



Department for
Communities and
Local Government

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Our ref: APP/WO340/W/16/3144193
Your ref: 15/01949/OUTMAJ

27 July 2017

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY CROUDACE HOMES LTD
LAND AT HENWICK PARK, WEST OF HEATH LANE AND NORTH OF BOWLING
GREEN ROAD, THATCHAM, BERKSHIRE
APPLICATION REF: 15/01949/OUTMAJ**

1. I am directed by the Secretary of State to say that consideration has been given to the report of John Chase MDC, Dip Arch, RIBA, MRTPI, who held a public local inquiry between 15 November and 7 December 2016 into your client's appeal against the decision of West Berkshire Council ("the Council") to refuse your client's application for planning permission for up to 265 dwellings (class C3); with associated vehicular, pedestrian and cycle accesses; public open space including allotments, community orchard, sports pitch and pavilion, ecology meadow, parkland; trim trail and children's play areas; provision of a GP surgery and flood alleviation ponds as part of the wider Thatcham Surface Water Management Plan in accordance with application ref: 15/00296/OUTMAJ, dated 17 December 2015.
2. On 1 April 2016, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed and outline planning permission be granted subject to the conditions set out in Annex 3 of the Inspector's Report (IR).
4. For the reasons given below, the Secretary of State disagrees with the Inspector's recommendation, dismisses the appeal and refuses planning permission. A copy of the IR is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

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Procedural matters

5. Following submission of the appeal, the appellants prepared revised proposals for a reduced scheme of 225 houses, in order to address some of the grounds of refusal. The Council do not resist the substitution and have notified local residents of the new scheme, giving them time for responses.
6. The Secretary of State does not consider that the reduced scheme of 225 houses raises any matters that would require him to refer back to the parties for further representations prior to reaching his decision on this appeal. He is satisfied that no interests have thereby been prejudiced and has determined the appeal on that basis.

Matters arising since the close of the inquiry

7. Following the close of the original inquiry, the Secretary of State received representations from the Council which were sent to the Planning Inspectorate on 10 April 2017. These included information on an updated five year housing land supply (HLS) and the Inspector's Report for the Housing Site Allocations Development Plan Document (DPD) dated 6 April 2017 which was due to be adopted on 9 May 2017. The Secretary of State also received representations from your company on behalf of your clients on 23 March 2017 and Barton Willmore on 29 March 2017.
8. On 3 May 2017 the Secretary of State wrote to the parties to afford them the opportunity to comment on the additional information referred to in paragraph 7 above. The Secretary of State has taken the representations received into account in reaching his decision. A list of representations received is at Annex A.
9. On 9 May 2017 the Housing Site Allocations DPD was formally adopted by West Berkshire Council.
10. On 17 May 2017, the Secretary of State wrote to the parties to afford them the opportunity to comment on the implications, if any, of the Supreme Court judgment on the cases of Cheshire East BC v SSCLG and Suffolk DC v SSCLG which was handed down on 10 May 2017. These representations were recirculated to the main parties who were invited to comment on the representations of other parties. These additional representations were recirculated. A list of representations received is at Annex A.
11. Copies of all the correspondence referred to above can be obtained upon request to the address at the bottom of the first page of this letter.

Policy and statutory considerations

12. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
13. In this case the development plan consists of saved policies from the West Berkshire District Local Plan (2002); the Core Strategy (2012); and the Housing Site Allocations DPD which was adopted on 9 May 2017. The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR175. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the

Guidance'), as well as the Community Infrastructure Levy (CIL) Regulations 2010 as amended.

Main issues

14. The Secretary of State agrees with the Inspector that the main issues are those set out at IR 146-147, taking account of the subsequent adoption of the Site Allocations DPD.

Housing Land Supply

Assessment of Need

15. The Secretary of State has carefully considered the Inspector's analysis of assessment of need at IR150, including the finding that the Strategic Housing Market Assessment (SHMA) assessed a need of 665 dwellings per annum (dpa) in West Berkshire.
16. With regard to the demographic assessment, for the reasons given at IR151, the Secretary of State agrees that the similarity of outcome between different methodologies diminishes the extent to which the alterations sought by the appellants would have a material effect on the assessment of demographic need. For the reasons given at IR152-153, the Secretary of State agrees that it has not been shown that the SHMA has failed to take account of relevant factors, nor that its methodology is fundamentally flawed in respect of demographic assessment.
17. He further agrees, for the reasons set out by the Inspector, that the evidence falls short of proving that the SHMA has significantly underestimated the level of in-migration (IR154).
18. The Secretary of State, for the reasons given at IR155-158, agrees that the evidence falls short of proving that the basis of the SHMA employment estimate is unduly pessimistic in its approach. Similarly, he agrees that the alternative evidence does not prove that the SHMA is wrong on the source and quality of data to set activity rates, commuting ratios and whether double jobbing should be taken into account.
19. For the reasons set out by the Inspector at IR159, the Secretary of State agrees the SHMA assesses need throughout the Housing Market Area, and it is not counter to the Guidance if appropriate adjustments are made between authorities.
20. The Secretary of State agrees, for the reasons given at IR160-161, that the proposed uplift in response to market signals does not seem unreasonably low.
21. With regard to affordable housing, the Secretary of State, for the reasons set out by the Inspector at IR162-164, agrees that the Council has addressed the need for affordable housing, and the evidence does not show that the criteria used are either so adrift of normal practice, or that the expectations of the level of delivery are so unrealistic, as to justify rejecting the SHMA figure on those grounds.
22. For the reasons given at IR165-166, the Secretary of State agrees with the Inspector that with regard to the report to Government of the Local Plans Expert Group (LPEG), it is not possible to give substantial weight to the relevant LPEG proposals.

Conclusions on Housing Need

23. The Secretary of State agrees that while the SHMA has not been tested at a Local Plan Examination, there were opportunities for third party involvement while it was being drawn

up. He further concludes that the representations of the appellant fall short of proving that the SHMA is fundamentally flawed in its methodology or results. While some of the data is now of some age, he conclude, in agreement with the Inspector, that any variation is not of such significance as to invalidate the results. The Secretary of State thus agrees with Inspector's conclusions at IR167-168 that there are grounds to consider that 665 dpa is an adequately realistic measure of the objectively assessed need in West Berkshire, and he has used this as his starting figure.

Land Supply

The Buffer

24. The Secretary of State has carefully considered the Inspector's analysis of the buffer at IR169-172 and carefully considered the Inspector's conclusion that there are grounds to consider that there is a record of persistent under delivery and that a buffer of 20% is now justified. However, the Secretary of State disagrees with the Inspector's conclusions. In coming to this conclusion, the Secretary of State has had regard to report into the West Berkshire Housing Site allocations DPD and the DPD Inspector's conclusions (DPD IR134) that the housing supply situation is satisfactorily monitored with no reasons to conclude that there is any significant threat to the delivery of housing in West Berkshire. The Secretary of State also concludes that while there has been an undersupply in 6 of the past ten years, this has been in part due to the influence of the recession. As such he finds that a 5% buffer is appropriate.
25. It is common ground between the parties that there is a shortfall of 417 dwellings. As such the Secretary of State concludes that net housing need is 3,742 $[(665 \times 5) + 417]$, to which he adds a 5% buffer, to give an overall housing need of 3,929 units.

Deliverable Housing Land

26. The Secretary of State has carefully considered the Inspector's analysis of deliverable housing land at IR 173-179. With regard to Sandleford Park, the Secretary of State has considered the Inspector's conclusions, and had regard to the representations of the parties, and agrees with the Inspector that it should be removed from the figures for deliverable sites given doubts as to whether it will deliver within the 5 year period.
27. The Secretary of State has gone on to consider the Core Strategy site at Newbury Racecourse (IR175). Given the revised trajectory of February 2017 from the developer, and noting that units on the site are selling well and that development is now under way on the third phase of the site, the Secretary of State concludes that it is realistic to deduct only 102 sites from the delivery figures, to give a total of 873 dwellings at the site.
28. With regard to the J&P Motors site, the Secretary of State notes that there is no indication of any legal impediment to the use of the land for housing, there is an implemented planning permission, and there is recent evidence of the involvement of the developer (IR176). As such he agrees with the Inspector that this site will deliver housing within the five year period. With regard to the Lakeside site in Theale, the Secretary of State disagrees with the Inspector, given the uncertainty as to whether the site will begin to deliver within the five year period, he has excluded the site from his calculations, disagreeing with the Inspector.

29. The Secretary of State has also excluded 160 units on land off Faraday and Kelvin Road from his calculations, given that the lease situation means that it is not certain that the site will deliver within the five year period.
30. The Secretary of State has had regard to the Inspector's analysis at IR178 on the Market Street site, and notes that the s106 Agreement has now been signed and planning permission granted. For that reason, and for the reasons set out by the Inspector, that delivery of 232 units from this site within 5 years is not an unreasonable expectation. He further agrees, for the reasons set out by the Inspector, that there is not a substantial reason to exclude the Pound Lane Depot site from his calculations.
31. The Secretary of State has had regard to representations concerning the Land adjacent to Hilltop site. However, given that planning permission has now been granted following appeal, he concludes that it is reasonable that 200 units will be delivered within the five year period.
32. With regard to Land adjacent Pondhouse Farm; Land at Poplar Farm; 72 Purley Rise; and Field between A340 and The Green; and Land adjacent to Lynch Lane, the Secretary of State has taken into account representations on reducing the figure of deliverable dwellings, and those representations of the Council (Annex 2) stating that the sites are available, and early delivery is expected.
33. With regard to South East Newbury (2); and South East Newbury (3), the Secretary of State has had regard to the representations on reducing the figure of deliverable dwellings, and the representations of the Council stating that the sites are available, and delivery is expected in the later phase of NEW047.
34. The Secretary of State has also had regard to the Inspector's analysis of DPD allocations at IR177. In addition he has had regard to the fact that the DPD has now been adopted. The Secretary of State has taken into account the DPD Inspector's conclusions that that the housing supply situation is satisfactorily monitored and that there are no reasons...to conclude that there is any significant threat to the delivery of housing in West Berkshire. For those reasons, and those given by the Inspector, he concludes that there is insufficient evidence to conclude that these sites will not deliver within the five year period.
35. As such the Secretary of State concludes that 873 dwellings can be taken into account at Core strategy sites (Newbury Racecourse), and 1,076 from DPD allocated sites. He includes 443 dwellings at permitted sites under 10 units, and 1,175 dwellings at larger permitted sites. He includes 279 sites without planning permission, and 261 units on sites allocated through the prior approval process. To this figure he adds a windfall allowance of 192 dwellings.

Conclusion on housing land supply

36. The Secretary of State thus concludes that the Council can deliver a total of 4,299 dwellings within the five year period. Setting this against a 5 year requirement of 3,929 dwellings, as set out above, the Secretary of State concludes that there is a surplus of 370 dwellings, or a 5 year supply of 5.47 years.
37. As such, for the reasons set out above the Secretary of State disagrees with the Inspector and concludes that in his judgement the local planning authority can now demonstrate a 5 year supply of deliverable housing sites.

Development Plan Policy

Whether the proposal complies with the development plan

38. The Secretary of State has gone on to consider the Inspector's discussion regarding the development plan (IR181-186) in the context of the Council now being able to demonstrate a 5 year HLS.
39. The Secretary of State has had regard to Core Strategy Policy CS1 and considers that the proposal does not comply with any of the identified 4 categories of land. The appeal site is not one of the sites which has been chosen in the Site Allocations DPD. However, the Secretary of State considers that the wording is not wholly prohibitive of development outside these categories (IR182).
40. The Secretary of State agrees with the Inspector at IR183 that the location of the appeal site would meet a number of the criteria in Core Strategy Policy ADPP1. For the reasons given at IR178, the Secretary of State agrees with the Inspector that the land falls below the settlement hierarchy. As the appeal site lies within land composed of agricultural fields with the characteristics of open countryside, the proposal is subject to the final bullet point of Core Strategy Policy ADPP1, which allows only limited development which addresses identified needs and maintains a strong rural economy. The Secretary of State therefore agrees with the Inspector that the proposal would not comply with this aspect of the development plan (IR184).
41. The Secretary of State has given careful consideration to the Inspector's discussion regarding Core Strategy Policy ADPP3 at IR185. Policy ADPP3 indicates that approximately 900 homes are to be provided in Thatcham during the plan period. For the reasons given at IR185, the Secretary of State agrees with the Inspector's conclusion that 900 homes should not be viewed as a ceiling, and the wording of ADPP3 does not directly restrict development to this level.
42. The Secretary of State agrees with the Inspector at IR186 that Policy C1 in the Site Allocations DPD includes a presumption against new residential development outside settlement boundaries.

The weight to be attributed to policies

The Site Allocations DPD

43. The Secretary of State has carefully considered the Inspector's comments at IR190, and agrees that the relevant policies for the supply of housing are CS1, ADPP1, ADPP3 and C1.
44. The Secretary of State has given careful consideration to the Inspector's analysis at IR188-190, but disagrees with his conclusions. He agrees that the intention to protect rural areas by restricting development outside settlement boundaries is not inconsistent with the Framework. He further agrees that the site allocations DPD amends the settlement boundaries to allow more land for housing. While he agrees that the DPD is based on the Core Strategy, which was not based on an objective assessment of need, he notes that Policy CS1 treats housing numbers as a minimum, allowing for their review and update over time to reflect housing need. He thus concludes, in the context of the Council demonstrating a 5 year housing land supply, that the housing policies of the Local Plan are

consistent with the Framework and that the application of paragraph 14 of the Framework is not triggered.

45. For the reasons given at IR191, the Secretary of State agrees that the proposal would be in conflict with policies ADPP1 and C1.

Other Matters

46. For the reasons given at IR193-194, the Secretary of State agrees with the Inspector that there is no reason to conclude that the land cannot be satisfactorily drained, and that a planning condition would enable scrutiny of the details of the scheme.
47. For the reasons given at IR195-196, the Secretary of State agrees with the Inspector that there is no indication that the development would have a harmful effect on the setting of the Area of Outstanding Natural Beauty. He further agrees with the Inspector that the scheme would avoid an unduly harmful visual impact.
48. For the reasons given at IR197, the Secretary of State agrees with the Inspector that there are not substantial grounds to challenge the conclusions of the Transport Statement of Common Ground. He further agrees that the evidence does not prove that the housing could not be adequately served by local facilities and infrastructure. He further agrees that the scheme would lead to some disturbance of wildlife, but the retention of open space, and measures to protect and enhance habitats, would help to minimise any harm.
49. The Secretary of State agrees with the Inspector's conclusion at IR198 that these matters raised at IR193-197, and the other matters raised.

Planning conditions

50. The Secretary of State has given consideration to the Inspector's analysis at IR140-144, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal and refusing planning permission.

Planning obligations

51. Having had regard to the Inspector's analysis at IR199-200, the planning obligation dated 2 December 2016, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR 199-200 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework and is necessary to make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and kind to the development. However, the Secretary of State does not consider that the obligation overcomes his reasons for dismissing this appeal and refusing planning permission.

Planning balance and overall conclusion

52. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with Core Strategy policies CS1, CS 14, CS19, ADPP1, ADPP3 and DPD Policy C1, and is therefore not in accordance with the development plan overall. The Secretary of State concludes that, as the Council can demonstrate a 5 year housing land supply, the application of paragraph 14 of the NPPF is not triggered, and as such the proposal should be determined in accordance with the development plan unless material considerations indicate otherwise.
53. The Secretary of State considers that the addition of up to 225 homes in an accessible location would contribute to the Council's housing supply, and meet some of the objectives identified in the SHMA, including increased affordability, and accommodation for a workforce to support economic growth, and he affords this benefit moderate weight. He also finds that the development would contribute to local investment during the construction phase, and a market for local goods and services thereafter, to which he affords moderate weight. Up to 90 affordable homes would meet a need for lower cost housing in the area, which attracts significant weight. The Secretary of State also considers that there would be the wider benefits of additional investment in flood control within the context of the town's surface water scheme, and the provision of public open space, to which he grants moderate weight.
54. The Secretary of State considers that there is no clear reason to conclude that local services and infrastructure would not be able to accommodate the additional housing. He also finds that the additional development would provide the opportunity for greater investment in local infrastructure, and he affords this benefit moderate weight.
55. Against this the Secretary of state weighs the conflict with policies CS1, ADPP1, ADPP3 and DPD Policy C1, and he affords this conflict substantial weight in the context of a 5 year housing land supply and a now made DPD.
56. The Secretary of State also weighs against the proposal the replacement of agricultural land with suburban development which would lead to a change in character of the land. However, the Secretary of State considers that the impact of this change would be limited, not out of keeping with the present character of the area, and without having an unduly damaging effect on the setting of either Thatcham or Cold Ash. As such he gives this conflict moderate weight.
57. Having regard to the conflict with the development plan as a whole and taking account of the policy set out in paragraph 196 of the Framework, and the other harms, the Secretary of State therefore concludes that there are no material considerations sufficient to indicate that the proposal should be determined other than in accordance with the development plan. He concludes that the appeal should be dismissed and planning permission refused.

Formal decision

58. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for up to 225 dwellings (class C3); with associated vehicular, pedestrian and cycle accesses; public open space including allotments, community orchard, sports pitch and pavilion, ecology meadow, parkland; trim trail and children's play areas. Provision of a GP surgery and flood alleviation ponds as part of the wider Thatcham

Surface Water Management Plan in accordance with application ref: 15/00296/OUTMAJ, dated 17 December 2015.

Right to challenge the decision

59. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
60. A copy of this letter has been sent to West Berkshire Council and notification has been sent to others who asked to be informed of the decision.
- Yours faithfully

Philip Barber

Authorised by Secretary of State to sign in that behalf

Annex A – Schedule of representations

SCHEDULE OF REPRESENTATIONS

General representations

Party	Date
Steven Doel Nexus Planning	23 March 2017
Mark Owen Barton Willmore	29 March 2017
Bob Dray West Berkshire Council	10 April 2017, 12 April 2017

Representations received in response to the Secretary of State's letters of 3 May 2017 and 17 May 2017

Steven Doel Nexus Planning	17 May 2017, 31 May 2017
Kim Cohen Barton Willmore	17 May 2017, 15 June 2017
Sinéad O Donoghue West Berkshire Council	17 May 2017
Bob Dray West Berkshire Council	1 June 2017
Clare Jenner West Berkshire Council	15 June 2017

Report to the Secretary of State for Communities and Local Government

by John Chase MCD, Dip Arch, RIBA, MRTPI

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

Date: 4 April 2017

TOWN AND COUNTRY PLANNING ACT 1990

WEST BERKSHIRE DISTRICT COUNCIL

APPEAL BY

CROUDACE HOMES LIMITED

Inquiry held on 15 November to 7 December 2016

Land at Henwick Park, West of Heath Lane and North of Bowling Green Road, Thatcham, Berkshire

File Ref: APP/W0340/W/16/3144193

CONTENTS

	Page
Procedural Matters	1
The Site and Surroundings	2
Planning Policy	3
The Proposals	4
Other Agreed Facts	4
The Case for the Council	5
The Case for the Appellants	13
The Cases for Third Parties	24
Planning Conditions	25
Inspector's Conclusions	27
The Main Considerations	27
Housing Land Supply	27
Development Plan Policy	35
Other Matters	37
Obligations	39
Overall Conclusions	39
Recommendation	40
 Annex 1: Appearances	 41
Annex 2: Documents	42
Annex 3: Planning Conditions	53

ABBREVIATIONS USED IN REPORT

AONB	Area of Outstanding Natural Beauty
CIL	Community Infrastructure Levy Regulations 2010
DCLG	Department for Communities and Local Government
dpa	Dwellings per annum
DPD	Development Plan Document
HLS	Housing Land Supply
HMA	Housing Market Area
LEP	Local Enterprise Partnership
LPEG	Local Plans Expert Group
LVIA	Landscape and Visual Impact Assessment
NPPF	National Planning Policy Framework
OAN	Objectively Assessed Need
OBR	Office for Budget Responsibility
para	Paragraph
PPG	Planning Practice Guidance
SA/SEA	Sustainability Appraisal/Strategic Environmental Assessment
SHMA	Strategic Housing Market Assessment
SPD	Supplementary Planning Document
WBC	West Berkshire District Council

File Ref: APP/W0340/W/16/3144193

Land at Henwick Park, West of Heath Lane and North of Bowling Green Road, Thatcham, Berkshire

- 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 Croudace Homes Ltd against the decision of West Berkshire Council.
- The application Ref 15/01949/OUTMAJ, dated 9 July 2015, was refused by notice dated 17 December 2015.
- The development proposed is up to 265 dwellings (class C3); with associated vehicular, pedestrian and cycle accesses; public open space including allotments, community orchard, sports pitch and pavilion, ecology meadow, parkland; trim trail and children's play areas. Provision of a GP surgery and flood alleviation ponds as part of the wider Thatcham Surface Water Management Plan.

Summary of Recommendation: That the Appeal be Allowed.

Procedural Matters

1. At the Inquiry this appeal was conjoined with an appeal by A2Dominion Developments Ltd for 495 houses and associated works at Siege Cross, Land North of Bath Road, Thatcham, Berkshire (APP/W0340/W/15/3141449). Housing land supply and policy matters common to both appeals were dealt with in joint sessions. For ease of reference, the present appeal is entitled Appeal B, and Siege Cross is Appeal A.
2. Document references (in bold italic) relate to the schedule at Annex 2. This contains the full schedule for both appeals, as there was sharing of some documents.
3. The planning application was made in outline, with all matters reserved except access. It was accompanied by a range of reports and illustrative plans, identified at Sections **CD2/B and CD2.1/B** in Annex 2.
4. The Council refused the planning application on the grounds that 1) there was a failure to enter planning obligations to mitigate the effect of the development on public open space and local ecology, and to provide affordable housing; 2) the site is green-field land outside the settlement boundary, where there is a presumption against new housing, and its development would be contrary to the strategic aims for Thatcham and premature to the emerging Housing Site Allocations DPD; 3) the proposal would be harmful to the landscape character of the area and the setting of the Area of Outstanding Natural Beauty, and erode the separation of Thatcham and Cold Ash; 4) there would be a need for the mitigation of the impact on local highways infrastructure, and 5) the development would have an unacceptable effect on mature trees. The decision notice is at **CD3/B/2**.
5. Following submission of the appeal, the appellants prepared revised proposals for a reduced scheme of 225 houses, in order to address some of the grounds of refusal. Illustrative plans of the new arrangement are shown at documents **CD1/B/13-17**. Whilst the alterations amount to a significant reduction in the number of houses, they affect a limited part of the site, with proposals for the remainder of the land being largely unchanged. The Council do not resist the substitution, and have notified local residents of the new scheme, giving time for

responses. The amendments are not such a departure from the original application as to amount to a substantially different arrangement, and there are no grounds to consider that any third party would be unduly prejudiced by the change. For these reasons, it is recommended that the revised scheme be accepted for consideration in the appeal, and this report has been prepared on that basis.

6. The description shown in the title box is therefore amended to that given in the appellants' planning proof of evidence, being: *"The development proposed is up to 225 residential dwellings (Class C3) with associated vehicular, pedestrian, and cycle accesses, public open space, provision of a GP surgery and flood alleviation ponds as part of the wider Thatcham Surface Water Management Plan"*.
7. The Council accept that the amended scheme overcomes concerns about landscape and trees (reasons for refusal 3 and 5), whilst reasons 1 (obligations) and 4 (highways) are resolved by the submission of a Unilateral Undertaking, the details of which are discussed below. Reason 2, concerning the principle of development of the land, remains as a ground of refusal.
8. Screening under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 has been carried out, determining that, whilst there may be some impact on the surrounding area as a result of the development, the proposal is not of a scale and nature likely to result in significant environmental effect, and an Environmental Impact Assessment is not required.
9. The appeal has been recovered by the Secretary of State because it involves proposals for residential development of over 150 units or on a site of over 5 ha, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and to create high quality, sustainable, mixed and inclusive communities.
10. The Inquiry took place on 15-18, 22-25, 29-30 November, 1 & 2 December, and 7 December 2016. The accompanied site visit took place on 6 December, but longer views from outside the site were obscured by fog, and it was agreed that a further, unaccompanied visit would be carried out at a later date. This occurred on 13 February 2017.

The Site and Surroundings

11. Section 3 of the Planning Statement of Common Ground (**CD1/B/5**) contains a description of the site and its surroundings, whilst the Parameters Plan (**CD1/B/13**) indicates the extent of the application site, and Appendix A of the appellants' landscape proof of evidence (**CD1/B/12**) shows its position in the wider area.
12. The site amounts to 24.5ha open land, approximately 1.6km north of Thatcham town centre, adjoining the built up area. Bowling Green Road and Heath Lane/Cold Ash Hill local distributor roads run around the south western and south eastern sides of the site respectively, beyond which is medium density residential development, mainly dating from the post-war period. The northern half of the site abuts open countryside, being part of the north slope of the Kennet Valley as it rises out of Thatcham. Further north is the village of Cold Ash, which extends southwards down Cold Ash Hill towards the site.

13. The red line site boundary is drawn to exclude the Regency Park Hotel, on the western side, and the curtilages of individual houses to the south. The land is divided into irregularly shaped fields, separated by fences, hedges and trees, and, apart from an open boundary on part of the eastern side, views from adjoining roads are largely screened by vegetation. The property is in agricultural use, indicated as both arable and pastoral.

Planning Policy

14. Section 5.0 of the Planning Statement of Common Ground (**CD1/B/5**) sets out the agreed relevant planning policy. Saved policies from the West Berkshire District Local Plan adopted 2002 (**CD6/AB/2**) remain part of the development plan, including HSG1, which seeks to deliver new development within defined settlement boundaries. It is agreed that the appeal site lies outside the settlement boundary.
15. The Core Strategy was adopted in 2012 (**CD6/AB/1**). CS1 makes provision for at least 10,500 dwellings during the plan period, at the rate of 525 per annum. A Strategic Housing Market Assessment (SHMA) will be undertaken within 3 years, with a review of the Core Strategy allocation if a need for more houses emerges. New housing will be directed to sites within settlements, to identified strategic sites, and to those allocated in subsequent DPDs. Green-field sites will be needed adjoining existing settlements, selected to achieve the most sustainable form of development.
16. The spatial strategy to meet this housing provision is set out in Area Delivery Plan policies. ADPP3 indicates that about 900 homes will be provided in Thatcham, two thirds of which has already been committed, and the remainder will be delivered through the Site Allocations and Delivery DPD, including green-field land adjoining the settlement. ADPP1 indicates that most new development will be within or adjacent to identified settlements, with the focus on the main urban areas and on previously developed land, taking account of the degree of accessibility and availability of services. The settlement hierarchy identifies Thatcham as an urban area, in the same category as Newbury and the outskirts of Reading.
17. The parties agree that Local Plan policy HSG1 and Core Strategy policies ADPP1, ADPP3 and CS1 are policies relevant to the supply of housing in terms of para 49 of the NPPF.
18. Other policies referred to include: CS5 (infrastructure delivery), CS6 (affordable housing), CS17 (bio-diversity); CS18 (green infrastructure); CS19 (landscape character); and ADPP5 (AONB).
19. The emerging Housing Site Allocations Development Plan Document (DPD) was subject to Examination in June and July 2016, with public consultation on proposed modifications taking place by early 2017, and the Inspector's final report expected in the spring. Policy HSA5 allocates one site in Thatcham, for about 85 houses at Lower Way. Policy C1, the successor to Local Plan Policy HSG1, includes a presumption against new residential development outside settlement boundaries.
20. Relevant Supplementary Planning Documents (SPD) include Planning Obligations (**CD6/AB/23**) and Quality Design (**CD6/AB/22**). The Council implemented its

Community Infrastructure (CIL) Charging Schedule (**CD6/AB/20**) in April 2015, with a residential rate of £75/sqm. The CIL 'Regulation 123 List' is contained at **CD6/AB/25**. The Berkshire Strategic Housing Market Assessment (SHMA) has been carried out with other Berkshire authorities and the Thames Valley Berkshire Local Enterprise Partnership (LEP), with a final report issued in February 2016. It estimates the objectively assessed housing need (OAN) for West Berkshire as 665 dwellings per annum (dpa). Other planning documents are listed at section **CD6/AB** in Annex 2.

21. In addition, attention has been drawn to a range of policies in the National Planning Policy Framework (NPPF), and advice in the Planning Practice Guidance (PPG), which will be discussed further below.

The Proposals

22. The Parameter Plan (**CD1/B/13**) indicates the proposed distribution of uses on the site, whilst the Masterplan (**CD1/B/15**) provides an illustrative layout of a possible form of development. It is proposed to distribute up to 225 dwellings in the south eastern quadrant of the site, along with a doctors' surgery, with open parkland to the north and west. There would be flood alleviation ponds and basins adjoining the perimeter roads to the south and east, and within the parkland area. A new access would be formed at the existing roundabout at the junction of Cold Ash Hill and Heath Lane, along with a further new road access on the southern edge of the site. An illustrative storey heights plan (**CD1/B/14**) indicates that the general scale would be two storey development, but with a small number of 2.5 storey buildings. 40% of the houses would be designated affordable.
23. Whilst the description of the original planning application indicated a range of uses for the retained open space, including allotments and sports facilities, it is the intention to establish the layout of this space as part of the reserved matters applications. The Section 106 undertaking would secure the public use of this land and make provisions for its future maintenance.

Other Agreed Facts

24. Following submission of the amended scheme, the Council accepted that the development would occupy the lower and less visible portion of the site, and withdrew their concerns about the effect on the landscape character of the area, the setting of the AONB, and the separation of Thatcham and Cold Ash. It was also agreed that the impact on trees could be adequately mitigated through the submission of reserved matters applications.
25. The scheme would be able to secure suitable highway standards, and be sufficiently accessible to local facilities, including public transport. Whilst local residents have a particular concern about the effect on flooding, which will be discussed further below, the Council are satisfied that any risk could be adequately overcome. There are no fundamental objections on ecological grounds.

THE CASE FOR THE COUNCIL

26. The summary below is a précis of the Council's closing statement at the appeal. The full text may be found at document **CAB11**.

The Five Year Housing Land Supply

The Derivation of the 5 Year Housing Land Supply

27. The Council's Core Strategy was prepared during a period of transition, with the introduction of the NPPF, and uncertainty surrounding the abolition of the South East Plan Regional Strategy. The Inspector had regard to these exceptional circumstances, and took a reasonable approach to the application of legislation and Government policy in finding the Core Strategy to be sound. It was subsequently adopted, without challenge, and now forms an integral part of the plan led system. Its legitimacy cannot be questioned in any legal proceedings except under the terms of S113 of the Planning and Compensation Act 2004.
28. The Core Strategy housing requirement was preceded by the words "at least", being a flexible means of ensuring that it did not represent a target or a ceiling, but a minimum figure; an approach that is endorsed by the Council in the preparation of its Strategic Housing Market Assessment (SHMA). Regard is had to the Ministerial Letter of 19 December 2014 (**CD8/CAB/3**), which notes: *"Many councils have now completed Strategic Housing Market assessments either for their own area or jointly with their neighbours. The publication of a locally agreed assessment provides important new evidence and where appropriate will prompt councils to consider revising their housing requirements in their Local Plans. We would expect councils to actively consider this new evidence over time and, **where over a reasonable period they do not, Inspectors could justifiably question the approach to housing land supply.** However, the outcome of a Strategic Housing Market Assessment is untested and should not automatically be seen as a proxy for a final housing requirement in Local Plans. It does not immediately or in itself invalidate housing numbers in existing Local Plans."*
29. The Council have actively considered this advice, and accept that the Core Strategy housing figure is out of date for the purpose of establishing the five year housing land supply, the Objectively Assessed Need (OAN) in the SHMA being the current requirement. However, this does not mean that the whole of the Core Strategy is out of date.
30. As envisaged by the Core Strategy Inspector, the Council are in the course of producing a Housing Land Supply DPD, which does not change the housing requirement in the Core Strategy, but demonstrates compliance with the "at least" qualification by significantly boosting short term supply to meet the current OAN. The Council have actively pursued the plan making process, and have commenced the preparation of evidence towards a new Local Plan, which is programmed for adoption in 2019. In the meantime, the SHMA OAN represents the best current evidence of housing need, being a significant (27%) increase in the housing requirement over the Core Strategy figure. It has been prepared with the involvement of stakeholders and should be given substantial weight in this appeal.

The Objectively Assessed Need

31. The SHMA was published in February 2016 and represents a valid, robust and up to date assessment of the needs of the Housing Market Area (HMA) that complies

with the requirements of the NPPF and Planning Practice Guidance (PPG). It was made on an evidence based assessment, including regard for economic growth and its drivers, consistent with the London SHMA.

32. It is recognised that the Firlands Farm appeal decision (**CD7/AB/1**) of July 2015 favoured an OAN of 833 dpa put forward by the appellants in that case, but this preceded publication of the SHMA and was in the absence of any alternative OAN from the Council. It is irrelevant for the purposes of determining this appeal.

The approach to the SHMA

33. Preparation of the SHMA took a reasonable approach by: i) adopting a Housing Market Area (HMA) which also included Reading, Wokingham and Bracknell Forest, being a practical and manageable area; ii) using household projections from the Department of Communities and Local Government (DCLG) as the starting point of the assessment, acknowledging that new projections would not, of themselves, render the SHMA out of date; iii) adjusting the OAN to respond to adverse market conditions, based on professional judgement; iv) engagement with housebuilders, registered providers, the Local Enterprise Partnership (as recommended by the PPG) and surrounding local authorities; v) carrying out a “thorough” assessment in terms of the advice in the PPG¹; vi) having regard to the forecasts of well respected forecasting houses (Cambridge Econometrics and Oxford Economics); and vii) adjusting the results of economic models to take account of local conditions.

The Demographic Led OAN

34. Document **A9** illustrates little difference between the parties in assessing demographic led OAN. The appellants provided no evidence of increases in lone parent and single households to justify a return to 2001 household formation rates. Cultural changes and tuition fees are examples of factors which may have influenced falling household formation rates amongst certain age groups. It was accepted that the use of the patient data register could over-estimate the population and, in any event, there was little difference in migration assumptions between the parties². Both sides’ evidence included upward adjustments to migration and household formation, albeit from different starting points. The similarity of housing needs enables issues associated with the 2014 demographic projections, 10 year migration trends and adjustments for younger households to be set aside.

Economic Led OAN

35. The PPG³ recognises the need for early involvement with the Local Enterprise Partnership (LEP), a matter overlooked by the appellants. The use of the Cambridge Econometrics 2013 baseline assumptions was consistent with the LEP evidence base. Nor did the Council rely entirely on the 2013 figures, the forecasts going well beyond in gathering local intelligence to establish the economic growth potential, including an assessment of commercial dynamics, local infrastructure investment, and consultation with stakeholders.

¹ 2a-005-2014036

² see Mr Ireland’s supplementary proof (**CAB2**) Table 1 on page 4

³ 2a-007-20150320

36. The Council were criticised for not updating the SHMA to reflect the 2015 Cambridge Econometrics data, which showed a rise from 522 to 790 jobs per annum. However, the SHMA had been circulated by the date of this forecast, and there was, in any event, no credible explanation of why such a substantial rise had occurred between the two forecasts, nor what effect “Brexit” might have on these figures. In fact, more recent data from both Oxford Economics and Cambridge Econometrics show a fall in employment forecasts since the referendum, to 513 and 527 jobs per annum respectively, close to the figures on which the SHMA is based. National jobs forecasts (such as those of the Office for National Statistics) rely on surveys by businesses, but only show where a job is registered, rather than where it actually takes place. It is necessary to interrogate the data and undertake wider research to understand the local economy, as the Council have done.
37. The Confederation of British Industry anticipate slower growth next year, downgrading their forecast from 2% to 1.3%, and 1.1% in 2018, expecting a fall in the level of employment and more challenging economic conditions. There is no reason to upgrade the job estimates on which the SHMA is based.

The Housing Market Area (HMA)

38. In establishing the OAN, the appellants preferred to look at the individual local authority rather than the full HMA. This approach is not consistent with the conclusions of the Court in *St Modwen*⁴ nor the PPG⁵, which makes no reference to balancing homes and jobs within an individual local authority. The Council distinguishes their position from the recent case of *Oadby and Wigston*⁶, considering that *St Modwen* remains good law. The Council are in the same position as East Riding Council (see para 52 of *Oadby*) as they can demonstrate a strong track of working together with their neighbouring authorities over an extended period. Ousley J said in *St Modwen* (para 74) that “*the NPPF does not require housing needs to be assessed always and only by reference to the area of the development control authority*”. In this case, any apportionment of job growth between the constituent councils of the HMA reflects their collective view and, like *St Modwen*, it should be possible to rely on their long standing and continuing cooperation in plan preparation.

Economic Participation

39. The only data used by the appellants for economic activity rates specific to West Berkshire is from the 2011 Census, despite the availability of later evidence, and from a time when the economy was in recession. The Council’s current evidence is that the employment rate for men between 20 and 54 and women over 34 is increasing⁷. This is stronger than the forecasts of the Office for Budget Responsibility, on whom the appellants rely, whose purpose is to look at the long term sustainability of public finances, and which is unduly pessimistic about the labour market, as confirmed by data from Oxford Economics and Experian. There

⁴ *St Modwen Developments Ltd v SSCLG and East Riding of Yorkshire Council* [2016] EWHC 968 (Admin) **CD7/CAB/3**.

⁵ 2a-018

⁶ *Oadby and Wigston Borough Council v SSCLG and Bloor Homes Ltd* [2016] EWCA Civ 1040 document **A3**.

⁷ Mr Ireland’s proof, Figures 8 and 9 on page 50

is no reason to consider that these latter bodies are any less impartial or independent in their approach. Nor is there evidence to support the appellants' assumption that no person would hold more than one job.

Market Signals and Affordable Housing

40. The appellants sought to argue for a 20% uplift on the demographic starting point to address the need for affordability, as indicated by market signals. However, this was founded on the additional consideration of just two indicators, with analysis of past housing delivery performance based on comparison of short-term trends and in a period of over-delivery against the housing targets of the time. The SHMA followed the PPG approach⁸ by relying on secondary data, including national surveys, to derive estimates of affordable housing need. Whilst the appellants suggested that more existing home owner occupiers might fall into affordable housing need, it was accepted that the Guidance requires application of an affordability test, that primary survey evidence is not required, and that applying the Council's Home Choice Criteria⁹, homeowners would not generally qualify for affordable housing. It was also accepted that the housing register for 2015 showed a similar level of need to that in the SHMA.
41. The choice of income threshold for assessing affordability is influenced by the cost of housing, not income levels¹⁰. The income threshold was based on a lower quartile rent across all property sizes of £650/month which, at a 35% proportion of income, would require earnings of £23,300 per year. The lower quartile rent is identical to that in West Oxfordshire¹¹, so that a consistent income threshold would be appropriate. In addition, it was accepted that historical rates of affordable housing delivery, with which the appellants had sought to criticise the Council's estimate of 30%, were influenced by demolitions and assessments against the lower requirements of the Local Plan which preceded the Core Strategy.
42. The appellants' contention that adjustments to improve affordability need to be treated entirely independently from adjustments to household formation rates is not consistent with the logic of their own evidence, which recognises that affordability influences household formation. The Local Plans Expert Group (LPEG) methodology favoured by the appellants has been criticised as introducing double counting by applying separate adjustments to household formation, for market signals and for affordable housing, when there are clear overlaps between these issues. The LPEG proposals are not Government policy or guidance.

Conclusions on OAN

43. The Council's witness, Mr Ireland, has been personally involved in producing SHMA for 9 local authorities, which have been accepted by Inspectors for adoption in Local Plans without uplift of the OAN. The current West Berkshire SHMA establishes an OAN which has been subject to extensive research and should carry substantial weight. It is a robust assessment against which to measure the five year housing supply.

⁸ 2a-014-20140306

⁹ **CAB4**

¹⁰ SHMA para 6.27 **CD8/AB/1**

¹¹ **CAB5**

The Buffer

44. The Core Strategy Inspector (2012), the Mans Hill appeal Inspector¹² (2015) and, most recently, the Firlands Farm appeal Inspector¹³ (2015) all found that the Council had not persistently undersupplied housing and applied a 5% buffer. The purpose of the buffer is so that performance in the past can provide a realistic prospect of achieving the planned supply in the future; it ensures that the circumstances of the past are not repeated.
45. The assessment of the buffer to be applied is a matter for the decision maker. In measuring past performance, the Cotswold cases¹⁴ note that it is necessary to establish the standard which applied and the degree to which that standard had been met. The decision maker would be entitled to consider the figures in a previous development plan for this purpose. In the present case the appellants have applied the SHMA OAN figure (665 dpa) for the last three years, even though the document was not published until February 2016. The Council could not have achieved a supply against a figure of which they were unaware.
46. In any event there has been no persistent under-delivery. In the Uttlesford appeal decision¹⁵, the assessment was based upon whether there had been under delivery for several years in a row. In the present case, whilst the Council did not meet the Core Strategy figure of 525 dpa during 5 of the preceding 10 years, these were interspersed with years when the figure was met. There were not several years of under delivery in a row, but, rather, the supply fluctuated above and below the requirement. It is also clear that performance between 2009 and 2012 was affected by the economic recession, a matter which the Core Strategy Inspector took into account¹⁶. In addition, the 2010-2012 figures were influenced by regeneration schemes, involving loss of housing before making a gain, whereas there are no similar schemes in the Council's future supply.
47. It is apparent¹⁷ that the Council's average supply over the last 12 years, at 587 dpa, exceeds the Core Strategy "at least" requirement of 525 dpa, with housing delivery in West Berkshire increasing in recent years, and the Housing Site Allocations DPD will ensure further improvement. There is no need to deviate from the views of previous Inspectors who have considered the performance of West Berkshire, and a 20% buffer is not justified.

Deliverability

48. The PPG indicates¹⁸ that deliverable sites include those allocated in a development plan and those with planning permission, unless there is clear evidence that a scheme will not be implemented within 5 years. The exercise should be approached on the basis of the rebuttable presumption; footnote 11 of the NPPF does not require certainty that a site will deliver.

¹² **CD7/CAB/8**

¹³ **CD7/AB/1**

¹⁴ Cotswold District Council v SSCLG [2013] EWHC 3719 document **A16**

¹⁵ Appendix 7 of Ms Peddie's proof para 15.15 of the Inspector's report

¹⁶ **CD6/A/2** para 45

¹⁷ see page 36 of Ms Peddie's proof

¹⁸ 3-031-20140306

49. The disputed sites include Sandford in Newbury, which does not have planning permission but is allocated in the Core Strategy. It should be considered deliverable within 5 years unless there is clear evidence to the contrary. The difference between the parties is not whether the site will be developed, but the rate at which development will occur. It is accepted that an extension for issuing planning permission beyond the deadline of 31 December 2016 may be necessary, that it is a complex site, and that there may be disagreements between the owners of the land. Nonetheless, a package of amendments to the scheme is out to consultation, and highways modelling has been carried out. Regular meetings of a steering group monitor progress, and a dedicated Council officer is assigned to the scheme. There is no reason to doubt the developer's trajectory for delivery from the site.
50. The second major site is Newbury Racecourse, which has planning permission, so that the rebuttable presumption in NPPF footnote 11 applies. Building is underway, with an average completion of 136 units per annum since 2013, and a forecast rate of 180 dwellings per annum for the next 6 years. There will be a 50/50 mix of houses and apartments, similar to the 40/60 mix which has already been achieved, and the developer has an incentive to keep to the programme, with financial penalties if this is not achieved, as well as the need to recoup the cost of infrastructure already provided. There is no evidence to support assertions that the market cannot support the programme of completions, nor that national statistics of building rates are to be preferred to the actual levels achieved on this site.
51. The J&P Motors site has an implemented planning permission, so that the rebuttable presumption applies. Whilst part of the site is currently retail, and there is planning permission for another use, there is now a housing developer involved, and there are no grounds to contradict the conclusion of the Mans Hill Inspector¹⁹, who found no good reason to exclude the site.
52. The Lakeside site in Theale also has an implemented planning permission, and the developer has already paid more than £500,000 in planning obligations, indicating a firm intention to proceed. It is true that a further planning application has been taken to appeal on the grounds of non-determination, but this does not indicate that the site will not be developed within the timescale, nor that the existing permission does not represent a realistic fallback position.
53. Whilst awaiting adoption of the Housing Site Allocations DPD, proposed housing sites have been considered at the Examination and the Inspector has not recommended deletions. The Council have included only 70% of the allocated units in the five year supply, and there is a firm likelihood that they will be delivered. In each disputed case the owners have indicated an intention to proceed with planning applications.
54. Market Street, Newbury is a Council owned site, with a resolution for planning permission to be granted, subject to completion of a planning agreement. There is already permission for the relocation of the bus station away from the site, and any third party ownerships would not impede development. There is no reason

¹⁹ CD7/CAB/8 para 24

for it to be excluded from the five year housing supply, as confirmed by the Mans Hill Inspector²⁰.

55. Pound Lane, Thatcham is also a Council owned site, which is previously developed land, and where planning permission will be confirmed by submission of a Section 106 agreement, expected during December 2016. A national house builder is in the process of purchasing the site.
56. Overall, the housing sites in the Council's 5 year supply satisfy the tests in the NPPF footnote 11 and the advice in the PPG and there is no reason to consider that they will not be deliverable.

Policy Implications

57. For these reasons, the Council are able to demonstrate a 5 year housing land supply, so that NPPF para 49 does not apply and housing policies should be considered up to date. The process in the second part of NPPF para 14 is not triggered; the appeals should be determined in accordance with the development plan.
58. The appellants also allege that relevant policies are out of date because the housing requirement in the Core Strategy was based on the withdrawn South East Plan. To follow this logic, the policies would have been deemed out of date the moment the Core Strategy was adopted. However, the figure in this plan was never a ceiling, and the Council have used their evidence base to establish an OAN in accordance with NPPF para 47, whether or not it is part of their Local Plan. Again, the process in NPPF para 14 is not triggered.
59. In any event, the NPPF allows weight to be allocated to policies even if they are out of date, a point endorsed by the Suffolk Coastal judgement²¹. The degree of weight is a matter for the decision taker. In this respect, the most relevant part of the nominated policies is the spatial distribution of development, which should reflect the existing and future role of the settlements, to ensure sustainability.

The Interpretation of development plan policies relevant to the supply of housing

60. The site is green-field land in open countryside outside the defined settlement of Thatcham. The proposal does not comply with development plan policies when read together and with the supporting text. The spatial strategy of the Council is the strict control of development outside settlement boundaries, to ensure the most sustainable locations; any settlement extensions are allocated through the plan led process.
61. The District Settlement Hierarchy in Core Strategy policy ADPP1 refers only to sites within settlement boundaries, and not other land, even if it is adjacent to the boundary. The "open countryside" bullet point of ADPP1 applies. Unlike Thatcham, Newbury is the main focus of housing growth²². Policy ADPP3 limits planned growth in Thatcham, two thirds of which has already been committed, and the rest will be delivered through the Housing Site Allocations DPD. There

²⁰ CD7/CAB/8

²¹ CD7/A/15

²² CD6/AB/1 para 4.21

are five paragraphs²³ of explanatory text in the Core Strategy to indicate how this allocation will take place.

62. Whilst policy ADPP1 refers to sites adjacent to the settlement boundary, the only logical interpretation of this paragraph, and the Core Strategy Inspector's comments about green-field land in Thatcham²⁴, is that such land will only come forward as part of a planned provision. When read in conjunction with policy CS1, it is clear that the Core Strategy is precluding development outside the settlement boundary on green-field sites, except where they have been specifically allocated.

63. The conflict with the development plan weighs heavily against the proposal.

The weight to be attached to the emerging DPD

64. In accordance with NPPF para 216 the Housing Site Allocations DPD can be accorded substantial weight. The Inspector has had regard to objections, and, in particular, has hardly altered the wording of policy C1. It is only the modifications that will now be consulted on, and the appellants cannot repeat the objections previously made. Nor is there a case that the DPD is inconsistent with the NPPF by being based on the Core Strategy OAN, rather than more up to date figures. This point was established in *Gladman v Wokingham BC*²⁵, which noted that the delay incurred would not match the need for the preparation of planning documents to guide development decisions. There is no support for the view that policy C1 will be out of date immediately on adoption.

65. Local Plan policy HSG1 was saved in 2007 and remains part of the development plan until its replacement with policy C1. The new policy does not represent a shift towards some general expansion of settlements, and, whilst the settlement boundary has been altered, that alteration does not affect the appeal site. Policy C1 continues the objective of protecting the countryside, and can be accorded substantial weight.

Conclusions on Policy

66. Core Strategy policy CS1 establishes the need to review settlement boundaries through the Housing Site Allocations DPD, to meet the broad accommodation of housing set out in the ADPP policies, and, as noted by the Mans Hill Inspector²⁶, development on a green-field site adjacent to the settlement boundary is contrary to these policies. Overall, the Council have taken a positive approach to the preparation of plans to actively increase the supply of housing, and the policies for this purpose should be accorded substantial weight. This scheme does not accord with the development plan, and there is no justification for allowing this appeal.

²³ CD6/AB/1 paras 4.9, 4.10, 4.11, 4.13, and 4.15

²⁴ CD8/CAB/2 para 66

²⁵ *Gladman Developments Ltd v Wokingham Borough Council* [2014] EWHC 2320 (Admin)

CD7/CAB/9

²⁶ **CD7/CAB/8**

Planning Balance and Conclusions

67. The Council have a five housing year land supply, and a Core Strategy adopted after the introduction of the NPPF, with an overarching strategy for growth distributed across 4 specified spatial areas. Only the housing requirement is out of date, being an “at least” figure, and the Council is working towards delivering housing to meet the objectively assessed need set out in the SHMA.
68. Nonetheless, if the tilted balance set out in the latter part of para 14 of the NPPF is triggered then the Council accept that the level of harm arising out of the scheme would not significantly and demonstrably outweigh the benefits.
69. If, on the other hand, the simple planning balance set out in s.38(6) of the Planning and Compulsory Purchase Act is applied then the conflict with the development plan, and the emerging Housing Site Allocation DPD, would not be outweighed by the provision of market and affordable housing. Other potential benefits are minor and not unique to this site, particularly given the level of planned provision which will be delivered through the DPD. The Council have invested significant resources in this plan led approach to ensure the most sustainable sites have been selected to boost housing development in the area. In these circumstances the Secretary of State is respectfully invited to dismiss the appeal.

THE CASE FOR THE APPELLANTS

70. The summary below is a précis of the closing address to the Inquiry, prepared by the appellants for use in this report. The full text of the address may be found at document **B12**.

Introduction

71. Of the 5 Reasons for Refusal, only Reason 2 remained by the start of the inquiry. During the course of the inquiry the ‘prematurity’ objection that had formed part of Reason for Refusal 2 was abandoned also, leaving a pure policy objection by reference to policies HSG1, CS1, ADPP3 and emerging C1.
72. Further, during evidence, the Council accepted that if para. 14(2) of the NPPF applies, such planning harm as they identifies through their Reason for Refusal 2 would not significantly and demonstrably outweigh the benefits they acknowledge stem from the scheme. As such, the Council accept that on the basis that the development plan policies are found out of date (by reference to para. 215 consistency with the NPPF) or para. 49 (no 5 year housing land supply), or both, permission should be granted.

The development plan and the NPPF

73. The only Local Plan policy cited against the proposal is HSG1. The Council acknowledge that the 2002 settlement boundaries are not able to accommodate today’s development needs. As the Inspector found at Firlands Farm²⁷, the adopted settlement boundaries in the 2002 plan are not up to date.

²⁷ **CD7/AB/1**

74. The Core Strategy policies cited against the proposal in Reason for Refusal 2 are CS1 and ADPP3. CS1 sets an overall housing requirement of 10,500 for the period 2006-2026. ADPP3 distributes 900 of those 10,500 to Thatcham, as an 'urban area' within the settlement hierarchy set out in ADPP1 ('Spatial Strategy'). The Council acknowledge that the 10,500 figure and the 900 figure derived from it are (a) not caps or ceilings, and there would be no planning harm arising from exceeding them; and (b) do not amount to up-to-date housing requirement figures²⁸.
75. Importantly, the Reason for Refusal does not allege that the proposal is contrary to ADPP1. This is the correct approach. Although orally, Mr Dray sought to allege conflict with the very last bullet of ADPP1, it is clear that it refers to categories of land not listed in the settlement hierarchy above; it simply does not apply to this site.
76. All three policies, CS1, ADPP3 and ADPP1 recognise the need to use green-field land adjacent to (and hence outside of) the adopted HSG1 settlement boundary in order to deliver even the non-NPPF complaint 10,500 units. The Council further acknowledge that to deliver the OAN requirement (whatever it is) beyond the 10,500 figure, additional green-field land will be required²⁹.
77. The emerging Site Allocations DPD is a 'daughter document' to the Core Strategy. While this is perfectly lawful as an approach³⁰, it does affect its weight. The DPD limits itself to delivering the balance of the 10,500 units in the Core Strategy³¹. In so doing it necessarily allocates land on green-field sites outside the HSG1 settlement boundaries. They will be replaced, once the DPD is adopted, by new settlement boundaries and Local Plan policy HSG1 will be replaced by DPD policy C1. But as the DPD is limited to delivering the Core Strategy requirement, the 'daughter' is similarly infected with the failure of the 'parent' – i.e. that the 10,500 is not an up-to-date, NPPF compliance OAN-based housing figure.
78. NPPF Paragraphs 14 (first part), 17(1), 17(3), 47(2), 156, 159 and 187(2) all require that the development plans should seek to identify *and meet* housing need assessed in accordance with the NPPF. A development plan which does not do this (as here) is in conflict with the NPPF and out of date by reference to paras 215/216.
79. As such, the Council recognise that the 2002 settlement boundaries to which HSG1 is directed are out of date by reference to the requirements of the NPPF. Similarly, the Council recognise that the 10,500 unit CS housing figure is out of date as being in conflict with the NPPF. The daughter document, the Site Allocations DPD, while not yet adopted, is similarly affected and Mrs Peddie accepted that, by seeking to restrict development, emerging policy C1 is, as the CS policies were, equally in conflict with the NPPF.
80. The consequence is that para. 14(2) of the NPPF is engaged; as noted above, Mr Dray volunteered that judged against that test, the Henwick Park appeal should be allowed and permission should be granted.

²⁸ Gladman v Wokingham BC **CD7/CAB/9**

²⁹ **CD8/AB/4** foot of second page

³⁰ Oxted Residential v Tandridge DC **CD7/AB/5**

³¹ The trajectory shows 10,700 being delivered by 2026

81. In addition, the Council are unable to demonstrate a 5 housing land supply and NPPF para. 49 is engaged. For this reason also, paragraph 14(2) applies. The policies HSG1, CS1, and ADPP3 are all housing land supply policies, caught by the deeming provision, as is emerging policy C1 similarly caught³². Following *Hopkins Homes*³³, the same approach is urged here as adopted by the Secretary of State in *Birchen Lane*³⁴, namely that this means that the weight to be given to those policies is 'greatly reduced'. The Council appear to argue that weight can still be given to these policies on the basis that they are taking action to address it, through the adoption of their Site Allocations DPD. However, as set out above the DPD does not, and does not purport to, meet the Council's OAN for housing. Further, the Council will not have an adopted NPPF-compliant Local Plan until 2019 at the very earliest. There can be no basis for attaching weight to restrictive, out of date, policies on the basis that the Council have just started to prepare an NPPF compliant plan.

Housing land supply

Requirement

82. The Council acknowledge that they cannot use the adopted Core Strategy housing figure of 10,500 (525 dpa) which was not derived from an assessment of OAN and would not comply with the NPPF or PPG. It was adopted at a time when the South East Plan was still in force and before any NPPF-compliant assessment of housing need had been undertaken for the District or Housing Market Area (HMA)³⁵.
83. Since then, a SHMA has been produced, but this has not been tested in any development plan process. Following *Hunston*³⁶ and *Gallagher*³⁷, the decision-maker must undertake the best exercise he can to assess a 'policy off' OAN figure.
84. The untested SHMA figure is relevant, but by no means definitive. Mr Usher for Appeal A provides evidence for an OAN in the range of 820-950; Mr Veasey for Appeal B provides evidence for an OAN within that range of 'a minimum' of 840³⁸. By the time of the forthcoming new Local Plan being adopted in 2019, the current untested SHMA is unlikely to be the one relied upon even by the Council.
85. For the demographic 'starting point' Mr Usher and Mr Veasey use the more up to date projections, which result in a lower figure. It is misleading, then, to point to Document **A9** and say 'all the demographic figures are much the same'. Mr Usher and Mr Veasey undertake the proper exercise of adjusting the starting point for suppression of household formation rates and migration trends, as demographic adjustments. This is what gives them the demographic 570-610 and 584

³² Woodcock Holdings v SSCLG [2015] EWHC 1173 (Admin)

³³ Hopkins Homes Ltd v SSCLG [2015] EWHC 132 (Admin) **CD7/AB/9**

³⁴ Appeal Ref APP/D3830/W/15/3137838 **B10**

³⁵ **CD6/B/1** para 33

³⁶ Hunston Properties v St Albans City & DC **CD7/AB/4**

³⁷ Gallagher Homes v Solihull MBC **CD7/AB/2**

³⁸ See **A9**

- respectively³⁹. To these correctly arrived at demographics, they then apply economic-led and market signals adjustments⁴⁰.
86. Mr Ireland's SHMA did neither: it had migration adjustment in as an economic factor and an adjustment for housing formation rates as a market signal⁴¹. Had he (correctly) put those factors in at the demographic stage, he would have had a demographic figure of 630. He should, however, have first got the demographic figure correct and *then* applied economic and market signals uplift. Having put what is a demographic adjustment in the wrong place, the effect is that he has disguised the fact that he has not actually done a proper economic or market signals adjustment at all.
 87. Mr Ireland's migration adjustment (of 14 dpa) is related only to London migration. Mr Veasey points out that migration factors should cover all migration and that 10 year trends show a 123 dpa adjustment⁴². On headship rates, Mr Veasey and Mr Usher both point to the decline in household formation rates in both the cohorts 25-34 and 35-44 and adjust accordingly. Mr Ireland limited his adjustment to the 25-34 age group which, while being the most dramatic, is not the only group affected. The effect is that Mr Veasey adds 75 dpa compared to Mr Ireland's 32.
 88. The PPG then asks that an economic-led adjustment be made if the demographic figure would not provide sufficient workers for projected employment growth. In all three assessments before the inquiry, the demographic figures are, indeed, too low to meet job growth and an economic adjustment is required⁴³.
 89. For the job numbers, the SHMA used Cambridge Econometrics 2013 and arrived at 522 jobs per annum. Both Mr Usher and Mr Veasey used an average of the three leading forecast houses (Cambridge Econometrics Nov 2015; Oxford Economics April 2016; Experian Economics June 2016) and arrive at 720 jobs per annum. In his Supplementary Proof, Mr Ireland sought to rely on Oxford Economics October 2016 and came to a jobs figure of 513 pa⁴⁴.
 90. Cambridge Econometrics 2013 was criticised in the Stanbury House appeal⁴⁵ for being too pessimistic. It was criticised by the appellants in this case for being out of date. Mr Ireland's response was not to update his use of Cambridge Econometrics to the current Nov 2015, but to shift forecasting houses altogether - to one that gave him an even more pessimistic figure.
 91. Had the SHMA used, as would have been logical, the most up to date Cambridge Econometrics projection (Nov 2015) the jobs figure would have been 790 pa. For reasons never satisfactorily explained, the SHMA, published in February 2016 continued, however, to use figures three years old, rather than any of the six-monthly Cambridge Econometrics updates, ending with the most recent of November 2015. On the SHMA's method, it *should* have recorded 790 jobs, not

³⁹ **A9** bottom row of Stage B

⁴⁰ **A9** Stages B and C

⁴¹ SHMA page 282

⁴² **A9** Stage A, third row

⁴³ **A9** Stage B

⁴⁴ **A9** State B, rows 2 and 4

⁴⁵ **CD7/AB/7**

- 522, and the SHMA OAN would have been 804 not 665⁴⁶. It is noteworthy in this regard that the input and output of the SHMA has to be agreed by the commissioning steering group. The objectivity of the outcome of such a document is, consequently, open to serious doubt. This inquiry is the first time it has been tested, and the continued use of a superseded Cambridge Econometrics 2013 figure is not justified.
92. Had the SHMA followed its own analysis but used the most up-to-date figure, the OAN would have been 804. Had Mr Ireland followed the 'blended' approach of Mr Usher and Mr Veasey, his OAN would have been 726⁴⁷. He objected to using anything other than an Oxford Economics figure from October 2016 as that was the only 'post-Brexit' projection available to him. But in so doing, he neglected to observe that the Oxford numbers before and after Brexit showed only a 6.7% reduction⁴⁸. This happens to be the same for Experian pre and post Brexit, now available⁴⁹.
93. After evidence but immediately prior to Closing, Cambridge Econometrics published a November 2016 set of predictions. In common with the pessimistic tendency of that forecasting house criticised in the Stanbury House appeal, this shows a greater reduction for Brexit than do Oxford Economics and Experian. Nonetheless, for completeness, Mr Veasey ran the figures again, blending the very latest Cambridge Econometrics, Oxford Economics and Experian post-Brexit predictions⁵⁰. It gives an economic-led OAN of 772. Consequently, while Mr Veasey and Mr Usher do not consider that it is safe to alter a 20 year projection by reference to the immediate effects of the Brexit vote, even were one to do that, it could not possibly justify the SHMA 665⁵¹.
94. On the economic activity rates, ironically, the SHMA did use a blend of the three forecasting houses⁵². The appellants preferred the finer grain of the OBR. As noted above, even with a complete suite of post-Brexit forecasts, the result is 772 dpa⁵³, still well above the SHMA's economic-led 618⁵⁴ or even the SHMA overall 665. To this, Mr Veasey would then add an adjustment to assist affordable housing delivery and bring the OAN up to 840 dpa.
95. Market signals are the next stage in the process: to be applied to the *correct* demographic figure. Although all three experts agreed that a market signals uplift was required, the resultant figure (701 in Mr Veasey's case⁵⁵) was lower than the appropriate OAN having already adjusted for economic-led factors (840) so the

⁴⁶ **B3**, third entry

⁴⁷ **B3**, second entry

⁴⁸ OE April 2016 550 jobs; OE Oct 2016 513 jobs (**A9** Stage B, second row)

⁴⁹ **A12**

⁵⁰ **A9**, 'A'

⁵¹ If a 6.7% reduction had been applied to the 720 calculation the result would have been 670 jobs which translates to 811 dwellings as a job led OAN

⁵² **A9**, Stage B, row 5

⁵³ **A9**, 'A'

⁵⁴ Orally corrected from 665 but table **A9** not amended

⁵⁵ Doc A9, stage C, row 2

- two are not additive⁵⁶. Prior to considering affordable housing, Mr Veasey places the OAN, therefore, at an economic-led 840 dpa.
96. Affordable housing need is made up of three elements⁵⁷, all dependent (or 'heavily predicated') on the assumption of the affordability threshold – i.e. the level of income below which it is considered that one cannot provide one's own accommodation without subsidy. The SHMA sets this at 35% of gross household income, which results in a net affordable housing need of 189 dpa. As Table 82 of the SHMA shows, that result is highly sensitive to the assumption used: 30% gross income gives 297 dpa; 25% gross income gives 427 dpa – the figure at which Mr Veasey arrives⁵⁸.
 97. The use of 35% gross household income is at odds both with the old SHMA Guidance of 25% gross and WBC's own definition of affordable housing need as 30% net (equivalent to 25% gross)⁵⁹. To depart from these, the SHMA uses a methodology which has no origin or support in policy or guidance and is described in the SHMA itself as 'somewhat convoluted' and 'not definitive'⁶⁰.
 98. Given how highly sensitive the results are to small variations in the percentage⁶¹, some quite weighty support would be needed in order to move from the 25% gross threshold. Mr Ireland points to the acceptance of 35% threshold in West Oxfordshire⁶². But in so doing, he neglected to inform the Inquiry that the method used there was not the 'Thanet' benchmark used here. Mr Veasey showed that the West Oxfordshire methodology applied here provides a 30% threshold and an affordable housing need of 297⁶³. In fact, Mr Veasey prefers to stick to the Government's only published figure of 25%, which matches WBC's own affordability threshold, which gives a dpa affordable housing need of 427⁶⁴.
 99. Secondly, using the 35% threshold, the SHMA has assumed that a household which has a gross income in excess of £22,300 is able to afford its own accommodation. But as SHMA Fig 67 and Mr Veasey's Table 5.7 make clear, at this threshold point, all that could be afforded would be a one bedroom flat to rent. Thus a household whose needs were greater than a one bedroom flat to rent would still be in affordable housing need. Table 108 of the SHMA shows that even among those acknowledged to be in affordable housing need, more than half require accommodation larger than a one bedroom flat. SHMA Table 81 is, therefore, woefully under-representing the true extent of affordable housing need.
 100. These two errors make unreliable all three of the elements in Table 81. In addition, for 'current unmet need', Table 75 is based on an unevidenced and unjustified assumption that 90% of owner occupiers would sell their house and

⁵⁶ Had economic matters led to a figure below, 701, there would, naturally, have been an adjustment at Stage C to the 701; the OAN cannot be less than 701.

⁵⁷ SHMA Table 81

⁵⁸ **A9**, Stage D, first row.

⁵⁹ Mr Veasey's proof 5.93

⁶⁰ SHMA 6.32

⁶¹ As shown in Table 82 of the SHMA, noted above

⁶² Mr Ireland's proof 6.39

⁶³ SHMA Table 82

⁶⁴ SHMA Table 82

spend the equity on rent; and for 'newly arising need', Table 76, a percentage is applied to a demographic which is itself (as set out above) incorrect.

101. The SHMA justifies not applying an affordable housing uplift by saying that the affordable housing need sits at only 189 dpa. However, the above matters indicate that affordable housing need is (even based on the SHMA) not less than 427 dpa. At Mr Ireland's preferred delivery rate of 30%, that would give an overall affordable housing OAN of 1423⁶⁵. Plainly, 665 barely scratches the surface. Mr Veasey has calculated an OAN of 840, which will go some way towards it. If, for whatever reason, the OAN arrived at is less than 840 by reference to stages A-C of the PPG methodology, given the high affordable housing need, an uplift to 840 would be appropriate in any event.
102. On the evidence before the inquiry, the OAN is not 665; it is a *minimum* of 840.
103. In addition, the LPEG recommendations would, if adopted, lead to an OAN of 771 dpa. If the Secretary of State decides to accept the LPEG recommendations, that figure is not one that is mathematically in dispute. It is materially above the 665, with the consequence, as we will see below, that the Council cannot realistically hope to demonstrate a 5YHLS.
104. On the buffer, the Council contend for 5%, but in error. In terms, Mrs Peddie asserts that the delivery must be measured against the known development plan targets (i.e. 525 dpa in the Core Strategy). That approach is contrary to the judgment of Lewis J in *Cotswold DC*⁶⁶. The exercise is not one of assessing against policy targets, it is of assessing against housing needs.
105. The CS figure of 525 dpa is known to have under-represented need. Even the 665 SHMA figure from 2013 is – the appellants say – also significantly under-representing need. But for the period 2013 onwards there can be no case for continuing to measure delivery against the 525. Complaining that it is 'unfair' to have expected a delivery of over 665 when the requirement was known only to be 525 entirely misses the point of the exercise in para. 47(2). It is not about blame or opprobrium, fairness or excuses; it is about seeing whether, over a suitably long period of time, there has been delivery of the houses the district needed. That measurement of need is made on today's knowledge; for 2013 onwards it was not less than 665; for 2006-2013 it was (more than) 525. Measured against those figures, delivery has failed in six of the last 10 years and succeeded only once (by 27 dwellings) in the last 7 years. The net effect is a running and continuing shortfall and very clear evidence of persistent under delivery. A 20% buffer is required.

Supply

106. Document B6 shows that if the Secretary of State accepts, as he is urged to, the Appellant's assessment of OAN, the Council cannot demonstrate a 5YHLS, regardless of whether the correct buffer is 5 or 20%. Further, it shows that, if the Secretary of State has decided to adopt the LPEG recommendations, the Council would not be able to demonstrate a 5YHLS with the (correct) 20% buffer, and could only claim one on the (incorrect) 5% approach with a margin of 80 units. A

⁶⁵ **B3**, Table on page 2

⁶⁶ *Cotswold DC v SSCLG* **A16**

putative margin of 80 units out of a claimed supply of 4,900 requires such a spurious accuracy in forecasting that it is effectively the same as not being able to demonstrate a 5YHLS.

107. Thus, it is only if the 665 is a reliable figure that any serious consideration needs to be given to the supply side. Doc B6 shows: at 5% the Council claim a 971 unit surplus; at 20% that falls to a 410 surplus. On this point Doc **B4** and Table 2 is a useful summary.
108. Two strategic sites from the Core Strategy together would delete 604 from the Council's supply. That alone is enough to remove the 5YHLS if the correct 20% buffer is utilised (on the incorrect 665).
109. 290 is removed at Sandleford Park, which has yet to receive planning permission, is required by the SPD to have a comprehensive application, but is in split ownership (who appear to have fallen out) who cannot agree a s. 106 obligation, and has serious outstanding highways and education objections still unresolved despite fortnightly meetings. Furthermore, the submitted application has been subject to significant amendments. The inquiry has been given no information or minutes from these meetings and only silence from the case officer and developers on the likely timetable. Mrs Peddie was reduced (in November 2016) to utilise a trajectory drawn up for the purpose of highways testing in July 2015; it has no validity as an actual build programme, and assumed a permission by Christmas this year. The applications are not even scheduled to go to committee this December, let alone be permitted, and in the absence of co-operation on the s. 106 obligation, there will not be an implementable planning permission in the foreseeable future.
110. 314 are removed from Newbury Racecourse. This site has a permission which is being built out, but it is already five years into a supposed 10 year build-programme. So far it has been running at about 2 units a week. The Council's trajectory assumes more than double: 4-5 a week, every week for the next 5 years - well in excess of either its past record or the company average⁶⁷. If units do not 'shift', there is no practical likelihood that the developer will build more and flood their own market; it is not credible to suggest that either the landowner or developer would reduce their overall return.
111. J&P Motors and Lakeside, Theale, lose 37 units and 150 units respectively. At J&P Motors, the site is occupied by existing commercial uses and, by reference to the PPG, is not to be considered 'available'⁶⁸. At Lakeside, a very old planning permission has never been developed out; the landowner has been waiting 11 months for a revised scheme; the Council have been unable to give the landowner comfort of a positive outcome and cannot even say that the non-determination appeal will not be resisted.
112. Two identified sites without planning permission, Market Street, Newbury and Pound Lane depot, have 190 and 47 units deducted. Market Street is a complex development with certain land ownerships yet to be secured. Even looking at it favourably, if it were to slip by only one year, 190 units disappear. At Pound Lane

⁶⁷ 48 a year, see **B7**

⁶⁸ PPG 3-020 **CD4/AB/2**

although a resolution to grant planning permission has been made, the applicant has failed to meet the deadline for the s. 106.

113. Together, the above sites come to 1028 units to be deducted from the Council's 'best case' surplus of 971 (assuming 665 OAN and 5%). In addition, a further 219 units are deducted from five sites within the Housing Site Allocations DPD draft allocations.
114. The Council accept that they cannot use their 525 dpa Core Strategy. Only by asserting (and winning) a 665 dpa OAN can the Council even claim a 5YHLS, but their vaunted supply of 4,900 is not a reliable one. 3,649 units is much nearer the mark.
115. A 5 year housing land supply cannot be shown.

Compliance with the spatial policies of the development plan

Local Plan, HSG1

116. The supporting text to HSG1 notes that development will be restricted outside the adopted settlement boundaries. However, the Council acknowledge that those boundaries are out of date in that they do not purport to provide for today's development needs. Indeed, they cannot even provide for the non-NPPF 10,500 housing requirement post-2006 and are in the course of being replaced by the boundaries being drawn up for the DPD policy C1 (which will, themselves, be amended further to accommodate any OAN-based requirement)⁶⁹.

Core Strategy

117. CS1 expressly recognises the need for green-field development (i.e. outside HSG1 boundaries) to deliver the 10,500 units. These are to be delivered through the spatial hierarchy, which itself is set out in ADPP1. The 10,500 figure is not a cap or ceiling and the Council acknowledge that to exceed it is not to cause planning harm. It is equally acknowledged that 10,500 is an out-of-date, non-NPPF compliant figure, the exceeding of which would be justified even had the policy been drawn to prevent that.
118. ADPP1 directs 'the majority of development' to the three 'Urban Areas'⁷⁰. In so doing, it recognises that 'most development will be within or adjacent to [ie outside] the settlements included in the settlement hierarchy'⁷¹. The proposals entirely accord with that approach. ADPP1 establishes that locations adjacent to Thatcham are suitable locations, in principle, and no site-specific objections are raised.
119. While ADPP3 is cited against the proposals, it is actually a policy which supports the principle of green-field housing development adjacent to Thatcham. Further, it was confirmed by the Council that the 900 unit figure is not to be seen as a cap or ceiling and no planning harm would arise by exceeding that number. In any event, the 900 is a function of the 10,500 figure, which is recognised to be out of date and would not justify a refusal.

⁶⁹ **CD8/AB/4**

⁷⁰ ADPP1, Box **CD6/AB/1**

⁷¹ ADPP1, second paragraph **CD6/AB/1**

120. As to the objection that the site is not identified through the allocations DPD, the answer is simple: the DPD is only doing part of the necessary job; it provides only for the out of date 10,500 dwellings and there is no doubt that more is needed; there is no site specific objection mounted; and no prematurity objection is pursued. No harm arises, therefore, in bringing forward additional development now in a location supported in principle by the policy.
121. Paragraph 14(2) of the NPPF requires that permission should be granted unless the harms significantly and demonstrably outweigh the benefits. Mr Tustain gives no more than very limited weight to the breach of the 2002 settlement boundaries. It is respectfully suggested that he is right to do so. Mr Dray accepts that, on the para. 14(2) test, permission should be granted.

Weight to be given to the emerging Site Allocations DPD:

122. The Site Allocations DPD is, as noted above, no more than a daughter document to its parent, the Core Strategy. As the DPD does no more than seek to deliver the CS figure of 10,500 and the CS figure is acknowledged to be neither OAN-derived nor up to date, any purported restriction to within settlement boundaries would be in conflict with the NPPF and, under para. 216 only accorded limited weight. The context of the DPD's production means that it cannot be used to prevent development outside but adjacent to settlement boundary of Thatcham, that being a location identified by ADPP1 as being appropriate for additional housing.
123. While it is true, therefore, that the DPD does not allocate the appeal site, this is no bar to permission being granted. It is not even surprising, given that the DPD was only looking for the balance of 900 at Thatcham. None of the site specific issues raised in the DPD SA/SEA are maintained by the Council as objections to this scheme.

Benefits of the scheme

124. In economic terms, the contribution⁷² of the scheme by £33m construction value, 261 construction jobs and £6m gross annual residential expenditure is now recognised to be worthy of *significant* weight by reference to para. 19 of the NPPF.
125. In social terms, the contribution of the scheme in terms of housing and affordable housing is now recognised by the Council to be worthy of *significant* weight. The site is obviously anticipated to be a high quality residential environment and is accessible to the necessary services and facilities.
126. In environmental terms, the scheme brings improvement to the current flooding situation⁷³, which is a particular concern to local residents; it provides bio-diversity gains⁷⁴; and a 14 ha country park, with public access. Its location adjacent to the sustainable settlement of Thatcham, in the top rung of the settlement hierarchy in ADPP1, means that it contributes positively to the sustainability aims of the third dimension in terms of pollution, natural resources, climate change and low carbon economy.

⁷² Mr Tustain's planning proof, Section 5

⁷³ Flooding Statement of Common Ground, para 8.4 **CD1/B/8**

⁷⁴ Mr Tustain's planning proof, para 5.37

127. The Council raise loss of green-field land as a disbenefit, but this does not extend to any landscape or visual impact objection. Indeed, the site is undesignated in landscape terms and its development for 225 units is considered acceptable by the Council's landscape advisor. Green-field land is necessary if the Council are to meet their 10,500 CS requirement and ADPP1 and ADPP3 both direct development to sites adjacent to the settlement boundary of Thatcham (i.e. in the 'countryside'). In addition, green-field land is necessary if the Council are to meet any assessment of OAN⁷⁵. As such, it is axiomatic that if housing is to be provided in accordance with the NPPF, green-field land will be developed. Its use is not, therefore, objectionable; it is necessary⁷⁶.

Striking the planning balance

128. It is not surprising, therefore, that Mr Dray volunteered that if the scheme is judged against the balance in para. 14(2) of the NPPF, the harms do not significantly and demonstrably outweigh the benefits of the proposal.
129. We ask ourselves what are the 'harms' alleged? Other than the loss of green-field, which is axiomatic if housing is to be provided adjacent to the sustainable settlement of Thatcham, the only objection is, in effect: 'you are not allocated in our DPD'⁷⁷.
130. That is a process point, in respect of which no prematurity point is being alleged any longer and on a site where no site-specific objection is raised – i.e. there is no planning harm identified by virtue of bringing forward development which locationally (i.e. in *spatial* terms) accords with both ADPP1 and ADPP3. There is no way, rationally, that that 'harm' could be said to 'significantly and demonstrably' outweigh the sum of the significant benefits listed above.
131. Para. 14(2) is engaged by virtue of the relevant development plan policies conflicting with the NPPFs, as accepted by Mrs Peddie. It is also, the Appellants say on the evidence, engaged by the inability of the Council to demonstrate a 5 year housing land supply. On that basis, now, the Council and the Appellants are in agreement that Appeal B should be allowed.
132. But even were it conceivably possible to say that the relevant policies were 'up to date', and the decision fell simply by reference to the 'material consideration' test in s.38(6), permission should be granted. To refuse the scheme would be to forego the many and significant benefits of bringing forward housing on this sustainably located site at the top of the settlement hierarchy, and would be to fail to deliver sustainable development.

⁷⁵ **CD8/AB/4**

⁷⁶ And hence para. 8.20 of Mr Dray's proof proceeds on a mistaken premise

⁷⁷ That was, in essence, the beginning and end of Ms Peddie's objection

THE CASES FOR THIRD PARTIES GIVING EVIDENCE AT THE INQUIRY

Those giving evidence at the Inquiry

133. The Inquiry was addressed by 7 interested parties. Notes of these addresses, and supplementary documents, are included at **TB1 to TB7**.
134. A major concern was the impact of the proposal on the risk of flooding in Thatcham. It was noted that a major flood had occurred in 2007, affecting 1100 houses, and there had been regular incidents since. A flood alleviation scheme had been established, and was in the course of construction, with support from the Environment Agency, and the local Parish and Town Councils had set up a flood forum and appointed a flood warden.
135. The appeal site is directly north of, and on higher ground than, the developed part of Thatcham, and discharge from it would be a major component of any future flooding in the town. There were doubts about the effectiveness of the technical solution proposed by the appellants, including concerns about the limited capacity of the watercourses into which the land would drain, and the difficulty of ensuring adequate attenuation on the site. It was questioned whether the site could be developed at all, noting, amongst other matters, the nature of the underlying clay geology, the loss of absorbent ground which would result from site clearance, and the likelihood of breaching the water table with the building works. There were also concerns about whether it would be possible to secure the maintenance of any system in perpetuity.
136. Other matters raised included the principle of developing outside the settlement boundary, and the resulting harm to the quality of the landscape, drawing attention to the recent appeal decision⁷⁸ at Pound Cottage, Cold Ash, which found that the construction of 6 bungalows on Cold Ash Hill would intrude into the countryside and erode the rural setting of the village. The current proposal would be a disproportionately large increase in the population of Cold Ash Parish, and lead to the coalescence of the village with Thatcham.
137. There were concerns about existing traffic problems in the area, particularly on Cold Ash Hill, and doubts about the appellants' conclusion that development of the site would not exacerbate these issues. The site is not in an accessible location, whether in relation to Thatcham or Cold Ash, being remote from services and facilities, and there were uncertainties about the capacity of local infrastructure to cope with the increased demand, especially schools.

Written Representations

138. The planning application was opposed by the Cold Ash Parish Council and Thatcham Town Council, and 62 letters of objection were received by the Planning Authority. 66 letters against the proposals were sent to the Planning Inspectorate in response to the appeal application.
139. In addition to the points raised at the Inquiry, concerns included the impact on wildlife; the setting of listed buildings; sewage disposal and water supply capacity; the loss of green fields, trees and hedgerows; pollution; noise and

⁷⁸ APP/W0340/W/16/3143521

disturbance during construction; inadequate health facilities; road safety; and, a lack of public transport to serve the site.

PLANNING CONDITIONS (IN THE EVENT THAT THE APPEAL IS ALLOWED)

140. In recommending the schedule of conditions shown at Annex 3, regard is had to the Council's draft list⁷⁹, the discussions at the Inquiry, and the advice in Planning Practice Guidance. The numbers in brackets below refer to the condition numbers in Annex 3.
141. Conditions are applied to require general accordance with the submitted illustrative plans (5) and control the scale of development (16, 17), to obtain a comprehensive landscape strategy plan (6), and to limit the size of the scheme to the specified 225 dwellings (7), for the benefit of the appearance of the development, and its impact on the wider area. The approved access details are listed (4) for the avoidance of doubt, and there is also a need for the submission of internal access arrangements (8). The hours of building work (9), and a construction method statement (10) and restriction on piling methods (21), are required to protect the amenity of adjoining residents, and travel plans (11) are necessary to secure a sustainable form of development.
142. Highway works (12-15) will help to secure road safety and the free flow of traffic, and to facilitate pedestrian and cycle use. In view of the sensitive nature of flood control in this area, the Council's SUDS condition is adopted (18) but with amendments to remove reference to the requirements for of other approvals by third parties. There is a need to secure archaeological interests (19), and to ensure that any unforeseen ground pollution is adequately addressed (20). Protection of existing trees (22) helps to secure the appearance of the development, as do conditions to require details of cycle and refuse/recycling storage (26, 27). Ecological interests are served by control over external lighting (24), and the submission of environmental management plans (23, 25).
143. The possibility of a shortage of water supply, and potential harm to nature interests by water extraction, have been raised by Thames Water and Natural England, with a request for a condition preventing development until feasibility studies have been carried out. Any remedy would be outside the control of the developer and, whilst a Grampian style condition could be applied, the submitted evidence falls short of a strong case that significant harm would arise, or that any outstanding issues could not be resolved by other statutory powers. Having reviewed the situation the Council, at the Inquiry, agreed to withdraw their request for such a condition, and it is recommended in this report that the need for it has not been proved. Correspondence surrounding this matter is appended to the draft conditions for Appeal A in **CA2**.
144. In addition to the identified reserved matters, a number of conditions require action prior to the commencement of development. Those relating to the overall planning and operation of the site, including flood control, are necessary to ensure a coordinated form of development, whilst protection of trees, archaeology, and ecological interests should occur before potential harm could

⁷⁹ **CB1**

arise through building works. A safe form of road access, and protection of the amenity of adjoining residents, should be secured before construction works commence.

INSPECTOR'S CONCLUSIONS

145. Numbers in square brackets refer to previous paragraphs in this report.

The Main Considerations

146. The following main considerations were suggested to the parties at the beginning of the Inquiry: i) whether the proposal complies with spatial policies in the development plan and, if not, whether the application of those policies is outweighed by other considerations, including the need to demonstrate a five year supply of deliverable housing land, ii) the weight to be allocated to the emerging Site Allocations DPD, and whether permission for the proposal would undermine its preparation.
147. No objection to the choice of these considerations was raised, but the Council subsequently withdrew their concern about prematurity to the Site Allocations DPD on the ground that the plan had proceeded a considerable way towards adoption, to diminish its vulnerability to change. There is no reason to disagree with the Council on this point and the second consideration is therefore amended as follows: ii) the weight to be allocated to the emerging Site Allocations DPD.
148. A substantial portion of the Inquiry time was spent on the assessment of housing land supply in West Berkshire. As this aspect informs the evaluation of development plan policy, it is dealt with first.

Housing Land Supply

149. The Inquiry dealt with housing land supply in a combined session of Appeals A and B. Each of the appellants produced their own proofs and gave evidence separately, but took a broadly similar approach to the matters raised, confirmed in a statement of common ground at **CD1/A/5**. They are referred to jointly as “the appellants” in this part of the report.

Assessment of Need

150. The objective to provide for at least 10,500 houses (525 dwellings per annum), in Core Strategy policy CS1 was based on the South East Plan, and was recognised by the Examining Inspector as not representing the objectively assessed need (OAN) set out in para 47 of the NPPF. The policy envisaged that this figure would be updated once a Strategic Housing Market Assessment (SHMA) had been undertaken, and this was issued in February 2016. It was prepared for the wider Housing Market Area (HMA) in conjunction with surrounding Authorities and the Thames Valley Berkshire Local Enterprise Partnership (LEP). The SHMA assessed a need for 665 dwellings per annum (dpa) in West Berkshire, and, despite earlier indications of preferring a lower figure to take account of development constraints, this was the level supported by the Council at the Inquiry. The appellants dispute the findings of the SHMA, assessing an OAN ranging between 750 and 950 dpa⁸⁰. A useful summary of the respective positions of the parties is contained in the table at document **A9**, the

⁸⁰ See document **A9**. Mr Veasey indicates OAN would rise to 1708 dpa if all affordable housing needs were taken into account.

final version of which reflects a number of agreed adjustments made during the course of the Inquiry. [27-31,82, 84]

Demographic Assessment

151. Dealing first with the demographic assessment (stage A of table **A9**), the starting point for the SHMA was 537 dpa derived from the 2012 projections published by the Department of Communities and Local Government (DCLG). Whilst the 2014 figures are now available, showing a reduction to 391 dpa, the Planning Practice Guidance (PPG) recognises that housing assessments are not automatically rendered out of date every time a new projection is issued, and the Council assert that the updated estimates have a limited impact on the overall result⁸¹. The appellants use the updated figures, which are then adjusted to take account of evidence of household suppression and migration trends, to produce an overall demographic led total of 570-610 dpa (Appeal A) and 584 dpa (Appeal B). These levels are not substantially different from a comparably adjusted figure in the SHMA of 583 dpa. Whilst there is fundamental disagreement about the methodology used to reach these results, discussed further below, the similarity of outcome diminishes the extent to which the alterations sought by the appellants would have a material effect on the assessment of demographic led OAN. [33, 34, 85]
152. The projections demonstrate a declining rate of household formation in the 25-34 age group when compared with earlier data and, to a much lesser extent, in the 35-44 band. The SHMA indicates that there may be a range of socio-economic reasons for this trend but acknowledges that a lack of availability of suitable accommodation is a factor that should be addressed. It is the appellants' view that the PPG intends that this should be dealt with as an adjustment to the initial demographic demand, rather than as a response to market signals, which appears later in the calculation. Reference is made to a number of previous appeals and local plan examinations which have adopted this approach, as well as the Local Plans Expert Group (LPEG) in their report to Government of 2016. [34, 42, 86, 87]
153. These points are noted, but even if it is the intention of the PPG to separate these elements of the calculation, the guidance also makes clear that there is no definitive approach to calculating OAN, and there is some strength to the Council's concern about the likelihood of double counting, because the various influences on housing demand are interlinked. It is not accepted that the SHMA has failed to take account of relevant factors, nor that its methodology is fundamentally flawed in these respects. [86]
154. The population and household projections which form the basis of the OAN take account of recent trends in migration patterns, but there is the contention that those used in the SHMA were heavily influenced by the 2008 recession, and that a longer timescale would give a more reliable indication. However, it is also the case that the projections used in the SHMA were sensitivity tested against 10 and 12 year timescales and the outcome did not prove that the 2012 figures unduly suppressed migration trends, although an additional allowance was made for London migration. The evidence falls short of proving that the SHMA has significantly underestimated the level of in-migration. [34, 87]

⁸¹ Mr Ireland's proof of evidence, paras 6.1-6.12

Economic Growth

155. Turning to the second component of the calculation (stage B in the table at **A9**), the disagreement about the anticipated level of economic growth in West Berkshire forms a significant part of the difference between the parties' OAN estimates. The SHMA used data from Cambridge Econometrics September 2013 forecasts, indicating an average rise of 522 jobs per annum (0.5% increase) in West Berkshire. However, prior to the issue of the SHMA, the November 2015 forecasts had become available, showing an average rise of 790 jobs per annum, but this was not reflected in the SHMA analysis. The appellants also criticise the use of only one source of data, whereas their estimates are based on an average of the three main forecasting houses. [36,88-93]
156. There is validity in these concerns. The Inspector at the Stanbury House appeal⁸², dealing with the same SHMA, questioned the use of only one source, noting that the Cambridge Econometrics forecasts appeared relatively conservative by comparison with those issued by Oxford Economics and Experion, a point echoed in the SHMA itself⁸³. It is also the case that the estimate on which economic projections were based was already two and a half years out of date by the time the SHMA was issued, and the latest figures should be used where possible. Late adjustment for the 2015 forecast could have had a significant effect on the OAN. [35, 36, 88-93]
157. However, there are extenuating circumstances. The Cambridge Econometrics forecast was chosen to align the SHMA with the Strategic Economic Plan, prepared by the Thames Valley Berkshire Local Enterprise Partnership. Whilst, as noted by the Stanbury House Inspector, such an alignment should not be at the expense of the accuracy of the OAN, the PPG recognises the value of such an arrangement. Similarly, the SHMA took account of local economic circumstances in assessing the level of growth. The Inquiry also heard that the latest Cambridge Econometrics forecast, of November 2016, reversed the increase shown in 2015, by estimating an average jobs growth of 527. An Oxford Economics forecast of October 2016 showed a similar level (513), although an Experian forecast from the same month estimated the level at 765. [35, 36, 88-93]
158. Taken together, there is clearly a wide variation of results, whether between forecasting houses or over time, and reliance on one forecast could give a misleading impression. However, having regard to the breadth of the Council's local research and consultation, and because the Cambridge Econometrics forecast of 2013 does not appear substantially different from two out of the three current forecasts, the evidence falls short of proving that the basis of the SHMA employment estimate is unduly pessimistic in its approach. Similarly, whilst there is dispute about the source of and quality of data to set activity rates, commuting ratios and whether double jobbing should be taken into account, the alternative evidence does not prove that the SHMA is wrong on these points. [33, 35-39, 88-93, 94]
159. Attention is drawn to the balancing of jobs within the HMA, resulting in a reduced housing requirement in West Berkshire, on the ground that this is an application

⁸² APP/X0360/W/3097721, issued 20 June 2016, **CD7/AB/7**

⁸³ **CD8/AB/1**, para 5.48

of policy rather than reflecting the unadulterated assessment of need. However, the SHMA assesses need throughout the HMA and it does not seem to run counter to the advice in the PPG if appropriate adjustments are made between authorities provided they are agreed in the duty to cooperate. The SHMA was jointly commissioned and regularly consulted on by the constituent authorities and there is no reason to suppose that this was not an agreed position. The Council draw attention to the outcome of the St Modwen case⁸⁴ in support of their position. [38]

Market Signals

160. Section C of the table at **A9** refers to the response to market signals, and the PPG sets out the criteria for assessing whether an adjustment is necessary. Mr Ireland's evidence⁸⁵ summarises the measures taken in the SHMA to assess each criterion, leading to the conclusion that there were affordability pressures in West Berkshire, but not unduly pronounced by comparison with other parts of the region. The SHMA increased the initial DCLG figure (537 dpa) by 13.5% to improve affordability, addressing the suppression of household formation observed in the younger age groups. A further 9.1% upward adjustment was made to accommodate future migration. [33, 40, 42, 95]
161. The appellants dispute the principle behind this methodology, noting that the PPG deals with affordability as a separate element after demographic trends have been considered. However, for the reasons previously given, it is not accepted that the SHMA is necessarily wrong in this respect. Any adjustment to address affordability is, by its nature, approximate, and it is necessary to monitor the effect in later iterations of the OAN calculation. However, on the basis of the present information, the proposed uplift does not seem unreasonably low, and would not be out of keeping with the conclusions of the Inspector at the Stanbury House appeal⁸⁶ when dealing with the same issue, albeit in a different Authority. [86, 95]

Affordable Housing

162. With respect to the level of affordable housing (section D of the table at **A9**), the SHMA assesses a need for 189 affordable dwellings per annum in West Berkshire which, at a delivery rate of 30%, would generate an overall need for 630 dpa. This is based on a threshold of 35% of gross income being spent on housing costs, which the Council point out⁸⁷ is very similar to the 34% of income spent on rent nationally identified by the Survey of English Housing, and the threshold advised to registered providers by the Homes and Communities Agency. Although the 30% rate of delivery would be higher than is presently achieved, a larger proportion of future sites will be on green-field land, where there is more likelihood of reaching the target of 40% affordable housing in policy CS6. [40, 41, 96-101]

⁸⁴ St Modwen Developments Ltd v SSCLG and East Riding of Yourshire Council [2016] EWHC 968 (Admin) **CD7/CAB/3**

⁸⁵ Mr Ireland's proof of evidence para 5.73

⁸⁶ APP/X0360/W/3097721, issued 20 June 2016, **CD7/AB/7**, para 42

⁸⁷ See Mr Ireland's proof para 6.39

163. The appellants note that the 35% threshold of gross income threshold is significantly higher than the 30% net income referred to in the definition of affordable rents in the Core Strategy. In West Berkshire it would secure only a one bedroom dwelling on the private rental market, leaving little disposable income, and there is limited evidence to support the assumption that 90% of owner occupiers would be able to finance any shortfall in their accommodation costs out of their own resources. A safer set of assumptions⁸⁸, indicate, for instance, that a 25% gross income threshold would generate a need for 427 affordable dwellings, which, at a more realistic 25% rate of delivery, would require a total of 1708 market and affordable homes per annum. [41, 96-101]
164. However, whilst a case may be made for a higher level of provision than that shown in the SHMA, it is also true, as pointed out in the Kings Lynn judgement⁸⁹, that the calculation of unmet affordable housing need will often produce a figure with little prospect of being delivered in practice. The NPPF distinguishes between the obligation to meet general housing demand and the requirement to address affordable housing need, and the PPG advises only that an increase in the total housing should be considered where it would help to deliver the required affordable homes. In the present case, the Council have addressed the need for affordable housing, and the evidence does not show that the criteria used are either so adrift of normal practice, or that the expectations of the level of delivery are so unrealistic, as to justify rejecting the SHMA figure on these grounds. [40, 41, 96-101]

Local Plans Expert Group

165. Reference is made to the report to Government of the Local Plans Expert Group (LPEG) of March 2016 which, amongst other matters, recommended codifying the calculation of OAN for the benefit of consistency and to streamline plan preparation. The appellants draw support from a number of the conclusions reached by this group, and have prepared an OAN based on its recommendations, in parallel with their own calculations, indicating an OAN of 771 dpa. [42,103]
166. The LPEG report is under consideration by DCLG, and at the time of writing there is no indication whether its recommendations are to be adopted, in whole or in part. It is also recognised that some aspects of the proposed methodology have been the subject of criticism, particularly in respect of possible double counting⁹⁰. At this stage it is not possible to give substantial weight to the relevant LPEG proposals, but it may be, during the course of these appeals, that this is a matter which the Secretary of State will reappraise in the light of any progress towards adoption of a standard methodology. [42, 103]

Conclusions on Housing Need

167. The SHMA is a comprehensive document which seeks to explain and justify the basis on which the OAN is calculated. It was prepared in conjunction with the constituent local authorities and the Local Enterprise Partnership, and, whilst the

⁸⁸ See Table 5.8 of Mr Veasey's evidence, **CD1/B/11**

⁸⁹ Kings Lynn and West Norfolk v SSCLG and Elm Park Holdings Ltd [2015] EWHC 2464 (Admin), **CD7/CAB/5**, para 32

⁹⁰ Mr Ireland's supplementary proof, 12.6 refers

appellants' claimed shortcomings in the consultation process are noted, there were opportunities for the involvement of interested third parties. It has not been tested at a Local Plan Examination, and its conclusions are susceptible to critical examination, but it is, nonetheless, entitled to substantial weight. [43]

168. Whilst the guidance gives considerable scope for reaching the alternative conclusions put forward by the appellants, those conclusions fall short of proving that the SHMA is fundamentally flawed in its methodology or results. It is true that its length of preparation has meant that parts of the data are now of some age, but any variation from up-to-date figures is not of such significance as to invalidate the results. There are grounds to consider that 665 dpa is an adequately realistic measure of OAN in West Berkshire for the purpose of the present appeals.

Land Supply

The Buffer

169. NPPF para 47 sets out the need to increase the supply over the OAN by 5% or, where there is a record of persistent under delivery, 20%, in order to ensure choice and competition in the land market, and to provide a realistic prospect of achieving the planned supply. At the time of considering the Core Strategy, in 2012, the Inspector noted that there had been an under supply against the targets in 7 of the preceding 12 years. However, he recognised the effect of the recession from 2008 and that there had been a strong level of delivery in the earlier part of the period, and decided that there was not evidence of persistent under supply, so that a 5% buffer should apply. The appeal at Mans Hill⁹¹ reached a similar conclusion in February 2015, noting that, whilst the Council's record did not paint a glowing picture of housing delivery, the circumstances had not changed so substantially in the intervening period as to justify a different outcome. The Inspector at Firlands Farm⁹² in July 2015 also took account of strong delivery in 2004/5 and 2005/6, and favoured a 5% buffer. [44-47, 104, 105]
170. Since these decisions, the SHMA has been issued indicating an OAN of 665 dpa, and it is the appellants' contention that the recent past record should be looked at in the light of this figure, rather than 525 dpa shown in the Core Strategy. The Council note that the Uttlesfield appeal⁹³, and references quoted within it, rejected this approach, and that it would not be reasonable to expect the planning authority to meet a level of which they were unaware until the issue of the SHMA. However, the guidance does not set a particular rule on this point, and a decision is subject to the circumstances applying. In this case, it was clear that the Core Strategy figure did not represent an assessment of need measured in accordance with the NPPF; the Core Strategy Inspector anticipated that the real figure would be higher⁹⁴, and that it would be necessary for an early reappraisal. It is also the case that much of the base data which informed the SHMA came from 2012 and 2013, rather than representing a recent change of circumstances at its issue in 2016. It is reasonable to assess performance

⁹¹ **CD7/CAB/8**

⁹² **CD7/AB/1**

⁹³ APP/C1570/A/14/2213025, para 15.16, Appendix 7 of Ms Peddie's proof

⁹⁴ **CD6/B/1** para 30

against the requirement of 525 dpa up to 2012/13 but 665 dpa thereafter. [44-47, 104, 105]

171. The parties also differ in the length of time over which the assessment is made. Whilst the PPG recommends the use of a longer time scale to even out the effect of the economic cycle, the very strong performance in the period up to 2005/6 is of diminished relevance now, and its inclusion has a disproportionate effect on the overall result. A 10 year period provides a reasonably balanced assessment. [44-47, 104, 105]
172. On this basis⁹⁵, the figures show a deficit in 6 out of the 10 years, all of which have occurred within the last 7 years, and a cumulative under-supply over this period of 658 units (which would rise to 1197 if 2006/7 were removed from the equation). It is certainly true, as noted by the Core Strategy Inspector, that the 2008 recession had a significant influence over part of this period, but there has been a reducing effect since the adoption of the plan in 2012. There are grounds to consider that there is a record of persistent under delivery and that a buffer of 20% is now justified. [44-47, 104, 105]

Deliverable Housing Land

173. The Council's evidence⁹⁶ indicates deliverable sites for 4,902 dwellings, whereas the appellants estimate 3,420 and 3,520 in Appeals A and B respectively. Document **CAB3** records the common ground between the parties, and identifies in Table 2 the list of sites which are in dispute. A large portion of the difference arises out of disagreements about the likely delivery rates from the two major strategic sites identified in the Core Strategy: Sandleford Park and Newbury Racecourse [108].
174. The Inspector for the Housing Site Allocations DPD questioned⁹⁷ the likely output from Sandleford Park, noting that the project is relatively complex and the trajectory may be overly ambitious. Current information reinforces this concern. There is no indication that the intention to decide the planning applications on this site by the end of 2016 has been achieved, and there appear to be difficulties in ensuring a comprehensive form of development. The associated supplementary planning document⁹⁸ makes clear that the planning for the whole of the site should be dealt with in a single application to ensure a coordinated approach and the timely provision of infrastructure, but there are indications of a lack of agreement between the owners of the site, and a likelihood that Section 106 obligations will not be easily or quickly put in place. The appellants also point to a number of access concerns identified by the Council's Highways department⁹⁹. There is limited information about the detailed progress towards development of the site but, on the basis of the submitted evidence, there appear to be a number of potential impediments to early development which raise significant doubts about whether the Council's trajectory is deliverable. Whilst the forecast put forward by the appellants in Appeal B is the more

⁹⁵ See, for instance, Table 1, page 71, of Ms Cohen's proof **CD1/A/15**

⁹⁶ Table at 6.24 of Ms Peddie's proof

⁹⁷ **CD8/A/7**

⁹⁸ Sandleford Park SPD, 2015, Policy S1, **CAB8**

⁹⁹ **CD8/A/9-11**

cautious, that proposed in Appeal A appears realistic and is adopted in this report. This would diminish the Council's estimate by 240 homes. [49, 109]

175. The second strategic site, Newbury Racecourse, is in the course of development, being about halfway through a 10 year build programme, with the first phase complete, the second under construction, and proposals to start the third sector imminently. The point of dispute is whether the anticipated rate of future delivery is achievable. Figures supplied by the developer¹⁰⁰ point to an average rate of 125 dwellings completed per annum in each full year up to 2016/17, whereas the programme requires a step change to an average rate of 233 dpa for the 4 full years following. Whilst this level was achieved in 2014/15, it was surrounded by years of much lower delivery. There is reason to share the doubt about maintaining this rate over a more extended period, which would exceed the current rate of sales¹⁰¹, and would be substantially larger than the company's reported average rate of site delivery¹⁰². Whilst it is part of the appellants' case that there is an unmet housing need, there is likely to be a limit to the rate of demand within a single location, and there will be competition from Sandleford Park and the sites identified in the Housing Site Allocations DPD during this time. Even if the developer is under an obligation to the landowners to meet this timetable, the details of any agreement are not known, and it seems probable that it would be in neither of the contracting parties' interests to spoil their market by enforcing such an arrangement. The appellants estimate a reduction of 314 units during the course of the 5 year period, which is accepted as a much more likely outcome than the assessment relied on by the Council. [50, 110]
176. Whilst there are existing commercial uses of the J&P Motors site, there is no indication of any legal impediment to the use of the land for housing, it has an implemented planning permission, and there is recent evidence of the involvement of a developer. The Lakeside site in Theale received planning permission in 2007, later implemented, but without development proceeding, and a replacement application is currently at appeal. Nonetheless, the appellants' evidence falls short of proving that the existing permission does not represent a viable fall-back position, and a significant sum has already been paid to meet Section 106 obligations. On balance, there seems to be a reasonable prospect that both of these sites will deliver housing within the five years. [51, 52, 111]
177. The Council include sites identified in the emerging Housing Site Allocations DPD, which, although not adopted, is some way through the Examination process and there is no indication that the identified land will not be allocated. Attention has been drawn to the Wainhomes¹⁰³ judgement, which cautioned against the assumption that such land would be deliverable without specific evidence, but submissions from the Council¹⁰⁴ indicate that each of the owners of the disputed sites has been contacted and expects housing development to be carried out within five years. In the circumstances, there are not substantial grounds for reducing the expected delivery from this source. [53, 113]

¹⁰⁰ Ms Peddie's proof Appendix 3

¹⁰¹ Indicated in document **CAB7** as "1 house and 1-2 flats per week"

¹⁰² Document **B7**

¹⁰³ Wainhomes Holdings Ltd v SSCLG [2013] EWHC 597 Admin, **CD7/B/4**

¹⁰⁴ **CAB6**

178. Market Street Newbury is a complex, town centre scheme involving a high density of development on a confined site with level differences. However, it is mainly owned by the Council, with a developer in train, and there is progress towards resolving planning and obligations issues, and to relocate the present bus station. Part of the land is in third party ownership, but there is no evidence that any failure to secure this property would prevent a scheme from proceeding. Delivery of 232 units from this site within 5 years does not seem to be an unreasonable expectation. The Pound Lane Depot site is also owned by the Council. It was rejected for inclusion in the 5 year supply at the Mans Hill appeal, on the grounds of uncertainty about the proposed use, and costs of ground remediation. However, a planning permission for 47 units has now been granted subject to a Section 106 agreement and, whilst there has been some delay in this respect, there is not a substantial reason to exclude the site. There is limited information about two small sites in dispute, but the total difference, 4 dwellings, would not have a material effect on the overall calculation. [54, 55, 112]
179. In summary, there is sufficient doubt about the likelihood that all the anticipated units will be delivered at Sandleford Park and Newbury Racecourse to indicate that they cannot be considered to be fully deliverable in terms of the definition in footnote 11 of the NPPF. For the purposes of these appeals, the Council's five year housing supply estimate is reduced by 554 dwellings, from 4,902 to 4,348.

Conclusion on Housing Land Supply

180. The parties agree¹⁰⁵ that an OAN of 665 dpa, along with the accumulated deficit, would produce a 5 year requirement for 3,742 dwellings. With a 20% buffer, the figure would rise to 4,490, or 898 per annum. A delivery of 4,348 would therefore equate to 4.84 years supply.

Development Plan Policy

Whether the proposal complies with the development plan

181. With respect to the principle of the development of this site, being green-field land outside the settlement boundary, the Council's reason for refusal refers to Core Strategy policies CS1 and ADPP3, and saved Local Plan policy HSG1. Core Strategy policy ADPP1 is not referred to in the notice, although Mr Dray's proof¹⁰⁶ indicates conflict with its terms. There is no clear difference of principle between this appeal and Appeal A, where ADPP1 is cited, and the policy appears relevant to the issues involved. [75]
182. The proposal does not comply with any of the 4 categories of land which CS1 identifies for future housing development. In particular, it is not one of the sites which have been chosen in the Site Allocations DPD referred to in this policy. However, the wording is not wholly prohibitive of development outside these categories. [60, 74]
183. The location would meet a number of the locational criteria in ADPP1, including that it is adjacent to one of the main urban areas in the settlement hierarchy and the Council do not specifically claim that there is a lack of supporting

¹⁰⁵ See Mr Tustain's proof, Table 15 (**CD1/B/10**) and Ms Peddie's proof, tables at paras 6.15 and 6.21

¹⁰⁶ Mr Dray's proof paras 5.4-5.7

infrastructure, facilities or services, nor that it is inaccessible by walking, cycling and public transport. However, the final part of this policy creates restrictions on development in areas below the settlement hierarchy, including open countryside. It is the appellants' view that, in being adjacent to an urban area, the site falls within the settlement hierarchy and is therefore excluded from this aspect of the policy. [61, 75, 118]

184. However, although the policy refers to the potential for development adjacent to a settlement, this is in the context of CS1, where such land would be allocated in a development plan document. It distinguishes land adjoining a settlement from the settlement itself, and the District Settlement Hierarchy table refers only to the settlement. Therefore, the land falls below the settlement hierarchy. Despite its proximity to the town, it is composed of agricultural fields with the characteristics of open countryside, and is subject to the final bullet point of policy ADPP1, which allows only limited development which addresses identified needs and maintains a strong rural economy. The proposal would not comply with this aspect of the development plan. This conclusion is different from that reached by the Inspector at Firlands Farm¹⁰⁷, but is arrived at in relation to the particular points raised in the present appeal. [62, 75]
185. Policy ADPP3 indicates that approximately 900 homes are to be provided in Thatcham during the plan period, two thirds of which had already been committed or completed at the time of publication. The remainder would be allocated through the Site Allocations DPD. It is clear¹⁰⁸ that the relatively limited growth of Thatcham arises out of a local desire for retrenchment after a period of rapid development, to allow the infrastructure to catch up. However, the Inspector's Examination report notes that higher growth may become necessary if additional housing is required, and the Core Strategy sets the delivery target as a minimum figure. 900 homes should not be viewed as a ceiling, and the wording of ADPP3 does not directly restrict development to this level. [61, 74, 119]
186. Local Plan policy HSG1 is a permissive policy which identifies the settlements within which new housing will be allowed, including Thatcham. It does not specifically exclude housing in other areas, but the accompanying text notes that development outside settlement boundaries would only be permitted in exceptional circumstances, which is taken to exclude the appeal proposal. However, some caution must be used in this interpretation, because, to the extent that the supporting text is creating policy, it is entitled to lesser weight than the policy itself. The replacement policy C1 in the emerging Site Allocations DPD resolves this issue by including a presumption against new residential development outside settlement boundaries. [64, 73, 77]

The emerging Site Allocations DPD

187. The DPD has passed a considerable way through the Examination process, with amendments in respect of the Inspector's initial report being subject to a further round of public consultation. Whilst objections remain, the principles of those matters pertinent to this appeal have largely been established and there is reason to consider that the policies will be adopted as part of the development

¹⁰⁷ **CD7/AB/1**

¹⁰⁸ See Inspector's Examination report paras 64-67 **CD8/CAB/2**

plan in the first half of 2017. The emerging plan is entitled to considerable weight in accordance with NPPF para 216, although subject to the limitations discussed below. [64, 77, 122]

The weight to be attributed to policies

188. Material considerations may lead to a lesser weight being allocated to development plan policies, including when they are deemed out of date, or inconsistent with the policies of the NPPF. An intention to protect the rural areas by restricting development outside defined settlement boundaries is not inconsistent with the NPPF, which recognises the inherent character and beauty of the countryside. However, those boundaries should reflect the need for land to allow necessary growth, including the provision of a wide choice of homes.
189. The housing requirement which informed policy HSG1 was implementing a Structure Plan which is no longer in force, and the policies of the Core Strategy are not based on an objective assessment of need which accords with the NPPF. As such, those aspects of the identified policies which seek to restrict development to the present settlement boundaries are not up to date, and their weight is diminished accordingly. The emerging Site Allocations DPD will amend the settlement boundaries to provide more housing land but, as a daughter document of the Core Strategy, not in relation to a current assessment of housing need. [58, 64, 65, 78, 79, 116, 122]
190. Para 49 of the NPPF indicates that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. There is no dispute between the parties that policies CS1, ADPP1, ADPP3 and HSG1 are relevant policies in this context and, in the absence of a five year supply, the policies are not up to date for this reason also. [57, 81]

Conclusions on the Main Considerations

191. The process set out in the Core Strategy, where future development land will be identified through the Site Allocations DPD, reflects the need for a plan led system supported by the NPPF. The appeal proposal would be outside this mechanism and also contrary to the specific restrictions on development in the countryside imposed by ADPP1, and, with the reservation noted above, HSG1, reinforced by the weight given to emerging policy C1.
192. However, the policies do not reflect current housing need, and the Planning Authority is not able to demonstrate a five year supply of deliverable housing land. The NPPF seeks to boost significantly the supply of housing and the policies are not up to date in achieving this objective. Whilst there remains a need to secure a sustainable form of development, the weight attributed to the policies is reduced to the extent that a location outside the settlement boundary is not, of itself, an overriding reason to dismiss the appeal.

Other Matters

193. The flooding of the area in 2007, and incidents since, have raised local awareness of the risks associated with the development of the slopes above the town. In particular, there is a concern that the hard surfacing of the land would diminish its storage capacity and create excessive flows in the existing outfalls, as well as the hydrological implications of carrying out excavations which are likely to

breach the water table. To address these matters, the appellants have prepared surface water proposals, in consultation with the relevant authorities, which would fit within the context of the Council's Surface Water Management Plan for the town. The Statement of Common Ground¹⁰⁹ confirms that the Council raises no objection to the proposal on drainage grounds, and that the current maximum green-field run off rate would be reduced by the scheme. [134, 135]

194. There is no clear reason to conclude that the land cannot be satisfactorily drained, and a planning condition would enable scrutiny of the details of the scheme, and measures for its long term maintenance. The Council do not routinely consult with other parties when considering such submissions, but agreed that there was no reason that they should not do so, and, as there are local groups with an interest in this issue, it is recommended they should be given the opportunity to comment on the detailed design. Such groups would not be taking liability for the final design, and their advice should be treated in that light, but they do have extensive local knowledge which would help to inform the solution.
195. The Council withdrew its objection to the visual impact of the scheme, and its effect on landscape character and the setting of the AONB, following the reduction in the scale of the proposal. Nonetheless, these are matters which continue to concern interested parties, especially in respect of the impact on the village of Cold Ash, and its separate identity from Thatcham. Reference was made to the dismissal of an appeal¹¹⁰ for 6 bungalows on land south of Pound Cottage, Cold Ash, which identified harm to the rural setting of the village. [127, 136]
196. These concerns are recognised, and it is certainly the case that the proposal would lead to urban development extending northwards alongside Cold Ash Hill, towards the village. However, it would retain an area of open space between the settlements, and there would be limited inter-visibility because of the retention and reinforcement of vegetation. It would extend no further northwards on the western side of Cold Ash Hill than the existing housing on the eastern side, appearing as a consolidation of the urban area, and would be perceived as an extension of Thatcham rather than of Cold Ash. In these respects, the circumstances are different from those applying to the land south of Pound Cottage. Nor is there an indication that the development would have a harmful effect on the setting of the AONB. Overall, there is reason to agree the Council's assessment that the present scheme would avoid an unduly harmful visual impact.
197. Similarly, there are not substantial grounds to challenge the conclusions of the Transport Statement of Common Ground¹¹¹, which set out the agreement of the main parties to the measures necessary to mitigate the impact on traffic, and that the site occupies a reasonably accessible location. Whilst Thatcham is a smaller settlement than Newbury, it is identified in Core Strategy policy ADPP1 as one of the main urban areas with a wide range of services which will be the focus of the majority of development. The evidence does not prove that the new

¹⁰⁹ **CD1/B/8**

¹¹⁰ APP/W0340/W/16/3143521

¹¹¹ **CD1/B/7**

housing could not be adequately served by local facilities and infrastructure. The scheme would lead to some disturbance of wildlife, but the retention of open space, and measures to protect and enhance habitats, would help to minimise any harm. [137]

198. These, and the other matters raised, do not amount to reasons to recommend dismissal of the appeal.

Obligations

199. The Unilateral Undertaking at B5 makes provision for a range of obligations, including: affordable housing at a minimum of 40% of dwellings; the planning, management and maintenance of open space and drainage measures on the site; travel plans to contribute to a sustainable form of development; and a GP surgery. In the latter case there is no indication that a surgery is essential to make the development acceptable, but, in other respects the obligations would meet the tests in Community Infrastructure Levy (CIL) Regulation 122.
200. The Undertaking makes provision for the payment of £60,000 per annum for five years to establish the extension of a bus service into the site. Whilst the Council are not able to confirm that the service operator would be willing to adjust the existing route¹¹², there is the alternative option of diverting a minibus service operated by the Council. The outer reaches of the new estate would be some distance from existing bus stops, and the proposal to contribute to the cost of amending routes formed part of the appellants' proposals to secure the sustainability of the development. Whilst there is limited support for the specific sum offered, it does not seem out of keeping with the likely costs of setting up a service. There is also a contribution made to the Thatcham Nature Discovery Centre, to offset the additional pressure which the recreational needs of the development would place on the conservation of the nearby Thatcham Reed Beds SSSI, justification for which is included in Appendix B of Mr Dray's proof. Whilst the initial sum requested appeared excessive in relation to the assessed need for mitigation, the reduced figure in the undertaking reasonably reflects the likely expenditure. The Council confirm that these contributions would not conflict with CIL Regulation 123 and, on balance, it is suggested that they meet the tests in Regulation 122.

Overall Conclusions

201. The Council's outstanding objection relates to the principle of development in open countryside outside the settlement boundary, contrary to a range of adopted and emerging development plan policies. However, the settlement boundaries on which those policies are based do not reflect the current objectively assessed need for housing, and the Council is not able to demonstrate a five year supply of deliverable sites. Nor is there any dispute that the policies are relevant to the supply of housing. In these circumstances, the policies are not up to date, and the assessment falls to be made in relation to the final bullet point of NPPF para 14, which indicates that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, or because specific NPPF policies indicate development should be restricted. [68, 69, 128-131]

¹¹² See contribution justification at **CB5**

202. It is recognised that the assessed level of housing land supply, at 4.84 years, is not substantially below the 5 year level set in NPPF para 47, and that permission for Appeal A, for instance, could increase the level above this threshold. However, it would be a marginal compliance, vulnerable to any shortfall in the anticipated rate of land delivery, and the Council's policies concerning settlement boundaries would remain out of date by not reflecting a current OAN. Having regard to the need to boost significantly the supply of housing, and the lack of robustness in the Council's position, this aspect does not alter the overall assessment.
203. Whilst the Council do not identify any specific harm arising out of the development, interested parties draw attention to a number of issues, including the impact on local landscape and the relationship with the village of Cold Ash. It is appreciated that the replacement of agricultural land with suburban development would, inevitably, lead to a change of character of the land. However, the impact of this change would be limited; not out of keeping with the present character of the area, and without having an unduly damaging effect on the setting or either Thatcham or Cold Ash. Similarly, there is no clear reason to conclude that local services and infrastructure would not be able to accommodate the additional housing. Indeed, as identified by the Core Strategy Examining Inspector, the additional development would provide the opportunity for greater investment in local infrastructure. [133-137]
204. The provision of up to 225 houses in an accessible location would contribute to the Council's housing supply, and meet some of the objectives identified in the SHMA, including increased affordability, and accommodation for a workforce to support economic growth. The development would contribute local investment during the construction phase, and a market for local goods and services thereafter. Up to 90 affordable homes would meet a need for lower cost housing in the area, and there would be the wider benefits of additional investment in flood control within the context of the town's surface water scheme, and the provision of public open space. [69, 124-126]
205. Overall, the scheme would bring economic and social benefits, and, in the absence of any substantial environmental harm, there is reason to conclude that it would be a sustainable form of development. Contravention of policies intended to prevent development outside settlement boundaries is not of sufficient substance to amount to the significant and demonstrable harm necessary to outweigh the benefits of the proposal, and there is no indication of conflict with specific policies of the NPPF. This finding, subject to consideration of the matter referred to in paragraph 202 above (concerning the implications for the current appeal in the event of Appeal A being allowed), represents a material consideration which, in my judgment, would warrant the granting of planning permission notwithstanding the failure of the proposal to comply with the development plan in the respects referred to above.

RECOMMENDATION

206. For the above reasons, it is recommended that the appeal be allowed, subject to the conditions in Annex 3.

John Chase

INSPECTOR

ANNEX 1

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Ms E Lambert	of Counsel
She called	
Mr N Ireland BA, MTPI, MRTPI	GL Hearn
Ms C Peddie BSc, MSc, MRTPI	Planning Department West Berkshire District Council (WBC)
Mr R Dray BSc, MSc	Planning Department, WBC

FOR THE APPELLANTS:

Mr C Boyle QC	
He called	
Mr D Veasey BA, DipTP, MRTPI	Nexus Planning
Mr R Tustain BA, DipTP, DMS, MRTPI	Nexus Planning
Mr R Hewitt BSc, CEng, MICE, MCIHT	Stuart Michael Associates Ltd

FOR THE APPELLANTS OF APPEAL A (SIEGE CROSS):

Ms M Cook	of Counsel
She called	
Mr D Usher BA, MA, MRTPI, MIED	Barton Willmore
Ms K Cohen BSc, MCD, MRTPI	Barton Willmore

INTERESTED PERSONS:

Mr R Crumly	Thatcham Town Council
Mr Pieri	On behalf of Mr I Dunn, Thatcham Flood Forum
Mr B Woodham	Thatcham Flood Forum
Mr I Goodwin	Cold Ash Parish Council Flood and Water Course Warden
Ms V Conyers	Local Resident
Mr M Munro	Cold Ash Parish Council
Mr G Simpson	District Councillor, Cold Ash Ward

ANNEX 2

DOCUMENTS

A – DOCUMENTS SPECIFIC TO ‘APPEAL A’ (SIEGE CROSS)

CD1/A – Appeal Documents

CD1/A/1	Appeal Covering Letter
CD1/A/2	Appeal Form
CD1/A/3	Appellant’s Statement of Case, prepared by Barton Willmore LLP
CD1/A/4	West Berkshire District Council’s Statement of Case
CD1/A/5	Agreed Education Statement of Common Ground
CD1/A/6	Agreed Objectively Assessed Housing Need Statement of Common Ground
CD1/A/7	Agreed Heritage Statement of Common Ground
CD1/A/8	Agreed Landscape Statement of Common Ground
CD1/A/9	Agreed Planning Statement of Common Ground
CD1/A/10	Agreed Transport Statement of Common Ground
CD1/A/11	Mr. Jan Kinsman, Proof of Evidence – Education
CD1/A/12	Mr. Dan Usher, Proof of Evidence – Objectively Assessed Housing Need
CD1/A/13	Mr. Jonathan Smith, Proof of Evidence – Heritage
CD1/A/14	Ms. Lisa Toyne, Proof of Evidence – Landscape
CD1/A/15	Mrs. Kim Cohen, Proof of Evidence – Planning
CD1/A/16	Mr. James Bevis, Proof of Evidence – Transport

CD2/A – Planning Application Documents – Original submission

CD2/A/1	Planning Application Form
CD2/A/2	Site Boundary Plan (Dwg No. 1001 Rev D), prepared by Barton Willmore LLP
CD2/A/3	Parameters Plan - Maximum Heights (Dwg No. A123 Rev D), prepared by Barton Willmore LLP
CD2/A/4	Application Master Plan (Dwg No. A126 Rev F), prepared by Barton Willmore LLP
CD2/A/5	Potential Site Access Arrangements from Floral Way (Dwg No. ITB7223-GA-005 Rev C), prepared by i-Transport
CD2/A/6	Gables Way Widening (Dwg No. ITB7223-GA-007 Rev A), prepared by i-Transport
CD2/A/7	Potential Site Access Arrangements from Bath Road (Dwg No. ITB7223-GA-008 Rev I), prepared by i-Transport
CD2/A/8	Proposed Floral Way Signalised Junction (Dwg No. ITB7223-GA-009 Rev C), prepared by i-Transport
CD2/A/9	Proposed Site Access Arrangements HGV U-Turn Swept Path Analysis (Dwg No. ITB7223-GA-012 Rev A), prepared by i-Transport
CD2/A/10	Illustrative Site Layout (Dwg No. 1032 Rev F), prepared by Barton Willmore LLP
CD2/A/11	Planning Statement, prepared by Barton Willmore LLP
CD2/A/12	Design and Access Statement – Revision J, prepared by Barton Willmore LLP
CD2/A/13	West Berkshire District & Thatcham Housing Requirements Assessment, prepared by Barton Willmore LLP
CD2/A/14	Economic Benefits Assessment, prepared by Barton Willmore LLP
CD2/A/15	Transport Assessment, prepared by i-Transport
CD2/A/16	Framework Travel Plan, prepared by i-Transport
CD2/A/17	Framework School Travel Plan, prepared by i-Transport
CD2/A/18	Education Strategy, prepared by EFM
CD2/A/19	Landscape and Visual Appraisal, prepared by Barton Willmore LLP
CD2/A/20	Ecological Impact Assessment, prepared by AMEC
CD2/A/21	Habitats Regulations Assessment, prepared by AMEC
CD2/A/22	Flood Risk Assessment, prepared by WSP

CD2/A/23	Services Appraisal Report, prepared by WSP
CD2/A/24	Air Quality Assessment, prepared by WSP
CD2/A/25	Noise Impact Assessment, prepared by WSP
CD2/A/26	Mineral Sterilisation Report, prepared by WSP
CD2/A/27	Phase 1 Ground Investigation Report, prepared by WSP
CD2/A/28	Heritage Statement, prepared by CgMs
CD2/A/29	Energy Statement (including Code for Sustainable Homes and BREEAM Pre-Assessments), prepared by Silver
CD2/A/30	Agricultural Land Assessment, prepared by Reading Agricultural Consultants
CD2/A/31	Tree Survey & Tree Retention/Removal Outcomes, prepared by Forbes-Laird Arboricultural Consultancy Ltd
CD2/A/32	Statement of Community Involvement, prepared by Remarkable
CD2/A/33	Siege Cross Air Quality Report – Revision 2 – 13th Jan 2015
CD2/A/34	Flood Risk Assessment – Revision 3 – 16th Jan 2015
CD2/A/35	Mineral Sterilisation Report – Revision 1 – 14th Jan 2015
CD2/A/36	Siege Cross Phase 1 Ground Investigation Report – First Issue – 23th July 2014
CD2/A/37	Noise Impact Assessment – Revision 4 – 6th Jan 2015
CD2/A/38	West Berkshire District Council – Screening Opinion

CD2.1/A – Planning Application Documents

Further documentation submitted during application

CD2.1/A/1	Supplementary Statement – Scale (March 2015), prepared by Barton Willmore LLP
CD2.1/A/2	Site Cross Section No. 20590-1039-1, prepared by Barton Willmore LLP
CD2.1/A/3	Site Cross Section No. 20590-1039-2, prepared by Barton Willmore LLP
CD2.1/A/4	Landscape and Visual Appraisal – Response to WBC's Preliminary Report (May 2015), prepared by Barton Willmore LLP
CD2.1/A/5	Design and Access Statement – Revision L (August 2015), prepared by Barton Willmore LLP
CD2.1/A/6	Application Masterplan – Revision J (August 2015), prepared by Barton Willmore LLP
CD2.1/A/7	Illustrative Site Layout Plan – Revision H (August 2015), prepared by Barton Willmore LLP
CD2.1/A/8	Potential Site Access Arrangements from Floral Way (Dwg No. ITB7223-GA-005 Rev D), prepared by i-Transport
CD2.1/A/9	Gables Way Widening (Dwg No. ITB7223-GA-007 Rev B), prepared by i-Transport
CD2.1/A/10	(Dwg No. ITB7223-GA-013 Rev F), prepared by i-Transport
CD2.1/A/11	(Dwg No. ITB7223-GA-014 Rev E), prepared by i-Transport
CD2.1/A/12	Transport Assessment Addendum, prepared by i-Transport
CD2.1/A/13	Flood Risk Assessment Addendum – Revision 1 (August 2015), prepared by WSP
CD2.1/A/14	Revised Arboriculture Report (August 2015), prepared by Forbes-Laird Arboricultural Consultancy Ltd
CD2.1/A/15	Heritage Statement (August 2015), prepared by CgMs Consulting
CD2.1/A/16	Ecological Memo (August 2015), prepared by Amec Foster Wheeler
CD2.1/A/17	Response to North Wessex Downs AONB (August 2015), prepared by Barton Willmore LLP
CD2.1/A/18	Response to Kirkham Landscape Planning Ltd on behalf of West Berkshire Council, prepared by Barton Willmore LLP
CD2.1/A/19	Landscape and Visual note (August 2015), prepared by Barton Willmore LLP
CD2.1/A/20	Conservation Officer Response – Denis Greenway (05/03/2015)
CD2.1/A/21	Third Party responses received by the Planning Inspectorate
CD2.1/A/22	Barton Willmore Response to Thatcham Town Council

CD3 / A – Local Planning Authority Committee Documents and Decision Notice

- CD3/A/1 Case Officer's Report, dated 14th October 2015
- CD3/A/2 Decision Notice, dated 14th October 2015

CD4 / A – National Planning Policy

- CD4/A/1 Planning (Listed Buildings and Conservation Areas) Act 1990

CD5 / A – Other National Planning Policy and Guidance (Extracts where appropriate)

- CD5/A/1 National Character Area profile 129: Thames Basin Heaths, Natural England (2014)
- CD5/A/2 BS5837:2012 - Trees in relation to design, demolition and construction – Recommendations
- CD5/A/3 Historic England Conservation Principles 2008
- CD5/A/4 Historic England Good Practice Advice No.3: The Setting of Heritage Assets
- CD5/A/5 'Planning for Growth' – Ministerial Statement (March 2011)
- CD5/A/6 Governments letter to Chief Planning Officers (March 2011)

CD6 / A – Local Planning Policy and Guidance (Extracts where appropriate)

- CD6/A/1 The Countryside Agency and Scottish Natural Heritage (2002) Landscape Character Assessment- Guidance for England and Scotland
- CD6/A/2 West Berkshire Core Strategy 2012 – Inspectors Report
- CD6/A/3 West Berkshire Core Strategy – Appendix D 'Critical Infrastructure Schedule of the Infrastructure Delivery Plan'
- CD6/A/4 North East Thatcham Strategic Flood Risk Assessment (Jacobs – February 2009)
- CD6/A/5 Surface Water Management Plan for Thatcham (WSP – 2010)

CD7 / A – Appeals and Judgements

- CD7/A/1 Appeal Decision: Offenham, Wychavon, 07 February 2014 (APP/H1840/A/13/2203924)
- CD7/A/2 Appeal Decision: Fairford, Cotswold District Council, 22 September 2014, (APP/F1610/A/14/2213318)
- CD7/A/3 Appeal Decision: Saltburn, Redcar & Cleveland, 16 December 2015 (APP/V0728/W/15/3006780)
- CD7/A/4 Appeal Decision: Ormesby, Middlesbrough, 09 March 2016 (APP/V0728/W/15/3018546)
- CD7/A/5 Appeal Decision: Land north of Haygate Road, Wellington, Telford & Wrekin, 15 April 2016 (APP/C3240/W/15/3025042)
- CD7/A/6 Appeal Decision: Land north of Ross Road, Newent, 25 August 2015 (App/P1615/A/14/2228822)
- CD7/A/7 Appeal Decision: Stowupland, Suffolk, 25 May 2016 (APP/W3520/W/15/3139543)
- CD7/A/8 Appeal Decision: Gallagher Estates Lowbrook farm, Lowbrook lane, Tidbury green, (APP/Q4625/13/2192128)
- CD7/A/9 High Court Judgement: Stratford on Avon DC vs Secretary of State [2013] EWHC 2074 (July 2013)
- CD7/A/10 High Court Judgement: Blackpool Borough Council vs Secretary of State and Thompson Property Investments Ltd. [2016] EWHC 1059 (May 2016)
- CD7/A/11 High Court Judgement: Forest of Dean District Council vs Secretary of State and Gladman Developments Ltd. [2016] EWHC 421 (March 2016)
- CD7/A/12 High Court Judgement: Bedford Borough Council v R. and NUON UK Ltd [2013] EWHC 2847 (Admin)
- CD7/A/13 Court of Appeal: Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council [2014] EWCA Civ 137
- CD7/A/14 Court of Appeal: R. (on the application of the Forge Field Society) v Sevenoaks District Council [2014] EWHC 1895 (Admin)

CD7/A/15	Court of Appeal: Suffolk Coastal District Council v Hopkins Homes Limited [2016] EWCA Civ 168
CD7/A/16	Appeal Decision: Land north of Upper Chapel, Launceston (APP/D0840/A/13/2209757)
CD7/A/17	Appeal Decision: Warwick Road & Cambridge Road, Whetstone (APP/T2405/A/14/2227076)
CD7/A/18	Appeal Decision: Land off Crewe Road, Haslington (APP/R0660/A/14/2213304)
CD7/A/19	Crane v SSCLG [2015] EWHC 425 (Admin)
CD7/A/20	Phides v SSCLG [2015] EWHC 827 (Admin)
CD7/A/21	William Davis Ltd v SSCLG [2013] EWHC (Admin)
CD7/A/22	Dartford BC v SSCLG [2014] EWHC 2636 (Admin)

CD8 / A – Miscellaneous

CD8/A/1	Local Plans Expert group (LPEG), Appendix 6, March 2016
CD8/A/2	West Oxfordshire Local Plan Examination: Inspector's Preliminary Findings – Part 1, 15 December 2015
CD8/A/3	Planning Advisory Service: Objectively Assessed Need and Housing Targets Technical Advice Note – Second Edition (Peter Brett Associates, July 2015, 'PAS Guidance')
CD8/A/4	Decision Notice for Application: 07/00565/OUTMAJ
CD8/A/5	Decision Notice for Application: 10/00975/XOUTMAJ
CD8/A/6	Sandleford Park Planning Statement, prepared by Boyer
CD8/A/7	Note from the HSA DPD Inspector in relation to the delivery of Sandleford Park (October 2016)
CD8/A/8	Council's Homework in relation to the current status of HSA DPD Sites
CD8/A/9	Comments by Paul Goddard (WBC Transport Officer) in relation to 15/02300/OUTMAJ, Sandleford Park, January 2016
CD8/A/10	Comments by Paul Goddard (WBC Transport Officer) in relation to 16/00106/OUTMAJ, Sandleford Park, May 2016
CD8/A/11	Further comments by Paul Goddard (WBC Transport Officer) in relation to 15/02300/OUTMAJ, Sandleford Park
CD8/A/12	Extension of time email from the Case Officer in relation to Sandleford Park (September 2016)
CD8/A/13	Representations to WBC HSA DPD Preferred Options
CD8/A/14	SA / SEA assessment for Siege Cross Farm

AB – DOCUMENTS RELEVANT TO BOTH 'APPEAL A' AND 'APPEAL B'

CD4 / AB – National Planning Policy

CD4/AB/1	National Planning Policy Framework (NPPF) 2012
CD4/AB/2	Planning Practice Guidance (PPG) 2014

CD6 / AB – Local Planning Policy and Guidance (Extracts where appropriate)

CD6/AB/1	West Berkshire Core Strategy 2006-2026 (adopted July 2012)
CD6/AB/2	'Saved' policies from the West Berkshire Local Plan 2002
CD6/AB/3	West Berkshire District Council – Emerging Housing Site Allocations Development Plan Document
CD6/AB/4	Local Development Framework: "An Integrated Landscape Sensitivity Approach to Settlement Expansion within West Berkshire. Summary Report: Thatcham", West Berkshire Council/Kirkham Landscape Planning Ltd (2009)
CD6/AB/5	West Berkshire Core Strategy: Landscape Sensitivity Assessment of Potential Strategic Development Sites, West Berkshire Council/Kirkham Landscape Planning Ltd (2009)
CD6/AB/6	North Wessex Downs AONB Management Plan 2014-2019 North Wessex Downs Council of Partners (2014)
CD6/AB/7	North Wessex Downs AONB Landscape Character Assessment 2002 Land Use Consultants

CD6/AB/8	North Wessex Downs AONB Position Statement on Setting (Development Affecting the Setting of the North Wessex Downs AONB) 2012
CD6/AB/9	Berkshire Landscape Character Assessment (2003) Land Use Consultants
CD6/AB/10	Newbury District Wide Landscape Assessment (1993) Landscape Design Associates
CD6/AB/11	The Landscape Institute and the Institute of Environmental Management and Assessment (2013) Guidelines for Landscape and Visual Impact Assessment (Third Edition), Routledge
CD6/AB/12	Local Development Framework: "An Integrated Landscape Sensitivity Approach to Settlement Expansion within West Berkshire. Summary Report: Thatcham", West Berkshire Council/Kirkham Landscape Planning Ltd (2009)
CD6/AB/13	West Berkshire Core Strategy: Landscape Sensitivity Assessment of Potential Strategic Development Sites, West Berkshire Council/Kirkham Landscape Planning Ltd (2009)
CD6/AB/14	North Wessex Downs AONB Management Plan 2014-2019 North Wessex Downs Council of Partners (2014)
CD6/AB/15	North Wessex Downs AONB Landscape Character Assessment 2002 Land Use Consultants
CD6/AB/16	West Berkshire District Local Plan 2002 – Proposals Map http://ww2.westberks.gov.uk/localplan/index.htm
CD6/AB/17	West Berkshire District Local Plan (1991-2006) – Inspectors Report
CD6/AB/18	'Options for the Future: West Berkshire Core Strategy' (April 2009)
CD6/AB/19	West Berkshire District Council – Sustainability Appraisal Policy Paper (October 2011)
CD6/AB/20	West Berkshire District Council – Community Infrastructure Levy Charging Schedule (April 2015)
CD6/AB/22	West Berkshire District Council – Quality Design SPD
CD6/AB/23	West Berkshire District Council – Planning Obligations SPD (December 2014)
CD6/AB/24	West Berkshire District Council – Local Development Scheme (October 2015)
CD6/AB/25	West Berkshire District Council – Regulation 123 List
CD6/AB/26	West Berkshire District Council – Infrastructure Delivery Plan 2016
CD6/AB/27	West Berkshire District Council – CIL Examiners Report

CD7/AB – Appeals and Judgements

CD7/AB/1	Appeal Decision: Firlands Farm, West Berkshire (APP/W0340/A/14/2228089)
CD7/AB/2	High Court Judgement: Gallagher Homes Limited & Lioncourt Homes Limited vs Solihull Metropolitan Borough Council [2014] EWHC 1283 (April 2014)
CD7/AB/3	High Court Judgement: West Berkshire DC vs Secretary of State and HDD Burghfield Common Limited [2016] EWHC 267 (February 2016)
CD7/AB/4	Court of Appeal: Hunston Properties vs St Albans City & District Council & Secretary of State [2013] EWCA Civ 1610 (December 2013)
CD7/AB/5	Court of Appeal: Oxted Residential Limited vs Tandridge District Council [2016] EWCA Civ 414 (February 2016)
CD7/AB/6	Appeal Decision: Coalville, 05 January 2016, (APP/G2435/W/15/3005052)
CD7/AB/7	Appeal Decision: Stanbury House, Reading, 20 June 2016 (APP/X0360/W/15/3097721)
CD7/AB/8	Secretary of State decision and Appeal Decision: Droitwich, Wychavon, 02 July 2014 (APP/H1840/A/13/2199085 & APP/H1840/A/13/2199426)
CD7/AB/9	High Court Judgement: Hopkins Homes Ltd v Secretary of State for Communities and Local Government and Suffolk Coastal District [2015] EWHC 132 (Admin) (17 March 2016)
CD7/AB/10	High Court Judgement: Wainhomes (South West) Holdings Ltd v Secretary of State for Communities and Local Government & Wiltshire Council [2013] EWHC 597 (Admin) (25 March 2013)

CD8/AB – Miscellaneous

CD8/AB/1	Berkshire Strategic Housing Market Assessment, GL Hearn, February 2016
CD8/AB/2	West Berkshire Council Five Year Housing Land Supply Statement, December 2015
CD8/AB/3	West Berkshire Council Five Year Housing Land Supply Statement, September 2016
CD8/AB/4	Report on the Examination into Eastleigh Borough Council's Eastleigh Borough Local Plan, 11 February 2015
CD8/AB/5	Arun Local Plan Inspector's OAN Conclusions, 02 February 2016
CD8/AB/6	Cornwall Local Plan Strategic Policies: Preliminary Findings Following the Hearings in May 2015, 05 June 2015
CD8/AB/7	Stage 1 of the Examination of the South Worcestershire Development Plan: Inspector's Further Interim Conclusions on the Outstanding Stage 1 Matters, 31 March 2014

B – DOCUMENTS SPECIFIC TO 'APPEAL B' (HENWICK PARK)

CD1/B – Appeal Documents

CD1/B/1	Appeal Covering Letter
CD1/B/2	Appeal Form
CD1/B/3	Appellants Statement of Case, prepared by Nexus Planning
CD1/B/4	West Berkshire District Council's Statement of Case
CD1/B/5	Agreed Planning Statement of Common Ground
CD1/B/6	Agreed Landscape Statement of Common Ground
CD1/B/7	Agreed Transport Statement of Common Ground
CD1/B/8	Agreed Drainage Statement of Common Ground
CD1/B/9	Mr. Roger Tustain, Proof of Evidence – Planning
CD1/B/10	Mr. Roger Tustain, Proof of Evidence – Housing Land Supply
CD1/B/11	Mr. Dominick Veasey, Proof of Evidence – Objectively Assessed Need
CD1/B/12	Mr. Clive Self, Proof of Evidence - Landscape
CD1/B/13	Amended Parameters Plan 22289A/03B
CD1/B/14	Storey Heights Plan 22289A/04S
CD1/B/15	Revised Illustrative Layout 22289A/04R
CD1/B/16	Tree Constraints Overlay 22289A/04S
CD1/B/17	Density Plan 22289A/04S
CD1/B/18	Alternative Scheme Covering Letter to Council dated 16th September
CD1/B/19	Alternative Scheme Covering Letter to PINS dated 20th September
CD1/B/20	Revised Scheme Covering Letter to PINS dated 18th October 2016

CD2/B – Planning Application Documents – Original Submission

CD2/B/1	Cover letter dated 9th July 2015
CD2/B/2	Planning Application Form
CD2/B/3	Planning Statement prepared by Nexus Planning
CD2/B/4	Statement of Community Involvement prepared by Nexus Planning
CD2/B/5	Statement on Affordable Housing prepared by Nexus Planning
CD2/B/6	West Berkshire Five Year Land Supply Position Statement dated June 2015 prepared by Nexus Planning
CD2/B/7	Design and Access Statement prepared by Clague Architects
CD2/B/8	Archaeological Desk Based Assessment prepared by CGMS
CD2/B/9	Ecological Designations
CD2/B/10	Ecological Appraisal Prepared by Aspect Ecology
CD2/B/11	Letter from Simon Jones Associates Ltd dated 4th March 2015
CD2/B/12	Arboricultural Implications
CD2/B/13	Landscape and Visual Appraisal prepared by CSa Environment Planning
CD2/B/14	Framework Residential Travel Plan prepared by Gateway TSP
CD2/B/15	Transport Assessment prepared by Gateway TSP
CD2/B/16	Transport Assessment Figures prepared by Gateway TSP

CD2/B/17	Archaeological Geophysical Survey prepared by Bartlett-Clark Consultancy for CGMS
CD2/B/18	Section 106 Heads of Terms Agreement prepared by Croudace
CD2/B/19	Tree Constraints Plan prepared by Simon Jones Associates
CD2/B/20	Aerial Photograph by CSa Environmental No. CSA/2406/101 Rev A
CD2/B/21	Topographical Photograph by CSa Environmental Planning No. CSa/2406/100 Rev A
CD2/B/22	Photosheets by CSa Environmental Planning No. CSa/2406/108
CD2/B/23	Landscape Principles Plan by CSa Environmental Planning No. CSa/2406/108
CD2/B/24	Cross Section prepared by CSa Environmental Planning No. CSa/2406/103
CD2/B/25	Existing Site Plan prepared by Clague Architects 22289A/01
CD2/B/26	As Existing Site Sections prepared by Clague Architects Drawing Number 22289A/02
CD2/B/27	Proposed Masterplan prepared by Clague Architects Drawing Number 22289A/03
CD2/B/28	Proposed Masterplan prepared by Clague Architects Drawing Number 22289A/04
CD2/B/29	Proposed Masterplan prepared by Clague Architects Drawing Number 22289A/05
CD2/B/30	Proposed Masterplan prepared by Clague Architects Drawing Number 22289A/06
CD2/B/31	Proposed Masterplan prepared by Clague Architects Drawing Number 22289A/07

CD2.1/B – Planning Application Documents

Further documentation submitted during application

CD2.1/B/1	Proposed Masterplan prepared by Clague Architects drawing reference 22289A/04A
CD2.1/B/2	Cold Ash escarpment Flow Routes
CD2.1/B/3	Surface Water Drainage Strategy prepared by Stuart Michael Associates drawing number 5126.402 Rev A
CD2.1/B/4	Letter to the attention of Mr M Butler (ref 5126(1)/TSW/amp) from Stuart Michael Associates dated 9th September 2015
CD2.1/B/5	Letter to the attention of Mr M Butler (ref: 5126(2)/TSW/amp) from Stuart Michael Associates dated 9th September 2015
CD2.1/B/6	Floral Way Junction Measurements prepared by Gateway TSP drawing number: 14/1208/PHOTO 1 & A4 Bath Road (East- towards Reading) Junction measurements prepared by Gateway TSP drawing number: 14/1208/PHOTO 2
CD2.1/B/7	Falmouth way Junction Measurements prepared by Gateway TSP drawing number 14/1208/PHOTO 3
CD2.1/B/8	A4 Bath Road (West- towards Thatcham) Junction measurements prepared by Gateway TSP drawing number 14/1208/PHOTO 4
CD2.1/B/9	Framework Residential and GP Surgery Travel Plan prepared by Gateway TSP dated September 2015
CD2.1/B/10	Response to Highway Officer Comments prepared by Gateway TSP dated September 2015
CD2.1/B/11	Response to Highway Officer Comments: Appendices A-G prepared by Gateway TSP dated September 2015
CD2.1/B/12	Response to Highway Officer Comments: Appendices H-L prepared by Gateway TSP dated September 2015
CD2.1/B/13	Proposed Masterplan prepared by Clague Architects drawing number 22289A/04B
CD2.1/B/14	Surface Water Drainage Strategy prepared by Stuart Michael Associates drawing number 5126.402 Rev B
CD2.1/B/15	Letter for the attention of Mr M Butler/Mrs Clark from Stuart Michael Associates limited dated 24th November 2015
CD2.1/B/16	Letter for the attention of Mr M Butler from Stuart Michael Associates limited dated 24th November 2015
CD2.1/B/17	Section 106 Heads of Terms Agreement prepared by Croudace
CD2.1/B/18	Proposed Masterplan prepared by Clague Architects drawing number 22289A/04D

CD3/B – Local Planning Authority Committee Documents and Decision Notice

- CD3/B/1 Case Officer's Report, dated 16th December 2015
- CD3/B/2 Decision Notice, dated 17th December 2015
- CD3/B/3 Committee Minutes in respect of planning application ref. 15/01949/OUTMAJ

CD6/B – Local Planning Policy and Guidance (Extracts where appropriate)

- CD6/B/1 Report on the Examination into the West Berkshire Core Strategy

CD7/B – Appeals and Judgements

- CD7/B/1 Appeal Decision: Droitwich, Wychavon District (APP/H1840/A/13/2199426 & APP/H1840/A/13/2199085) July 2014.
- CD7/B/2 Land at Stanbury House, Basingstoke Road, Spencers Wood, Reading, (Reference: APP/X0360/W/15/3097721)
- CD7/B/3 Appeal Decision: Land South of Greenhill Road, Coalville, Leicestershire (Appeal Reference: APP/G2435/W/15/3005052)
- CD7/B/4 Wainhomes (South West) Holdings Ltd v Secretary of State for Communities and Local Government & Wiltshire Council [2013] EWHC 597 (Admin) (25 March 2013)
- CD7/B/5 High Court Judgement: Cheshire East BC v SSCLG & Renew [2016] EWHC 571 (Admin) (16 March 2016)
- CD7/B/6 High Court Judgement: Satnam Millennium Limited and Warrington Borough Council [2015] EWHC 370 (Admin) (19 February 2015)
- CD7/B/7 High Court Judgement: Zurich Assurance Limited and Winchester City Council and South Downs National Park Authority [2014] EWHC 758 (Admin) (18 March 2014)
- CD7/B/8 High Court Judgement: Hopkins Homes Ltd v Secretary of State for Communities and Local Government and Suffolk Coastal District [2015] EWHC 132 (Admin) (17 March 2016)
- CD7/B/9 Appeal Decision: Land off Botley Road, West End Hampshire APP/W1715/W/15/3139371

CD8/B – Miscellaneous

- CD8/B/1 West Berkshire Annual Monitoring Report 2015
- CD8/B/2 HSA DPD Background Paper
- CD8/B/3 The Approach and Delivery Topic Paper Supporting the HSA DPD
- CD8/B/4 "Laying the Foundations: A Housing Strategy for England"
- CD8/B/5 The Planning Advisory Service "Ten Key Principles for owning your Housing Number – Finding Your Objectively Assessed Needs".
- CD8/B/6 The Council's Homework Response to Issue 1 "OAN"
- CD8/B/7 The Council's Homework Response to Issue 3 "Sandleford Park"
- CD8/B/8 The "Thatcham Vision" – Part 2, Population, Development and Infrastructure
- CD8/B/9 Consultation on Proposed Changes to the National Planning Policy document 2015
- CD8/B/10 Local Plan Expert Group Local Plans Report to Government, Appendix 6
- CD8/B/11 South East Plan Panel Report (Volume 1) August 2007
- CD8/B/12 South East Plan 2009
- CD8/B/13 Airports Commission Local Economic Impacts Assessment, November 2014
- CD8/B/14 West Berkshire Housing Need Assessment 2007
- CD8/B/15 Berks, Bucks & Oxon Wildlife Trust – Consultation Response dated 25th Aug 2015
- CD8/B/16 West Berkshire Council Ecologist – Consultation Response dated 14th September 2015
- CD8/B/17 Appellants Representations to the Proposed Submission Version of the HSA DPD December 2015
- CD8/B/18 Council's note on progress within the HSA DPD Sites
- CD8/B/19 Appellant Response to Homework Questions
- CD8/B/20 "The Labour Needs of Extra Housing Capacity – Can the House Building Industry

CD8/B/21	Cope" (2005) NHS Healthy Urban Development Unit (HUDU) Planning Contribution Model Guidance Notes
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CA – COUNCIL DOCUMENTS SPECIFIC TO ‘APPEAL A’ (SIEGE CROSS)

CD5/CA/1	DCLG Policy paper ‘2010 to 2015 government policy – https://www.gov.uk/government/publications/2010-to-2015-government-policy-planning-reform/2010-to-2015-government-policy-planning-reform
CD8/CA/1	Primary Admission Arrangements 17/18
CD8/CA/2	Secondary Admission Arrangements 17/18

CAB – COUNCIL DOCUMENTS RELEVANT TO BOTH ‘APPEAL A’ AND ‘APPEAL B’

CD6/CAB – Local Planning Policy and Guidance (Extracts where appropriate)

CD6/CAB/1	West Berkshire Local Development Scheme (extract)
CD6/CAB/2	Housing Site allocations DPD Examination Webpage at http://info.westberks.gov.uk/index.aspx?articleid=32493

CD7/CAB – Appeals and Judgements

CD7/CAB/1	Hunston High Court Judgement and Court of Appeal Judgements (Hunston Properties v SSCLG and St Albans City & District Council (2013) EWHC 2678 and R vs City and District of St Albans, EWCA Civ. 1610)
CD7/CAB/2	Satnam Millenium v Warrington Borough Council (2015) EWHC
CD7/CAB/3	St Modwen Developments Ltd v SSCLG and East Riding of Yorkshire Council [2016] EWHC 968 (Admin)
CD7/CAB/4	Recovered appeal on Land North East of Elsenham, Essex APP/C1570/A/14/2219018
CD7/CAB/5	Kings Lynn & West Norfolk vs. SSCLG & Elm Park Holdings Ltd [2015] EWHC 2464 (Admin)
CD7/CAB/6	Zurich Assurance Ltd v Winchester City Council & South Downs NPA [2014] EWHC 758 (Admin)
CD7/CAB/7	SSCLG v West Berkshire DC and Reading BC [2016] EWCA Civ 441
CD7/CAB/8	Appeal Decision Land north and south of Mans Hill, Burghfield Common Appeal Ref APP/W0340/A/14/2226342, Inspector David Wildsmith, 17 March 2015
CD7/CAB/9	High Court challenge case number CO/1455/2014 (Gladman Development Ltd and Wokingham Borough Council [2014] EWHC 2320 (Admin))
CD7/CAB/10	Oadby and Wigston Borough Council v Secretary of State & Bloor Homes Ltd [2015] EWHC 1879

CD8/CAB – Miscellaneous

CD8/CAB/1	PAS Technical Advice Note on OAN
CD8/CAB/2	Report on the Examination into the West Berkshire Core Strategy, July 2012
CD8/CAB/3	Brandon Lewis Letter to PINS re SHMA dated 19th December 2014
CD8/CAB/4	Council's Homework 4 consistency between C1 of the DPD and the Core Strategy
CD8/CAB/5	HSA DPD Statement of Consultation main Report
CD8/CAB/6	HSA DPD SA/SEA for Thatcham
CD8/CAB/7	Council's Homework on Issue 9. Overview of Thatcham Infrastructure Constraints
CD8/CAB/8	Annual Monitoring Report Housing 2015

DOCUMENTS SUBMITTED DURING THE INQUIRY

A – Appellants’ Documents, Appeal A

A1	Opening submissions on behalf of A2Dominion
A2	Wokingham Borough Council v SSCLG and Cooper Estates, notification on application for permission to proceed
A3	Oadby and Wigston Borough Council v SSCLG and Bloor Homes [2016] EWHC 1879 (Admin), Court of Appeal decision
A4	Office for National Statistics, Economic Review: November 2016
A5	Erratum to Ms Cohen’s proof of evidence
A6	Rebuttal proof of Ms Cohen
A7	Rebuttal proof of Mr Kinsman
A8	Rebuttal proof of Ms Toyne
A9	Table summarising parties’ OAN calculation
A10	Extract from ‘Delivering National Growth, Locally’ by Thames Valley Berkshire Local Enterprise Partnership
A11	Barton Willmore’s revised OAN Table based on post-Brexit assumptions
A12	Extract from Experian jobs forecast
A13	Planning history and layout plans for Lakeside site in Theale
A14	Market Street site, illustration and accommodation table
A15	Housing Site Allocations DPD – Inspector’s ‘homework’
A16	Cotswold District Council v SSCLG and others, [2013] EWHC 3719 (Admin)
A17	Unilateral Undertaking, A2Dominion Developments and Linda and Angus Janaway to West Berkshire Council
A18	Schedule of Unilateral Undertaking provisions
A19	Housing Land Supply Scenarios, Barton Willmore Table 18a
A20	Annotated landscape map
A21	Appendix LT1 to accompany Ms Toyne’s LVIA
A22	Report into objections to the Newbury District Local Plan, 1991-2006
A23	West Berkshire Council Community Infrastructure Levy Reg. 123 List November 2016 consultation version
A24	West Berkshire Planning Area 12 - secondary education pupil numbers
A25	West Berkshire Infrastructure Delivery Plan 2013, extract
A26	Plan showing viewpoints and route for site visit
A27	Five year land supply – Barton Willmore revised table 18
A28	Appeal decision: land at Fawler Rd, Uffington, Ref APP/V3120/W/15/3139377
A29	Local Plan programme for Berkshire planning authorities
A30	Mr Usher’s revised OAN to reflect Cambridge Econometrics report Nov 2016
A31	Revised Barton Willmore table 18
A32	Closing submissions on behalf of A2Dominion Developments

CA - Council’s Documents, Appeal A

CA1	Ms Ball’s rebuttal proof
CA2	Proposed Planning Conditions
CA3	Historic Landscape Context, Figure BK3 by Ms Kirkham
CA4	Heights of key buildings on the Colthrop Industrial Estate
CA5	Guide for Landscape and Visual Impact Assessment, 3 rd Edition, extract
CA6	Appeal decision: Land at Blacks Lake, Aldermaston, APP/W0340/C/15/3139572
CA7	WBC Review of Community Infrastructure Levy, Reg 123 List
CA8	Kennet School, capacity and demand table
CA9	Bellway Homes response to Core Strategy Preferred Options consultation
CA10	Proposed travel plan conditions
CA11	Justification for contribution to travel plan monitoring

TA - Third Party Documents, Appeal A

TA1	Submission by Mr Goodwin, Flood and Water Course Warden
TA2	Submission by Mr Crumly on behalf of Thatcham Town Council

TA3	Letter from North Wessex Downs AONB dated 23/11/2016
TA4	Submission by Cllr Cole

B – Appellant's Documents, Appeal B

B1	Schedule of appearances
B2	Mr Veasey's rebuttal proof
B3	Alternative OAN scenarios based on A9 table
B4	Summary of 5 year supply sites in dispute
B5	Unilateral Undertaking by Timothy and Evelyn Billington and Croudace Ltd to West Berkshire District Council
B6	Housing land supply estimates based on 665 and 771 dpa OAN
B7	Barratt Annual Report and Accounts 2016, extract
B8	Details of Mr R Hewitt, appellants' drainage witness
B9	Route for site visit
B10	Appeal decision: Land north of Birchen Lane, Haywards Heath APP/D3830/W/15/3137838
B11	Opening comments on behalf of the appellants
B12	Closing submissions on behalf of the appellants
B13	Abbreviated closing submissions

CB – Council's Documents, Appeal B

CB1	Proposed Planning Conditions
CB2	Letter from The Wildlife Trusts dated 25/8/2015
CB3	Letter from The Wildlife Trusts dated 20/10/2016
CB4	Memo from Mr J Davy concerning ecological matters
CB5	Note concerning the need for a contribution to bus services

TB – Third Party Documents, Appeal B

TB1	Submission of Mr Crumly on behalf of Thatcham Town Council
TB2	Submission of Mr Pieri on behalf of Mr Dunn, Thatcham Flood Forum
TB3	Submission of Mr Woodham on behalf of Thatcham Flood Forum
TB4	Submission of Goodwin, Cold Ash Flood and Water Course Warden
TB5	Submission of Ms Conyers, Local Resident
TB6	Submission of Mr Munro on behalf of Cold Ash Parish Council
TB7	Submission of Mr Simpson, District Councillor, Cold Ash Ward

CAB – Council Documents relevant to both Appeals A and B

CAB1	Opening submissions on behalf of the Council
CAB2	Mr Ireland's rebuttal proof
CAB3	Housing supply update note agreed by all parties
CAB4	Home Choice User Guide, extract
CAB5	Private rental market statistics
CAB6	Housing Site Allocation DPD land within 5 year supply
CAB7	Additional information on delivery of 5 year supply sites
CAB8	Sandleford Park Supplementary Planning Document, 2015
CAB9	Proposed revision to HSA DPD Policy C1
CAB10	Cambridge Econometrics November 2016 employment forecast
CAB11	Closing submissions on behalf of the Council

ANNEX 3

PLANNING CONDITIONS

1. Details of the appearance, landscaping, layout and scale (hereinafter called “the reserved matters”) shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be begun before the expiration of five 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, whichever is the later.
4. The development hereby permitted shall be carried out in accordance with the following approved plans: 14/1208/SK07 Rev E - Proposed South-western Priority Junction dated July 2015; 14/1208/SK03 Rev D - Proposed Roundabout Access Junction dated July 2015.
5. The reserved matters details shall generally accord with the following list of drawings and documents: 22289A/04R – Illustrative Site Layout dated July 2016; 22289A/03B – Development Parameter Plan dated May 2016; 22289A/04S - Storey Heights dated July 2016; 22289A/04S - Density Overlay dated July 2016.
6. The reserved matters applications shall be prepared in general accordance with a comprehensive landscape strategy plan which has first been submitted to and approved in writing by the Local Planning Authority. The strategy shall include details about the retention of existing boundary vegetation, proposed structural planting to the northern boundary of the site and the northern boundary of the developed area, and provide details about ecological, hydrological and recreational considerations.
7. No more than 225 dwellings shall be developed on the site.
8. No development shall take place until details of accessibility within the site have been submitted to and approved in writing by the Local Planning Authority. The details shall include means of access for vehicles, cycles and pedestrians in terms of the positioning and treatment of access and circulation routes and how these fit into the surrounding access network. Thereafter the development shall be carried out in accordance with the approved details.
9. No demolition or construction works shall take place outside the hours of 07.30-18.00 Mondays to Fridays, 08.30-13.00 Saturdays. No work shall be carried out at any time on Sundays or Bank Holidays.
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 details. The statement shall provide for i) the parking of vehicles of site operatives and visitors; ii) loading and unloading of plant and materials; iii) storage of plant and materials used in constructing the development; iv) the erection and maintenance of any security fencing or hoardings; v) wheel washing facilities; vi) measures to control the emission of dust and dirt during construction; vii) a scheme for recycling/disposing of waste resulting from construction works; and, viii) agreed routes and timing restrictions for construction vehicles, deliveries and staff.

11. Prior to the occupation of the first dwelling a full Residential Travel Plan for the development shall be submitted to and approved in writing by the Local Planning Authority. Prior to occupation of the GP Surgery a full Travel Plan for the GP Surgery shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plans shall be implemented from first occupation of the first dwelling (Residential Travel Plan) and first occupation of the GP Surgery (GP Travel Plan). A Travel Plan Coordinator shall be in place no later than 3 months prior to first occupation of the first dwelling on the development. The Travel Plan shall be monitored with the initial survey taking place once 50% of the development is occupied or after 6 months from first occupation, whichever occurs sooner. The Travel Plan targets shall be agreed within 6 months of the initial survey taking place along with any necessary updating of the Travel Plan. After that the Travel Plans shall be annually monitored, reviewed and updated for a period of five years from first implementation of the development or two years after completion of the development, whichever is later.
12. No dwelling shall be occupied until pedestrian and cycle centre island crossing points along Cold Ash Hill (drawing 14/1208/SK12), Heath Lane (drawing 14/1208/SK11) and Bowling Green Road (drawing 14/1208/SK13) have been provided in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.
13. No dwelling shall be occupied until the following works have been provided in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority: i) Dropped kerbs and tactile paving across Westfield Road (at the junction with Northfield Road) as shown on Drawing 16/0515/SK02; ii) dropped kerbs and tactile paving across Sagecroft Road (at the junction with Northfield Road) also shown on Drawing 16/0515/SK02; iii) widening of the section of Bowling Green Road between the junction of Northfield Road and the proposed Site Access priority junction to accommodate a 2.5 metre shared foot and cycleway.
14. No development shall take place until details of the proposed access into the site from Bowling Green Road, in accordance with drawing 14-1208-SK07/E, have been submitted to and approved in writing by the Local Planning Authority. No other development shall take place (except construction of a site compound and associated site clearance works) until this access, and any associated engineering operations, have been completed in accordance with the approved details.
15. No dwelling shall be occupied until details of the proposed junction improvement scheme at the Heath Lane / Cold Ash Hill Roundabout in accordance with drawing 4-1208-SK03/D have been submitted to and approved in writing by the Local

Planning Authority. No more than 50 dwellings shall be occupied before the improvement scheme has been constructed in accordance with the approved details.

16. No dwelling hereby permitted shall exceed 2.5 storeys in height (to mean no higher than 10.5m to ridge height) in any part of the scheme.
17. No development shall take place until details of the finished floor levels of the buildings hereby permitted in relation to existing and proposed ground levels have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved levels.
18. No development shall take place until details of sustainable drainage measures to manage surface water within the site have been submitted to and approved in writing by the Local Planning Authority. These details shall be in general accordance with the terms agreed in the Statement of Common Ground (Flood Risk and Drainage) dated October 2016 and shall:
 - Incorporate the implementation of Sustainable Drainage methods (SuDS) in accordance with the Non-Statutory Technical Standards for SuDS (March 2015), the SuDS Manual C753 (2015) and West Berkshire Council local standards;
 - Include and be informed by a ground investigation survey which establishes the soil characteristics, infiltration rate and groundwater levels;
 - Provide details of catchments and flows discharging into and across the site and how these flows will be managed and routed through the development and where the flows exit the site both pre-development and post-development.
 - Include a drainage strategy for surface water run-off from the site;
 - Include attenuation measures to retain rainfall run-off within the site and allow discharge from the site to an existing watercourse at run off rates to be agreed with the Local Planning Authority;
 - Include construction drawings, cross-sections and specifications of all proposed SuDS measures within the site;
 - Include run-off calculations, discharge rates, infiltration and storage capacity calculations for the proposed SuDS measures based on a 1 in 100 year storm +40% for climate change;
 - Include flood water exceedance routes, both on and off site; include flow routes such as low flow, overflow and exceedance routes; provide details of how the exceedance routes will be safeguarded for the lifetime of the development;
 - Include pre-treatment methods to prevent any pollution or silt entering SuDS features or causing any contamination to the soil or groundwater;
 - Ensure any permeable paved areas are designed and constructed in accordance with manufacturers guidelines and are constructed on a permeable sub-base material such as Type 3 or reduced fines Type 1 material as appropriate;

- Include in any design calculations an allowance for a 10% increase of paved areas over the lifetime of the development;
- Provide attenuation storage measures which have a 300mm freeboard above maximum design water level, and surface conveyance features with a 150mm freeboard above maximum design water level;
- Include a management and maintenance plan for the lifetime of the development. This plan shall incorporate arrangements for adoption by an appropriate public body or statutory undertaker, management and maintenance by a residents' management company or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime;
- Include a Flood Risk Assessment (FRA);
- Include measures which protect or enhance the ground water quality and provide new habitats where possible.

The above sustainable drainage measures shall be implemented in accordance with the approved details and in accordance with a timetable to be submitted and agreed in writing with the Local Planning Authority as part of the details submitted for this condition. The sustainable drainage measures shall be maintained and managed in accordance with the approved details thereafter.

19. No development shall take place within the application area until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which 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 statement.
20. In the event that any previously unidentified land contamination is found at any time during development, it shall immediately be reported in writing to the Local Planning Authority. An investigation and risk assessment shall be undertaken, and where remediation is necessary a remediation scheme shall be prepared. The investigation and risk assessment, and any remediation scheme, shall be submitted to and approved in writing by the Local Planning Authority. No further dwellings shall be occupied until any necessary remediation has been completed in accordance with an approved scheme and a verification report to this effect has been submitted to and approved in writing by the Local Planning Authority. If no contamination is encountered during the development, a letter confirming this fact shall be submitted to the Local Planning Authority upon completion of the development.
21. No piling shall take place during construction, except auger piling, unless otherwise agreed in writing by the Local Planning Authority.
22. No development or other operations shall commence on site until an arboricultural method statement has been submitted to and approved in writing by the Local Planning Authority and shall include i) details of the temporary protection of all retained trees and details of any special construction methods within tree protection zones; ii) measures for the protection of roots in the vicinity of hard surfacing, drainage and other underground services; iii) a full

schedule of works to retained trees including the timing and phasing of operations ; and iv) proposals for the supervision and monitoring of all tree works and protection measures. Development shall proceed in accordance with the approved arboricultural method statement, with tree protection measures retained throughout the period of construction, or in accordance with a timetable approved in writing by the Local Planning Authority.

23. No development shall take place (including, 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 i) a risk assessment of potentially damaging construction activities; ii) identification of biodiversity protection zones; iii) the location and timing of sensitive works to avoid harm to biodiversity features; iv) the times during construction when specialist ecologists need to be present on site to oversee works; v) the role and responsibilities of an ecological clerk of works or similarly competent person and lines of communication; and vi) the use of protective fences, exclusion barriers and warning signs. The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.
24. Prior to occupation of any dwelling, a lighting design strategy for biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall: i) 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; and ii) 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 the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any order revoking, re-enacting or modifying that Order with or without modification), 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.
25. No development shall take place on site until a detailed Landscape and Ecological Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include (but not be limited to): i) detailed creation and management prescriptions for the Meadows, Wetlands/Swales, Flood Meadows/Ponds, Parkland, and any Orchard Areas for 10 years; ii) maintenance of a secure boundary to Cleardene Farm Wood to minimise recreational disturbance; iii) safeguards in respect of bats, badgers, hedgehogs, reptiles and nesting birds during habitat clearance works; iv) details of a reptile mitigation strategy and enhancement plan; v) habitat creation and management to provide new and enhanced habitat areas including wildflower grassland, orchard, ponds and tree and shrub planting; vi) provision of bat boxes and bird nesting opportunities; and vii) provision of habitat piles and butterfly banks. The contents of the Plan shall be based on Section 6 of the Ecological Appraisal by Aspect Ecology and dated July 2015. The approved Plan shall be implemented in full in accordance with an approved timetable. Monitoring of the plan shall be conducted by qualified ecologists who shall provide a report to the Local Planning

Authority annually on the anniversary of the commencement of development and for the first five years following completion of the development that the approved mitigation measures have been implemented in full. A Review of the plan shall be submitted for the approval of the Local Planning Authority on the 10th anniversary of the commencement of development.

26. No dwelling hereby permitted shall be occupied until cycle storage has been provided in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.
27. No dwelling hereby permitted shall be occupied until an area for refuse/recycling storage has been provided in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority.



RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.