ means.

**Do you consider the Local Plan Review complies with the Duty to Co-operate?**

Yes  No

Please give reasons for your answer:

**4. Proposed Changes**

**Please set out what change(s) you consider necessary to make the Local Plan Review legally compliant or sound, having regard to the tests you have identified above (Please note that non-compliance with the duty to co-operate is incapable of modification at examination).**

*You will need to say why this change will make the LPR legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.*

The proposed revisions to policy SP12 are:

- A) ensure that the plan period is extended to March 2040; and
- B) The housing requirement is increased to a **minimum of 563dpa** (10,134 dwellings over the plan period) **with a further uplift as a contribution towards unmet needs arising in Reading Borough.**

**5. Independent Examination**

**If your representation is seeking a change, do you consider it necessary to participate at the examination hearing session(s)?**

Yes  No

*If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary:*

*To explain why the plan is unsound and requires the inclusion of the allocation of land north of Newbury (either side of A339) for housing.*

*Please note the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination.*

**6. Notification of Progress of the Local Plan Review**

**Do you wish to be notified of any of the following?**

*Please tick all that apply:*

*Tick*

The submission of the Local Plan Review for Independent Examination	✓
The publication of the report of the Inspector appointed to carry out the examination	✓
The adoption of the Local Plan Review	✓

*Please ensure that we have either an up to date email address or postal address at which we can contact you. You can amend your contact details by logging onto your account on the Local Plan Consultation Portal or by contacting the Planning Policy team.*

<b>Signature</b>	<i>Woolf Bond Planning</i>	<b>Date</b>	<b>3<sup>rd</sup> March 2023</b>
------------------	----------------------------	-------------	----------------------------------

**Your completed representations must be received by the Council by 4:30pm on Friday 3 March 2023.**



## Woolf Bond Planning

Chartered Town Planning Consultants

Our Ref: SB/GR/7663

Email: [REDACTED]

3<sup>rd</sup> March 2023

Planning Policy  
Development and Regulation  
West Berkshire Council  
Market [REDACTED]  
Newbury  
RG14 5LD

By Email: [planningpolicy@westberks.gov.uk](mailto:planningpolicy@westberks.gov.uk)

Dear Sir/Madam,

**West Berkshire Local Plan Review 2022-2039: Proposed Submission Plan Regulation 19 Consultation (January 2023)**

**Representations Submitted on behalf of Commercial Estates Group (CEG)**

### 1. Introduction

#### General

1.1 We refer to the above consultation exercise and respond on behalf of our client's, Commercial Estates Group ("CEG").  
[REDACTED]

1.2 CEG has a strong belief in the principle of the plan-led system. In setting out our representations upon the Regulation 19 Draft Submission West Berkshire Local Plan, we hope to be able to work with the Council in order to ensure the final Local Plan is fit for purpose in seeking to facilitate sustainable development that can deliver the much-needed new homes whilst also securing the provision of supporting infrastructure to ensure the creation of places where people will want to live and work in locations that are truly sustainable.

- 1.3 CEG has considerable experience and expertise in dealing with and realising development schemes through the planning system.
- 1.4 In this context, we welcome the publication of the Regulation 19 draft Local Plan. However, and as our representations explain, the Local Plan should provide a strategy consistent with national policy to deliver the growth across the Plan area that addresses both District's needs as well as unmet needs from neighbouring authorities.
- 1.5 CEG has a controlling interest in circa 40ha of land to the north of Newbury, identified as part deliverable in the Council's Housing and Economic Land Availability ("HELAA") Study under Site Ref: SCD4.
- 1.6 Our representations are submitted in response to the following elements of the consultation draft Local Plan:
- **Policy SP12: Approach to Housing Delivery**
  - **Policy SP13: Sites Allocated for Residential & Mixed-Use Development in Newbury and Thatcham**
  - **The omission of HELAA Site SCD4 as housing allocation for up to approximately 400 dwellings.**

**2. Deliverable Opportunity for Housing Growth on land to the north of Newbury, on either side of the A339 (HELAA Site Ref: SCD4)**

- 2.1 Since the Draft Submission Document fails to include our client's site as a housing allocation, we highlight the failures of the Council's assessment and the reasons why it should have been included.
- 2.2 Our representations highlight the suitability, availability and achievability of the land HELAA Site Ref: SCD4.

- 2.3 The locational context for the site is formed by the extant planning permission for 401 dwellings, local centre and primary school that was allowed at appeal in March 2017 (LPA Ref: 14/02480/OUTMAJ)<sup>1</sup>.
- 2.4 Subsequent reserved matters permission has been granted and work has commenced to implement the development. The residual land to which these representations relate represents a sustainable location in seeking to meet housing needs within West Berkshire, at the principal settlement of Newbury.

### 3. Chapter 6: Delivering Housing

#### Policy SP12: The Approach to Housing Delivery

##### The Plan Period

- 3.1 Policy SP12 covers the period April 2022 to March 2039.
- 3.2 The Council's Local Development Scheme (January 2023) outlines the timetable for the remaining stages in the preparation of the Local Plan. It envisages submission of the draft Plan for examination by the Secretary of State in March 2023, with the examination starting in July 2023 and adoption by September 2024. Such a timeframe for the preparation of the document, especially post consultation on the draft submission plan is not considered realistic.
- 3.3 This is especially noticeable as submission to the Secretary of State is expected within under a month after the consultation period ends on 3<sup>rd</sup> March 2023. There is seemingly little if any prospect of the Local Plan being submitted, examined and adopted by September 2024.
- 3.4 Although it is noted that the Government is contemplating refinements to plan making procedures through the Levelling Up and Regeneration Bill and updates to

---

<sup>1</sup> Reserved matters applications have been approved. For land west of A339, this is in application 18/03061/RESMAJ approved on 16<sup>th</sup> October 2020 for 222 dwellings and for east of the A339, this is within application 20/00047/RESMAJ for 179 dwellings approved on 1<sup>st</sup> December 2020. The school and local centre will be provided on the land west of A339.

the NPPF<sup>2</sup>, a review of the time taken for the examination of Strategic Local Plans submitted since 24<sup>th</sup> January 2019 (as referenced in paragraph 220 of the current NPPF) indicates<sup>3</sup> that for the 32 plans found sound, the examination period was 526 days (or over 17 months). The same analysis also indicates that the period from commencement of the consultation on a draft submission plan through to receipt of the Inspector's Report was on average 742 days (or over 2 years).

- 3.5 Furthermore, applying the national averages for preparing the Local Plan indicates that allowing the minimum 2 years from commencement of consultation on the draft submission Plan indicates that the Inspector's Report could be received in January 2025 with adoption thereafter.
- 3.6 As the NPPF (paragraph 22) is clear that strategic policies (including those for housing) should look forward at least 15 year post adoption, the current Plan period to March 2039 does not achieve this.
- 3.7 In the circumstances, **the Plan should cover the period to at least March 2040. This would add a further years' housing requirement.**

#### The Housing Requirement

- 3.8 Although the District's housing requirement in Policy SP12 is derived from the Local Housing Need (consistent with NPPF paragraph 61), no allowance has been made for an uplift to address the acknowledged shortfall arising in the neighbouring authority of Reading Borough.
- 3.9 Policy H1 of the adopted Reading Borough Local Plan identifies a shortfall of 230 dwellings in the plan period that cannot be met in the Borough.
- 3.10 Neighbouring authorities, especially those within the Western Berkshire Housing Market Area like West Berkshire Council consistent with NPPF paragraph 61 should contribute towards addressing this shortfall. This shortfall is referenced in paragraph 6.5 of the Draft Submission Local Plan.

---

<sup>2</sup> A consultation on this took place from 22<sup>nd</sup> December 2022 until 2<sup>nd</sup> March 2023 - [Levelling-up and Regeneration Bill: reforms to national planning policy - GOV.UK \(www.gov.uk\)](#)

<sup>3</sup> [Local Plan: monitoring progress - GOV.UK \(www.gov.uk\)](#)



- 3.11 Whilst the Draft Submission Plan is clear it should only consider unmet need as outlined in the adopted Reading Borough Local Plan (paragraph 6.6), as Reading is one of the 20 largest urban areas in England, once Reading Borough commences a review of its local plan it will be required to deliver a 35% uplift on the minimum Local Housing Need<sup>4</sup>.
- 3.12 Consistent with the obligations at paragraph 73 of the NPPF, Reading Borough will need to undertake a review of its current housing requirement to establish the feasibility of achieving the requirements as derived through LHN. This will therefore include an assessment of LHN including all the relevant adjustments.
- 3.13 Whilst it is noted that Reading Borough's shortfall is currently, set at 230 dwellings over the plan period, paragraph 61 of the NPPF does not discount future unmet needs which are expected to arise in neighbouring areas. This is because paragraph 61 is clear that "any needs that cannot be met within neighbouring areas should also be taken into account". As the preceding sentence of the paragraph references current and future demographic trends, this logically also applies to the consideration of needs in neighbouring areas i.e. both current and future.
- 3.14 Although the Draft Submission Local Plan discounts the potential application of LHN in Reading Borough, it does not consider the development needs that have and will continue to arise in both West Berkshire and Reading, as confirmed in the results of the 2021 Census.
- 3.15 Tables 1 and 2 below provide comparisons of the population and household projections alongside the results of the Census.
- 3.16 The comparison indicates that the population growth for both authorities within the 2021 Census were significantly above each of the forecasts, and for households, this also applies for Reading Borough.
- 3.17 The actual household growth in 2021 is marginally below that projected in the 2014 projections whereas it is higher than both the 2016 and 2018 projections.

---

<sup>4</sup> Pursuant to step 4 of the derivation of LHN within the "Housing and Economic Development Needs Assessment" section of the PPG (ID ref 2a-004-20201216)

**Table 1: Population projections comparison with Census Results**

Data source	LPA	Year			Average change	
		2011	2021	2031	2011-21	2021-31
Census	West Berks	153,822	161,447		762.5	
	Reading	155,698	174,224		1,852.6	
2014 based projections	West Berks		159,800	164,400		460
	Reading		168,400	176,400		800
2016 based projections	West Berks		161,900	166,700		480
	Reading		168,200	175,500		730
2018 based projections	West Berks		158,532	157,506		-102.6
	Reading		164,240	165,251		101.1

**Table 2: Household projections comparison with Census Results**

Data source	LPA	Year			Annual change	
		2011	2021	2031	2011-21	2021-31
Census	West Berks	62,340	66,658		431.8	
	Reading	62,869	67,883		501.4	
2014 based projections	West Berks	62,448	66,422	70,222	397.4	380
	Reading	62,997	68,529	73,488	553.2	495.9
2016 based projections	West Berks	62,102	66,915	71,176	481.3	426.1
	Reading	62,074	67,136	71,142	506.2	400.6
2018 based projections	West Berks	62,102	65,878	68,109	377.6	223.1
	Reading	62,074	65,410	66,853	333.6	144.3

3.18 Alongside the comparisons of the projections with the Census results, the implications for the expectations on average household size (based upon population / households) is shown in Table 3.

3.19 Table 3 confirms for both West Berkshire and especially for Reading, the average household size has not reduced to the extent envisaged. In fact, Reading Borough has seen a significant increase in household size. Whilst this might be a result of slowing in societal changes and the expected growth in especially single person households, it could also be a result of constrained housing delivery both nationally and locally which has impacted upon household creation with associated impacts upon over-crowding and wider social needs. This is one of the matters that indicate why the approach of determining LHN results in a minimum requirement.

3.20 There are clear signs within West Berkshire and Reading that there are constraints for housing delivery which are affecting the wider society as illustrated by the household size not reducing to the extent envisaged.

3.21 This will therefore raise doubts over the realism that the expected future reductions will occur and therefore a boost to the housing requirements is therefore necessary. This is therefore a reason for delivering additional homes across the plan area above the minimum set through LHN.

**Table 3: Household size comparison with Census Results<sup>5</sup>**

Data source	LPA	Year		
		2011	2021	2031
Census	West Berks	2.47	2.42	
	Reading	2.48	2.57	
2014 based projections	West Berks		2.41	2.34
	Reading		2.46	2.40
2016 based projections	West Berks		2.42	2.34
	Reading		2.51	2.47
2018 based projections	West Berks		2.41	2.31
	Reading		2.51	2.47

3.22 Table 3 indicates that for West Berkshire, the changes in household size implied by the analysis of the 2016-based sub-national and population projections is the best fit with the outcome of the Census.

3.23 Table 4 confirms the accuracy of the 2016 based household and population projections with the 2021 Census, in contrast to both the 2014 and 2018 based projections.

**Table 4: Comparison of forecasts for 2021 compared to the results of the Census**

Projection	Population			Households		
	Projection	Difference from 2021 Census (161,447)	% difference from Census	Projection	Difference from 2021 Census (66,658)	% difference from Census
2014 base	159,800	1,647	1.03%	66,422	236	0.36%
2016 base	161,900	-453	-0.28%	66,915	-257	-0.38%
2018 base	158,532	2,915	1.84%	65,878	780	1.18%

3.24 As the 2016 based projections are closer to the results of the Census for West Berkshire, the Council should also consider whether a refined LHN assessment which includes these as the input, rather than the 2014 based figures would be appropriate.

<sup>5</sup> Based upon population / households (not residents in households as defined in Census)

3.25 Whilst Table 4 indicates that the average household growth in the 2016 based projections from 2021 to 2031 was 480pa, the equivalent for the 2022 to 2032 period is shown in Table 5 below. Table 5 also includes a comparison with the 2014 based projections to reflect the approach of the PPG (within Step 1).

**Table 5: Comparison of 2014 and 2016 based household projections**

Projection	2022	2032	Total change	Annual change
2014	66,422	70,581	3,777	377.7
2016	67,407	71,554	4,147	414.7

3.26 Applying the same affordability adjustment as with the LHN (an increase of 1.358125)<sup>6</sup> would result in an annual need for 563 dwellings<sup>7</sup> rather than 513 dwellings<sup>8</sup> as required by the Plan.

3.27 This adjustment would be additional to an increase for the housing requirements to ensure West Berkshire makes a contribution towards housing needs in Reading Borough.

3.28 Whilst the derivation of LHN as detailed in the PPG<sup>9</sup> results in a minimum figure, Government guidance is clear that there are circumstances where it is appropriate and responsible to plan for higher levels. Whilst examples of this are detailed in the PPG<sup>10</sup>, this is not an exhaustive list.

3.29 The above analysis illustrating the consistency of the outputs of the 2021 Census with the 2016 based population and household projections for West Berkshire is therefore an appropriate alternative for using to derive the District’s housing target.

3.30 The derivation of a housing need based upon the 2016 based projections should be reviewed alongside the outputs of the Berkshire SHMA (one of the specific examples

<sup>6</sup> Noting the most recent (2021) median workplace based affordability ratio (as published 23 March 2022) for West Berkshire was 9.73

<sup>7</sup> 414.7 x 1.358125

<sup>8</sup> 377.7 x 1.358125

<sup>9</sup> “Housing and Economic Development Needs Assessment” section, ID ref 2a-004-20201216

<sup>10</sup> Under “When might it be appropriate to plan for a higher housing need figure than the standard method indicates?” (ID ref 2a-010-20201216) section of “Housing and Economic Development Needs Assessment” section

referenced in the PPG<sup>11</sup>). The Berkshire SHMA (Feb 2016) indicated that West Berkshire's annual need was for 665 dwellings from 2013-36. This is therefore a further indication that a higher housing target should be included in the plan.

**Changes sought to the Local Plan with respect to the overall requirements as detailed in policy SP12.**

3.31 As drafted, Policy SP12 fails the NPF tests of soundness for the following reasons:

- a) It is **not positively prepared** as it does not seek to contribute sufficiently to the Government's wider objective of significantly boosting the supply of housing;
- b) It is **not justified** with regard to the timeframe that the examination of the Local Plan will take resulting in a delayed adoption of the document;
- c) It is also **inconsistent with national policy** in failing to both boost housing supply and make a contribution towards addressing the housing needs of neighbouring authorities as required by paragraphs 60 and 61 of the NPPF.

3.32 To address these matters of soundness, several amendments are proposed. The proposed revisions to policy SP12 are:

- A) ensure that the plan period is extended to March 2040; and
- B) The housing requirement is increased to a **minimum of 563dpa** (10,134 dwellings over the plan period) **with a further uplift as a contribution towards unmet needs arising in Reading Borough.**

**Policy SP13: Sites Allocated for Residential & Mixed-Use Development in Newbury and Thatcham**

3.33 The Draft Submission Local Plan includes a number of proposed housing allocations at Newbury and Thatcham, which are intended to contribute towards achievement of the minimum requirements for the district as detailed in policy SP12.

3.34 For the reasons detailed in the representation to draft policy SP12, insufficient land has been identified to address the needs.

---

<sup>11</sup> Under "When might it be appropriate to plan for a higher housing need figure than the standard method indicates?" (ID ref 2a-010-20201216) section of "Housing and Economic Development Needs Assessment" section

- 3.35 The current draft policy SP12 indicates that the District's minimum housing need over the period April 2022 to March 2039 is for between 8,721 and 9,146 dwellings.
- 3.36 The supporting text of policy SP12 outlines the sources which the Council relies upon to address the majority of its housing needs. This indicates that existing known sources will provide 7,337 dwellings.
- 3.37 Paragraph 6.21 notes that to address the highest figure in the housing requirements range (9,146 dwellings), sites for at least 1,809 dwellings must be found.
- 3.38 Paragraph 6.22 indicates that policies SP13-15 propose the allocation of sites for some 1,720 dwellings with a further 80 dwellings through Neighbourhood Plans (paragraph 6.23). This is a total of 1,800 dwellings which is marginally below the minimum 1,809 dwellings required.
- 3.39 Once the housing requirement is adjusted to reflect our representation to policy SP12 (an increase of 988 dwellings) from the highest figure in the council's range (9,146 dwellings) between 2022 and 2039 to at least 10,134 dwellings from 2022 until 2040, **the sources of supply relied upon by the Council are insufficient**. This therefore justifies an increase in the number of homes allocated.
- 3.40 Additionally, within the draft Plan, the Council expects delivery of over 3,000 dwellings from two strategic sites – the retained Sandleford site from the current Core Strategy where 1,580 dwellings are envisaged in the Plan period (policies SP13 and SP16) and a new strategic allocation to the north east of Thatcham for 1,500 dwellings in the Plan period (Policies SP13 and SP17).
- 3.41 Whilst the provision of over 3,000 dwellings across these two sites alongside other sources around Newbury and Thatcham ensure a significant proportion of the district's housing is delivered adjoining these settlements at the top of the hierarchy, there is a clear concern regard the over reliance on strategic sites of over 1,000 dwellings, especially for growth in around these settlements.
- 3.42 The Sandleford site has a poor record of delivery with the Core Strategy envisaging (Policy CS3) that at least 1,000 dwellings would have been completed by March 2026. However, the Council's latest trajectory (the 5 year land supply assessment

for April 2022) now indicates that only 100 dwellings will be completed by March 2026. This is a reason for the rephrasing of the site within the emerging plan period.

- 3.43 The Sustainability Appraisal (December 2022) considered a variety of options for delivering growth as summarised in Table 11, which included a continued focus of Newbury (option 4) separately to a focus on Thatcham (option 5).
- 3.44 Further growth at Newbury was discounted as **“further large scale development opportunities are more limited”** and **“there was an unknown impact as to whether the strategy would be able to deliver adequate housing to meet the identified need due to the lack of suitable sites within the area”**.
- 3.45 However, this analysis and the subsequent evolution of the plan discounted the potential of a mixed portfolio of sites around the settlements of Newbury and Thatcham rather than its reliance upon strategic sites, especially having regard to the challenges which have impacted upon Sandford’s development.
- 3.46 The failure of the Sustainability Appraisal to adequately consider a mix of sites rather than a focus on larger scale development was one of the reasons why the Local Plan prepared by the City and District of St Albans failed at its examination. Whilst this was generally with regard to consideration of Green Belt matters, as paragraph 44 of the Inspector’s Post Hearing Letter (14<sup>th</sup> April 2020 (copy enclosed)) confirms:

**We accept that large scale urban extensions would provide significant amounts of new infrastructure which both the new and already established communities would benefit from. On the other hand, a range of sites including smaller sites could also provide benefits. For example, they could be delivered more quickly without requiring additional infrastructure, provide choice and flexibility in the housing market and secure affordable housing more immediately.**

- 3.47 This provides a clear indication of the need for the plan to actively consider a range of scenarios of sites including both strategic and a portfolio of small and large ones, such as the delivery of 400 dwellings on our client’s land (HELAA Ref: SCD4).
- 3.48 The provision of 400 dwellings on our client’s site would make a valuable contribution towards addressing the Council’s identified need for 1,809 dwellings

without reliance upon 1,500 dwellings at North East Thatcham. It would also provide greater flexibility should the Council's expectations of delivery from other sources be unrealistic, reflecting that which has occurred to date at Sandlesford.

3.49 Recognising that Newbury and Thatcham are appropriately included in the top tier of the district's settlement hierarchy (in draft policy SP3), this is therefore an appropriate location for further growth. This is covered further in the representation concerning the omission of our clients land to the north of Newbury (either side of the A339) as an allocation for around 400 dwellings.

3.50 In order to be consistent with the amendments advocated elsewhere in these representations it is essential that the policy is revised to ensure that it reflects the changes associated with the allocation of land north of Newbury, on either side of the A339 for the delivery of around 400 dwellings.

3.51 This change also need to be evaluated through the SA since as currently drafted, it has failed to consider the reasonable alternative of a mix of sites such as that controlled by our clients for around 400 dwellings within a wider portfolio around Newbury. This is therefore a matter of legal compliance, consistent with the conclusions of the Inspector who examined the St Albans Local Plan.

**Changes sought to the Local Plan with respect to the sites listed as allocations in policy SP13.**

3.52 The Plan has failed to consider a reasonable alternative through the SA/SEA regarding delivery of non-strategic sites at Newbury, when given the range of sites promoted, this would have been a logical approach. This can only be addressed through a refined SA/SEA and associated consultation which evaluates this as a reasonable alternative.

3.53 Furthermore, and irrespective of non-compliance with its legal obligations with respect to the SA/SEA, the Plan as currently prepared is not sound with respect of:

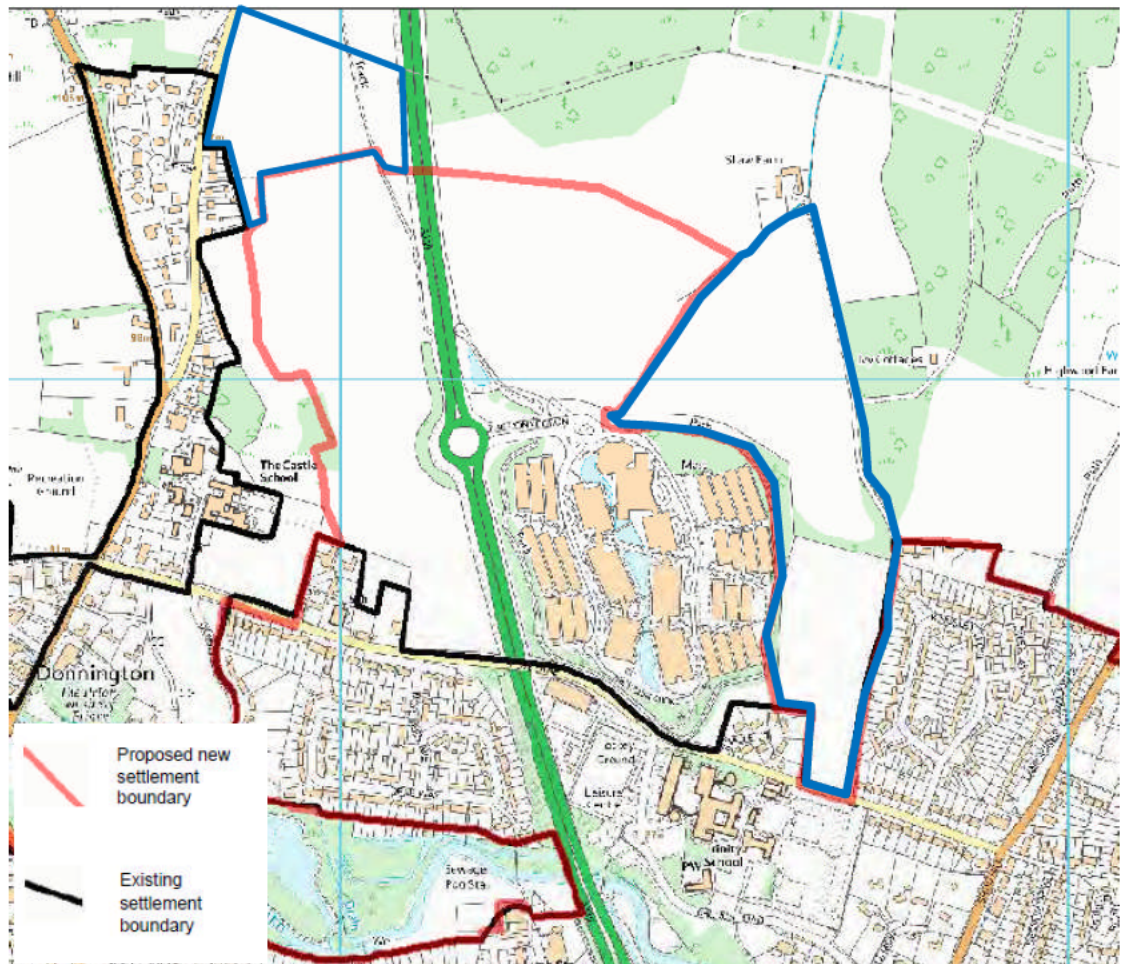
- a) It is **not positively prepared** as it does not seek to contribute sufficiently to the Government's wider objective of significantly boosting the supply of housing;
- b) It is **not justified** with regard to the timeframe that the examination of the Local Plan will take resulting in a delayed adoption of the document;



- c) It is also inconsistent with national policy in the failure to both boost housing supply and make a contribution towards addressing the housing needs of neighbouring authorities as required by paragraphs 60 and 61 of the NPPF.

3.54 To address these matters of soundness, several amendments are proposed. The proposed changes are.

1. That policy SP13 is amended to ensure that it acknowledges the allocation of land north of Newbury (either side of the A339) for housing, with consequential amendments made to the document reflecting its identification. These consequential amendments will include a further alteration to the settlement boundary, beyond that currently illustrated in the “Settlement Boundary Review” (SBR) (December 2022) document. The proposed further refined amendment is shown below.



The proposed further additions to the settlement boundary are shown edged blue on above plan

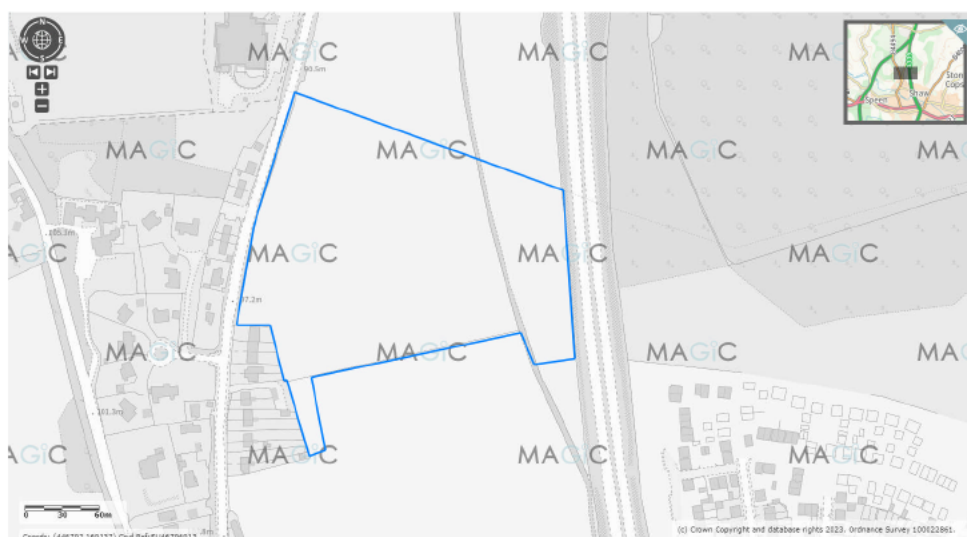
**4. Omission site: Failure to include allocation of land north of Newbury (either side of the A339) as an allocation within the Local Plan Consistent with Policy SP13 (HELAA Site Ref: SCD4)**

**Introduction**

4.1 As explained above, there is a need to allocate additional land for housing development in order to meet identified needs. Providing for further housing allocations at Newbury is consistent with the aims of the NPPF in seeking to plan for sustainable patterns of growth.

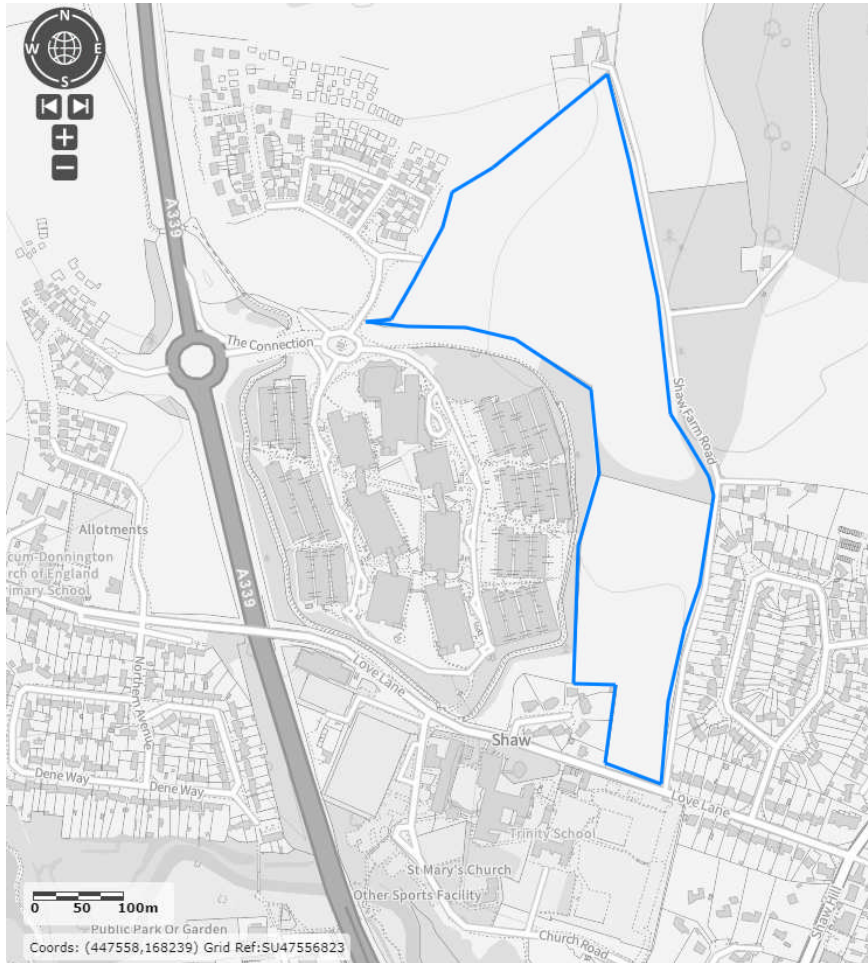
4.2 Our client's site comprising land north of Newbury (either side of the A339) (within HELAA Site Ref: SCD4) is edged red on Plan WBP1 attached and extends to approximately 15.7ha. It comprises two land parcels, straddling land currently under construction (allowed at appeal in March 2017).

4.3 The northern most extends to around 4.7 ha and is illustrated below.



**Northern parcel of land within HELAA ref SCD4**

4.4 The eastern parcel extends to around 11ha as illustrated below



**Eastern parcel of land within HELAA ref SCD4**

- 4.5 We have undertaken a thorough assessment of the character of the two parcels of land and surrounding area and consider that combined it affords a sustainable development opportunity for approximately 400 dwellings.
- 4.6 The site is well related to the urban area of Newbury, especially having regard to development which has been approved to the north of the town along the A339 corridor which has either been built (the Vodafone HQ) or is under development (401 dwellings, local centre and 1 form entry primary school granted on appeal on 20<sup>th</sup> March 2017<sup>12</sup>).

**HELAA Assessment**

- 4.7 Whilst the HELAA’s assessment of the wider parcel ref SCD4 concluded that it was “potentially developable in part” this is the same classification of other locations which the Council has included as allocations i.e land to the north-west of Thatcham

---

<sup>12</sup> LPA ref 14/02480/OUTMAJ and PINS ref APP/W0340/W/16/3143214 – copy of decision enclosed

(within policy SP17). However, for the reasons detailed below, it is concluded that the Council's assessment is flawed and had the evidence for the Plan been robustly prepared, the overall strategy would have included our clients land as an allocation for 400 dwellings.

- 4.8 The inclusion of our client's land would contribute towards resolve the concerns regarding the inconsistency of both the current plan target and period (within objections above to policy SP12) with the NPPF.
- 4.9 Within the HELAA, the Council appraises each parcel of land under a number of different steps. Our response to the Council's flawed assessment within each step is detailed below.
- 4.10 For Steps 1a (Site Identification) and 1b (Automatic Exclusion), we concur with the Council that wider parcel SCD4 is appropriate for a detailed assessment through the subsequent steps.
- 4.11 For Step 2a (Development potential), whilst the assessment notes that the parcel adjoins a settlement boundary, it concludes that this is "**Donnington**" and it subsequently notes that "**Donnington falls outside of the settlement hierarchy and is therefore suited for limited development**".
- 4.12 However as confirmed in paragraph 13 of the appeal decision for the erection of 401 dwellings on part of SCD4, it was agreed that "**the appeal site is outside, but partly adjacent to, the Newbury settlement boundary**". This position is re-affirmed in paragraph 21 of the appeal decision which states "**although the appeal site is outside the settlement boundary it is next to it, and the Council agreed that it is adjacent to Newbury**".
- 4.13 Therefore, within Step 2a, the initial assessment of the site is inconsistent with the Council's agreed position through the appeal. This flawed assessment of the site which discounts its location adjacent to Newbury (a settlement at the top of the hierarchy) is then continued through subsequent steps. Whilst this resulted in the conclusion that the site was potentially developable, had the assessment been robust at initial stages it would have clearly been confirmed as an allocation.

4.14 Such an approach would reflect the history of the evolution of the existing Core Strategy for West Berkshire as summarised in paragraphs 22 and 23 of the March 2017 appeal decision, which states as follows:

**22. CS policy ADPP2 states that Newbury is intended to accommodate around 5,400 homes over the plan period, and refers to urban extensions at Newbury Racecourse and Sandleford Park. It also contemplates other development coming forward through (amongst other mechanisms) the allocation of smaller extensions to the urban area through the HADPD. The appeal site has not come forward by any of the mechanisms envisaged in ADPP2 and, as a consequence, the proposal is in conflict with this aspect of the policy. The HADP also states that a number of sites which have future potential for development have been identified in the Strategic Housing Land Availability Assessment (SHLAA).**

**23. There are a number of factors which must be balanced against this conflict with policy ADPP2:**

- **The appeal site has been considered through the SHLAA process in 2011 and 2013 – an approach which was noted in policy ADPP2. Both these SHLAA assessments identified the appeal site as potentially developable. The 2013 SHLAA noted that it was in a basket of sites from which the most suitable would be allocated through the development plan process. However as a potential strategic site, the appeal site is outside the scope of the HADPD, as noted in the relevant Sustainability Appraisal. Nevertheless, the potential of the appeal site is clearly recognised.**
- **CS policy CS1 makes reference to at least 10,500 new homes coming forward in the plan period, but the Council accept that this figure is out of date as a requirement for FOAN or five year housing land supply purposes. In addition the approach of the CS Inspector appears to have been that the plan did not provide for all housing needs even at that time, but adopted a pragmatic approach and recommended the adoption of the plan as it stood and encouraged an early review. This approach further reduces the weight which can be accorded to the CS housing and settlement policies.**
- **As mentioned above, the area around the appeal site was considered during the CS Examination process. The Examining Inspector noted that there was a choice to be made between Sandleford Park to the south of Newbury and the area north of Newbury (including the appeal site). This was in addition to the development at Newbury Racecourse for which planning permission had already been granted. A number of the concerns which were identified related to the north of Newbury area were apparently not fully investigated by the Council at that time, although the Inspector described highway matters and flood risk as not being ‘show stoppers’. However, on balance, the Sandleford Park site was preferred as it was**

stated that there was not the evidence to demonstrate that north Newbury was a clearly preferable site. Overall, the Examining Inspector stopped well short of recommending that there were problems associated with the north Newbury area, although preference was given to Sandlesford Park.

- I heard detailed and uncontested evidence that the Sandlesford Park site is experiencing substantial delays. No party was able to suggest how or when this major development might progress. Before the Council's withdrawal from the Inquiry, the authority had accepted that completions at this site could not be expected in the next five year period – or perhaps longer. Under these circumstances this loss of around 1000 units makes the achievement of even the limited CS target highly optimistic.
- As noted, the appeal site was in the basket from which the SHLAA envisaged that the most suitable would be allocated through the development plan process. The Council, before withdrawing its opposition to the appeal scheme, accepted that there were no sites of comparable scale which might be preferable and/or more sustainable than the appeal site. In effect, even if the development at Sandlesford Park were to progress more rapidly than the evidence indicates, the appeal site is next in line to meet the housing needs of the area.
- There is nothing to suggest that, even if the CS figure of approximately 5,400 dwellings were exceeded, this would cause any harm. There is nothing to suggest that the figure was envisaged as a cap on development, as was made clear by the CS Inspector.

4.15 It is therefore clear that the Council had previously accepted that further development to the north of Newbury was appropriate.

4.16 For Step 2b (Suitability), under relevant planning history it states:

**Planning applications:**

Planning permission was allowed at appeal for a mixed use scheme of up to 401 dwellings, a local centre, a one form entry primary school, and public open space on adjacent landholdings (planning app ref: 14/02480/OUTMAJ).

**Local Plan history:**

Parts of the site (the southern part of the parcel of land that lies to the west of the A339 and the western part of the parcel of land which lies to the east of the A339) were assessed in the 2013 Strategic Housing Land Availability Assessment (Strategic Housing Land Availability Assessment, whereby it has the site refs NEW031A and NEW031B) as 'potentially developable'.

**The site was subsequently assessed in more detail as part of work on the Housing Site Allocations Development Plan Document (Housing Site Allocations Development Plan Document). It was ruled out as an allocation because the site needed to be considered as a strategic site, which was outside of the scope of the Housing Site Allocations Development Plan Document.**

**The site selection work also identified that there were a number of issues relating to highways and access that would need to be overcome in order for development on the site to be acceptable. The relationship between the two areas of the site was also a concern given the only link between the sites is via an underpass under the A339 which suffers from flooding.**

- 4.17 The assessment of the site as note references a number of points, first a need for it to be considered as a strategic site which whilst outside of the scope of the Site Allocations Plan is clearly within the remit of the new Plan. However, this has not been undertaken for the current plan.
- 4.18 The planning history also references concerns over highways, site access and flooding matters with the underpass which linked the two parts of the site. However, these were matters considered by the Inspector in determining the appeal on the site.
- 4.19 With regard to highways and site access, this is covered in paragraphs 36 and 37 of the appeal. These state:

**36. The highways consequences of the proposal were summarised in the HSOCG in relation to a number of junctions in the vicinity, the most critical of which is the Robin Hood gyratory to the south of the entrances to the appeal site. Local residents gave clear evidence of the difficulties which this junction currently causes. However a mitigation scheme, full funded through the UPO, has been put forward for that junction and has been tested against various scenarios. The conclusion of the analysis is that the scheme would do more than mitigate the effects of the proposal and would improve the operation of the junction compared to the 2021 Base Case scenario (i.e. including committed development and the scheduled gyratory improvements).**

**37. There was also concern from some residents that the proposal would generate traffic along Love Lane which, as I saw on my visit, has recently had chicanes installed. However, although I can appreciate that Love Lane may well be currently used as a rat run between Shaw Hill and Oxford Road, there is no evidence that this**

**would be substantially increased as a result of the proposal, as new residents would access the development direct off the A339.**

- 4.20 For flooding matters and any other concerns regarding the underpass, this is within paragraphs 33 to 35 of the appeal decision. These state:

**33. The design and safety of the underpass, and the consequent extent to which the two parts of the development would be linked in a satisfactory manner was the subject of concern for some residents, although the local cycling group's position was that it would provide a very good route. This matter was originally a reason for refusal and was the subject of evidence for the Council until the authority changed its overall position on the scheme.**

**34. The proposed underpass is short, the paths approaching it are in a relatively straight line, and the limited slope means that the visibility into and through the underpass is good, as I saw on my site visit. Visibility and safety could be further improved when the details of the development were being considered. The evidence is that the dimensions of the underpass comply with Sustrans guidance and the underpass, with improvements, would provide an appropriate and safe link for pedestrians and cyclists alike. The proposal would not conflict with the Quality Design SPD and the two parts of the site would be linked in a manner which would encourage the use of non-car modes of transport.**

**35. The footpaths around the Vodafone site, which provide access towards the town centre from the eastern parcel and, via the underpass, from the whole of the development, were also originally criticised by the Council. However as I saw on my site visit, these are wide paved routes and I saw that they were apparently well used by Vodafone employees. I see no reason why they should act as a deterrent to cyclists or pedestrians wishing to access the town centre.**

- 4.21 Although the HELAA includes reference to planning history, it is clear that it has not been updated to reflect the accepted position as detailed in the appeal on the site. The Council has not provided any reasons for departing from the agreed position at the appeal and therefore the wider SCD4 land should have been favourably considered and then included as an allocation.

- 4.22 Within the "Location" category for step 2b, the HELAA assessment of parcel SCD4 states:



**The eastern land parcel is adjacent to the settlement of Newbury, whilst the western land parcel is adjacent to the settlement of Donnington.**

**Newbury is identified as an Urban Area in the settlement hierarchy. Urban Areas have a wide range of services and are to be the focus for the majority of development.**

**Donnington does not fall within the settlement hierarchy, and is instead identified as a 'smaller village with a settlement boundary'. Such settlements are suitable only for limited infill development subject to the character and form of the settlement.**

**Western parcel of land – the south western corner of the site adjoins the settlement boundary.**

**Eastern parcel of land – a small area of the southern site adjoins the settlement boundary of Newbury.**

- 4.23 As noted, the above assessment contrasts with the position agreed by the Council on the appeal.
- 4.24 With regard to landscape and harm to the AONB, no concern is raised.
- 4.25 The Step 2b assessment notes that flooding is not a constraint for the site,
- 4.26 For ecology, although it is within the River Lambourn Neutrality Zone, there would be the potential for mitigation measures. A suitable off-setting will ensure the protection of the Ancient Woodland adjoining the site, reflecting the approach of the Draft Plan for other sites.
- 4.27 With respect of landscape, it notes that a further assessment is required.
- 4.28 For heritage, it notes that there is a need to establish extent that development could affect the historic significant of the Grade II Listed Barn at Shaw Farm. This could readily be achieved and addressed through the submission of an application.
- 4.29 The overall conclusions on suitability within Step 2b were:

**Development would impact on the character and identity of Donnington. Further landscape assessment required.**

**Highways concerns, particularly if the access for the eastern land parcel via The Connection is not upgraded from a private road to adoptable standards, and a route through CA15 to the B4009 is not provided.**

**Surface water flow paths within the site. Flooding was reported in the eastern land parcel during the July 2007 flood event.**

**The site is located within the River Lambourn Nutrient Neutrality Zone, and residential development could result in additional nutrient loads that could have an adverse effect on the condition of the River Lambourn SSSI/SAC. Mitigation measures needed. A Habitat Regulations Assessment would be required supported by an appropriate Nutrient Neutrality Assessment and Mitigation Assessment.**

**High risk of adverse nature conservation impacts. Additional ecology surveys required.**

**Allocation would be dependent on a review of the settlement boundaries in the Local Plan Review.**

- 4.30 It is therefore clear that the site has development potential.
- 4.31 Step 2c provides an assessment of availability. The whole area of parcel SCD4 was confirmed to be available. This remains the case and therefore this would not limit development of the site.
- 4.32 The Achievability of the site was considered in Step 2e. This confirms that the site is achievable.
- 4.33 The deliverability potential of the site is within Step 2e. The conclusions on this subject was:

**The site is available (in single ownership, and there is an option agreement with a developer) and achievable as there are no known market, legal, cost, ownership fragmentation or delivery issues.**

**Development would impact on the character and identity of Donnington. Further landscape assessment required.**

**Highways concerns, particularly if the access for the eastern land parcel via The Connection is not upgraded from a private road to adoptable standards, and a route through CA15 to the B4009 is not provided.**

**Surface water flow paths within the site. Flooding was reported in the eastern land parcel during the July 2007 flood event.**

**There are a number of factors which would need to be investigated further to confirm that the site is developable - the site is located within the River Lambourn Nutrient Neutrality Zone, and residential development could result in additional nutrient loads that could have an adverse effect on the condition of the River Lambourn SSSI/SAC. Mitigation measures needed. A Habitat Regulations Assessment would be required supported by an appropriate Nutrient Neutrality Assessment and Mitigation Assessment. High risk of adverse nature conservation impacts. Additional ecology surveys required.**

**Whether the site is considered developable is also dependent on further assessment through the plan-making process, in relation to whether circumstances exist to support the change to the settlement boundary.**

- 4.34 The site was considered to be potentially development in part. Such an assessment is reflective of other parcels which have been included as allocations.
- 4.35 Overall, the site has no physical constraints, and is well-related to the existing residential development. It is in close proximity to local services and facilities such that it affords a sustainable location in helping to meet identified housing needs whilst providing for sustainable patterns of growth.
- 4.36 Whilst additional growth at Newbury was considered during the earlier stages in the preparation of the Local Plan (Option 4 of the Spatial Strategy Options summarised in Table 11 of the SA/SEA) (November 2022), it notes:

**This option gives a number of potentially positive sustainability effects in relation to focusing development on the biggest town with the largest number of facilities, with a significantly positive effect predicted due to the strategies' focus on the use of brownfield and. However, there are is an unknown impact as to whether the strategy would be able deliver adequate housing to meet the local identified need due to the lack of suitable sites within the area.**

4.37 However, the Council has accepted the development at north Newbury on our clients land would be feasible. Whilst the Council discounted a strategic scale development in Newbury, there is no reason why a proposal for around 400 dwellings could not be delivered within the Plan. The document as currently drafted has failed to consider this as an integral part of its strategy.

4.38 Given the clear need for additional housing and its location as a logical extension to Newbury, the site should be included as a further allocation for around 400 dwellings.

#### **Suggested Soundness Change**

4.39 To ensure a sound Local Plan, land to the north of Newbury (either side of the A339) should be included as a residential allocation for circa 400 dwellings, with consequential amendments to settlement boundaries.

### **5. Summary and Conclusion**

5.1 Our representations have identified a number of concerns with the document as drafted, especially in relation to the NPPF tests of soundness.

5.2 As indicated in our representations, changes to policies of the Plan are necessary, including in relation to the housing requirement and plan period set out under Policy SP12.

5.3 In order to ensure adequate supply of housing arises, the land to the north of Newbury (either side of A339) (HELAA Ref SCD4) should be included as an allocation.

5.4 We trust the above comments are of assistance in preparing the required main modifications to provide for a sound Local Plan.

5.5 We welcome the opportunity to engage in constructive dialogue with the Council in relation to our observations, including the allocation of our client's site on land to the north of Newbury, either side of the A339 (Site Ref: SCD4).

5.6 Additionally, we confirm that we wish to be notified of each further step in the preparation of the Local Plan, including its submission to the Inspectorate for examination.

Yours faithfully

A solid black rectangular box redacting the signature of Steven Brown.

Steven Brown BSc Hons DipTP MRTPI (for and on behalf of CEG)

Enc.

## Appeal Decision

Inquiry held on 10 – 13 and 17 – 19 January 2017

Site visit made on 19 January 2017

**by Phillip J G Ware BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 20 March 2017**

---

**Appeal Ref: APP/W0340/W/16/3143214**

**Land adjacent to Hilltop, Oxford Road, Donnington, Newbury**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by CEG Land Promotions Ltd, Mrs G E Mather, and BLG Reads Trust against the decision of West Berkshire Council.
  - The application Ref 14/02480/OUTMAJ, dated 17 September 2014, was refused by notice dated 26 November 2015.
  - The development proposed is a mixed use scheme on 23.1 hectares of land, comprising up to 401 dwellings on 11.35 hectares of land. A 400 sq.m. local centre (Use Classes A1/A2/D1/D2 – no more than 200 sq.m. of A1) on 0.29 hectares of land, a one form entry primary school site on 1.7 hectares of land, public open space, landscaping and associated highway works.
- 

### Procedural matters

1. The application is in outline, with only the means of access to be determined, along with the principle of the development.
2. A Unilateral Planning Obligation (UPO)<sup>1</sup> was discussed in full draft at the Inquiry. I allowed a short period of time after the close of the Inquiry for it to be signed, and the final document was dated 27 January 2017. It deals with, amongst other matters, open space/play space, affordable housing, transport, education and ecology. I will return to these matters below. There was no need for further consultation on the final UPO as it had been discussed at the Inquiry.
3. The Council's decision notice<sup>2</sup> included a reason for refusal related to the capacity of the A339 and highway mitigation measures. However, in the light of further modelling and subject to the provisions of the UPO, this matter was not pursued by the Council, as announced at the start of the Inquiry and as set out in the Highways Statement of Common Ground (HSOCG)<sup>3</sup>. At this stage the Council also no longer argued that the grant of planning permission for the appeal scheme would be premature. The remaining reasons for refusal, dealing with settlement policy and the emerging development plan, access by sustainable modes of travel and the linkages with the town centre, and the

---

<sup>1</sup> Document 10

<sup>2</sup> CD 49

<sup>3</sup> CD 144

---

adequacy of the underpass beneath the A339 remained part of the Council's case as set out in the Planning Statement of Common Ground (SOCG)<sup>4</sup>.

4. On the sixth day of the Inquiry, after the case for both parties had been part heard, the Council withdrew all its objections to the appeal and recommended that conditional planning permission should be granted, subject to the UPO. An Additional Statement of Common Ground (ASOCG)<sup>5</sup> was produced – to which I will return below. The Council took no further part in the Inquiry and did not submit a Closing Statement. I heard from the remaining witnesses for the appellant, so I could seek clarification on a number of matters, and I heard a Closing Statement from the appellants.
5. After the close of the Inquiry the Government published a Housing White Paper entitled "Fixing our broken housing market". The main parties were consulted on this document. The Council stated that it did not materially alter the assessment of the appeal<sup>6</sup>. The appellants stated that it placed even greater emphasis on housing delivery, particularly given the agreed absence of a five year housing land supply<sup>7</sup>. I have taken these responses into account.

### **Decision**

6. The appeal is allowed and planning permission is granted for a mixed use scheme on 23.1 hectares of land, comprising up to 401 dwellings on 11.35 hectares of land. A 400 sq.m. local centre (Use Classes A1/A2/D1/D2 – no more than 200 sq.m. of A1) on 0.29 hectares of land, a one form entry primary school site on 1.7 hectares of land, public open space, landscaping and associated highway works on land adjacent to Hilltop, Oxford Road, Donnington, Newbury, in accordance with the terms of the application, Ref 14/02480/OUTMAJ, dated 17 September 2014, subject to the conditions set out in the Schedule to this decision.

### **Main issues**

7. The main issue in this case is the suitability of the site for the proposed development, in the light of the development plan, national policy and the emerging development plan.

### **Reasons**

#### *The site and the proposal*

8. The appeal site is an area of 23.1 hectares of agricultural land immediately to the north of the existing urban edge of Newbury. It is in two parcels on either side of the A339, which is a major road linking Newbury to the M4 and the A34. To the south is the centre of Newbury and the Vodafone headquarters. To the north and east is agricultural land, with the village of Donnington to the west.
9. There is an existing public footpath running north – south across the site, linking the two parcels by way of an underpass below the A339. In the south this links with footpaths which encircle the Vodafone site, and thereby links with routes into central Newbury<sup>8</sup>. Existing bus services run to the south and

---

<sup>4</sup> CD 142

<sup>5</sup> CD 145

<sup>6</sup> Document 11

<sup>7</sup> Document 12

<sup>8</sup> CD 144 Figure 1

west of the western parcel, and provide a limited service into the centre of the town.

10. The proposal is as described in the heading above. Access would be from both sides of the existing roundabout on the A339, with access for emergency vehicles, buses and a school drop off from Love Lane<sup>9</sup>. The application was supported by a range of technical assessments and includes Parameter Plans, a Concept Masterplan<sup>10</sup>, and a Design and Access Statement<sup>11</sup>. It includes 40% affordable housing, which is shown as being integrated into the overall development.

*Policy context*

11. The relevant parts of the development plan are the Core Strategy (CS)<sup>12</sup> (2012) and the saved policies (2007) of the West Berkshire District Local Plan (DLP). The Planning Statement of Common Ground<sup>13</sup> identifies relevant policies in both documents.
12. The CS provides the overarching policy for development in West Berkshire. CS policies ADPP1, ADPP2 and CS1<sup>14</sup> provide that development in West Berkshire should follow the existing settlement pattern, with most development within or adjacent to existing settlements. Newbury is intended to accommodate around 5,400 homes over the plan period, with urban extensions at Newbury Racecourse and Sandford Park. The general location of the appeal site was considered as a possible strategic allocation during the CS process, but was not eventually selected. Policy CS1 deals with housing land supply whilst policies CS13 and CS14 encourage more sustainable travel and set out design principles.
13. The relevant saved policy (HSG.1) of the DLP identifies settlement boundaries, within which development will normally be permitted. The appeal site is outside, but partly adjacent to, the Newbury settlement boundary.
14. The approach of the CS has informed the emerging Housing Allocations Development Plan Document (HADPD), which has been through Examination and is subject to consultation on modifications. It is described by the Council as a 'daughter document' to the CS and it is not designed to re-assess housing numbers. Rather it will allocate sites on the basis of the requirements of the CS. The appeal site is not allocated in the emerging HADPD.
15. The Council has adopted a Supplementary Planning Document (SPD) on Planning Obligations. This is relevant to consideration of the UPO, but there is no issue between the parties in this respect. There is also an SPD on Quality Design, which deals with sustainability and accessibility. Although there is no longer an issue between the main parties in this respect, it is relevant to some matters raised by local residents related to the underpass.

---

<sup>9</sup> CD 144 Plan 131075/A/08.1H

<sup>10</sup> CD 37

<sup>11</sup> CD 39

<sup>12</sup> CD 67

<sup>13</sup> CD 142 paragraphs 5.3 and 5.5

<sup>14</sup> CD 67 pages 19-20



*Housing Land Supply and its consequences*

16. The main parties agreed a Statement of Common Ground on Housing Land Supply in January 2017<sup>15</sup>. This set out agreed and disputed matters in relation to the housing requirement and housing supply at that time. This document was usefully used at the Inquiry to identify and test the differences between the parties, but it has now been superseded by the ASOCG which was concluded during the Inquiry and which sets out the basis for the Council withdrawing its objection to the proposal<sup>16</sup>.
17. The balance of the evidence before the Inquiry suggested that the FOAN should be higher than that used by the Council. The main parties do not agree the FOAN figure but, in the light of the existence of an agreed deficit, it was common ground that it would not be useful to debate this further. Nor is there agreement on the appropriate buffer, as the Council's position is based on a 5% buffer, which the appellants do not accept. If the appellant's position, that a 20% buffer should be applied, the shortfall would be significantly worse. However, given the position of the main parties, this need not be pursued further in the context of this appeal.
18. The main parties agree that there is a deficit of 203 in the five year housing land supply. The Council's position, amended in the light of the evidence at the Inquiry, is that the deficit is no more than 203 and that a number of sites on which it had relied for delivery should be removed from the supply<sup>17</sup>. Based on the Council's assumptions, there is only a 4.74 year supply. The appellants' position is that the deficit is more than 203 and the supply is less, but the parties again agreed that it would not be proportionate to debate the precise difference further.
19. On that basis, the main parties agree that a five-year supply of deliverable housing sites cannot be demonstrated. The relevant policies for the supply of housing therefore attract less weight and the National Planning Policy Framework (the Framework) paragraphs 49 and 14 are engaged<sup>18</sup>. The presumption in favour of sustainable development in paragraph 14 of the Framework is agreed to apply.
20. For the purposes of paragraph 49 of the Framework, policies ADPP1 and ADPP2 and DLP policy HSG.1 are agreed to be relevant policies for the supply of housing. Although these policies remain part of the development plan they attract significantly reduced weight due to the limited potential of development soon coming forward to make up the shortfall.

*The appeal site considered in the context of adopted and emerging policy*

21. CS policy ADPP1 recognises that most development will be within or adjacent to Newbury. Although the appeal site is outside the settlement boundary it is next to it, and the Council agreed that it is adjacent to Newbury. The policy also states that the majority of development will take place on previously developed land, but that does not preclude proposals on greenfield sites. The proposal is therefore not contrary to CS policy ADPP1.

---

<sup>15</sup> CD 142

<sup>16</sup> CD 145

<sup>17</sup> CD 145 paragraph 2

<sup>18</sup> CD 145 paragraph 8

22. CS policy ADPP2 states that Newbury is intended to accommodate around 5,400 homes over the plan period, and refers to urban extensions at Newbury Racecourse and Sandford Park. It also contemplates other development coming forward through (amongst other mechanisms) the allocation of smaller extensions to the urban area through the HADPD. The appeal site has not come forward by any of the mechanisms envisaged in ADPP2 and, as a consequence, the proposal is in conflict with this aspect of the policy. The HADP also states that a number of sites which have future potential for development have been identified in the Strategic Housing Land Availability Assessment (SHLAA).
23. There are a number of factors which must be balanced against this conflict with policy ADPP2:
- The appeal site has been considered through the SHLAA process in 2011 and 2013 – an approach which was noted in policy ADPP2. Both these SHLAA assessments identified the appeal site as potentially developable<sup>19</sup>. The 2013 SHLAA noted that it was in a basket of sites from which the most suitable would be allocated through the development plan process. However as a potential strategic site, the appeal site is outside the scope of the HADPD, as noted in the relevant Sustainability Appraisal. Nevertheless, the potential of the appeal site is clearly recognised.
  - CS policy CS1 makes reference to at least 10,500 new homes coming forward in the plan period, but the Council accept that this figure is out of date as a requirement for FOAN or five year housing land supply purposes. In addition the approach of the CS Inspector appears to have been that the plan did not provide for all housing needs even at that time, but adopted a pragmatic approach and recommended the adoption of the plan as it stood and encouraged an early review. This approach further reduces the weight which can be accorded to the CS housing and settlement policies.
  - As mentioned above, the area around the appeal site was considered during the CS Examination process. The Examining Inspector noted that there was a choice to be made between Sandford Park to the south of Newbury and the area north of Newbury (including the appeal site). This was in addition to the development at Newbury Racecourse for which planning permission had already been granted<sup>20</sup>. A number of the concerns which were identified related to the north of Newbury area were apparently not fully investigated by the Council at that time, although the Inspector described highway matters and flood risk as not being 'show stoppers'. However, on balance, the Sandford Park site was preferred as it was stated that there was not the evidence to demonstrate that north Newbury was a clearly preferable site. Overall, the Examining Inspector stopped well short of recommending that there were problems associated with the north Newbury area, although preference was given to Sandford Park.
  - I heard detailed and uncontested evidence that the Sandford Park site is experiencing substantial delays. No party was able to suggest how or

---

<sup>19</sup> CD 77 and 78 Appendix D

<sup>20</sup> CD 50 paragraph 14

when this major development might progress. Before the Council's withdrawal from the Inquiry, the authority had accepted that completions at this site could not be expected in the next five year period – or perhaps longer. Under these circumstances this loss of around 1000 units makes the achievement of even the limited CS target highly optimistic.

- As noted, the appeal site was in the basket from which the SHLAA envisaged that the most suitable would be allocated through the development plan process. The Council, before withdrawing its opposition to the appeal scheme, accepted that there were no sites of comparable scale which might be preferable and/or more sustainable than the appeal site. In effect, even if the development at Sandford Park were to progress more rapidly than the evidence indicates, the appeal site is next in line to meet the housing needs of the area.
- There is nothing to suggest that, even if the CS figure of approximately 5,400 dwellings were exceeded, this would cause any harm. There is nothing to suggest that the figure was envisaged as a cap on development, as was made clear by the CS Inspector<sup>21</sup>.

24. CS policy CS1 does not specifically preclude development beyond existing settlement boundaries. The Council, prior to withdrawing their objection, agreed that the development is not contrary to this policy.
25. LP saved policy HSG1 supports housing within settlement boundaries, but says nothing about development outside the boundaries. It stands rather oddly in isolation at this time, as it was previously linked to a related policy dealing with areas outside settlements. This related policy has not been saved. In any event the appeal scheme does not conflict with policy HSG1.
26. Moving away from the development plan, emerging HADPD policy C1 would set a presumption against new residential development outside settlement boundaries. However this plan does not carry the weight of the development plan and the soundness of the emerging plan is not for me to consider. It is however based on CS housing targets and is not intended to address the potential inclusion of larger sites such as this.

*Conclusion on the principle of the development*

27. Local residents stressed the importance of development being plan led. However in this case the adopted development plan, specifically the CS, is experiencing serious difficulties in terms of the housing delivery it envisaged (which may well be too limited), and it appears that a replacement plan which might identify large sites is some time away.
28. There is no five year supply of deliverable housing sites and, in this context, the presumption in favour of sustainable development in paragraph 14 of the Framework applies. The Council agrees that the appeal scheme is sustainable development and all the evidence supports this conclusion.
29. It is accepted that there is a pressing need for housing, and it is clear that Newbury will remain the focus of development. One of the main sites identified

---

<sup>21</sup> CD 50 paragraph 43

in the CS is not expected to deliver during the next five years. The appeal site has a number of specific advantages and is agreed to be next in line.

30. There is a conflict with CS policy ADPP2 in that the policy sets out the way in which it anticipates further sites coming forward. The appeal scheme has not come forward through the HADPD, as this 'daughter document' to the CS does not allow for the inclusion of larger sites such as this. No other plan-led mechanism is likely to emerge in the near future which would allow for the appeal site to be considered. However no objection has been raised by the Council on the grounds of prematurity or prejudice to the emerging HADPD.
31. In any event, there a number of weighty factors, as summarised set out above, which must be set against this limited conflict with policy which attract less than full weight. I will return to the overall planning balance at the end of this decision.

*Other matters*

32. No objection was raised by the main parties to a range of other matters, even before the Council's changed overall stance. This position is set out in the SOCG and the HSOCG. However local residents have raised a number of matters which I will address below.
33. The design and safety of the underpass, and the consequent extent to which the two parts of the development would be linked in a satisfactory manner was the subject of concern for some residents, although the local cycling group's position was that it would provide a very good route. This matter was originally a reason for refusal and was the subject of evidence for the Council until the authority changed its overall position on the scheme.
34. The proposed underpass is short, the paths approaching it are in a relatively straight line, and the limited slope means that the visibility into and through the underpass is good, as I saw on my site visit. Visibility and safety could be further improved when the details of the development were being considered. The evidence is that the dimensions of the underpass comply with Sustrans guidance and the underpass, with improvements, would provide an appropriate and safe link for pedestrians and cyclists alike. The proposal would not conflict with the Quality Design SPD and the two parts of the site would be linked in a manner which would encourage the use of non-car modes of transport.
35. The footpaths around the Vodafone site, which provide access towards the town centre from the eastern parcel and, via the underpass, from the whole of the development, were also originally criticised by the Council. However as I saw on my site visit, these are wide paved routes and I saw that they were apparently well used by Vodafone employees. I see no reason why they should act as a deterrent to cyclists or pedestrians wishing to access the town centre.
36. The highways consequences of the proposal were summarised in the HSOCG in relation to a number of junctions in the vicinity, the most critical of which is the Robin Hood gyratory to the south of the entrances to the appeal site. Local residents gave clear evidence of the difficulties which this junction currently causes. However a mitigation scheme, full funded through the UPO, has been put forward for that junction and has been tested against various scenarios. The conclusion of the analysis is that the scheme would do more than mitigate the effects of the proposal and would improve the operation of the junction

- compared to the 2021 Base Case scenario (i.e. including committed development and the scheduled gyratory improvements).
37. There was also concern from some residents that the proposal would generate traffic along Love Lane which, as I saw on my visit, has recently had chicanes installed. However, although I can appreciate that Love Lane may well be currently used as a rat run between Shaw Hill and Oxford Road, there is no evidence that this would be substantially increased as a result of the proposal, as new residents would access the development direct off the A339.
  38. Residents expressed concern that the development could flood or increase flood risk elsewhere. However the site is located within Flood Zone 1 and there are no objections to the proposal on this basis from the Council or any other authority<sup>22</sup>. In the absence of any technical evidence this objection carries little weight.
  39. The suggestion was made by some local residents that there is an existing lack of facilities in the area. However in contrast to this view the SOCG notes that the site benefits from access to schools, leisure facilities, shops and other local services within Newbury. There is a local convenience store to the south and two supermarkets are within less than 10 minutes cycling distance. The town centre is around 1.5 miles from the site, which could be regarded as an acceptable walking distance, is certainly an easy cycling distance, and can be accessed by existing bus services.
  40. This current position would be enhanced by the proposed bus service, which would be funded by the developer for the first five years, running from the western parcel of the land, close to the underpass, and provide a link into the town centre<sup>23</sup>. In addition the inclusion of a local centre in an appropriate location within the development would provide opportunities for existing and new residents<sup>24</sup>.
  41. The SOCG confirms that the site is within close proximity of existing primary, secondary and specialist schools<sup>25</sup>. The appeal scheme would deliver a one-form entry primary school in walking distance of both the new and existing dwellings. This would be delivered by way of the UPO<sup>26</sup>.
  42. There was a suggestion made by local residents that the development would not be supported by employment opportunities in the town, and that it would be inaccessible to employment sites. Given the proximity of the Vodafone HQ adjacent to the site (employing around 5,500 people) and the access to the town centre, this is a difficult argument to make, and no evidence was put forward to support the suggestion.
  43. A few residents objected to the loss of the countryside. However the SOCG confirms that the development could be accommodated within the landscape and that it complies with CS policy CS19 and other policy documents. The area is not the subject of any specific landscape designations. Similarly, subject to the details of the scheme, the development would not affect any important trees within or around the appeal site. The main parties have agreed that the

---

<sup>22</sup> CD 142 paragraphs 6.10 and 6.11

<sup>23</sup> CD 144 Figure 3

<sup>24</sup> CD 142 paragraphs 6.8 and 6.9

<sup>25</sup> CD 142 paragraph 142

<sup>26</sup> CD 142 paragraphs 6.18 – 6.20

development would provide suitable mitigation and enhancement measures<sup>27</sup>. The objection to the effect on the landscape is therefore not supported by the evidence.

44. An appeal decision on land south of Man's Hill, Burghfield Common was issued during the latter part of the Inquiry<sup>28</sup>, and was drawn to my attention. It is worthy of specific comment as the Inspector in that case dismissed the appeal and found differently to me on a number of matters. Although I have been provided with the closing submissions in that case<sup>29</sup> I do not know the detail of the evidence put to the Inspector. In particular his decision was partly based on a finding that a five year housing land supply existed at that time, which the Council accepts is no longer the case. In addition there was harm to the landscape in that instance, which is a specific planning objection which does not exist in this case. Each appeal must be decided on its own merits and in the light of the evidence, and there are notable differences between this appeal and that at Man's Hill.

#### *Planning Obligation*

45. As noted above, a UPO was discussed at the Inquiry and finalised shortly thereafter. All the terms of the obligation were agreed at the Inquiry, and deal with the provision of open space/play space, affordable housing, transport matters, education and ecology. These provisions are soundly based on CS policies CS5, CS6 and CS13 and the Planning Obligations SPD.
46. I conclude that the UPO meets the policy in paragraph 204 of the Framework and the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010. I have therefore taken it into account and given weight to those matters which go beyond mitigation related to the impact of the development – especially related to highways improvements, educational aspects and open space provision.

#### *Conditions*

47. A wide range of conditions was agreed between the parties and discussed at the Inquiry. I am satisfied that these all meet the tests in the Framework, are necessary, and are fairly and reasonably related to the development.
48. A number of initial conditions are necessary for clarity related to plans and to provide for the submission of details (2-7). These details should be in broad accordance with the illustrative plans, in the interests of the appearance of the development and highway safety (5). The levels of the development also need to be specifically controlled in the interests of the appearance of the scheme (11). The details should include a strategic landscape plan and define the housing mix and the total number of dwellings (8). The development would be undertaken in phases and a phasing plan needs to be submitted for approval, so as to inform some subsequent conditions (1).
49. To protect the amenity of adjoining land uses, the hours of construction need to be limited (9), piling needs to be controlled (19), and a Construction Method Statement needs to be submitted for approval (10). This latter would also address any harm to highway safety during construction.

---

<sup>27</sup> CD 142 paragraphs 6.12 and 6.13

<sup>28</sup> CD 146

<sup>29</sup> CD 158

50. The two accesses of the A339 and the site layout need to be completed before the development is occupied in the interests of highway safety (12, 13 and 17). The secondary access for buses and emergency vehicles, and visitors to the school, needs to be provided for the same reason (15). As discussed above the detail of the improvements to the underpass need to be submitted for approval, in the interests of improving accessibility and safety (14). Similarly improved pedestrian/cycle access needs to be in place before occupation of the development (16) and cycle storage provision needs to be secured (25).
51. To protect any archaeological remains, a programme of archaeological work needs to be approved and implemented (18).
52. In view of the presence of trees on the site, an arboricultural method statement, including the protection of trees during development, needs to be approved and implemented (20). For biodiversity reasons a Construction Environmental Management Plan needs to be approved and implemented (21). For the same reason, a lighting design strategy for biodiversity needs to be produced (22). A Landscape and Ecological Management Plan, dealing with existing and new habitats, is necessary (23).
53. In the light of concerns about water supply, an impact study of the existing water supply infrastructure needs to be submitted for approval (24).
54. To ensure the adequacy of refuse/recycling facilities, details of the provision need to be submitted (26).
55. To ensure that surface water is handled in an appropriate manner, a Sustainable Drainage Strategy needs to be submitted for approval (27). To ensure sufficient sewage capacity is provided a drainage strategy needs to be approved and implemented (28). A waste collection plan needs to be approved (29). Given the lack of public mains in the area, the provision of private hydrants or similar emergency water supplies is necessary (30).
56. In order to protect the amenities of new occupiers, details of protection from external noise should be approved (31). For the same reason, noise from services associated with new non-residential buildings needs to be controlled (32).
57. So as to ensure that risks from land contamination to the future occupiers of the land and neighbouring land are minimised, a range of contamination matters need to be controlled (33).

*Planning balance and conclusion*

58. The appeal clearly engages paragraph 14 of the Framework, such that planning permission should be granted unless the adverse consequences of doing so would significantly and demonstrably outweigh the benefits. This position is common ground between the parties.
59. The benefits arising from the development are agreed by the parties and particularly include:
  - The provision of up to 241 market homes in an area which lacks a five year housing land supply.

- The provision of up to 40% affordable homes, in an area with acknowledged affordability issues. This is stated in the CS<sup>30</sup> and is reflected in the 2016 housing waiting list figures<sup>31</sup>. There is a difference as to the exact extent of the affordable housing need (with the Council putting forward a lower figure based on the SHMA<sup>32</sup>, as opposed to the CS position). It is agreed that the historical delivery of affordable housing has been significantly below that set out in the CS. Overall the evidence clearly demonstrates that the provision of these affordable homes would be a substantial benefit which would be in line with CS policy CS6.
  - A boost to the local economy, as set out in the Economic Benefits Statement<sup>33</sup>. In particular there would be short term construction jobs, longer term employment at the school and the local centre, and substantially increased local spend by the new residents.
  - The provision of the new school, providing 210 primary and 26 nursery spaces. The evidence indicates that 60 of the primary places would be available for the existing community. The school would be within very easy walking distance of the new dwellings.
  - The new bus service, funded by the appellants for five years, will not only benefit new residents, but also existing residents of this part of the town. Prior to the Council withdrawing its evidence there was a dispute as to whether the service would be able to stand on its own feet at the end of the funding period, but the evidence of the operator was persuasive in that it should be able to do so.
  - The improvements to the Robin Hood gyratory system, at a cost of £700,000, is agreed to be a substantial benefit over the 'no development' scenario. In addition, a further £35,000 would be spent on improvements to the connectivity of the site to the town centre.
  - There would be a significant benefit (£392,000) to mitigation and improvements to a nearby Site of Special Scientific Interest, along with the benefit of planting within the development.
  - The provision of c.6.5 hectares of open space/playspace/allotments. This is in excess of the 4.3 hectares required by policy.
60. There are no specific policies in the Framework which indicate that development should be restricted. There is however a limited conflict with CS policy ADPP2 in relation to the manner which this site has come forward, although there are a number of reasons why this would not cause actual harm. In addition this policy carries significantly reduced weight. In addition, emerging HADPD policy C1 would set a presumption against new residential development outside settlement boundaries, but this carries only limited weight and the emerging plan is not designed to cater for developments such as the appeal proposal.

---

<sup>30</sup> CD 67 paragraphs 5.26 and 5.28

<sup>31</sup> CD 79

<sup>32</sup> CD 80

<sup>33</sup> CD 46



61. This policy issue is the only adverse impact of granting permission and it falls far short of significantly and demonstrably outweighing the benefits of the development, when assessed against the policies in the Framework as a whole. As agreed by the parties, the proposal represents sustainable development and permission should be granted in accordance with the presumption in favour of sustainable development.
62. For the reasons given above I conclude that the appeal should be allowed.

*P. J. G. Ware*

Inspector

## **Land adjacent to Hilltop, Oxford Road, Donnington, Newbury**

### **Schedule of conditions**

#### **Approved plans**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

##### Parameter Plans:

- Land Use Parameters - 3511 Rev C
- Density Parameters - 3521 Rev D
- Building Heights Parameters - 3531 Rev D
- Movement & Access Parameters - 3541 Rev B
- Landscaping Parameters - 3551 Rev D
- Drainage Parameters - 3561 Rev A

##### Access Plans:

- Proposed Western Access from A339 - 131075/A/10.1 Rev A
- Proposed Eastern Access from The Connection - 131075/A/11 Rev B
- Proposed Bus Access - 131075/A/08.1 Rev H
- Whitefields Cottages SSD on Approach to Potential Build Out Pedestrian Crossing 131075/SK/30 Rev B

#### **Phasing Plan**

- 2) A Phasing Plan shall be submitted to and approved in writing by the local planning authority on or before submission of the first reserved matters application which shall show the phases in which development is to be carried out, including details on the broad number of dwellings (including affordable units) to be provided at each phase(s). The development shall thereafter only be carried out in accordance with the approved Phasing Plan.

#### **Reserved matters submission**

- 3) No development on each phase shall take place until details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") of development in that phase have been submitted to and approved in writing by the local planning authority.

### **Reserved Matters – housing mix**

- 4) The first reserved matters application shall include a schedule of the housing unit and tenure mix for the whole site. Notwithstanding this, subsequent reserved matters applications may include alternative details providing that this does not increase the total number of dwellings or change the overall unit and tenure mix of dwellings on site as approved by the first reserved matters application.

### **Reserved Matters - Strategic landscape plan**

- 5) A strategic landscape plan for the whole site shall be submitted as part of the first reserved matters application and shall include the following details:
  - Key retained existing vegetation features on the site and its boundaries
  - Proposed Structural Planting, including Buffer Planting to site boundaries

### **3 years submission limit for approval of reserved matters**

- 6) Application for approval of all the reserved matters for each phase shall be made to the local planning authority before the expiration of three years from the date of this permission.

### **Reserved matters commencement time limit**

- 7) The development of each phase hereby permitted shall be begun before the expiration of three years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved in respect of that phase, whichever is the later.

### **Total number of units**

- 8) The number of dwellings hereby permitted shall not exceed 401.

### **Hours of work (construction)**

- 9) No demolition or construction works shall take place outside the following hours:
  - 0730 hours to 1800 hours Mondays to Fridays
  - 0830 hours to 1300 hours Saturdays
  - No work shall be carried out at any time on Sundays or Bank Holidays

### **Construction Method Statement**

- 10) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved

Construction Method Statement. The Construction Method Statement shall provide for:

- (a) Construction site accesses
- (b) The parking of vehicles of site operatives and visitors
- (c) Loading and unloading of plant and materials
- (d) Storage of plant and materials used in constructing the development
- (e) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing
- (f) Wheel washing facilities
- (g) Measures to control the emission of dust and dirt during construction
- (h) A scheme for recycling/disposing of waste resulting from demolition and construction works
- (i) Agreed routes and timing restrictions for construction vehicles, deliveries and staff

#### **Ground and floor levels**

- 11) No phase of the development shall take place until details of the finished floor levels of the buildings hereby permitted in relation to existing and proposed ground levels of that phase have been submitted to and approved in writing by the local planning authority. The development of that phase shall be carried out in accordance with the approved levels.

#### **A339 Access western parcel**

- 12) No part of the development to the west of the A339 shall be occupied until the proposed access from the A339, as shown in the Vectos drawing no. 131075/A/10.1 Rev A, has been substantially completed and is open to traffic.

#### **Vodafone Access eastern parcel**

- 13) No part of the development to the east of the A339 shall be occupied until the proposed junction from the internal Vodafone roundabout, as shown on Vectos drawing number 131075/A/11 Rev B, has been substantially completed and is open to traffic.

#### **A339 Underpass**

- 14) No development shall take place until a scheme for the proposed improvements to the subway linking the eastern to western parts of the site has been submitted to and agreed in writing by the local planning authority. The scheme shall include: (i) proposals for the diversion of footpath 4 at each approach to the subway; (ii) details of surface treatment, soffit level and

proof lighting, planting and soffit level vandal proof CCTV; and (iii) CCTV monitoring arrangements. Unless otherwise approved in writing by the local planning authority, the approved scheme shall be completed prior to the occupation of any residential units and shall be maintained thereafter.

### **Secondary Access for buses**

- 15) The development hereby permitted shall not be occupied until the secondary access for buses, emergency vehicles and visitors to the primary school proposed from Love Lane, as shown on Vectos drawing number 131075/A/08.1 Rev H, has been substantially completed and is open to traffic. This arrangement shall be maintained on site thereafter.

### **Cycling network**

- 16) No dwelling hereby permitted shall be occupied until the pedestrian / cycle access to Oxford Road / Whitefield Cottages with minor amendments to the road layout, as shown on Vectos Drawing No. 131075/SK/30 Rev B, has been substantially completed and is open to the public. This arrangement shall be maintained thereafter.

### **Highway infrastructure design and construction**

- 17) The detailed layout of the site with regards to highway infrastructure shall comply with the local planning authority's standards in respect of road and footpath design and vehicle parking and turning provision. The road and footpath design should be to a standard that is adoptable as public highway. This condition shall apply notwithstanding any indications to these matters which have been given in the current application.

### **Archaeology**

- 18) No phase of the development shall take place until the implementation of a programme of archaeological work in accordance with a written scheme of investigation for that phase has been submitted to and approved in writing by the local planning authority. Thereafter the development shall incorporate and be undertaken in accordance with the approved programme.

### **Piling**

- 19) No piling shall take place during construction, except auger piling, unless otherwise agreed in writing by the local planning authority.

### **Arboricultural measures**

- 20) No phase of the development shall commence until:
- (a) an arboricultural method statement, which shall include details of the implementation, supervision and monitoring of all temporary tree protection and any special construction works within any defined tree protection area of that phase, has been submitted to and approved in writing by the local planning authority

- (b) details of the proposed access, hard surfacing, drainage and services providing for the protection of the root zones of trees to be retained of that phase has been submitted and approved in writing by the local planning authority
- (c) the applicant has secured the implementation of an arboricultural watching brief in accordance with a written scheme of site monitoring of that phase, which has been submitted to and approved in writing by the local planning authority
- (d) a detailed schedule of tree works including timing and phasing of operations of that phase has been submitted and approved in writing by the local planning authority

The development of that phase shall not be carried out otherwise than in accordance with the approved details.

### **Construction Environmental Management Plan**

- 21) No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following;
- (a) a risk assessment of potentially damaging construction activities
  - (b) Identification of biodiversity protection zones
  - (c) Practical measures to avoid and reduce impacts during construction
  - (d) The location and timing of sensitive works to avoid harm to biodiversity features
  - (e) The times during construction when specialist ecologists need to be present on site to oversee works
  - (f) Responsible persons and lines of communication
  - (g) The role and responsibilities of the ecological clerk of works or similarly competent person
  - (h) Use of protective fences, exclusion barriers and warning signs
  - (i) Any temporary lighting that will be used during construction
  - (j) a scheme of works or such other steps to minimise the effects of dust during construction
  - (k) The implementation of these measures prior to the commencement of each phase.

The development shall not be constructed otherwise than in accordance with the approved CEMP.

### **Lighting design strategy for biodiversity**

22) Prior to occupation of the first dwelling within any phase, a lighting design strategy for biodiversity of that phase shall be submitted to and approved in writing by the local planning authority. The strategy shall:

- (a) Identify those areas on the site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites or resting places or important routes used to access key areas of their territory, for example for foraging
- (b) Show how and where external lighting will be installed so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places

Notwithstanding the provisions of Article 3 and Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, no external lighting shall be installed except in accordance with the specifications and locations set out in the strategy and these shall be maintained thereafter in accordance with the strategy. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

### **Landscape and Ecological Management Plan**

23) No development shall take place on the site until a Landscape and Ecological Management Plan, which should be based on the ES Technical Appendix 10.3: Ecological Management Plan - Heads of Terms prepared by Tyler Grange dated 6<sup>th</sup> October 2015, has been submitted to and approved in writing by the local planning authority. Such a Plan shall include:

- Detailed habitat creation and management prescriptions (including costings) for the retained and newly created habitats for 10 years with monitoring every 5 years and a review of the Plan after the 10th Year
- Provision of features for protected and priority fauna including bat boxes, bird nesting opportunities and habitat piles.

The development shall not be carried out otherwise than in accordance with the approved Plan.

### **Natural England and Thames Water**

24) No development shall commence until an impact study of the existing water supply infrastructure has been submitted to and approved in writing by the local planning authority. The studies should determine the magnitude of any new additional capacity required in the system and a suitable connection point. Thereafter the development shall be carried out in accordance with the approved details.

### **Cycle storage**

- 25) No dwelling hereby permitted shall be occupied until the cycle storage in relation to that dwelling has been provided in accordance with details that have previously been submitted to and approved in writing by the local planning authority.

### **Refuse storage**

- 26) No dwelling hereby permitted shall be occupied until an area for refuse/recycling storage in relation to that dwelling has been provided in accordance with details that have previously been submitted to and approved in writing by the local planning authority.

### **Sustainable Drainage Strategy**

- 27) No phase of the development shall commence until a Sustainable Drainage Strategy and associated detailed design, management and maintenance plan of surface water drainage for that phase using SUDS methods (as included within the Flood Risk Assessment Addendum (October 2015)) and the SUDS Manual) has been submitted to and approved in writing by the local planning authority. The approved drainage system shall be implemented in accordance with the approved Sustainable Drainage Strategy for that phase prior to the use or occupation of any building within that phase commencing, and maintained thereafter for the lifetime of the development.

### **Foul Drainage Strategy**

- 28) No development shall commence until a drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved in writing by, the local planning authority. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works have been completed in accordance with the approved strategy.

### **Waste collection**

- 29) Prior to the occupation of any dwelling on the eastern parcel of the site details of a proposed waste collection plan from the curtilage of all the properties to the east of A339 shall be submitted to and agreed in writing by the local planning authority. The development shall not be carried out otherwise than in accordance with the approved details.

### **Fire hydrants**

- 30) No dwelling shall be occupied in each phase until private fire hydrant(s) or other suitable emergency water supplies for that phase has been provided in accordance with details (including connection and maintenance thereafter) that have first been submitted to and approved in writing by the local planning authority.



### **Protection from external noise**

- 31) No development shall commence until details of a scheme of works for protecting the occupiers of the development from externally generated noise has been submitted to and approved in writing by the local planning authority. All works forming part of the approved scheme shall be completed prior to the occupation of any dwelling.

### **Noise from services associated with new buildings**

- 32) Prior to the installation of air handling plant, chillers or other similar building services on a non-residential building constructed as part of the development the following details, in respect of that building, shall be submitted to the local planning authority:
- a) written details concerning any proposed air handling plant, chillers or other similar building services including:
    - the proposed number and location of such plant as well as the manufacturer's information and specifications
    - the acoustic specification of the plant including general sound levels and frequency analysis under conditions likely to be experienced in practice
    - the intended operating times
  - b) calculations showing the likely impact of noise from the development
  - c) a scheme of works or such other steps as may be necessary to minimise the effects of noise from the development

The relevant building shall not be used until written approval of a scheme under (c) above has been given by the local planning authority and the scheme of works has been completed in accordance with the approved details.

### **Contaminated land condition**

- 33) Unless otherwise agreed by the local planning authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until sub-conditions A to C below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the local planning authority in writing until sub-condition D has been complied with in relation to that contamination.

#### **A. Site characterisation**

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a

scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the local planning authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the local planning authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination
- (ii) an assessment of the potential risks to:
  - human health
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes
  - adjoining land
  - groundwaters and surface waters
  - ecological systems
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's '*Model Procedures for the Management of Land Contamination, CLR 11*'.

## **B. Submission of remediation scheme**

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

## **C. Implementation of approved remediation scheme**

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development (other than that required to carry out remediation). The local planning authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be submitted and approved in writing by the local planning authority.

#### **D. Reporting of unexpected contamination**

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of sub-condition A above, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of sub-condition B above, which is subject to the approval in writing of the local planning authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority in accordance with sub-condition C above.

#### **E. Long term monitoring and maintenance**

In the event contamination is found at the site, a monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period to be agreed with the local planning authority, and the provision of reports on the same must be prepared, both of which must be submitted and approved in writing by the local planning authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the local planning authority.

## APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:	
Mrs E Lambert of Counsel	Instructed by the Head of Legal Services
She called	
Mrs C Peddie BSc MSc MRTPI	Principal Planning Officer – policy
Mr P S Goddard BEng (Hons)	Highways Development Control Team Leader
Mr N Ireland BA(Hons) MTPI MRTPI	Planning Director, G L Hearn

FOR THE APPELLANTS:	
Mr P Village QC Mr A Tabachnik QC	Instructed by Clyde and Co LLP
They called	
Mr P Stacey BA DipTP MRTPI	Director, Turleys
Mr D Bird BSc CEng MICE	Director, Vectos
Mr N Rose CEng BA(Hons) Dip Arch RIBA	Main Board Director, Broadway Malyan
Mr M Spry BSc(Hons) DipTP MRTPI MIED FRSA	Senior Director, Nathaniel Lichfield & partners
Mr S Brown BSc (Hons) DipTP MRTPI	Principal, Woolf Bond Planning
Ms L Nation	Clyde and Co (S106 session only)

INTERESTED PERSONS:	
Mr E Wynn	Local resident
Ms R Miller	Donnington Valley Action Group
Mr B Gowers	Local resident
Councillor P Bryant	Speen Ward
Dr T Vickers	West Berkshire Spokes
Councillor Graham	Shaw-cum-Donnington Parish Council
Mr R Wood FRICS	Local resident

## INQUIRY DOCUMENTS

1	Lists of persons present at the Inquiry
2	Notification letter and list of persons notified
3	Statement by Donnington Valley Action Group
4	Statement by Mr B Gowers
5	Statement by Councillor P Bryant
6	Statement by Dr T Vickers
7	Statement by Councillor Graham
8	Statement by Mr R Wood
9	Closing submissions by the appellants
10	Unilateral Planning Obligation (27 January 2017)
11	Council's response to Housing White Paper
12	Appellants' response to Housing White Paper

## CORE DOCUMENTS

CD No.	Planning Application Documents and Plans
1	Application Covering Letter (1 <sup>st</sup> August 2014)
2	Application Covering Letter (23 <sup>rd</sup> September 2014)
3	Application Forms and Certificates
4	Concept Masterplan (Drawing Number: 3212 Rev E)
5	Site Location Plan (Drawing Number:1012)
6	<p>Access Plans</p> <ul style="list-style-type: none"> <li>Proposed Western Access from A339 (Drawing Number 131075/A/10.1 Rev A)</li> <li>Proposed Eastern Access from The Connection (Drawing Number 131075/A/11 Rev B)</li> <li>Proposed Bus Access (Drawing Number 131075/A/08.1 Rev B)</li> </ul>
7	<p>Parameter Plans</p> <ul style="list-style-type: none"> <li>Land Use Parameters (Drawing Number 3510 Rev A)</li> <li>Density Parameters (Drawing Number 3520 Rev A)</li> <li>Building Heights Parameters (Drawing Number 3530 Rev A)</li> <li>Movement &amp; Access (Drawing Number 3540 Rev A)</li> <li>Landscaping (Drawing Number 3550 Rev A)</li> <li>Drainage (Drawing Number 3560 Rev A)</li> </ul>
8	Planning Statement (including s106 draft Heads of Terms and Affordable Housing Statement) (July 2014)
9	EIA Non-Technical Summary (July 2014)

10	Design and Access Statement (including Parameter Plans, Landscape details and reference to Parking Provision) (July 2014)
11	Topographical Plan/Survey (Figure No: 13-006/Figure 19)
12	Outline Sustainability Framework and Waste Management Plan (July 2014)
13	Statement of Community Involvement (July 2014)
14	Tree Quality Survey and Development Implications (8 July 2014)
15	Transport and Access Outline Application Statement (July 2014)
16	Landscape and Visual Impact Outline Application Statement (including Photomontages) (July 2014)
17	Ecology Outline Application Statement (21 July 2014)
18	Heritage and Archaeology Outline Application Statement (July 2014)
19	Air Quality Outline Application Statement (07/07/14)
20	Noise Outline Application Statement (07/07/14)
21	Flood Risk Assessment (July 2014)
22	Contamination Outline Application Statement (July 2014)
23	Environmental Statement <ul style="list-style-type: none"> <li>• Volume 1: Technical Assessment (Chapters and Figures)</li> <li>• Volume 2: Appendices</li> </ul>
24	Covering letter (10th June 2015)
25	Revised Concept Masterplan (Drawing Number: 3212 Rev P)
26	Revised Parameter Plans <ul style="list-style-type: none"> <li>• Land Uses Parameters (Drawing Number: 3511 Rev B)</li> <li>• Density Parameters (Drawing Number: 3521 Rev C)</li> <li>• Building Heights Parameters (Drawing Number: 3531 Rev C)</li> <li>• Movement and Access Parameters (Drawing Number: 3541 Rev A)</li> <li>• Landscaping Parameters (Drawing Number 3551 Rev C)</li> <li>• Drainage (Drawing Number 3561)</li> <li>• Phasing Plan (Drawing Number: 3401 Rev B)</li> </ul>
27	Revised Design and Access Statement (June 2015)

28	Landscape and Visual Impacts Supplementary Statement (1 June 2015)
29	Ecology Supplementary Statement
30	Transport and Access Supplementary Statement (June 2015)
31	Flood Risk Assessment Addendum (May 2015)
32	Noise and Vibration Supplementary Statement (21-05-15)
33	Primary School Common Ground letter to Fiona Simmonds (dated 25th April 2015)
34	1 FE School- Land Area Plan- Preferred Option Drawing (Drawing No: 150312_COMA2001_4006_1 FE School - Land Areas Rev A)
35	Environmental Statement Supplement (May 2015)
36	Covering letter (9 <sup>th</sup> October 2015)
37	Revised Concept Masterplan (Drawing Number: 3212 Rev T)
38	<p>Revised Parameter Plans</p> <ul style="list-style-type: none"> <li>• Land Uses Parameters (Drawing Number: 3511 Rev C)</li> <li>• Density Parameters (Drawing Number: 3521 Rev D)</li> <li>• Building Heights Parameters (Drawing Number: 3531 Rev D)</li> <li>• Movement and Access Parameters (Drawing Number: 3541 Rev B)</li> <li>• Landscaping Parameters (Drawing Number 3551 Rev D)</li> <li>• Drainage (Drawing Number 3561)</li> <li>• Phasing Plan (Drawing Number: 3401 Rev C)</li> </ul>
39	Revised Design and Access Statement (dated October 2015)
40	Landscape and Visual Impacts Supplementary Statement (October 2015)
41	Ecology Supplementary Statement (October 2015)
42	Transport and Access Supplementary Statement (October 2015)
43	Flood Risk Assessment Addendum (October 2015)
44	Noise and Vibration Supplementary Statement (October 2015)
45	Environmental Statement Supplement (October 2015)
46	Economic Benefits Statement (October 2015)
	<b>Other Relevant Documents submitted as part of the Application</b>
47	Whitefield Cottages SSD on Approach to Cycle Link into Development Site (Drawing No: 131075/SK/28 Rev B) (19.08.2015)

	<b>Officer's Report and Decision Notice</b>
48	Officer's Report (and Update Report)
49	Decision Notice
	<b>Other Relevant Core Documents</b>
50	West Berkshire Core Strategy Inspector's Report (3 <sup>rd</sup> July 2012)
51	Berkshire SHMA Presentation (20 <sup>th</sup> October 2015)
52	Journey Time Routes (Drawing: Figure 1) (25/01/16)
53	Walking in Newbury Map
	<b>Appeal Decision and Judgement Core Documents</b>
54	Firlands Farm, Burghfield Common Appeal Decision (Appeal Ref: APP/W0340/A/14/2228089)
55	Land adjacent to Sims Metals UK (South West) Limited, Long Marston, Pebworth, Wychavon (APP/H1840/A/13/2202364)
56	St Albans v Hunston Properties Limited [2013] EWCA CIV 1610
57	Gallagher Homes Limited and Lioncourt Homes Limited v Solihull Metropolitan Borough Council [2014] EWHC 1283 (Admin)
58	Oadby v Wigston Borough Council b Secretary of State for Communities and Local Government [2015] EWHC 1879 (Admin)
	<b>Relevant Correspondence</b>
59	Email Exchange with Bob Dray (dated 13 <sup>th</sup> October 2015)
60	Email to Fiona Simmonds (dated 14 <sup>th</sup> October 2015) including Draft Heads of Terms
61	Email Exchange with Bob Dray (dated 16-19 <sup>th</sup> October 2015)
62	Email Exchange with Bob Dray (dated 22 <sup>nd</sup> - 26 <sup>th</sup> October 2015) including Underpass Drawings
63	Email Exchange with Bob Dray (dated 22 <sup>nd</sup> -28 <sup>th</sup> October 2015) including Highway Response Note
64	Email Exchange with Bob Dray (dated 10-12 <sup>th</sup> November 2015) including Ecology Statement
65	Email Exchange with Bob Dray (dated 11-18 <sup>th</sup> November 2015) including Title Transfer



	<b>Further Relevant Core Documents</b>
66	West Berkshire Local Plan including Appendices and Saving Direction (September 2007)
67	West Berkshire Core Strategy (July 2012)
68	West Berkshire Strategic Sites Policy Paper (October 2011)
69	West Berkshire Annual Monitoring Report - Housing (January 2016)
70	West Berkshire Five Year Housing Land Supply Statement (September 2016)
71	West Berkshire Housing Site Allocations DPD – Background Paper (November 2015)
72	West Berkshire Proposed Submission Housing Site Allocations DPD (November 2015)
73	Extract from West Berkshire Housing Site Allocations DPD SA Appendices NEW031A&B Site Assessments- part duplication of CD99
74	West Berkshire Council Written Statement for Issue 2 of the Housing Site Allocations DPD Examination (June 2016)
75	West Berkshire Council Housing Site Allocations DPD Examination Homework Item 1 'Approach to housing numbers'
76	West Berkshire Housing Site Allocations DPD Inspector's Preliminary Findings and Main Modifications
77	West Berkshire Strategic Housing Land Availability Assessment (February 2011)
78	Extract from West Berkshire Strategic Housing Land Availability Assessment (December 2013) NEW031A&B Site Assessments
79	Email Exchange with Mel Brain and Niko Grigoropoulos (dated 16 <sup>th</sup> November 2016) on Newbury housing waiting list data
80	Draft Berkshire SHMA Final Report (February 2016)
81	Proof of Evidence of Nick Ireland to conjoined Thatcham Appeals Refs: APP/W0340/W/15/3141449 and APP/W0340/W/16/3144193
82	Proof of Evidence of Dominick Veasey to Appeal Ref: APP/W0340/W/16/3144193
83	Proof of Evidence of Dan Usher to Appeal Ref: APP/W0340/W/15/3141449

84	Proof of Evidence of Margaret Collins to Appeal Ref: APP/W0340/W/16/314615
85	St Modwen Developments Limited v Secretary of State for Communities and Local Government and East Riding of Yorkshire Council [2016] EWHC 968
86	Oadby and Wigston Borough Council v Secretary of State for Communities and Local Government and Bloor Homes Ltd [2016] EWCA Civ 1040
87	Kings Lynn and West Norfolk Borough Council v Secretary of State for Communities and Local Government [2015] EWHC 2464 (Admin)
88	OBR Economic and Fiscal Outlook Report (November 2016)
89	SSCLG vs West Berkshire DC and Reading BC [2016] EWCA Civ 441
90	Satnam Millenium v Warrington Borough Council [2015] EWHC 370
91	Zurich Assurance Ltd v Winchester City Council & South Downs NPA [2014] EWHC 758 (Admin)
92	Land North East of Elsenham, Essex, Appeal Ref APP/C1570/A/14/2219018
93	Brandon Lewis Letter to PINS re SHMA dated 19 December 2014
94	West Berkshire Local Development Scheme (October 2015)
95	Appeal Decision land north and south of Mans Hill, Burghfield Common. Appeal Ref: APP/W0340/A/14/2226342, dated 17 March 2015
96	Housing Site Allocations DPD Approach and Delivery Topic Paper (March 2016, amended May 2016)
97	High Court Challenge Case Number CO/1455/2014 (Gladman Development Ltd and Wokingham Borough Council (2014) EWHC 2320
98	HSA DPD Statement of Consultation Main Report (April 2016)
99	HSA DPD SEA/SA Extract for Newbury (part duplication of CD73)
100	Turley Statement of Case January 2016
101	HSA DPD Schedule of Main Modifications (December 2016)
102	West Berkshire Planning Obligations SPD (December 2014)
103	West Berkshire Quality Design SPD – Part 1 (June 2006)
104	Manual For Streets (2007)

105	Thames Valley Police- Planning Companion Guides & Supporting Documents [4] (2010)
106	Manual For Streets 2 (2010)
107	Urban Design Compendium (2007) and Delivering Quality Places (Urban Design Compendium 2- Second Edition)
108	Housing Officer's consultation responses (22 <sup>nd</sup> August 2014 and 23 <sup>rd</sup> June 2015)
109	TVP Design Advisor Consultation Response (dated 11 <sup>th</sup> November 2015)
110	Iterations of underpass sketch schemes attached to email correspondence between the TVPDA and Mr Rose <ul style="list-style-type: none"> <li>- Underpass Sketch Layout (Drawing No 4006 Rev C)</li> <li>- Underpass Sections (Drawing No 4201 Rev C)</li> <li>- Underpass Sketch Layout (Drawing No 4006 Rev D)</li> <li>- Underpass Sections (Drawing No 4201 Rev D)</li> <li>- Underpass Sketch Layout (Drawing No 4006 Rev F)</li> <li>- Underpass Sections (Drawing No 4201 Rev F)</li> <li>- Underpass Sketch Layout (Drawing No 4006 Rev G)</li> </ul>
111	Email Correspondence between the TVPDA and Mr Rose
112	Suffolk Coastal Court of Appeal Judgement [2016] EWCA Civ 168
113	Thames Valley Police Objection Withdrawal Correspondence Email (dated 16 <sup>th</sup> December) and the following drawings <ul style="list-style-type: none"> <li>- Underpass Sketch Layout (Drawing No 4006 Rev H)</li> <li>- Underpass Sections (Drawing No 4201 Rev G)</li> </ul>
	<b>Further Inquiry Documents</b>
114	DCLG Ministerial Statement Planning Update March 2011
115	Stanbury House Wokingham Borough Council Challenge Refusal
116	Boughton Road Appeal Decision (Appeal Ref: APP/Y2810/A14/2225722)
117	Longbank Farm, Ormesby Appeal Decision (Appeal Ref: APP/V0728/W/15/3018546)
118	Land at Southwell Road, Farnsfield Appeal Decision (Appeal Ref: APP/B3030/W/15/3006252)
119	Thames Valley Berkshire LEP: Strategic Economic Plan 2015/16-2020/21
120	West Berkshire Spokes Highways Officer Consultation Response (dated 6th November 2015)

121	West Berkshire Council- Housing Site Allocation DPD Examination Information Web Page
122	West Berkshire Council Housing Site Allocations Development Plan Document- Schedule of Proposed Minor Changes (December 2016)
123	Planning Practice Guidance- Housing and Economic Development Needs Assessments Extract
124	Briefing Note with respect to Detailed and Provisional Agricultural Land Classification Mapping
125	CE and Experian Job Forecast Data Tables (Forecasts from NI and MS PofEs)
126	Note with Examples of GLH Use of Experian Forecasts in SHMAs
127	Oxford Economics Local Model Information
128	Stanbury House Appeal Decision Ref: APP/X0360/W/15/3097721
129	Summary of Council and Appellant OAN for West Berkshire
130	Sandleford Park - Application Description and 2 No. Plans for 15/02300/OUTMAJ (Steven Brown)
	Sandleford Park - Highways Officer Consultation Response upon 15/02300/OUTMAJ – 18 Nov 2016 (Steven Brown)
	Sandleford Park - Hampshire County Council Highways Response upon 15/02300/OUTMAJ – 9 Dec 2016 (Steven Brown)
	Sandleford Park - Natural England’s Consultation Response upon 15/02300/OUTMAJ – 8 Dec 2016 (Steven Brown)
	Sandleford Park - Sport England’s Consultation Response upon 15/02300/OUTMAJ – 14 Nov 2016 (Steven Brown)
	Sandleford Park - Application Description and 1 No. Plan for 16/00106/OUTMAJ (Steven Brown)
	Sandleford Park - Hampshire County Council Highways Response upon 16/00106/OUTMAJ – 9 Dec 2016 (Steven Brown)
	Sandleford Park - Highways Officer Consultation Response upon 16/00106/OUTMAJ – 1 Dec 2016 (Steven Brown)
131.1	Sandleford Park - Application Description and 2 No. Plans for 16/03309/OUTMAJ (Steven Brown)
	Pre Application Advice (Caroline Peddie)

131.2	West Berkshire Local Plan Direction Letter (Caroline Peddie)
131.3	HW4 Consistency C1 and the Core Strategy (Caroline Peddie)
131.4	Tracked changes version of C1 HSA DPD (Caroline Peddie)
131.5	Gladman Developments Ltd v Daventry 2016 (Caroline Peddie)
131.6	Sandleford Park LRM Planning Statement Extract (Caroline Peddie)
131.7	J&P Motors Pegasus Letter (Caroline Peddie)
131.8	J&P Motors Housing Consultation Response (Caroline Peddie)
131.9	J&P Motors Palady Email re. leases (Caroline Peddie)
131.10	Crookham House Planning Statement Extract (Caroline Peddie)
131.11	2015-2016 HFR Guidance (Caroline Peddie)
131.12	Faraday Email (Caroline Peddie)
131.13	Submission from J Cornwell (Caroline Peddie)
131.14	Email Steven Smallman re. HSA2 Delivery (Caroline Peddie)
131.15	Mortimer NDP FAQs (Caroline Peddie)
131.16	Mortimer NDP News (Caroline Peddie)
131.17	Market Street email from Grainger (Caroline Peddie)
131.18	5YHLS Update (December 2016) (Caroline Peddie)
132	NLP Canterbury District Housing Needs Review (April 2015) (Nick Ireland)
133	Query on 2015 Round Population Projections GLA Email (Nick Ireland)
134	Redfern Review (Matthew Spry)
135	Eastleigh Appeal Decision ref: APP/W1715/W/15/3063753 (Matthew Spry)
136	Updated POPGROUP Modelling with Cambridge Econometrics Job Growth Scenarios (Matthew Spry)
137	Supplemental Proof of Evidence of Mr Veasey to Appeal Ref: APP/W0340/W/16/3144193 (Matthew Spry)
138	Extract from Oxfordshire SHMA (Matthew Spry)

139	Land at 17 The Close, Horley Appeal Decision Ref: APP/L3625/W/15/3141260
140	Email from DPD Inspector re. Affordable Housing (Caroline Peddie)
141	Chelmsford Judgment [2016] EWHC 3329 (Matthew Spry)
142	Statement of Common Ground – Planning
143	Statement of Common Ground - Housing Land Supply
144	Statement of Common Ground – Transport
145	Additional Statement of Common Ground (18 <sup>th</sup> January 2017)
146	Mans Hill Appeal Decision 17 <sup>th</sup> January 2017 (Ref: APP/W0340/W/16/3146156)
147	Supplementary Proof of Evidence Matthew Spry (18 <sup>th</sup> Jan)
148	Supplementary Proof of Evidence Steven Brown (18 <sup>th</sup> Jan)
149	Supplementary Proof of Evidence Peter Stacey (18 <sup>th</sup> Jan)
150	Berkshire SHMA Stakeholder Meeting Notes (Caroline Peddie)
151	HLS Sandleford Pak – Sporting England Responses (Steven Brown)
152	HLS Sandleford Park – Parcelisation Plans (Steven Brown)
153	HLS The Croft, Burghfield Common – Site Plans (Steven Brown)
154	Paul Goddard Highways Consultation Response (23 <sup>rd</sup> November 2015)
155	Revised HLS Statement of Common Ground (18 <sup>th</sup> January 2017)
156	Updated 5YHLS Scenario Testing (18 <sup>th</sup> January 2017) (Steven Brown)
157	Email on Bus Specification and Viability from Matthew Metcalfe (dated 17 <sup>th</sup> January 2017)
158	Closing Submissions to Man’s Hill Inquiry (Appeal Ref: APP/W0340/W/16/3146156)
159	Appellants’ Closing Submissions

**Examination of the St. Albans City & District Council Local Plan**  
**Inspectors: Mrs. Louise Crosby MA MRTPI and**  
**Mrs. Elaine Worthington BA (Hons) MT MUED MRTPI**

Programme Officer: Mrs Louise St John Howe  
[REDACTED]

---

14 April, 2020

Mr. Chris Briggs,  
Spatial Planning Manager,  
St Albans City & District Council.

By email only

Dear Mr Briggs,

**EXAMINATION OF THE ST ALBANS CITY AND DISTRICT LOCAL PLAN**

**Introduction**

1. The Stage 1 hearing sessions were held between 21 and 23 January 2020. Over those three days we heard discussion on legal compliance, the Duty to Cooperate, the spatial strategy and matters relating to the Green Belt.
2. We wrote to the Council on the 27 January 2020 to raise our serious concerns in terms of legal compliance and soundness and to cancel the subsequent hearing sessions arranged for February 2020. This letter sets out our concerns in detail. We are conscious that this is a difficult time for everyone due to Covid 19 and in particular Councils. We also appreciate that it is not a good time to receive unfavourable news. However, Mr Briggs has indicated to the Programme Officer that the Council wish to receive our letter as soon as possible.
3. Whilst we will not reach final conclusions on these points until you have had the opportunity to respond to this letter in summary our main concerns are:
  - Failure to engage constructively and actively with neighbouring authorities on the strategic matters of (a) the Radlett Strategic Rail Freight Interchange proposal and (b) their ability to accommodate St Alban's housing needs outside of the Green Belt;
  - Plan preparation not in accordance with the Council's Statement of Community Involvement;
  - Inadequate evidence to support the Council's contention that exceptional circumstances exist to alter the boundaries of the Green Belt;
  - Failure of the Sustainability Appraisal to consider some seemingly credible and obvious reasonable alternatives to the policies and proposals of the plan;
  - Failure of the plan to meet objectively-assessed needs; and
  - Absence of key pieces of supporting evidence for the plan.

## Legal Compliance

### Duty to Cooperate (DtC)

4. Section 33A of the Planning and Compulsory Purchase Act 2004 (The Act) indicates that the DtC applies to the preparation of local plans, so far as relating to a strategic matter. A strategic matter is defined in Section 33A(4) as: (a) sustainable development or use of land that would have a significant impact on at least two planning areas, including (in particular) sustainable development or use of land for or in connection with infrastructure that is strategic and has or would have a significant impact on at least two planning areas, and (b) sustainable development or use of land in a two-tier area if the development or use is a county matter (i) or has or would have a significant impact on a county matter (ii).
5. The DtC requires the Council to engage constructively, actively and on an on-going basis in relation to the preparation of local plan documents so far as relating to a strategic matter (in order to maximise the effectiveness of plan preparation).
6. Paragraph 25 of the National Planning Policy Framework (the Framework) states that strategic policy-making bodies should collaborate with one another, and engage with their local communities and relevant bodies, to identify the relevant strategic matters which they need to address in their plans. Paragraph 26 is clear that effective and on-going joint working between strategic policy making authorities and relevant bodies is integral to the production of a positively prepared and justified strategy. In particular, joint working should help to determine where additional infrastructure is necessary, and whether development needs that cannot be met wholly within a particular plan area could be met elsewhere.
7. Whilst Section 19 of the Act requires the Council to identify its strategic policies, the Courts have held that issues such as what would amount to strategic planning matters are all matters of judgement that are highly sensitive to the facts and circumstances of the case.
8. A large site in the district (the Radlett site) has planning permission for a Strategic Rail Freight Interchange (SRFI), but is proposed for housing in the Plan as the Park Street Garden Village (PSGV) Broad Location. The SRFI is not identified as a strategic matter by the Council. It is argued that this is because it is not a proposal included in the Plan. The proposed alternative development of PSGV has the effect of precluding the SRFI. On this basis, the Council considers that it did not need to cooperate in relation to this matter, since once the SRFI ceased to be a strategic site promoted under the Plan, it was no longer required to engage in the DtC discussions.
9. However, national policy and guidance is clear that unmet needs, and how they could be met elsewhere, are a key issue to be considered through the DtC. The Guidance (paragraph 022 Reference ID: 61-022-20190315) advises that strategic policy making authorities should explore all available options for addressing strategic matters within their own



planning area, unless they can demonstrate to do so would contradict policies set out in the Framework. If they are unable to do so they should make every effort to secure the necessary cooperation on strategic cross boundary matters before they submit their plans for examination.

10. It seems to us that it is illogical to argue that the DtC applies only to proposals in the Plan, since by their very nature, approaches to unmet needs will not be included in the Plan (as there is no provision to address them there). In our view, the SRFI is a strategic matter for the purposes of the DtC, as are allocations for housing development to meet identified housing need. Thus, the use of the land at the Radlett site, whether as a SRFI or a housing allocation, is a strategic matter which the Council should have been engaging and cooperating with neighbouring authorities about.
11. It is not evident from the Council's Duty to Cooperate Compliance Statement (CD028) or Matter 2 hearing statement (neither of which mention the SRFI) how the Council has engaged with other LPAs or interested parties on this matter. There is nothing before us to demonstrate that other nearby authorities have been approached in terms of the possibilities of accommodating either the SRFI, or the housing now proposed on the site (in order to safeguard the SRFI permission). Indeed, The Council's note at ED31 indicates that following the site's identification for PSGV the DtC discussions focussed on that housing scheme, rather than the loss of the SRFI.
12. Both the site promoter and Network Rail raise objections to the Plan under the DtC. Whilst the Council referred to verbal conversations with senior members of staff at MHCLG who were aware of the approach to the SRFI in the Plan, a lack of objections from MHCLG is not an indication that the DtC has been met.
13. Overall, there is no evidence of effective joint working or cooperation on this important strategic cross boundary matter regarding a nationally significance infrastructure scheme. We cannot be content that the Council has explored all available options to address this strategic matter within its own planning area or engaged with others in an attempt to secure its provision elsewhere or that it has reached the conclusion not to provide for it in the Plan in the full knowledge of neighbouring authorities' views on this.
14. For these reasons, we are not satisfied that the Council has provided evidence to demonstrate on-going, active and constructive engagement regarding the SRFI. Whilst the Council's decision not to pursue the allocation of the SRFI in the Plan does not in itself indicate a failure to comply with the DtC, the Council has not engaged or cooperated with other bodies (including other LPAs) with regard to this issue. This includes in relation to the reasons why it no longer considers it necessary to include the SRFI as an allocation in the Plan, or why housing is now proposed there. Thus, the effectiveness of the Council's plan preparation has not been maximised in this regard.

15. The Council's approach to the Green Belt is also of concern to us in relation to the DtC. The Plan proposes substantial Green Belt boundary alterations to enable land to come forward for development. Paragraph 137 of the Framework requires that before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, the strategic planning authority should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development. It has not been demonstrated that the Council's approach to the Green Belt has been informed by discussions with neighbouring authorities about whether they could accommodate some of the identified need for development, as demonstrated through a statement of common ground (SoCG), in accordance with paragraph 137(c) of the Framework.
16. Paragraph 1.4 of ED25C refers to on-going dialogue with neighbouring authorities throughout 2013-2016 and 2017-2019 to see if they could accommodate any of the Council's housing need. The Council refers to the June 2018 Planning Policy Committee (PPC) report which finds the DtC discussions with adjoining and nearby authorities currently show no reasonable prospect of the district's housing need being met elsewhere at this point in time. ED25C also refers to the DtC Compliance Statement (CD028) as evidence of this.
17. However, the meetings with nearby authorities referred to in CD028 took place for the most part between May and August 2018 and the notes of these indicate that the Council intended to meet all its housing needs within its boundary. Whilst we appreciate that neighbouring authorities are likely to have their own Green Belt constraints and housing pressures, there is no mention of the question being asked as to whether any of the neighbouring authorities could take any of St Albans' need (that would otherwise require the release of Green Belt land). This is another example of a lack of on-going, active and constructive engagement in relation to an important strategic matter.
18. Paragraph 27 of the Framework indicates that in order to demonstrate effective and on-going joint working, strategic policy making authorities should prepare and maintain one or more SoCGs, documenting the cross boundary matters being addressed and progress in cooperating to address these. These should be produced using the approach set out in the Guidance and be made publicly available throughout the plan-making process to provide transparency.
19. The Guidance indicates that a SoCG is a written record of the progress made by strategic policy making authorities during the process of planning for strategic cross boundary matters. It documents where effective cooperation is and is not happening throughout the plan making process and is a way of demonstrating at examination that plans are deliverable over the plan period. The Guidance is clear that a SoCG also forms part of the evidence required to demonstrate that the Council has complied with the DtC. The Council has provided a SoCG relating to the emerging Joint Structure Plan (JSP) but not in relation to this Plan. There are no SoCGs with any of the neighbouring or nearby LPAs or any of the DtC

bodies.

20. Although a joint Dacorum Borough Council and St Albans City and District Council Duty to Cooperate Updated Position Statement (January 2020) (ED32) has been provided, this is not a SoCG. It summarises the progress made to date to resolve the strategic planning matters between the Council and Dacorum. It states that since December 2019 discussions between the two Councils have continued at pace and both agree that they consider sufficient progress has been made on the principles of the strategic planning matters pertinent to the DtC. However, the DtC concerns cooperation prior to the submission of the Plan (which was in March 2019). The Updated Position Statement sets out a package of arrangements that will be put in place, the principles for which will be expanded upon and precise details given in a SoCG, a draft of which is anticipated in May 2020.
21. As such, contrary to the advice in the Guidance, there are no SoCGs before us to demonstrate that the Council has complied with the DtC. Consequently, we are not convinced that the Council has met the terms of the Guidance and cannot be assured that it has fulfilled its DtC duty in maximising the effectiveness of plan preparation by engaging constructively, actively and on an on-going basis with other bodies that are subject to the DtC.
22. A failure to meet the DtC cannot be remedied during the examination since it applies to plan preparation which ends when the Plan is submitted for examination. Section 20(7A) of the Act requires that the examiners must recommend non-adoption of the Plan if they consider that the Council has not complied with the DtC. As previously indicated and set out in more detail below, whilst our concerns are substantial, we will not make an absolute final decision as to whether or not the DtC has been met until the Council has had the chance to respond to this letter.

#### Statement of Community Involvement (SCI)

23. Each LPA is required to prepare a SCI setting out their policy for involving persons with an interest in the development of the area when preparing and revising their local plans. Amongst other things, the SCI should explain how the authority intends to go about publicising the Plan and undertaking consultation on it.
24. Section 19(3) of the Act states that in preparing local development documents the authority must comply with their SCI. The Council's SCI Update 2017 (Doc SCI 001) states that its purpose is to set out, amongst other things, how and when the community and other stakeholders will be consulted on the preparation and revision of documents that will make up the Plan.
25. Section 2 of the SCI considers consultation on the Plan and discusses the different stages in its preparation. Tables 1 and 2 detail the consultation techniques that may be used at each stage of the DPD and SPD preparation process. Paragraph 2.14 explains that the stages may vary

between different types of planning document and be subject to review over time. Even so, Figure 2 refers to Issues and Options/Preferred Options, and paragraph 2.17 refers to a Preferred Options stage.

26. Moreover, paragraph 2.22 of the SCI states that consultation will initially seek the views of specific and general consultation bodies to identify Issues and Options as part of on-going engagement after Regulation 18, and that wider consultation with these bodies, local communities and businesses and other interested parties and individuals will take place as 'preferred options' are identified. Table 1 includes a specific row for a Preferred Options consultation stage, that is separate and distinct from the Issues and Options stage, with a consultation period of a minimum of 6 weeks.
27. We consider that the wording of the SCI sets up a reasonable expectation that the Council would undertake a Preferred Options consultation on the Plan prior to its submission. However, this did not happen. The Plan progressed from Issues and Options in January/February 2018 to the Publication Draft Plan in September/October 2018 (with no Preferred Options stage). This being so, notwithstanding the flexibility allowed by paragraph 2.17 of the SCI, the Plan has not been prepared in compliance with the SCI and there has been a breach of Section 19(3) of the Act.
28. That said, a key issue in relation to this matter is whether any affected party has suffered any prejudice as a result of the breach, and if so whether any such prejudice can be remedied during the examination. If the examination were to continue, an assessment would need to be made as to whether the expectation which arose from the SCI of consultation on Preferred Options (and the omission of that stage) has prejudiced the interests of any parties. Consideration as to whether this could be resolved during the examination would also be necessary. Given our findings in relation to the DtC, we have not come to a view on this matter but raise it in the context of the Council's future plan making activities.

### **Soundness**

29. In addition to the legal compliance matters identified above, we also have a number concerns in relation to the soundness of the Plan. Whilst we have not reached final conclusions on these issues and they may be matters which could potentially be resolved through the examination if it were able to continue, we believe it is helpful to highlight these points to you at this stage if only to assist your plan making in the future

### Green Belt

30. Paragraph 136 of the Framework sets out that, once established, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans. The Council's approach to the Green Belt is set out in Policy S3 and clarified in the response to our Initial Question 16 and in the subsequently produced Green Belt Topic Paper (ED25C). Further information has been

provided in the Council's hearing statement and via the hearings.

31. The Green Belt Review Purposes Assessment (November 2013) was prepared jointly for the Council with Dacorum and Welwyn Hatfield Councils by SKM (GB004). This Stage 1 of the review identified large parcels of land across the three authorities. Those areas contributing least to the Green Belt were determined and a number of strategic sub areas in St Albans were identified for further investigation. These were taken forward to Stage 2 where SKM undertook a review and detailed assessment of those strategic sub areas in the Green Belt Review Sites and Boundaries Study (February 2014) (GB001).

*Scale of unmet need*

32. Whilst the Council indicated at the hearings that the 2013 Green Belt Review was not done with any level of development need or target in mind, it was prepared around the time that the Council was working on the previous SLP. At that time housing requirements were 8,720 (or 436 per annum) and so much lower than the current objectively assessed need (OAN) of 14,608 homes over the plan period. However, the Green Belt Review was not re-visited in the context of the much higher scale of unmet need which could only be met by Green Belt release that was subsequently identified in the Plan.

*Strategic and smaller sites*

33. GB004 identifies a number of strategic sub-areas along with some small scale sub-areas which are recommended to be considered for further assessment. The 8 strategic sub-areas are then considered in GB001 which identifies sites for potential Green Belt release. However, the small scale sub-areas identified in GB004 as making no or little contribution to the Green Belt purposes were not considered further and were deemed to fall outside the scope of the subsequent GB001 study.
34. In 2018, the Council undertook its strategic site selection work to review the sites identified by SKM and to seek further potential sites to make up the shortfall. In determining the extent of this shortfall the Council estimated that the total capacity of the 8 SKM sites, combined with the identified non-Green Belt capacity in the district falls well short of the 14,608 homes required (ED25C paragraph 1.19).
35. Strategic scale sites were defined as those capable of accommodating residential development of a minimum of circa 500 dwellings or 14 hectares (ha) of developable land. Using this threshold, 70 sites were evaluated using a Red Amber Green (RAG) system over three stages. After Stage 3, the 8 strategic sub-areas identified in GB001 were the only sites to score green (low impact) and were taken forward (the ninth site is the employment site at East Hemel Hempstead). Additionally, four amber (medium impact) sites were identified at South East Hemel Hempstead, North Hemel Hempstead, PSGV and North East Redbourn.

36. The Council indicates that all of the 8 green sites, and 3 of the 4 amber sites were required to meet local housing need. The advantages of the three selected amber sites at South East Hemel Hempstead, North Hemel Hempstead, and PSGV were considered by the PPC to be greater than that for the non-selected site at North East Redbourn.
37. This approach raises a number of concerns. As part of the fundamental approach stemming from 2013/14, smaller sites (less than 500 dwellings or 14ha) have been excluded from the Green Belt Review and site selection process. This includes the smaller scale areas of land identified in GB004 as contributing least to Green Belt purposes. Paragraph 8.1.5 of GB004 is clear that the small-scale sub areas identified in that study may not be exhaustive. It also recognises that it is possible that additional potential small-scale boundary changes that would also not compromise the overall function of the Green Belt might be identified through a more detailed survey. Thus, the capacity from such smaller sites could be much higher than that estimated by the Council.
38. Additionally, a number of sites were submitted to the process which are not small, but do not meet the agreed threshold. These are identified in Table 2 to Appendix 1 of the May 2018 PPC report. Although they are between 10.5 and 14ha and/or a capacity of 375 to 500 dwellings they were considered to fall sufficiently below the overall scale and dwelling capacity not to be assessed. These are nonetheless large sites which could potentially deliver a good number of homes.
39. The withdrawn SLP identified the potential for small scale Green Belt greenfield sites to be looked at in more detailed in the then envisaged subsequent detailed Local Plan. Thus, at that time there was an anticipation that such sites would be included in the Council's overall housing strategy, alongside the larger strategic sites/ Broad Locations. However, in developing the Plan now being examined, it seems that that any consideration of the potential of such smaller sites has been overlooked.
40. In light of the large number of homes that would need to be accommodated, the Council decided that only strategic scale Green Belt sites would be taken forward in the Plan. The advantages of strategic scale sites over smaller ones was an explicit evaluative choice made by the Council. It was based on a judgement that the strategic scale sites offer infrastructure and community benefits in way that small sites do not and in light of points raised in the public consultation responses to the Plan.
41. In looking at Green Belt releases we have concerns about the narrow focus that has been placed on only strategic sites. This has ruled out a number of sites that have already been found to impact least on the purposes of the Green Belt. It may well also have ruled out other non-strategic sites with limited significant impacts on the Green Belt which may have arisen from a finer grained Green Belt Review.

42. Whilst the Council indicates in the May 2018 PPC report that small sites in the Green Belt are not needed (and so have not been assessed) this position appears at odds with the context of the identified shortfall situation. Moreover, the decision to discount all smaller sites in the Green Belt was made in 2013/14 and not in light of the higher levels of need for housing that are now being faced by the district. In terms of the contribution they make to Green Belt purposes, it has not been demonstrated whether a range of smaller sites would be preferable to the shortfall sites selected.
43. Additionally, we see no reason why the identification of some smaller sites would unacceptably spread the adverse impacts of development on Green Belt purposes. Whilst this would extend the impact of development over a wider geographic area, the extent of the resultant impacts would be likely to be smaller given the more limited scale of the sites (in comparison to the cumulative impact on the Green Belt purposes of developing large adjoining strategic sites, such as to the east of Hemel Hempstead as proposed).
44. We accept that large scale urban extensions would provide significant amounts of new infrastructure which both the new and already established communities would benefit from. On the other hand, a range of sites including smaller sites could also provide benefits. For example, they could be delivered more quickly without requiring additional infrastructure, provide choice and flexibility in the housing market and secure affordable housing more immediately.
45. Overall, although previously recognised as a source of housing to be identified at some stage, smaller sites have been disregarded as part of the plan making process. It is our view that this approach has ruled out an important potential source of housing that may have been found to have a lesser impact on the purposes of the Green Belt than the sites selected without sufficient justification.

*Previously developed land (PDL)*

46. Paragraph 138 of the Framework states that where it has been concluded that it is necessary to release Green Belt land for development, plans should give first consideration to land which has been previously developed and/or is well served by public transport.
47. GB004 does not consider PDL or apply any specific focus on PDL. At paragraph 5.2.20 it indicates that the fifth national purpose of the Green Belt to assist urban regeneration has been screened out. This explains that assisting urban regeneration, by encouraging the recycling of derelict and other urban land is considered to be more complex to assess than the other four purposes because the relationship between the Green Belt and recycling or urban land is influenced by a range of external factors.
48. Furthermore, as a result of the site selection process outlined above, any PDL site or site in a sustainable location well served by public transport in the Green Belt below the size threshold has been discounted for

consideration. This is so regardless of its impact on Green Belt purposes. This approach fails to give first consideration to PDL land and/or that which is well served by public transport in the Green Belt, and the required process of prioritisation is not evident.

*Methodology for the assessment of sites*

49. We also have concerns regarding the strategic site selection process. At Stage 1 a high number of sites were immediately discounted from further assessment on the basis of their Green Belt Review evaluation (and were rated red). The 4 identified amber sites all had only 1 or zero effects on the Green Belt Purposes (as identified for the relevant parcels in the 2013 Green Belt Review). However, representors refer to a number of sites that were rejected at Stage 1 despite also having zero or only 1 significant impact on Green Belt purposes (in the same way as the amber and green rated sites).
50. The 8 strategic sub-areas shortlisted in the 2013 study and carried forward were already the subject of a detailed Green Belt assessment. The amber rated sites were assessed by officers and this is evident from the additional text in the Site Evaluation Forms at Appendix 3 of the May 2018 PPC report. However, unless they had been considered as small sub-scale areas in the 2013 Green Belt Review, the red rated sites are subject only to an additional brief standardised paragraph of text. Whilst the Council confirms that these are the assessments upon which it relies, no reason is given as to why they were not subject to a detailed assessment in the same way as the green and amber sites. Without these, it is difficult to see why the amber sites were found to perform better.
51. Another anomaly is that in re-assessing the 4 amber sites, the impact they would have on the Green Belt seems to have decreased compared to the situation in 2013. This is the case for PSGV where the 2013 assessment of parcel GB30 found 3 significant effects to the Green Belt purposes, but the re-assessment (on the basis of a limited area south of the A414) finds it to have only one significant effect.
52. Thus, the significant effects of the smaller parcel of land on Green Belt purposes have reduced in comparison to that of the wider parcel. However, such an assessment of smaller parts of other discounted strategic parcels has not been undertaken. As a result, the impact of smaller sites as opposed to the larger parcels has not been consistently reviewed across the board to allow informed decisions on Green Belt release to be made.
53. Additionally, there are issues with the site evaluation forms. For example, although Stage 1 of the PSGV site evaluation form acknowledges the existing significant permission of the SRFI, this makes no changes to the site's amber rating. Additionally, under Stage 2 (suitability) it is found to be green with no overriding constraints to development (despite the permitted SRFI). Furthermore, under Stage 3 (availability), notwithstanding the planning permission for the SRFI, it is recorded that



there are no overriding constraints to development for housing in terms of land ownership, restrictive covenants etc (and a green score is given). This does not seem a fair or credible assessment of the site and calls into question its overall amber rating. It also casts some doubts as to the reliability of the overall assessment process.

#### *Compensatory improvements*

54. Paragraph 138 of the Framework sets out ways in which the impact of removing land from the Green Belt can be offset through compensatory improvements to the environmental quality and accessibility of remaining Green Belt land. The Council refers to Policy S6 and the requirements set out under each of the Broad Locations. It also anticipates that further compensatory improvements will emerge through the forthcoming masterplans for the Broad Locations and refers to the provisions of Plan Policy L29.
55. However, we have concerns as to whether such compensatory improvements have been identified in relation to all the Broad Locations, and if they would in fact be on land remaining in the Green Belt or on land within the Broad Locations themselves. There is also a lack of clear evidence to demonstrate that the developer or the Council owns or controls the land that would be needed in each instance.
56. Additionally, the Council confirmed at the hearings that the costs of the required improvements has not been specifically factored into the viability work for each of the Broad Locations. In the absence of the identification of particular schemes of improvement or any estimation of their likely costs, it is difficult for us to be satisfied that that the headroom in the viability of the Broad Locations would be sufficient to cover the required improvements as suggested by the Council. In light of all these factors, it is not clear to us how this important requirement of the Framework would be met.

#### *Conclusion on the Green Belt*

57. Paragraph 137 of the Framework states that before concluding that exceptional circumstances exist to justify changes to the Green Belt boundaries, the Council should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development. For the reasons set out above, we cannot be satisfied that this has been demonstrated. Nor can we agree with the statement in Policy S2 that the exceptional circumstances required for Green Belt release for development only exist in the Broad Locations.
58. The Council indicates at paragraph 1.3 of ED25C that the Plan process built on the earlier draft SLP work, in an updated context. However, the Green Belt Review was not re-visited in this updated context. If the examination were able to continue, a new Green Belt Review would need to be undertaken in accordance with the advice in the Framework and the Guidance and to address the concerns we have identified in this part of our letter.

Sustainability Appraisal

59. The Sustainability Appraisal (SA) of the Plan was carried out by TRL and the resulting report and appendices and Non-Technical Summary were published in September 2018 for consultation alongside the Plan. A subsequent SA Addendum was published in March 2019. This was prepared to report on the sustainability appraisal activities undertaken from the time of the representations on the Publication Plan in September/October 2018, up to the Submission of the Plan in March 2019.
60. The SA addendum report covers four main areas; analysis and responses to the representations made during the consultation on the Publication Plan and its accompanying SA; assessment of proposed Minor Modifications to the Plan; assessment of the proposed SRFI; and updates to the information in the SA Report (September 2018). These reports follow on from earlier SA work carried out to inform the previous SLP.
61. The 2018 SA is based on a previous strategy arrived at in 2014. Following an assessment of 4 different development strategy options, this found option 1a mixed location/scale development to be the most favourable. This was principally because the Council considered this option would provide the greatest social and economic benefits. Option 1b mixed location/scale development with smaller, but more sites, was another option considered and scored. The commentary in relation to this option indicates that "This would necessitate more work on detailed Green Belt Boundaries to see what might be appropriate as smaller scale alternatives in some of the selected locations".
62. As set out above, this additional Green Belt Review work has not been undertaken. Yet in table 5 (paragraph 73, Appendix E, Volume 2 of the 2018 SA), option 1a scores higher than option 1b in relation to the SA objectives; sustainable location, equality social, sustainable prosperity and revitalise town. It is difficult to see how these scores were reached objectively without the knowledge of where the smaller sites might be under option 1b. For example, they may have been on the edge of St Albans or Harpenden which to our minds could have scored at least the same if not higher in some or all of these categories than option 1a.
63. The SA generally makes optimistic assumptions about the benefits of option 1a and correspondingly negative assumptions about option 1b, without the evidence to support them. Consequently, these assessments lack the necessary degree of rigour and objectivity and are therefore unreliable.
64. This approach led to only the consideration of sites of more than 14ha and or 500 homes. This decision was underpinned to a large degree by the findings of the Green Belt Review and the strategic site selection work which we have expressed our concerns about above. Moreover, this threshold and strategy was conceived in the context of a different set of circumstances, such as a much lower housing requirement and at a time

when there was also no planning permission for the SRFI.

65. The assessment of development strategy options established in 2014 has not been properly reassessed to consider if the Plan's strategy is still an appropriate one, taking into account the material changes in circumstances between 2014 and 2018. Indeed, the Council's Regulation 18 consultation SA Working Note (January 2018) states in paragraph 4.3.3.3 "At this new Regulation 18 stage in the development of the Local Plan there has been no new assessment of sites or wider Broad Locations. This work will be undertaken during the SA that is undertaken as part of the development of the Publication Local Plan". However, this did not appear to happen in a transparent and objective manner, if at all.
66. In May 2018 a significant number of sites were submitted to the Council for consideration following a call for sites. These ranged in size enormously. However, only 12 were evaluated in detail and 11 of those were included in the Plan, the rest were disregarded. As recognised by the Council, the small sites that have been discounted from the strategic site selection process are not in all cases much smaller than 14ha. Some are of a considerable size and only just below the threshold. This is of particular concern given that the Plan contains two Broad Locations that are expected to accommodate less than 500 homes (S6 (ix) West of London Colney – 440 dwellings, and S6 (x) West of Chiswell Green – 365 dwellings).
67. As considered above, even when assessing the sites of 14ha and or 500 homes or more, those that scored red were given this score based on the 2013 Green Belt Review and the decision was taken not to revisit whether that was still appropriate. Importantly, some of the sites assessed through the RAG system were extremely large, in some cases hundreds of hectares in size. No consideration was given to whether parts of those sites would score better in Green Belt terms and therefore make them competitors for other sites scoring green or amber.
68. Leading on from this, there appears to have been no analysis of reasonable alternative sites that could accommodate less than 500 homes that may have scored better both in terms of the Green Belt purposes and/or sustainability objectives. This is despite references in the Framework for the need to plan for a variety of sites. For example, paragraph 68 indicates that, small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. Whilst there is a list of 'small' sites in appendix 5 of the Plan, they do not amount to the 10% referred to in paragraph 68a of the Framework. There is also little information about whether these include, for example, replacement dwellings.
69. Although the Council contends that sites of less than 500 homes and or 14ha will come forward as windfall sites, given that the majority of the undeveloped or unallocated land in the district is in the Green Belt, any such proposals would need to demonstrate "very special circumstances".

However, the Courts<sup>1</sup> have found that ““exceptional circumstances” is a less demanding test than the development control test for permitting inappropriate development in the Green Belt, which requires “very special circumstances””. Therefore, it is unlikely that sites, other than those allocated in the Plan or small infill or redevelopment sites in existing towns and villages, would come forward for residential development. Importantly paragraph 136 of the Framework advises that the time for altering Green Belt boundaries is through the preparation or updating of plans.

70. Whilst smaller sites may come forward in Neighbourhood Plans (NP), the Plan does not apportion any development to NPs and any changes to Green Belt boundaries have to be established through strategic policies, as set out in paragraph 136 of the Framework.
71. As set out above, PSGV has planning permission for a SRFI. Despite this, the SRFI is deemed by the Council not to be a reasonable alternative for housing. We have serious concerns that the Council had clearly made up its mind on this matter of great importance before carrying out the SA or the SA addendum work. Twice the SA addendum states that “the view of the Council is that the SRFI is not a ‘reasonable alternative’ for that site and therefore it was not assessed in the SA. However, for purposes of completeness the principle of developing an SRFI on the same site as that allocated for PSGV has now been assessed as part of this SA report addendum”.
72. The Council argues that the SRFI is not a reasonable alternative since the Government’s approach has a primary focus on housing. However, that is not what the Framework says. When read as a whole it identifies a number of priorities for sustainable development including both housing and large scale transport facilities (amongst other things).
73. The SA tables take no account of displacing the SRFI. If they did, North East Redbourn would be likely to attract a positive score as it would allow the SRFI to be provided, and the PSGV housing site would be reasonably expected to receive a negative score as it would lead to the non-provision of the SRFI. Moreover, the SA addendum fails to properly consider the SRFI and appropriately weight its environmental advantages. It underscores the positive effect that it would have on greenhouse gas emissions and fails to acknowledge the benefits to the local economy of the additional jobs that would arise.
74. Another serious flaw in the SA process is that the PSGV site scores are changed in relation to some objectives in the SA addendum when it is tested against the SRFI. The objectives in relation to ‘use of brownfield land’ and ‘historic environment’ change from a question mark in the 2018 SA to a cross in the SA addendum. However, the Council has not gone

---

<sup>1</sup> Compton Parish Council, Julian Cranwell and Ockham Parish Council v Guildford Borough Council, Secretary of State for Housing Communities and Local Government, Wisley Property Investments Ltd, Blackwell Park Ltd, Martin Grant Homes Ltd and Catesby Estates Plc [2019] EWHC 3242 (Admin)

back and looked at the effect of the re-scoring in relation to the ruling out of the North East Redbourn site in the 2018 SA (a site which was considered more favourably in terms of the Green Belt Review).

*Conclusion on the SA and SA addendum*

75. On the basis of our concerns set out above, we consider that there are a number of obvious and seemingly credible reasonable alternatives that have not been considered. This being so, we are not convinced that either the SA or the SA addendum has considered and compared reasonable alternatives as the Plan has evolved, including the preferred approach, and assessed these against the baseline environmental, economic and social characteristics of the area and the likely situation if the Plan were not to be adopted.
76. Therefore, the SA has not demonstrated that the spatial distribution of development is the most appropriate strategy given the reasonable alternatives available. The discrepancies in the scoring of the sites as highlighted also undermines the robustness of the assessment and calls into question the objectiveness of that process. Moreover, the Council does not appear to have approached the SA or the SA addendum with an open mind and in our view should have consulted on the SA Addendum.
77. Thus, with criterion b of paragraph 35 of the Framework in mind, we cannot find that the Plan is justified since it fails to be an appropriate strategy taking into account the reasonable alternatives and based on proportionate evidence. If the examination were able to continue we would need to explore the extent to which these concerns could be satisfactorily addressed through the examination.

Meeting the area's objectively assessed needs

78. Paragraph 11 of the Framework indicates that plans and decisions should apply a presumption in favour of sustainable development. For plan making this means that plans should positively seek opportunities to meet the development needs of their area and be sufficiently flexible to adapt to rapid change (a). Strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas.
79. Paragraph 20 of the Framework advises that strategic policies should set out an overall strategy for the pattern, scale and quality of development and make sufficient for infrastructure for transport (b). Paragraph 104 (e) states that planning policies should provide for any large scale transport facilities that need to be located in the area (footnote 42 clarifies that examples of these include interchanges for rail freight). In doing so they should take into account whether such development is likely to be a nationally significant infrastructure project and any relevant national policy statements. Additionally, paragraph 104 (c) requires planning policies to identify and protect, where there is robust evidence, sites and routes which could be critical in developing relevant infrastructure.

80. The National Policy Statement for National Networks (December 2014) (NPS) stresses the importance of SRFIs. It confirms that there is a compelling need for an expanded network of SRFIs. Paragraph 258 notes the limited number of suitable locations for SRFIs and the particular difficulties in provision to serve London and the south east.
81. As considered above, the Framework provides that planning policies should provide for any SRFIs that need to be located in the area taking into account the NPS for nationally significant infrastructure projects. SRFIs have extremely exacting locational requirements including the need for very large, unfragmented and flat sites close to the strategic rail freight and road networks and the conurbations they serve (NPS paragraph 2.45).
82. A planning application was submitted for a SRFI in Slough but refused and dismissed on appeal (a Secretary of State decision) and another in the Dartford area was also unsuccessful. Network Rail supports the creation of the SRFI in St Albans and it is clear that it has proved extremely problematic to find sites for one, especially in the south east, as recognised by the NPS. Indeed, it seems that the Radlett site in St Albans is the only realistic option and there is robust and compelling evidence to demonstrate that the SRFI needs to be located there.
83. As considered previously, in 2014 the Council was working on the basis of lower housing figures and the Broad Locations were found to be sufficient to meet the need for housing alongside the need for the SRFI, which was included in the Regulation 18 Plan as a commitment. However, in the re-evaluation of the strategy that followed, the Council did not consider whether it could continue to meet the needs of both the SRFI and the increased housing numbers or look at options as to how this could be achieved. Instead, the Council adopted an either/or position in relation to the SRFI and housing.
84. We have fundamental concerns about this approach and consider that the Council should have looked to accommodate both the SRFI and the required housing in the first instance. The requirement for the SRFI, an important piece of national infrastructure, is long established and specific to the Radlett site. Whilst the provision of housing is also an important requirement and a focus and priority recognised in the Framework, it is not fixed in location in the same way as the SRFI. In this instance there are compelling reasons to look to provide both, and we are not convinced that the two requirements should be regarded as competing.
85. Another shortcoming of the Plan's strategy is its reliance on PSGV to meet its housing requirement, given the possibility that the SRFI could proceed on the site on the basis of the existing planning permission. The site promoters indicate that development has commenced. Whilst it seems that this is disputed by the Council, notwithstanding a disagreement over the requested fee, a lawful development certificate has been submitted to deal with this matter.

86. Bringing these matters together, we consider that the Plan does not meet the development needs of the area and fails to make sufficient provision for infrastructure for transport in conflict with paragraphs 11 and 20 (b) of the Framework. Contrary to paragraph 104 (e) of the Framework, the policies in the Plan fail to provide for a large scale transport facility that needs to be located in the area (the SRFI) and have not taken into account what is a nationally important infrastructure project or had regard to the requirements of the NPS.
87. As set out at paragraph 35 of the Framework, plans must be positively prepared (criterion a). In omitting to provide for the SRFI (and in doing so to look elsewhere to meet its housing needs, either within the district or in neighbouring areas), the Plan does not provide a strategy which, as a minimum, seeks to meet the area's objectively assessed needs and is informed by agreements with other authorities. Furthermore, it has not been demonstrated that the plan is deliverable over the plan period and based on effective joint working on cross boundary strategic matters that have been dealt with rather than deferred, or that it aligns with national policy. This is at odds with paragraph 35 of the Framework which requires plans to be effective (criterion c) and consistent with national policy (criterion d).

#### Evidence Base

88. The Framework indicates at paragraph 31 that the preparation and review of all policies should be underpinned by relevant and up to date evidence. This should be adequate and proportionate, focussed tightly on supporting and justifying the policies concerned, and take into account relevant market signals. There are number of key documents missing from the evidence base.
89. There is no Heritage Impact Assessment as required by Historic England in relation to the Broad Locations. Work is still on-going with the 2019 AMR. Furthermore, it became apparent at the hearing session where we touched on the Council's reliance on windfalls as part of its housing strategy that they Council do not have the requisite historic windfall data available to support their reliance on them for future supply.
90. The Broad Locations are not supported by a Transport Impact Assessment even though it was evident from our site visits that most of them would be likely to require significant road improvements as many are currently accessed via relatively narrow roads. Hertfordshire County Council (HCC) recognises that the level of growth proposed within the Plan will require significant transport improvements at both a local and strategic level to enable to the transport network to function. This being so, HCC is concerned that there is no definitive identification of what strategic infrastructure is required to deliver the development at the proposed Broad Locations and and how that development would contribute towards any required mitigation. We share these concerns.
91. Although we understand that the Council has commissioned an updated Strategic Housing Market Assessment this has not yet been published. As

a result there is no up to date understanding of how many homes are needed and of what type, including the different sizes and types of affordable housing that may be required. Additionally, the Council rely on the brownfield register for its 10% smaller sites, but this is also not published. This list is not exhaustive, but it gives a flavour of the extent of missing documents that are critical to the examination of the Plan.

### **Overall Conclusions**

92. In accordance with paragraph 35 of the Framework, we have assessed whether the Plan has been prepared in accordance with the legal and procedural requirements and whether it is sound. We have not been persuaded that the DtC has been satisfactorily discharged by the Council and if this is the case the failure cannot be rectified during the examination. We have also found legal compliance issues in relation to the SCI. Additionally, whilst we cannot reach a final conclusion on these matters at this stage in the examination, we have substantial soundness concerns with elements of the Plan as described above.

### **Next Steps**

93. As set out in our letter of the 27 January 2020 and above, we will not reach an absolute or final position until you have had chance to consider and respond to this letter. However, in light of our serious concerns regarding the DtC, we consider it a very strong likelihood that there will be no other option other than that the Plan is withdrawn from examination or we write a final report recommending its non-adoption because of a failure to meet the DtC.
94. We have sought to be pragmatic in our approach to the examination but this cannot extend to ignoring a legal compliance failure with the Plan which cannot be rectified during the examination. We also appreciate how disappointed you will be with our findings but confirm that we have only come to this view following a great deal of thought and after hearing relevant evidence from both the Council and representors.
95. The Council will need some time to consider the contents of this letter and to decide on a response and we entirely understand that this may take longer than might otherwise be the case because of the current very difficult circumstances with regard to Covid 19. We are also happy to provide any necessary clarification to the Council via the Programme Officer. Responses from other parties to this letter are not invited and we do not envisage accepting them.

*Louise Crosby and Elaine Worthington*  
Examining Inspectors