

Appeal Statement of Case

Local Planning Authority

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

Appeal: APP/W0340/W/23/3329567

Site: Pitchkettle Farm, Goodboys Lane, Grazeley Green,
Reading RG7 1ND

Proposal: Part retrospective erection of two modular buildings
following demolition and removal of existing structures,
and change of use of site to flexible Class B2/B8/E(g) use

Date: March 2024

Council Reference: 21/02710/FUL

Appeal Statement of Case

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1. Introduction

- 1.1 This Statement of Case has been prepared in respect of an appeal lodged against the refusal of planning permission (Council reference 21/02710/FUL) for Part retrospective erection of two modular buildings following demolition and removal of existing structures, and change of use of site to flexible Class B2/B8/E(g) use.

Reasons for Refusal

- 1.2 The application was refused for the following reasons:

1. *The site is poorly located and does not appear to have sufficient supporting infrastructure or opportunities for employees to reach the site by public transport, cycling and walking. The proposal would lead to intensification of employment generating uses which are not compatible with rural location. It has not been demonstrated it is imperative for the business to take place in a rural setting and has not demonstrated how the business and future business would make a contribution to the rural economy. Thus, the proposal does not to comply with policies ADPP1, CS9 and CS10 of Core Strategy.*
2. *The proposal would represent an intensification of an urban commercial use of the site in a rural area and the modular buildings would appear alien in this rural landscape which is considered to cause unacceptable harm to the rural character and appearance of the area. It is considered that overall the proposal would not be acceptable in terms of location, scale and design and conflict with both CS14 and CS19 of West Berkshire Core Strategy 2006-2026.*
3. *A noise assessment has not been received as part of this application and this means there is insufficient information to conclude that noise generated from the proposed flexible Class B2/B8/E(g) use will not have a harmful impact on residential amenity of occupier who live in the dwelling granted under 20/01304/CERTE. The proposal does not comply with OVS5 or OVS6 the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007) or policy CS14 of the West Berkshire Core Strategy 2006-2026.*
4. *The proposal will significantly increase traffic in a remote rural location that has no pedestrian or bus routes and is accessible only by rural roads which are not conducive to cycling. Accordingly, by virtue of the nature, intensity and location of the development it would significantly increase traffic where the mode of travel can only reasonably be the private car. There is a lack of information to demonstrate there will not be an increase in traffic along Goodboys Lane that is unsuitable for a significant increase in larger vehicles. An increase in larger vehicle would lead to a potential Highway Safety risk which would be harmful to road users. The proposal is therefore unsustainable and is contrary to Policies ADPP1, ADPP6, CS9, CS10 and CS13 of the West Berkshire Core Strategy 2006-2026, the Local Transport Plan for West Berkshire 2011-2026, and the National Planning Policy Framework*

- 5 *It has not been demonstrated that the proposed development would be built with minimum standards of construction of BREEAM Excellent. As such the proposal is not compliant with Policy CS15 of West Berkshire Core Strategy (2006-2026).*
6. *The application site is situated within the Detailed Emergency Planning Zone (DEPZ) surrounding the Burghfield Atomic Weapons Establishment (AWE). The use of the DEPZ in this context provides an area for development control consistent with the zone defined originally for emergency planning purposes. Off-site emergency arrangements are a requirement of the Radiation (Emergency Preparedness and Public Information) Regulations 2001 and are outlined within the AWE Off-Site Emergency Plan issue: January 2019. The purpose of the plan is to provide a detailed framework for all responding agencies to work to in order to facilitate the protection of the public and/or environment following an event involving an on-site accident at AWE Burghfield*
There is insufficient information to demonstrate that the proposed development would not result in an increase in population within DEPZ. With no individual Emergency plan in place the proposal would have an adverse impact on the AWE Off-Site Emergency Plan due to distance meaning that evacuation after a period of shelter would be necessary, and in terms of recovery implications in the longer term.
According to Policy CS8 of the West Berkshire Core Strategy proposals in the consultation zones will be considered in consultation with the ONR. In the interests of public safety, development in planning consultation zone of AWE Burghfield is likely to be refused planning permission by the Council when the Office for Nuclear Regulation (ONR) has advised against that development. Both the ONR and Emergency Planning Team advise against this development because insufficient information has been received and this mean they have not been able to give consideration to the specific impacts of the development on the Off-Site Emergency Plan. As such, the proposal conflicts with the NPPF and Policy CS8 of West Berkshire Core Strategy 2006-2026.

Scope of Statement of Case

- 1.3 This Statement of Case has been prepared in accordance with the Planning Inspectorate's *Procedural Guide (Planning Appeals – England)*. It supports the Council's reasons for opposing the development. The Council's substantive case is set out in the Application Report, which has been provided under separate cover to the Planning Inspectorate. This Statement does not seek to duplicate the Application Report, but focuses on responding to the Appellant's Statement of Case, and supplementing the Application Report as appropriate.

2. Appeal Site and Proposal

Appeal Proposal and Site

- 2.1 The original applications sought Part retrospective erection of two modular buildings following demolition and removal of existing structures and change of use of site to flexible Class B2/B8/E(g) use. The main building (referenced Building A on the plans) has a width of 16.3m with a depth of 12.5m and a height of 3.9m. It contains office and breakout space associated with Associated Industrial Control Solutions (AICS), an electrical engineering company owned by the applicant. The second building (Building B) has a width of 9.1m, a depth of 5m and the same height of 3.9m and is used as a workshop also related to this business. Neither building has planning permission, and the application seeks to regularise this situation. Finally, the use of the site by AICS only takes up a small portion of Pitchkettle Farm, and the appellant wishes to retain the option of leasing parts of the site lawfully to other businesses. As such, permission was sought for a flexible mixed use of Use Classes B2 and B8 as well as Class E(g) for the whole site under this application. As parts of the proposed development have been implemented and others have not, the application is referred to as 'part retrospective'.
- 2.2 The site is within the open countryside, Pitchkettle Farm is an existing site located on the western side of Goodboys Lane to the south of Grazeley Green.

Planning History

- 2.3 The relevant planning history of the appeal site is set out in Table 2.1.

Table 2.1: Planning History

| Application | Proposal | Decision |
|----------------|---|-----------------------|
| 20/01311/CERTE | Use of land for waste paper recycling business (Sui Generis Use) comprising of the staff break out room, workshop, barn, staff car park and yard for storage of items ancillary to the primary use. | Approved - 14.10.2020 |
| 20/01304/CERTE | The use of a mobile home as an independent dwelling for a period greater than 10 years. | Approved - 03.09.2020 |

3. Planning Policy

- 3.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise¹. The development plan is therefore the starting point for decision making. Where a planning application/appeal conflicts with an up-to-date development plan, permission should not usually be granted. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.

Statutory Development Plan

- 3.2 The statutory development plan for West Berkshire is currently made up of a number of different documents². Table 3.1 sets out those development plan documents that are relevant to the appeal proposal, together with a list of the relevant policies.

Table 3.1: Statutory Development Plan

| Development Plan Document | Relevant Policies |
|---|---|
| West Berkshire Core Strategy 2006-2026 (WBCS) http://info.westberks.gov.uk/corestrategy | ADPP1, ADPP6, CS8, CS9, CS10, CS13, CS14 CS15 CS16, CS17 and CS19 |
| West Berkshire District Local Plan 1991-2006 Saved Policies 2007 (WBDLP) http://info.westberks.gov.uk/article/28783 | OVS.5, OVS. 6, OVS.7 and OVS.8 |

Weight to be given to development plan policies

- 3.3 It is a fundamental principle of the planning system that the weight to be afforded to each issue is solely a matter for the decision maker. However, the NPPF provides some guidance on what weight should be given to development plan policies given the status

¹ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

² Full development plan: West Berkshire Core Strategy 2006-2026 (adopted July 2012); Housing Site Allocations DPD 2006-2026 (adopted May 2017); West Berkshire District Local Plan 1991-2006 Saved Policies 2007 (as amended in July 2012 and May 2017); Stratfield Mortimer Neighbourhood Development Plan (adopted June 2017); South East Plan, Natural Resource Management Policy 6 (relating to the Thames Basin Heaths Special Protection Area; Replacement Minerals Local Plan for Berkshire (incorporating alterations adopted in December 1997 and May 2001); Waste Local Plan for Berkshire (adopted December 1998).

of the NPPF as a material consideration in deciding planning applications/appeals. Paragraphs 218 and 219 state:

“218. The policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication. Plans may also need to be revised to reflect policy changes which this Framework has made.

219. However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).”

- 3.4 The weight to be given to the relevant policies is discussed in this statement under the headings relating to each consideration, as appropriate.

Material Considerations

- 3.5 A number of documents are material conditions relevant to this appeal.
- 3.6 The **National Planning Policy Framework (NPPF)** sets out the Government’s planning policies for England and how these should be applied. The NPPF is a material consideration in planning decision, which should be read as a whole (including its footnotes and annexes).
- 3.7 The **Planning Practice Guidance (PPG)** is an online publication which supplements the NPPF and, as a statement of government policy, may also be material when deciding applications/appeals.
- 3.8 The **Quality Design SPD (2006)** aims to help developers create places of high quality design which are sustainable, secure and accessible to all. The SPD series is made up of 10 documents.
- 3.9 The **Planning Obligations SPD (2014)** was adopted by the Council in December 2014, following a period of consultation which took place in Summer 2014. It sets out the Council’s approach for securing contributions and requiring obligations from

development, alongside the Community Infrastructure Levy (CIL). This approach is in accordance with national CIL Regulations and the council's pdf CIL Regulation 123 List.

- 3.10 The **Sustainable Drainage Systems (SuDS) SPD (2018)** was adopted by the Council in December 2018, following a period of consultation which took place in Summer 2018. It provides guidance on the approach that should be taken to SuDS in new developments in West Berkshire so as to manage and mitigate surface water flood risk.
- 3.11 The **Cycle and Motorcycle Advice and Standards for New Development (2014)** was published by the Council in November 2014. According to Policy P1 of the HSA DPD, cycle and motorcycle parking shall be provided in accordance with this document.

4. Main Issues

4.1 Taking into account the Council's reasons for refusal and the Appellant's Statement of Case, the main issues of this appeal can be broadly summarised as follows:

- Principle of Development in this Location
- Impact on the Character of the area
- Residential Amenity
- Transport and Highways
- BREEAM
- Emergency Planning

5. Principle of Development in this Location

Relevant Policies

Core Strategy

- 5.1 ADPP1 finds that West Berkshire's main urban areas will be the focus for most development. The most intensively used developments, intensive employment generating uses, such as offices, and intensive trip generating uses, such as major mixed use, retail or leisure uses, will be located in those town centre areas where the extent and capacity of supporting infrastructure, services and facilities is the greatest.
- 5.2 The scale and density of development will be related to the site's current or proposed accessibility, character, and surroundings. Significant intensification of residential, employment generating, and other intensive uses will be avoided within areas which lack sufficient supporting infrastructure, facilities, or services or where opportunities to access them by public transport, cycling and walking are limited. In the open countryside only appropriate limited development in the countryside will be allowed, focused on addressing identified needs and maintaining a strong rural economy.
- 5.3 According to Policy CS9, the Council seeks to facilitate and promote the growth and forecasted change of business development in the plan period in order to retain a portfolio of sites for B8 uses in suitable locations. Proposals for industry, distribution and storage uses will be directed to the District's defined Protected Employment Areas, and existing suitably located employment sites and premises.
- 5.4 Any proposals for such uses outside these areas/locations will be assessed by the Council against the following:
- compatibility with uses in the area surrounding the proposals and potential impacts on those uses; and
 - capacity and impact on the road network and access by sustainable modes of transport.
- 5.5 Policy CS10 relates to the rural economy. Existing small and medium sized enterprises within the rural areas will be supported in order to provide local job opportunities and

maintain the vitality of smaller rural settlements. Proposals seeking the loss of such existing sites and premises must demonstrate that the proposal does not negatively impact upon the local economy, and the vitality and viability of the surrounding rural area.

Consistency with the NPPF

- 5.6 The appellants in point 6.9 of their SOC states that they considered the Councils strict application of ADDP1 and CS9 is not consistent with the principles established in the NPPF. They go on to state that whilst CS9 is in itself not wholly inconsistent with the NPPF it is inconsistent with the NPPF by restricting location of development due to sustainable public transport services. They go on to state that the policies should not be given any weight. The Council disagrees with the appellants assessment of the consistency of its policies with the NPPF. It also considers that the appellants have identified a number of consistencies between the Core Strategy Policies and the NPPF but has found some inconsistencies. They have then suggested that despite the support that Policy CS9 and CS10 lend to development in the Countryside these policies should be given no weight at all due to there desire to direct developments to sustainable locations.
- 5.7 If the Inspector were minded to agree with the appellants the Council would suggest that the weight to the Core Strategy policies should be moderated rather than none at all given the identified consistencies by the appellants. This, however, is not the Councils case. The Council is content that its Core Strategy when read as a whole is consistent with the NPPF when read as a whole.
- 5.8 Policy CS9 would state that

“Proposals for industry, distribution and storage uses will be directed to the District’s defined Protected Employment Areas(63), and existing suitably located employment sites and premises.

Any proposals for such uses outside these areas/locations will be assessed by the Council against the following: compatibility with uses in the area surrounding the proposals and potential impacts on those uses; and capacity and impact on the road network and access by sustainable modes of transport.

New office development will be directed towards West Berkshire’s town and district centres as outlined in policy CS11. The scale of development will be appropriate to the size and character of the centre.

If no suitable sites are available within an existing centre, then the following sequential approach will be taken for accommodating additional offices in the review of Protected Employment Areas and any allocations in the Site Allocations and Delivery DPD. This sequential approach should also be used in support of any planning application for office development outside defined centres:

Edge of centre: suitably located brownfield site or Protected Employment Area within an edge of centre location, and Newbury Business Park.

Out of centre: brownfield site or Protected Employment Area within an out of centre location, with good accessibility by alternative modes of transport.

Other existing employment sites and premises not in an edge of centre or out of centre”

5.9 The appellants state that

“Whilst Policy CS9 is in itself not wholly inconsistent with the NPPF as it does allow for businesses outside of rural areas, restricting development on the basis of its location and public transport service is inconsistent with paragraph 84 and 85 of the NPPF”.

5.10 The Council considers the wording of CS9 to be well related to paragraph 89 of the NPPF. The NPPF recognises that development in the countryside can be permitted in certain circumstances, in line with CS9 as stated by the appellant and the Council. The policy goes on to say,

“and in locations that are not well served by public transport”.

Policy CS9 states that the development must have consideration for the following

“capacity and impact on the road network and access by sustainable modes of transport.”

5.11 The policy clearly states that sustainable modes of transport would be a factor but does not clearly state that areas that are not well served by public transport are automatically discounted. An example of this policy in action is the support the core strategy lends to the racehorse industry in Lambourn. This area is not well served by public transport in the majority but given the factors of the rural industry the Core Strategy seeks to support it where appropriate.

5.12 The Policy goes on to consider where business development should be located in terms of providing vitality to town centres and established protected employment zones which

may be located in or adjacent to settlement boundaries. The Council is satisfied that when read in conjunction with ADPP1, CS9 and CS10 are consistent with the NPPF as it provides opportunities for development in the open countryside and considers sustainable modes of transport to be a factor in the decision making. The appellants narrow reading of Paragraph 89 would suggest that any business use, in any location in the countryside would be consistent with paragraph 89. However, this neglects to factor in sustainable development, vitality of town centres and factors expressed in paragraph 89 in terms of the caveats to business development being located in rural areas.

5.13 The appellants SOC has no commentary on section 7 of the NPPF and paragraphs 90 whereby the NPPF would direct commercial development to town centres and edge of centres locations in other accessible locations that are well connected to town centres. The Council considers CS9 to be wholly consistent with the thrust of NPPF paragraphs 89 and 90. The isolated reading of paragraph 89 in regard to planning policy is incorrect in the Councils view.

5.14 The appellant argues that the Councils application of ADPP1 and CS10 is inconsistent with the requirements of paragraph 89 of the NPPF. they note

“Policy ADPP1 with regards the principle of employment development in the countryside. In applying Policy CS10 in order to restrnote business on the basis of it not needing to be located in the countryside and not having a clear connection with the local area, the Council are also not giving any weight to Paragraph 84 and 85 of the NPPF as these paragraphs place no such restrictions on rural businesses.”

5.15 However, the Council would argue its application of policy would support NPPF’s section 7 ensuring the vitality of town centres section 9 promoting sustainable transport and particularly paragraphs 108 c) to ensure that development proposals considered transport issues so that;

“Opportunities to promote walking, cycling and public transport use are identified and pursued;”

5.16 Furthermore, the factors in paragraph 114 of the NPPF are considered relevant and apply to this issue.

“In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;

b) safe and suitable access to the site can be achieved for all users;

c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code⁴⁸; and

d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

5.17 The Council is therefore of the opinion that its policies are consistent with the NPPF and that full weight should be given to them. Furthermore, that its application of policies and holistic decision making is consistent with the frameworks many considerations not just the narrow consideration of paragraph 89 of the NPPF.

Assessment of Appeal Proposal

Existing Use of the Site

5.18 The Council notes that the site has been subject to an application for a certificate of lawfulness application under 20/01311/CERTE. This established a use of the site as noted on the decision notice as follows;

“Use of land for waste paper recycling business (Sui Generis Use) comprising of the staff break out room, workshop, barn, staff car park and yard for storage of items ancillary to the primary use.”

5.19 The Council notes that the delegated report outlines the use of the site which was considered as part of this application.

- *That the yard has been used for the parking of vehicles in association with the waste paper recycling business. The yard has also been used for storing items related to the waste paper recycling business, such as wheelie bins and waste paper containers.*
- *There is an on-site staff break out room which the employees of waste paper recycling business have used for 10 years.*
- *There is an on-site workshop which has been used to fix vehicles and equipment associated with the waste paper recycling business for over 10 years.*
- *There is a strip of land to the north of the site which has been used for a staff parking for over 10 years.*
- *The Barn has been used for activities which relate solely to the purposes of aiding the running of the waste paper recycling business.*

The Council notes that the use of the site is very specific to recycling of material, and this is reflected in the Sui generis use class agreed on the site. The use class is specific to the site and its function. Its function requires space for vehicles, equipment, and processes to occur. These would all require a sufficient size and space to which sites in the open countryside may provide. The NPPF notes that paragraph 89

“Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport.”

5.20 For a development to which has its own use class as a sui generis paper mill, has specific **needs** for space for development such as workshops, access to raw materials and it may be appropriate to locate some forms of business development such as recycling in the countryside due to these needs.

5.21 However, the Council notes that the appeal proposal is a small office and workshop use. The original planning statement notes the proposed development is

“The main building (referenced Building A on the plans) has a width of 16.3m with a depth of 12.5m and a height of 3.9m. It contains office and breakout space associated with Associated Industrial Control Solutions (AICS), an electrical engineering company owned by the applicant. The second building (Building B) has a width of 9.1m, a depth of 5m and the same height of 3.9m and is used as a workshop also related to this business”.

5.22 The Council has reviewed the nature of Associated Industrial Control Solutions and notes its website states its services range from application development, programming to data handling. This use is consistent with a Class E(g) use as a predominantly office-based engineering firm. This proposal is significantly different to the established use of

the site. The Council would suggest that paragraph 89 of the NPPF accepts that sites in the countryside may be appropriate where they meet local business and community needs. It is unclear how a predominately office-based business needs to be located in a rural area. Furthermore, how such small degrees of B2 and B8 uses also need to be located in rural areas. Furthermore, it is questioned how the uses are addressing a community need.

- 5.23 The use class proposed, and the size of the unit proposed retrospectively could quite easily be accommodated within the districts established Protected employment areas, or town centre commercial areas in far more suitable locations providing vitality to the district's settlements. Furthermore given the modular design of the buildings the built form could be located in most locations. Whilst the Council acknowledges the proposed development includes B2 and B8 use classes the Council also notes that the proposed floor space is under 250 square meters to which very few general industry and storage and distribution companies are likely to require such a small premises. Whilst paragraph 89 may lend support to development in the countryside addressing an identified need in a similar fashion to ADPP1

“Open countryside - only appropriate limited development in the countryside will be allowed, focused on addressing identified needs and maintaining a strong rural economy.”

- 5.24 The Council is unsure how there is a need for this development to be located in the countryside and whilst Paragraph 89 provides scope for business development in the countryside it is not considered by the Council to be a 'free for all' and that other areas of the NPPF should be considered in a holistic manner in way that is consistent with the Councils Core Strategy.
- 5.25 The site is not within a defined Protected Employment Areas or existing suitably located employment site. The site is considered to be previously development land and the site was previously used for waste paper recycling business (Sui Generis Use). This business has moved away. The waste paper recycling business was given a certificate of lawfulness after becoming immune from enforcement. It is considered the proposal would bring additional people to a business in an unsustainable location.

5.26 It is considered the proposal is not compliant with policy CS9 due to its rural location and introduction of what appears to be the intensification of industrial uses in the open countryside.

5.27 It has not been demonstrated why the applicant's business needs to be in this rural location. The business was previously located in an urban area which would seem more appropriate, and it is unclear the connection and contribution this business would have in this rural location. It has not been demonstrated it is imperative for the business to take place in a rural setting and has not demonstrated it contribute to the rural economy. Given this the Council is of the view that the development should be direct to more sustainable areas. It is considered that the proposal does not comply with policy CS10. The Appellants have suggested that it is superfluous for the council to utilise CS10 which seeks to protect small and medium rural businesses to refuse this application upon. However, it is considered appropriate to use as the policy lends itself to supporting established rural businesses allowing for diversification where it contributes to sustaining agricultural enterprise as a whole. The use of the site as an Office is not related to agriculture or an agricultural enterprise. It would use a site in the countryside for an intrinsically town centre or protected employment area use meaning enterprises such as agriculture could not utilise this site. This is considered to have a knock on impact to the value of sites in the countryside and scope for loss of further sites for business development rather than the retention, contribution and diversification of site the purpose of and support of agricultural enterprise in the countryside.

5.28 The appellant suggest that paragraph 89 is complied with and the development should be support by inspector in light of paragraph 89. However, parapgrah 89 notes that planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances the NPPF states it is important to ensure the following

- That development is sensitive to its surroundings,
- Does not have an unacceptable impact on local roads
- Exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport).

- The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

5.29 The Council has raised objections to the application due to the impact to the character of the area therefore the development is not considered to be sensitive to its surroundings.

5.30 The appellants have made no suggestions in their case as to how the site could be made more sustainable. The site is approximately 2.6 kilometres (directly) to the nearest train station. According to Google Maps it would be approximately a 2 mile walk or cycle to the nearest train station along roads that are unlit, have no cycle path, no footway or in the majority any street lighting. The closes bus route to the site would run through Burghfield Common which is again around 2.3 kilometres from the site (directly). This would leave workers 2.4 miles to walk or cycle to work from a mass sustainable form of transport. The Council would suggest that there are no current ways to make the site more sustainable that could be secured through planning policy.

5.31 The Council notes the inspector's comments in paragraph 17 of the appellants supplied appeal but notes that the distances the inspector considered in this appeal to be shorter than the appeal site currently considered.

5.32 Paragraph 89 also states that the use of sites that are well related to settlement boundaries should be considered. This site is not well related to any defined settlement boundary.

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5.33 As an example, the appellant has supplied APP/X0360/W/20/3252447 appeal to which sought B2 General industry use class in the countryside. The Council would suggest that this appeal is not directly comparable to this appeal for a number of reasons. I would also suggest that the inspector has found a conflict with the development plan and has brought the decision to a planning balance view.

5.34 The appeal APP/X0360/W/20/3252447 dealt with the re-use of agricultural barns and extension. This is different to the appeal scheme where the proposed development are retrospective modular buildings, not the reuse of existing buildings. This is a significant difference as the re-use of existing buildings that might otherwise become derelict or

disused would assist the rural economy rather than new/further built form as proposed in this application.

- 5.35 Furthermore whilst the appeal scheme considered here deals with Class E office space the appeal scheme dealt with B2 uses where in paragraph 11 the development requirement large elements of external storage. Given these factors it is understandable that the inspector would find this development in accordance with paragraph 89 in that some uses are appropriate in the countryside.
- 5.36 The Council is of the view that the office modular building used for offices would not be an appropriate use in the countryside, does not require to be located in this position for any business reasons such as space for storage and is much better suited to areas in settlement boundaries or protected employment zones.
- 5.37 The Inspector also noted that the development would be highly reliant upon the private motor car and that factors would detract people from utilising sustainable methods of transport to the site. However, the Council is of the opinion that given the appeal site location at Pitch kettle the development would be solely reliant on the private motor car and no other forms of sustainable transport methods could be used given the sites locational considerations.
- 5.38 Moving to the planning balance the inspector in appeal APP/X0360/W/20/3252447 considered the “Re-use of the buildings would enable the growth and expansion of the business with the rural area”. Whereas in this application it is not the reuse of existing buildings but the placement of further buildings. The planning balance also acknowledges that in certain circumstances, less desirable site from a location point of view need not be discouraged according to the framework. The Council is of the view that these sites are very different, the uses are very different and that a blanket acceptance of sites in unsustainable locations across the countryside as suggested by the appellant is incorrect.

Conclusions

- 5.39 Overall, the Council suggests that its local plan policies and the way in which they are applied in this application are in accordance with the NPPF when read as a whole and should be given full weight in the decision-making process. The Council suggests that whilst some uses are appropriate in the countryside the proposed development is in an

isolated location in the countryside and Class E uses should be directed to sustainable locations in town centres, or protected employment zones. The fact that these buildings are modular buildings and can be located anywhere in the district is a significant consideration as there is no requirement for them to be located on this site. The appeal precedence submitted by the appellant is significantly different to the proposed development considered here.

- 5.40 The site is poorly located and does not appear to have sufficient supporting infrastructure or opportunities for employees to reach the site by public transport, cycling and walking. The proposal would lead to intensification of employment generating uses which are not compatible with rural location. It has not been demonstrated it is imperative for the business to take place in a rural setting and has not demonstrated how the business and future business would contribute to the rural economy. Thus, the proposal does not comply with policies ADPP1, CS9 and CS10 of Core Strategy.

6. Impact on the Character of the area

- 6.1 Policy CS14 finds that new development must demonstrate high quality and sustainable design that respects and enhances the character and appearance of the area and makes a positive contribution to the quality of life in West Berkshire.
- 6.2 Policy CS19 finds that development should ensure diversity and local distinctiveness of the landscape character of the district is conserved and enhanced, the natural, cultural, and functional components of its character will be considered as a whole. Having regard to the sensitivity of the area to change and ensuring that new development is appropriate in terms of location, scale, and design in the context of the existing settlement form, pattern, and character.
- 6.3 The Councils reason for refusal considered that the proposal would represent an intensification of an urban commercial use of the site in a rural area and the modular buildings would appear alien in this rural landscape which is considered to cause unacceptable harm to the rural character and appearance of the area. It is considered that overall, the proposal would not be acceptable in terms of location, scale and design and conflict with both CS14 and CS19 of West Berkshire Core Strategy 2006-2026.

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- 6.4 The Council is concerned that the proposed development would represent an intensification of an urban commercial use of the site in a rural area. It is stated within the planning statement that the proposed use would give the applicant flexibility to lease other parts of the site to separate businesses. The original planning statements notes in point 4.4 of the original planning statement that

“Finally, the use of the site by AICS only takes up a small portion of Pitchkettle Farm, and the applicant wishes to retain the option of leasing parts of the site lawfully to other businesses. As such, permission for a flexible mixed use of Use Classes B2 and B8 as well as Class E(g) is sought for the whole site under this application. As parts of the proposed development have been implemented and others have not, the application is referred to as 'part retrospective'.”

- 6.5 Furthermore, the appellants SOC in point 4.5 states that

“The appeal scheme proposes to formalise these areas into a flexible mixed B2/B8 use which would enable the appellants to lease areas of the site to new businesses without the need for planning permission. Any operational development such as buildings or other structures would require further applications for planning permission, however if within the permitted uses classes then no further change of use would be required.”

- 6.6 It is sufficiently clear that the appellants intention for the site is to further intensify the use of the site for commercial purposes. If this was not the case an application for just the retrospective buildings would have been submitted in isolation. Given the Council has been asked to consider the whole site under a change of use the Council must consider the future prospects of development and the intensity of the business use in the countryside. For instance, the use of the area for B8 storage and distribution could enable the appellant to locate a number of un-sightly shipping containers, likely without the need for further permission. This very real prospect must be considered by the appeal inspector when considering how the use of the whole site would impact the character of the area.
- 6.7 Given the scale of the site proposed to under the change of use the Council is concerned that This would represent an intensification of use of the site in a rural area which is considered to cause unacceptable harm to the character and appearance of the local rural area.
- 6.8 The Council disagrees with the appellants SOC where they seek to isolate the impact to the character of the area to just the retrospective-built form, ignoring the implications of the change of use. The change of use would support a number of permitted development rights for the site, would support in principle further development in the future of business uses in a rural area making it very difficult for these to be resisted.
- 6.9 The previous buildings on site had an agricultural appearance to them and generally blended into the rural landscape. The appellants identify that a variety of built forms existed previously at the site which included brick structures concrete blocks and lean too. These would all utilise traditional built forms found regularly in the West Berkshire Countryside serving agricultural uses. The proposed modular buildings are covered in metal cladding in the majority, with Patio doors and some wooden cladding to the front elevation. They would appear to be in stark contrast to the prevailing rural character of the area. The materials, height and bulk would all create features that are alien to the countryside of West Berkshire. The inclusion of features such as patio doors create

buildings with urban features that are not found on the site previously. The buildings would be readily visible through the sites fencing and access. Given the retrospective nature of the development landscaping could have already been installed to soften the impact of the development, but it has not.

6.10 The appellant accepts that the buildings are modern in appearance and are ordered in the site. The Council is concerned that these modern buildings urbanise the area and appear dropped on the site with no real thought as to how they fit or their design. This is evident due to their design as modular buildings.

6.11 The Council maintains that the proposal would represent an intensification of an urban commercial use of the site in a rural area and the modular buildings would appear alien in the rural landscape. This is considered to cause unacceptable harm to the rural character and appearance of the area. It is considered that overall, the proposal would not be acceptable in terms of location, scale and design and conflict with both CS14 and CS19 of the West Berkshire Core Strategy 2006-2026.

7. Residential Amenity

- 7.1 Policy CS14 seeks high quality design to ensure development respects the character and appearance of the area and makes a positive contribution to the quality of life in West Berkshire. This can be interpreted as requiring development to not have an adverse impact on neighbouring amenity or future occupiers of the proposed development.
- 7.2 The proposal is sufficient distance away from neighbouring properties so as not to give rise to amenity issues, such as overlooking, over shadowing or loss of natural light.
- 7.3 Saved policy OVS.5 states that the Council will only permit development proposals where they do not give rise to an unacceptable pollution of the environment. Saved policy OVS.6 also outlines that the Council will require appropriate measures to be taken in the location, design, layout and operation of development proposals in order to minimise any adverse impact as a result of noise generated.
- 7.4 The original application submission was analysed by the Local Authority's Environmental Health Team and at the time of the decision EHO and Planners raised concerns with the development due to the proximity of the development to the mobile home adjacent to the site. At the time of decision no noise assessment had been submitted with this application. It was then considered that there was insufficient information to conclude that noise generated from the flexible Class B2/B8/E(g) use will not have a harmful impact on residential amenity.
- 7.5 Subsequently from the SOC and associated documents from the application clarification has been provided that the neighbouring site, Woodside Farm, was previously used alongside the proposal site for commercial use and that site remains in commercial use, though it has downsized to the Woodside Farm site only, which is the reason for seeking permission for Pitchkettle Farm for flexible B2/B8/E(g) use.
- 7.6 The reason for refusal, although it refers to insufficient information being supplied on noise impacts, was not stated to be in relation to Woodside Farm. However, for completeness, following the clarification received, Environmental Health Officers and the Council would have no objection to the proposed uses on noise grounds on Woodside Farm.

- 7.7 Reason for refusal 3 mentions the lack of noise impact assessment for the existing residential mobile home. Whilst this was not supplied at the time the application was made, an acoustic assessment has since been submitted with the appeal application based on the impact on occupants of the mobile home. From looking at the site, the mobile home use may be ancillary to the proposal site. There are residential dwellings a fair distance to the north of the site, approximately 400m away which were not referred to as noise sensitive receptors. Other nearby land-uses appear to be agricultural / industrial.
- 7.8 The acoustic assessment has not attempted to assess worst-case noise impacts which might occur under the proposed uses. Understandably, with the proposals are for flexible use and with no end-user currently identified, it could be quite difficult to make an exact assessment. Their conclusion is that for B2 use (general industrial), it can allow for quite a broad type of uses which may or may not include external operations / machinery beyond what has been operating on-site to date. The assessment explains that has been loading and unloading including use of fork-lift trucks operating on site under the previous use. As a robust assessment cannot be carried out for all scenarios, for a B2 use, the noise consultant has recommended that a noise impact assessment be required by condition if external plant / machinery or operations are proposed.
- 7.9 The assessment concludes that for B8 use, the previous / existing use included loading / unloading and forklift truck use so there would be no change and therefore should be no adverse impact. The end-user is not yet identified so it is not easy to assess this although it was my understanding from other sites where the end user is not known, that there are formulae used to reliably predict HGV movements based on the site size, so perhaps a more thorough noise assessment could have been carried out and secured by condition. The previous similar use would indicate that it should be possible to operate similar to existing use which would result in no change in impact, however Environmental health officers would recommend a noise condition, as above, to cover potential intensification which could elevate noise levels to adverse impact levels and to require noise mitigation measures to reduce to acceptable levels.
- 7.10 Class E(g) is not discussed in the noise assessment, but any use falling within this classification should be suitable for operation in a residential area, therefore it is reasonable to scope out of the noise assessment.

- 7.11 The noise assessment refers to the hours of operation being daytime hours only. The hours of operation do not appear in the SOC and associated documents and the Council cannot see where this assumption has come from in the information submitted with the application though. If operation overnight was proposed, then this is more likely to result in adverse impacts. It is suggested that a condition securing working hours in the daytime is utilised. Should further hours of operation be needed this condition could be varied at a later stage.
- 7.12 Overall, the Council now that it is in possession of a Noise Impact assessment submitted with the Appeal would not seek to maintain a reason for refusal on Noise impact subject to conditions.

8. Transport and Highways

8.1 Policy CS 13 of the West Berkshire Core Strategy [2006 to 2026] on Transport states that

"Development that generates a transport impact will be required to:

- Reduce the need to travel.
- Improve and promote opportunities for healthy and safe travel.
- Improve travel choice and facilitate sustainable travel particularly within, between and to main urban areas and rural service centres.
- Demonstrate good access to key services and facilities.
- Minimise the impact of all forms of travel on the environment and help tackle climate change.
- Mitigate the impact on the local transport network and the strategic road network.
- Take into account the West Berkshire Freight Route Network (FRN).
- Prepare Transport Assessments/Statements and Travel Plans to support planning proposals in accordance with national guidance".

8.2 It is considered that the proposal fails to comply with a number of points, particularly on failing in "reducing the need to travel" due to the location of the site and failing to "minimise the impact of all forms of travel on the environment and help tackle climate change"

8.3 The Local Transport Plan for West Berkshire 2011-2026 throughout promotes sustainable development, reducing the need to travel and contributing to reducing climate change. We have however selected the following points from the plan: Page 19 has the key Issue of "Carbon Reduction and Climate Change" by stating that "climate change is widely regarded as the most serious environmental challenge of the 21st

century. It is contended that due to the location of the site with no nearby safe bus services and very limited opportunities for other modes of sustainable travel, the proposal fails to comply with the LTP by failing to effectively reduce the need to travel and failing to contribute to reducing climate change.

- 8.4 There is insufficient information to demonstrate the proposal will not increase traffic in a rural location that has no pedestrian or bus routes and is linked by rural roads where at time cycling can be very difficult. The location of the site will likely increase traffic where the mode of travel can only be the private car.

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- 8.5 When the planning application was being considered, it was understood that the proposal was for B1, B2 and B8 use in using part or half of an existing and retained sui generis paper and recycling use. To be to assess the proposal, information was required on traffic generation including HGV's for the existing sui generis use when it occupied the whole site, the part of the site that is now subject to the planning application and the expected levels from the part of the site to be retained.
- 8.6 The Local Highway Authority sought this information because Goodboys Lane is quite narrow along much of its length. There is concern that if anyone met a large vehicle along the route, they would struggle in places to pass, as the number of passing places is limited along Goodboy's Lane particularly for any potential larger vehicles.
- 8.7 The Local Highway Authority also sought this information because of how unsustainable the site was in transport terms. The site is situated where there are no footways, cycle ways or public transport facilities such as bus services or bus stops within any close proximity of the site. Therefore, the means of travel to and from this site is almost completely by motorised vehicle. As has been mentioned earlier encouraging development in areas that is unsustainable is contrary to policies within the National Planning Policy Framework, the council's Core Strategy, Local Transport Plan 3 and it is considered the Climate Change Emergency declared by West Berkshire Council in 2019. As mentioned above in paragraph 5.30, it isn't possible to improve sustainable transport measures to and from this site. At the time of considering the planning application, no traffic generation information had been submitted. Therefore, the Local Highway Authority needed to object to this planning application, as no information had been submitted at that time to address the above concerns.

- 8.8 It is relevant to refer to planning application 20/01311/CERTE which sought a Certificate of Lawfulness for 'Use of land for waste paper recycling business (Sui Generis Use) comprising of staff break out room, workshop, barn, staff car park and yard for storage" of ancillary items. The application covered the whole of Pitchkettle Farm. With a maximum accommodation of up to eleven employees as a result of being within the Burghfield Automatic Weapons Establishment (AWE) Detailed Emergency Planning Zone.
- 8.9 Part of the farm includes two buildings totalling 249.25 sqm, which include a workshop and an office/break out space. The buildings have already been operational for around two years by Associated Industrial Control Solutions (AICS), an electrical engineering company. They are subject to the retrospective part of the planning permission.
- 8.10 The other part of the site generally forms hardstanding, which is either vacant or has been used for parking and storage in associated with the waste paper recycling business. A new planning permission is sought for flexible Class B2 / B8 land uses on this part of the site through this planning appeal. The Appellants statement of case has confirmed that it is expected to include long term B8 storage use, of caravans for example. Because of the AWE restrictions on staff numbers at the site, it is understood that there would be no permanent staff associated with this proposed storage use. However, it is still possible that B2 uses could be attracted to the site given the permission sought.
- 8.11 It is noted that the appellants have now commissioned traffic counts along Goodboys Lane and have done a Personal Injury Accident assessment. The Local Highways Authority has no concerns associated with this information.
- 8.12 Page 9 of the appellants Transport Statement has traffic data from the existing retrospective uses of the site. During the AM peak 4 vehicle movements were recorded, 4 arriving and none leaving. During the PM peak 6 vehicle movements were recorded, 1 arriving and 5 leaving. Daily vehicle movements were recorded at 26 with 13 arriving and 13 leaving and 1 HGV in and out per day.
- 8.13 As set out in the statement on Planning Matters, it is proposed to apply restrictions on B2 uses. Therefore, only the above prescribed B8 use has been considered within the appellants Transport Statement. It is still possible B2 uses could be attracted to the site

and the decision maker would need to be content with this. The Local Highway Authority would seek for restrictions to B8 uses on the rest of the site only.

- 8.14 A similar site to the proposed B8 storage use has been found at Hill Court Storage (<https://www.hillcourtstorage.com/>), comprising of caravan and self-storage units. A traffic survey was taken at this site. 023. From this survey, page 11 of the Transport Statement has a pro rata projected traffic generation for the proposed B8 uses of the appeal site. During the AM peak 5 vehicle movements are projected with none during the PM. Daily vehicle movements are projected at 36 and 1 HGV in and out per day.
- 8.15 With the restriction in the number of employees because of the AWE, the retrospective use of the two buildings would have a similar level of use to the previous paper recycling business. Therefore, the retrospective use of the buildings and then the additional proposed additional B8 use would increase traffic from the previous sole paper recycling business.
- 8.16 The Local Highway Authority would conclude that the combined proposals would increase traffic in a location that is unsustainable in transport terms and an objection on that aspect remains on that basis.
- 8.17 However, it would seem that there will be very little or no increase in daily HGV movements, and therefore from the information now submitted, it is considered that the aspect of highway safety and narrowness of Goodboys Lane can no longer be sustained and is withdrawn as a result of the Transport Statement and its information now submitted in regards to B8 uses.

9. BREEAM

- 9.1 Policy CS15 relates to Sustainable Construction and Energy Efficiency. Policy CS15 finds that new non-residential development will meet the minimum standards of construction of BREEAM Excellent. The West Berkshire Core Strategy (2006-2026) notes that all New non-residential development will need to meet BREEAM Excellent from 2013 onwards.
- 9.2 It has not been demonstrated with in the proposal that to building would minimum standards of construction of BREEAM Excellent. This means the proposal is not compliant with Policy CS15 of West Berkshire Core Strategy (2006-2026).

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- 9.3 It is noted that the appellant in point 6.42 of their SOC does not dispute the merits of policy CS15 and the need to move to a low carbon future. However, they have not provided the Council or the Planning inspectorate evidence that the scheme complies with CS15 and meets BREEAM excellent.
- 9.4 Whilst the appellant has submitted building regulations documents these are considered not to address the requirements of CS15 and its aim. Building regulations are the standard level of which buildings need to meet UK wide. However, CS15 seeks to address the issues of sustainable building technique by going further than Building Regulations to help address the acknowledge need to move to a low carbon future. By only meeting the UK standard the policy is maintaining the status quo and not addressing and pushing developments to attain a better level of sustainable construction.
- 9.5 The appellants note in point 6.42 that the merits of CS15 are not disputed, however, they go on to raise concern that the application of BREEAM in respect of this development and its size "*seems onerous*". They do not provide any reason why this is onerous or supporting information as to how they have come to that conclusion. The Council notes that CS15 applies to all new non-residential development, it sets no threshold for size. It provides flexibility to the threshold applied if it is considered technically or economically not possible to a achieve, in these instances a lower threshold can be suggested. The appellants have put forwards no argument that

meeting BREEAM excellent is unattainable. They have only noted that they have not made an assessment against BREEAM.

- 9.6 The appellants go on to note in 6.45 that “*bream assessment not being available*”. This is incorrect and unsupported by evidence. There is no clear justification in the appellants SOC that BREEAM assessment is not available for this type of building, only the appellants admissions that they have not undertaken one. Whilst the appellant seeks to argue that there supporting information that the building meets the minimum of requirements of UK building regulations. This does not address the aims of CS15 in that development should move to a more sustainable way of construction in accordance with a widely accepted industry standard of BREEAM. Thus, creating better buildings that seek to address the climate crisis.
- 9.7 It has not been demonstrated with in the proposal that to building would minimum standards of construction of BREEAM Excellent. This means the proposal is not compliant with Policy CS15 of West Berkshire Core Strategy (2006-2026).

10. Emergency Planning

- 10.1 A separate SOC has been prepared by the Councils Emergency Planning Team.

11. Conclusion

- 11.1 Overall, the Council suggests that its local plan policies and the way in which they are applied in this application are in accordance with the NPPF when read as a whole and should be given full weight in the decision-making process. The Council suggests that whilst some uses are appropriate in the countryside the proposed development is in an isolated location in the countryside and Class E uses should be directed to sustainable locations in town centres, or protected employment zones. The fact that these buildings are modular buildings and can be located anywhere in the district is a significant consideration as there is no requirement for them to be located on this site. The appeal precedence submitted by the appellant is significantly different to the proposed development considered here.
- 11.2 The site is poorly located and does not appear to have sufficient supporting infrastructure or opportunities for employees to reach the site by public transport, cycling and walking. The proposal would lead to intensification of employment generating uses which are not compatible with rural location. It has not been demonstrated it is imperative for the business to take place in a rural setting and has not demonstrated how the business and future business would contribute to the rural economy. Thus, the proposal does not comply with policies ADPP1, CS9 and CS10 of Core Strategy.
- 11.3 The Council maintains that the proposal would represent an intensification of an urban commercial use of the site in a rural area and the modular buildings would appear alien in the rural landscape. This is considered to cause unacceptable harm to the rural character and appearance of the area. It is considered that overall, the proposal would not be acceptable in terms of location, scale and design and conflict with both CS14 and CS19 of the West Berkshire Core Strategy 2006-2026.
- 11.4 The Council no longer raises concerns in regard to impact to neighbouring amenity.
- 11.5 The Council maintains that it has not been demonstrated within the proposal that the building would meet minimum standards of construction of BREEAM Excellent.
- 11.6 It has also been identified by WBC Emergency Planners that there is sufficient information to assure the Emergency Planning service that this appeal site would not

have an impact on the AWE Off-Site Emergency Plan, and the responders and therefore could place those on site at risk in relation to their health and wellbeing.

11.7 In conclusion, an in-depth consideration has been given to a range of planning matters in this SOC and associated documents, whilst also considering the withdrawal of reasons for refusal 3, it is still considered that the proposed development is not compliant with the National Planning Policy Framework (February 2019), Policies ADPP1, ADPP6, CS8, CS9, CS10, CS13, CS14, CS15, and CS19 of the West Berkshire Core Strategy (2006-2026), and Supplementary Planning Document Quality Design (June 2006).

11.8 The inspector is respectfully requested to dismiss this appeal.