



Appeal Decision

Inquiry Held on 13-16 and 20 April, and 14-16 September 2021

Site visits made on 22 April and 21 September 2021

by Patrick Hanna MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 November 2021

Appeal Ref: APP/W0340/W/20/3259296

Hambridge Lake, Hambridge Road, Newbury RG19 3TR

- 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 Mr Hamilton against the decision of West Berkshire Council.
 - The application Ref 19/02916/OUTMAJ, dated 5 November 2019, was refused by notice dated 13 March 2020.
 - The development proposed is erection of 41 holiday chalets and clubhouse, access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Applications for costs

2. Applications for costs were made by both parties. These applications are the subject of separate decisions.

Procedural Matters

3. Further to an application for adjournment by the appellant on the second day of the inquiry, requesting additional time for further ecological surveys to be carried out, the inquiry was adjourned on 20 April. On that date, the inquiry heard closing statements from both parties on the evidence heard up until that point, that is, the matters of landscape, heritage, economic benefits, highways, flooding, planning and the planning balance.
4. Following submission of new ecological information, the inquiry resumed on 14 September to hear the remaining evidence on ecology and trees. Final closing submissions on these matters were made in writing, as were the costs applications and replies. The inquiry was closed in writing on 6 October 2021.
5. The application was for outline planning permission with access to be determined at this stage. Appearance, landscaping, layout and scale is reserved for a future application. An indicative layout for the proposal was submitted, and following the adjournment of the inquiry, an alternative indicative layout showing a rerouted internal access road was submitted as part of the trees evidence. I return to this later in this decision.
6. During the April sitting of the inquiry a potential alternative arrangement for the point of access was put forward by the appellant. However, given my findings below on the layout shown in drawing number 150136-06 Rev A,

which was agreed to be the plan for consideration by the inquiry, I have not considered that potential alternative further.

7. During the adjournment, the revised National Planning Policy Framework (the Framework) was published. The parties were given opportunity to comment on this and I have taken those comments into account.
8. Following the Council's refusal of the application, Thames Water commenced emergency works to a sewer main within the appeal site directly resulting in removal of some 78 trees¹, or some 83 trees if other removals are counted, from a strip of land within the northern section of the appeal site.
9. In light of concerns raised by interested parties regarding the definition of chalets and the development proposed, the main parties submitted an agreed position statement. This indicates that the definition of a chalet can comprise a larger building with several floors sub-divided into smaller units of accommodation and, whilst the configuration of the chalets as three multi-storey blocks is not stated in the description, the indicative drawings were made available for inspection. Consequently, the main parties conclude that the notification of the inquiry did not need re-advertising on the basis of a revised description. I see no evidence to conclude otherwise.

Main Issues

10. Following consultation with Natural England, the matter cited in the fifth reason for refusal relating to the effect of the proposal on nearby Special Areas of Conservation (SAC) and Sites of Special Scientific Interest (SSSI) was not subsequently pursued by the Council. Therefore, the main issues are:
 - whether the proposal would be in an appropriate location, having regard to local and national policies for the rural economy;
 - the effect of the proposal on the character and appearance of the site and surrounding area, with particular regard to the size of the development, loss of trees, and the heritage significance of the Kennet and Avon Canal Conservation Area by impact on its setting;
 - the effect of the proposal on biodiversity, with particular regard to the impact of the proposed tree works;
 - the effect of the use of the proposed access on the safety of road users using Hambridge Road and the surrounding road network; and
 - whether the proposal would comply with local and national policy which seek to steer new development away from areas at the highest risk of flooding.

Reasons

11. The appeal site contains a lake, surrounded by mature woodland, and forms part of a wider network of lakes and woodland adjacent to the River Kennet and the Kennet and Avon canal. The site is bounded by the London Road to the north and the Hambridge Road to the west. The lake is a flooded former gravel pit, and the woodland surrounding it has now taken on a natural if largely unmanaged appearance. The lake is currently used as a small-scale angling enterprise.

¹ Originally noted in the appellant's Appeal Statement of Case as 47 trees

12. The proposal is to introduce three four-storey blocks of holiday chalets along the northern perimeter of the lake, to provide accommodation for anglers. Some 25 fishing stations would be provided around the lake's edge. A new access point would be provided from Hambridge Road, with an access road and associated parking areas located within the strips of woodland to the west and north of the lake.

Location

13. The development plan includes the West Berkshire Core Strategy (2012)(CS). The vision of the CS aims to build upon the existing settlement pattern and direct most development to those urban areas which have the infrastructure and facilities to support sustainable growth. The spatial strategy of the CS is embodied within policy ADPP1. There are two main aspects of this policy relevant to the location of this appeal proposal.
14. The first aspect states that most developments will be within or adjacent to settlements identified in the settlement hierarchy and related to the accessibility, level of services and availability of sites, with the majority of development to take place on previously developed land.
15. Newbury is identified in the district settlement hierarchy as an urban area. A settlement boundary is defined on the policies map and wraps around the north and west of the appeal site. The appeal site lies wholly outside this boundary and is adjacent to the settlement. There is no dispute that the site is accessible to the facilities and services of Newbury. The appellant claims the site is previously developed land as a result of its former use, but policy ADPP1 does not require that all development be on such land, only the majority. The proposal does not conflict with the first aspect of this policy.
16. The second aspect of policy ADPP1 states that only appropriate limited development in the countryside will be allowed, focused on addressing identified needs and maintaining a strong rural economy. In applying the wording of this second aspect of policy, the use of the word 'focused' does not exclude development that does not meet both of these two tests. Rather, it simply seeks to focus attention on those tests, which are, in effect, examples of what could comprise appropriate development.
17. Although the appellant's vision² is to create sustainable luxury holiday accommodation as a response to existing angling revenue not covering site maintenance costs, this argument is not particularly persuasive in demonstrating an existing identified need. Nonetheless, the proposed holiday accommodation for anglers would be a use that represents a natural evolution from the existing use of the appeal site as an angling lake. In other words, the proposal is a form of rural diversification.
18. Evidence was heard by the inquiry in respect of the proposal's contribution to the rural economy, and the strength of the existing economy in the borough and the wider Thames Valley. However, for the purposes of determining compliance with this aspect of policy, there is no evidence before me to suggest that this proposal would not, as a minimum, maintain the existing strong rural economy. There is no policy requirement for development to contribute to growth of the economy. Rather, such a contribution would be a

² Vision Statement by Steve Hamilton (Jim Bailey Proof of Evidence, Appx A)

benefit, and I return to this later. Furthermore, the spatial strategy is clear that tourism should play a bigger part in the town's economy.

19. Overall, I find that the proposal does not conflict with either of the locational aspects of policy ADPP1. Other aspects of this policy relating to character and appearance are dealt with separately within this decision. This position is consistent with an appeal decision in 2014 for 25 holiday chalets at Lower Farm³ which concluded that, although policy ADPP1 was not in dispute in that case, the policy does not preclude all development in the countryside.
20. In the absence of a CS policy dealing specifically with tourism, policy CS10 encourages developments that diversify the rural economy, and states that existing small enterprises will be supported in order to provide local job opportunities, amongst other things. The policy is relevant insofar as the appeal site is identified as being within the open countryside, despite being adjacent to the settlement.
21. The appeal proposal is for innovative angling accommodation, with no direct comparator in the region. Consequently, it follows that the proposal would diversify the local economy. The degree to which that diversification would contribute specifically to the rural economy, as opposed to the immediately adjacent urban centre of Newbury, is not entirely clear from the evidence. Nonetheless, even if the contribution of the proposal to the rural economy were to be very limited, policy CS10 is a broad and general policy position that supports existing small rural enterprises, such as the angling lake.
22. Furthermore, the supporting text to policy CS10 emphasises the vital contribution that tourism makes to the local economy. The policy, read with the supporting text, therefore offers at least a degree of support to the appeal proposal. A further appeal decision⁴ in 2018 for an additional 40 holiday lodges at Lower Farm also concluded that some support was found to derive from policy CS10, reflecting my own findings.
23. Additional policy reinforcement for this tourism development is also provided, in principle at least, from paragraphs 84 and 85 of the Framework. Proposals for sustainable rural tourism and leisure development should be enabled, regardless of whether the existing business would be defined as land-based or not, recognising that business needs in rural areas may have to be found adjacent to or beyond existing settlements. Although there is no evidence before me on the long-term viability of fish stocks in the lake to support the proposed increase in angling, or the economic viability of the proposal, such tests are not required by the policy framework.
24. Overall, I conclude that the proposal would be in an appropriate location, having regard to local and national policies for the rural economy. As such, the proposal complies with policy CS10 and the locational aspects of policy ADPP1 of the CS.

Character and appearance

25. The lake and woodland within the appeal site make a significant and positive rural contribution to the urban edge to the north and west. The effect of the proposal would be to introduce holiday chalets, clubhouse, access roads and

³ Appeal decision APP/W0340/A/14/2216837

⁴ Appeal decision APP/W0340/W/18/3203863

parking into the strips of woodland between the periphery of the lake and the adjacent roads.

26. Both indicative layouts show three four-storey accommodation blocks to the north of the site; an access road along the north and west of the lake; parking in clusters adjacent to the access road; and fishing stations around the perimeter of the lake. Landscaping proposals indicate the removal of a number of trees, along with replacement planting. The appellant suggested at the inquiry that the original indicative design should be given moderate weight, even whilst indicating that the capacity of the site was such that differing forms of the proposed development could nonetheless be accommodated.

Policy context

27. The appellant argues that policy CS19, relating to historic environment and landscape character, is out of date such that the presumption in favour of sustainable development set out in paragraph 11(d) of the Framework applies. It is posited that policy CS19 does not align with the Framework as the policy requires all development to conserve and enhance its location, whereas paragraph 176 of the Framework states that this should only be required in protected areas.
28. However, paragraphs 174-178 of the Framework aim to ensure, in general terms, that development is appropriate to the significance of its context. Similarly, policy CS19 states that proposals for development should be informed, amongst other things, by the key characteristics identified in relevant landscape character assessments, with regard to the sensitivity of the area to change and the appropriateness of the new development to its context.
29. It is indeed the case that the CS does not identify a hierarchy of designated sites as suggested by paragraph 175 of the Framework, as the CS pre-dates the Framework. Nonetheless, policy CS19 does not prevent assessment of significance and appropriateness being carried out for any individual site or development. As such, the policy can be operated with the flexibility and proportionality required by the Framework.
30. Furthermore, paragraph 176 of the Framework must be read in full. It requires that great weight be attached to conserving or enhancing areas which have the highest state of protection. It does not state that no weight can be attached to landscapes outside of those areas. Overall, I find that policy CS19 is broadly consistent with the Framework and is therefore not out of date.
31. The revised Framework newly introduced paragraph 131 on trees, requiring amongst other things that existing trees are retained wherever possible. The definition of green infrastructure now includes reference to blue spaces such as lakes, and emphasises its economic, health and wellbeing benefits.

Impact of the size of the development on landscape character

32. Although national policy recognises the intrinsic character and beauty of the countryside, as well as the wider benefits from natural capital including trees and woodland, the appeal site is not a valued landscape in terms of paragraph 174 of the Framework. However, different landscapes are appreciated by different people for different reasons, and the lack of designation does not mean that landscapes are not afforded any protection. Indeed, a number of interested party representations make reference to the positive landscape

contribution of the site to the area. Therefore, the starting point, as suggested by policy CS19, is the relevant landscape character assessment.

33. The policy's supporting text refers to three separate landscape character assessments. These were replaced by the single West Berkshire Landscape Character Assessment (LCA) in 2019 as part of the evidence base for the emerging local plan. Whilst the LCA does not have any statutory status, it is the most up to date assessment available and is helpful in identifying the matters that should be considered when assessing sites and their contexts. It therefore attracts considerable weight. The Landscape Sensitivity Study⁵ (LSS) is also similarly helpful but is primarily a strategic document regarding settlement expansion, therefore attracting no more than moderate weight.
34. The LCA identifies the appeal site as falling within the LV1 Lower River Valley landscape character area. LV1 is described as a valley formed by the River Kennet and its tributaries, with mature woodland along the valley creating a semi-enclosed character, which provides a rural setting for Newbury and Thatcham. The dispute focuses on whether there is conflict with the objectives of the LV1 landscape strategy, and key characteristics, valued features and qualities of the site, with regard to the following two key matters.
35. The first dispute relates to the status of the site as an intact wetland landscape and the conservation of this woodland floor. The LCA identifies wetlands as a valued feature and key characteristic of LV1, as part of the wider network of international and nationally important wetlands. The LCA landscape strategy therefore seeks to maintain the intrinsic landscape quality of the woodland floor and seeks to restore, extend and manage wetland habitats. Whilst wetlands are primarily recognised for their ecological, not landscape, importance, there is no evidence before me to indicate such habitats cannot serve both functions.
36. Even though the site is agreed to be a former gravel pit, that use ceased many decades ago, and the site has now naturalised. Its former use has not prevented it from becoming a wetland woodland over time. Indeed, to the casual observer, there is no visual evidence of that former use. Furthermore, the rural woodland character of the site is not lessened by the adjacent urban environment, rather this proximity highlights and enhances the sharp contrast that exists between them. Overall, the proposal would introduce a substantial size of built form into the wetland and woodland. Whilst mitigation and managed improvement of the site is proposed, this would not prevent fragmentation of that feature and characteristic.
37. The second dispute relates to the conservation of distinct identities for settlements. The role that the valley floor plays in the setting of the individual identities of Newbury and Thatcham forms part of the LCA landscape strategy, with a key characteristic being the influence on that landscape by the modern urban areas of Newbury and Thatcham. Pressure for development that encroaches on the valley floor and blurs the physical distinction between the two settlements is a detractor from the character of LV1.
38. The earlier LSS similarly considers the localised LLCA8C landscape of the wider network of lakes between Newbury and Thatcham, of which the appeal site forms part, as sensitive. The LSS emphasises the sharp contrast between the Thatcham Lakes and the built form, noting significant value in it. Thatcham

⁵ An Integrated Landscape Sensitivity Approach to Settlement Expansion within West Berkshire Thatcham (2009)

Town Council also refer to the relative compactness of this separation area, as well as to the positive role the site and its wooded surrounds make to movement between the settlements. Indeed, the network of cycle paths are also identified as key characteristics of LV1, and a section of the National Cycle Route 4 runs from Newbury town centre, along the River Kennet canal path, and around the west and north boundaries of the appeal site. As such, the significance of the woodland is experienced in a range of different ways, despite the appellant's counter claim that the role of the site is highly localised, transitional, and fleetingly experienced.

39. I find that although the role that the appeal site plays in maintaining separation between the settlements may be limited in its physical extent, it is nonetheless an important role. The site defines the very edge and limits of that separation role. The site comprises just one of a number of lakes, and the trees and woodland within the site form part of a wider and larger woodland. However, the rural characteristic of the site itself is in large part defined and enhanced by the starkly contrasting urban forms on both its north and west boundaries. In effect, the appeal site forms part of a rural finger extending into the urban area. It defines a very sharp line between the urban and rural, and it is a line that can be readily experienced and understood when seen from the urban side, even if the tranquillity of the private site interior cannot.
40. The size of the outline development proposed, with building footprint for 41 units and clubhouse, access roads, and parking areas, is difficult to reconcile with the limited amount of developable land available around the periphery of the lake, particularly in view of the loss of trees and need for landscape screening, as discussed further as part of visual impacts below. In short, the proposal would be cramped.
41. As a result, I find that the size of the proposal would blur the existing sharp line between rural and urban, and significantly degrade the separation role of the site and its positive rural contribution to the adjacent urban area. This separation role remains particularly important along the southern side of the London Road given the near coalescence of Newbury and Thatcham to the north. The appellant argues that the proposed footprint represents just a fraction of the LCA as a whole, nonetheless the site makes a significant contribution to that character type.
42. The appellant cites other developments in LV1. However, the hospital building is identified in the LCA as an existing detractor that already blurs the distinction between the settlements. The residential development site at Newbury Racecourse more readily relates to its urban context than the appeal site. The sewage works and the bowling club are both historical developments that could be said to have negative impacts. As such, the cited developments can be clearly distinguished from the current proposal and do not justify further negative impacts, neither do the constraints on other rural sites brought about by large swathes of the region being Areas of Outstanding Natural Beauty.
43. The two LVIA's produced by each party apply similar methodologies, but key differences arise in their assessments of magnitude of change and effect. In short, for the reasons already discussed above, I find that the appellant understates the magnitude of change caused by a development of the size proposed, with associated loss of trees. Hence the proposal would result in harm to landscape character.

Visual impacts of the size of the development (including trees)

44. Although the proposal is in outline, the constraints of the site are such that the siting of the proposed development will necessarily be restricted to the north and west of the lake. The visual effects of the proposal are agreed to be localised only, occurring from the adjacent London Road and Hambridge Road.
45. From both roads, the screening provided by the largely unmanaged woodland is moderately dense, with a degree of screening coming from low-level self-seeded vegetation. Nonetheless, views are available into and across the site. Whilst these views are glimpsed, they are nonetheless sufficiently numerous from these roads along the north and west boundaries of the site to allow the passer-by to appreciate that the woodland surrounds and partially screens a lake. At the time of my April site visit, trees were not quite in full leaf, indicating that views would increase in winter.
46. The individual trees comprising the woodland around the lake are numerous, with some 870 identified trees⁶ within the application site as of August 2021⁷. Whilst the appellant's tree survey assesses all of these as only low to moderate quality, at the inquiry the appellant confirmed that the woodland as a whole could be categorised as the highest value Category A⁸. This concession reinforces my above finding that the woodland as a whole makes a very significant contribution to the character of the surrounding area.
47. From the London Road, the key receptors are the residential properties to the north, the highway, and the cycle path. Given the size of the development, and the need to site it around the north and west of the site, a significant amount of tree felling would be inevitable. As a consequence, given the proximity of the development to these receptors, the buildings would be clearly visible from the outset. Indeed, the appellant's argument is predicated on the basis that the proposed built form would be within the context of, and consistent with, the prevailing characteristics of the street scene along the London Road. However, my observations are that the overall experience of the site as part of a rural landscape sharply contrasting with the urban surrounds would be diminished.
48. Although it is widely recognised that there is no right to a view, the outlook from the residential properties on London Road would be changed to a very considerable degree, notwithstanding that there is no adverse impact upon residential amenity. The elevated siting of most of these properties offers a direct view over the road towards the site, and often over existing front hedges, towards a vista currently comprised of mature woodland with glimpses of the lake beyond. That view would be fundamentally changed, from the outset and for a considerable period of time, by the introduction of urban built forms. Whilst some trees would still remain, the high value character of the woodland as a whole would be significantly diminished.
49. The proposal would also be very visible to pedestrians and cyclists using this stretch of the NCP4 and footpath alongside the London Road. Travelling immediately adjacent to the development site, these users would have clear visibility through the trees, and be travelling relatively slowly thereby experiencing glimpses of extended duration. In respect of motorists, the harm

⁶ This figure only includes trees with a trunk diameter more than 75mm, with the appellant indicating it would have been impossible to count smaller trees which would include saplings and seedlings

⁷ Some 949 when the planning application was originally determined, Mr Spooner addendum POE, para 3.2.13

⁸ Paragraph 51 of the Council's second closing statement

is likely to be more limited as it would be offset by the relatively limited duration of such encounters.

50. From Hambridge Road, the proposed access road to the site would inevitably create a gap in the existing landscaping that would afford wider views into the site, across the lake, and to any development along the northern shore. Proposed landscaping here is unlikely to have much effect given the need to keep the access road clear, even over 15 years. The effect of vista-stop trees between the bend of the access road and the lake is also very likely to be limited given the small amount of land available here. The experience of this view by cyclists and walkers would be adversely affected, although the harm would be experienced to a lesser degree by motorists. Overall, harm would be caused at this particular viewpoint, notwithstanding that this harm would be less than that from the London Road. From elsewhere on Hambridge Road, the harm would be more limited again due to existing screening.
51. It is likely that any design or layout for this size of outline proposal would be clearly visible from the London Road, particularly during the initial years as well as from the proposed access on Hambridge Road. Any potential concept of a greater number of smaller built forms is also unlikely to be achievable, given that access roads and parking that would also remain necessary and given the limited size of the developable site. Whilst smaller units would reduce height, the increase in footprint would increase visibility on the horizontal axis as well as impact on retention of trees and any replacement landscaping.
52. My findings on the outline proposal are reinforced by the block study options⁹ and the original indicative proposal. This indicative scheme proposes three four-storey blocks of chalets, the siting of which would be sufficiently close to the London Road, such that they would be readily and clearly visible. Their height would be close to that of the tree canopy as a whole. Whilst some trees would be retained that exceed this building height, the urban forms would be a particularly dominant feature in views from London Road. The proposed reflective finishes would starkly contrast with the retained and proposed landscaping. Whilst it is intended that this surfacing would reflect adjacent trees, it is also likely to create a light, bright finish that would also potentially reflect the traffic and houses, thereby adversely emphasising the urban form in a site of rural characteristic.
53. The assessments of the visual effects in the two LVIA's have been carried out on the basis of the original indicative plan. Both the appellant's and the Council's LVIA's consider the effects of the proposal during the first year of development and at 15 years, when the proposed landscaping would have matured. Both conclude that there would be significant effects from the outset, with the appellant's LVIA indicating that sufficient screening would be provided in the longer term as new planting matures.
54. However, the success of the screening would depend on the tree loss required and the extent of new planting, with particular regard to the size of the proposal. The total loss of trees within the site, based on the original indicative scheme, would be some 93 trees. This loss would be over and above the 83 recently lost as a result of previous works. Although this proposed tree loss represents a small proportion of the overall woodland within the wider LCA, the tree loss would be concentrated almost wholly around the north and west

⁹ Mr Harman Proof of Evidence Appx NHA8

- perimeter of the lake, that is, the most sensitive areas to change as experienced from the urban environment.
55. None of the trees to be felled are individually categorised by the appellant as being greater than modest value, although this is disputed by the Council. Either way, the extent of felling required, even as shown on the amended indicative plan, is such that from my observations it would adversely affect the high value of the woodland site as a whole. It follows that harm would also result to the enjoyment of green infrastructure¹⁰ as experienced from the above receptors, even though that green infrastructure could not be accessed by the public, and regardless of the enjoyment of use that would be experienced by occupants of the holiday chalets.
56. The appellant argues that the proposed landscaping would be sufficiently mature to effectively screen the buildings after a period of 15 years. However, the appellant also confirmed at the inquiry that any new planting would be native and predominantly deciduous. Therefore, any benefits arising from replanted screening would be seasonal, with considerably reduced benefits in winter months, even if the growth predictions are not overoptimistic and longer foliage species such as oak were deemed suitable for reinforcement planting in this wetland habitat.
57. Furthermore, the presence of the two Thames Water sewer pipes, with associated wayleave, between the lake and London Road would limit the extent of tree planting along this strip. Whilst this limit is required primarily for maintenance of the pipe rather than for protection of the pipe, either way, this strip cannot consequently be relied upon for tree replanting purposes. Although both parties broadly agree how much space will need to be left unplanted at the strip of land containing the two parallel pipes¹¹, there is dispute on the precise limitations of planting in transition zones beyond that.
58. Nonetheless, my observations are that the scope of any replanting would be likely to continue to allow views through to the buildings, particularly given the elevated level of London Road affording higher views over any ground cover into the appeal site. Therefore, I am not persuaded that even in 15 years, the landscaping would be sufficiently dense that the buildings would not be readily seen, notwithstanding what is shown on the indicative landscape sections¹².
59. The amended indicative proposals would relocate the access road along the wayleave land where trees have already been felled and thereby reduce proposed tree loss, but only to some 76 trees. Moreover, this would bring the access and parking areas still closer to both London Road and Hambridge Road. Despite the appellant's assertion that this could be screened by new large-growing trees to augment existing screening, this has not been assessed as part of the appellant's LVIA or other submissions. No other scheme has been presented to me that demonstrates any less harmful loss of trees, despite the lengthy adjournment. Consequently, I am not persuaded that any future revision of this 41-chalet scheme would be so significantly different as to cause me to reach a different conclusion.

¹⁰ As defined in CS paragraph 5.124, which includes woodlands.

¹¹ The width of the strip would be somewhere in excess of 6 metres, but the precise distance between the two parallel sewer pipes is not available

¹² Mr Harman Proof of Evidence Appx NHA9

60. Overall, the size of the proposed development, with 41 chalets, access road, parking and associated infrastructure, would introduce an overly large and urban form of development into an area defined by its rural characteristics. This would not be adequately offset by long term replacement planting, reflective finishes, or by limiting the height to four storeys, even if the indicative buildings are sited at the furthest point from the adjacent roads. That the area cleared by TW or by the proposal does not represent a statistically significant amount of tree loss over the wider site and LCA does not affect my finding of overall harm. Given the size of the appeal proposal and its effects on the woodland as a whole, it follows that the development would fail to retain as many trees as possible.
61. It is unfortunate that the visibility of the proposal has been increased by TW clearing trees which would have otherwise helped to screen the development. Nonetheless, the prior existence of the sewers and the wayleave would have been material to the consideration of the proposal and, in any case, I am required to assess the proposal on its merits and in its existing site context. Whilst the appellant considers that the quality of this design raises the standard of architecture in the area, this is not a matter for consideration as part of this appeal.

Conclusion on landscape and visual impacts

62. I conclude that the proposal would have a significant adverse effect on the character and appearance of the site and surrounding area, with particular regard to the size of the development and loss of trees. As such, the proposal conflicts with policies CS17, CS18 and the landscape aspects of CS19 of the CS, and paragraphs 131 and 174 of the Framework. Whilst policy CS14 relating to design principles has also been brought to my attention, it is not one of the most important policies in determining this outline proposal, and my decision does not turn on this policy.

Heritage

63. To the south of the appeal site, the area between the river and canal is designated as the Kennet and Avon Canal East Conservation Area (CA). There is no published appraisal available for this CA. Nonetheless, its key significance is agreed to derive from its history as a transport route connecting Newbury to Reading and its associated canal features and historic built form, with the areas of semi-wild land surrounding the CA which reflect the historic character contributing to the setting of the CA.
64. The dispute focuses around the specific contribution of the site to that significance, and the level of harm caused to that significance. There is no evidence that the appeal site has any historical association with the CA. Nonetheless, in landscape terms, I have already found above that the appeal site has naturalised since its former use ceased and that its natural appearance and rural characteristic is a positive contributor to the surrounding area.
65. Glimpses from the CA towards the appeal site, with its natural and rural appearance, make a positive contribution to the experience of being within the CA, and thereby its significance. Indeed, Historic England guidance reinforces that such glimpses may be significant contributors to character¹³,

¹³ Historic England Advice Note 1: Conservation Area Appraisal, Designation and Management, para.59

notwithstanding that this CA as a whole is served by a variety of settings along its length, including modern industrial areas. The rural setting provided by the appeal site also plays a role in screening the dwellings on the London Road as seen from the CA, thereby reinforcing the natural and rural setting of the CA at this point.

66. Even so, the Council accept that views from the CA to the appeal site are limited to one key linear viewpoint, that being the views from along the banks of the river north towards the appeal site. However, neither the main parties nor I were able to visit the full extent of this linear viewpoint, as it is in third party ownership and entry is restricted by a gate, other than a single viewpoint adjacent to the Ham Bridge.
67. From that single viewpoint, whilst I had some glimpses through the existing landscaping to the lake, the views were considerably restricted by existing intervening trees and landscaping. Accordingly, although the proposed development around the northern periphery of the lake would also be visible, the intervening distance and landscaping would provide reasonably effective screening. The development would bring built forms closer to the CA than the existing houses on the London Road, however these would not intrude into the natural and rural character of the setting to a significantly greater degree than already exists. The existing landscaping provides largely effective, albeit not comprehensive, screening of the site. In any case, no harm is caused at this viewpoint given the low sensitivity of the receptor adjacent to vehicular traffic noise and disturbance.
68. The linear viewpoint along the banks of the river is not accessible. Whilst the contribution of setting to the significance of the CA is not dependant on access rights or the number of people likely to visit, in this case, it is not suggested that any part of this viewpoint would be significantly different to that at the bridge. Indeed, the evidence suggests the views north will be somewhat similar for its length. Instead, the Council's concerns relate to the experience of harm being greater due to the increased level of tranquillity away from the road, whilst the appellant indicates that there are no possible views due to the mature vegetation.
69. However, I have not been able to visit the riverbank myself and cannot therefore make my own direct finding in terms of harm. Therefore, for the specific purpose of reaching a conclusion on this matter, I shall nominally accept the Council's position in respect of the increased tranquillity along the linear viewpoint as being the worst-case scenario. That is, that the experience along the linear viewpoint would be similar to that at the bridge with largely effective existing screening but with increased tranquillity. In that respect, harm would be caused to the significance of the CA by way of its setting.
70. I therefore find that, in the wording of the Framework, the proposal causes less than substantial harm. Whilst the Council accepted during cross examination that, based on this single viewpoint, the impact on significance would be at the lower end of the less than substantial category, the Framework does not contain any intermediate bracket at the bottom end of the less than substantial category of harm for something which is limited.
71. Paragraph 202 of the Framework provides that where development would result in less than substantial harm to the significance of the designated heritage asset that harm is to be weighed against the public benefits of the

proposal. Planning Practice Guidance¹⁴ identifies that public benefits can be anything that delivers economic, social or environmental progress and be of a nature or scale to benefit the public at large.

72. The planning benefits deriving from the proposal are discussed later in this decision. It will be seen that I have found that the proposal would as a minimum deliver considerable economic benefits both directly and indirectly, and add diversity to the region's tourism offer, which attracts considerable weight. Overall, although I attach great weight to conserving the significance of the CA, the public benefits identified above outweigh the harm I have found to the significance of the CA by way of its setting.
73. Dealing specifically with heritage, I therefore conclude that the proposal would not have a significant adverse effect on the character and appearance of the site and surrounding area, with particular regard to the heritage significance of the CA by impact on its setting, such that the proposal complies with the historic environment aspects of policy CS19 of the CS.

Ecology

74. The fifth reason for refusal refers to impacts of the proposal on the Kennet and Lambourn Floodplain and River Lambourn SACs and River Kennet and Thatcham Reed beds SSSIs. However, Natural England subsequently confirmed that the proposal would not have any likely significant effects and would not impact upon the integrity of the European sites. NE further considered that the measures proposed are sufficient to avoid or reduce impacts in order to maintain the integrity of the sites and that it had no objection to the proposal. On that basis, the Council indicated that it no longer wished to rely on that aspect of the reason for refusal, that is, off-site impacts. Appropriate assessment is therefore not required.
75. The remaining aspects of the fifth reason for refusal relate broadly to on-site impacts on biodiversity, although what was precisely meant by the reason is addressed further in the costs decision. Nonetheless, the matters raised by both the Council and the Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust in this regard led to the appellant seeking an adjournment in order to carry out further ecological surveys. The Council now considers that, whilst the effects on ecological receptors are broadly agreed, the significance of those effects, and so their weight in the planning balance, are still matters of dispute.

Policy context

76. Policy CS17 of the CS indicates that development which may harm habitats or species of principal importance will only be permitted if there is no reasonable alternative and there are clear demonstrable social or economic benefits of regional or national importance that outweighs the need to safeguard the site or species and that adequate compensation and mitigation measures are provided when damage to biodiversity interests are unavoidable. Paragraph 180 of the Framework similarly provides a hierarchy for assessing impacts on habitats and biodiversity.
77. The site is also identified in the CS as part of a Biodiversity Opportunity Area, which intends to create links between natural habitats and take strategic opportunities for biodiversity improvement. However, this is not a statutory

¹⁴ Planning Practice Guidance: Historic Environment para.020

designation and the CS makes it clear that the designation does not represent a constraint on development.

Woodland habitat

78. The site is defined in the appellant's updated ecological appraisal (UEA)¹⁵ as being semi-natural broad-leaved woodland, classed as a habitat of principal importance (HPI) of county or regional importance, comprising Lowland Mixed Deciduous Woodland HPI and Wet Woodland HPI.
79. The amount of felling proposed is considerable, so much so that the appellant originally indicated it was not possible to quantify exactly the number of trees to be removed¹⁶. It was subsequently clarified that some 93 trees would be lost in the original indicative proposal, or some 76 on the amended indicative scheme¹⁷. The original scheme is indicated by the appellant to represent some 9.8% of the trees within the blue line¹⁸, and when the strip of woodland already cleared by TW is included, total tree loss over the site would be some 16.8%.
80. The amount of woodland lost may not be proportionately significant, particularly when considered as part of the much larger woodland in the wider BOA area. However, the loss of that quantity of trees is, in itself, significant when the habitat is identified as being of principal importance for the purpose of conserving biodiversity. Furthermore, the tree loss is not evenly spread but heavily concentrated to the north and west of the site.
81. Indeed, the UEA recommends in the first instance retaining as many trees as possible, with compensatory habitat planting for the woodland area to be removed. The appellant indicates there is sufficient remaining space around the site to replant the 93 trees. However, the existing woodland around the area of the site that would not be developed as part of the proposal is already moderately densely planted. Aside from one notable clearing to the south east of the lake, and the strip cleared by TW, my observations were that existing crown cover is very extensive across the site. New tree planting beneath the shade of existing crown cover or in the shade of the four-storey blocks would struggle to grow, making them less effective as mitigation or compensation.
82. Even if replacement planting within the existing woodland area could be considered adequate compensation, such replanting will take at least 15 years to mature even for fast growing species, such that the habitat will be degraded at least for the initial period after development. Elsewhere, replanting would necessarily be limited by the footprint of the new development and the restrictions imposed by the wayleave strip. Consequently, even though the appellant indicates that the quality and effectiveness of replacement planting is a more relevant factor than quantity, I find that the proposed replanting scheme is likely to be inadequate.
83. The appellant states that the existing woodland would benefit from the intended woodland management plan. However, a considerable amount of the submitted WMP works, related to removal of dead, hazardous, fallen partially uprooted trees and removal of overhanging branches, are only necessary if

¹⁵ CD1.12d

¹⁶ Mr Spooner first POE, paragraph 4.3.1

¹⁷ Based on the AIA submitted with the application, which does not provide a total number of trees to be removed as a result of the proposal, the Council originally calculated some 43 trees to be removed

¹⁸ Appellant's second closing statement, paragraph 166

public access across the site is increased. Nonetheless, more suitable objectives could be secured as part of an updated WMP by condition. Whilst the appellant suggests that habitat removal will not significantly impact upon any protected species, I have found otherwise below. Overall, the proposed development would result in significant adverse effects on the woodland HPI.

Standing water habitat

84. The eutrophic standing water of the lake is identified as HPI. The Council consider that there is insufficient information about the baseline water quality to reach a conclusion on whether or not there will be significant residual effects on the water environment. It suggests that a precautionary approach should be taken regarding impacts from construction that may cause turbidity and disturbance, chemical run-off from the access road, and intensified angling bait. The appellant did not carry out a survey, instead indicating that NE advice had already confirmed that the integrity of European sites would not be affected and, further, that the objectives of the angling enterprise necessitate maintaining water quality in any case.
85. Whilst the correspondence from NE on this topic is largely restricted to off-site effects, comments are provided that encourage positive lake bankside habitat. To this end, both the UEA and the final Protected Species Report (PSR)¹⁹ recommend that the existing areas of reedbeds be retained and enhanced with additional reedbeds and marginal habitat. Whilst these may take time to establish, this could nonetheless be adequately addressed and secured.
86. Given the presence of existing reedbeds, I am not persuaded that the adjacent lake topography or water quality is likely to be so significantly different that it would prevent establishment of new beds. The risk of pollution to the water environment from failed sewage and surface water systems is extremely low if properly designed systems are installed. Overall, there is no substantial evidence before me to indicate that the potential impacts from construction, run-off or bait could not be proportionately controlled through suitable management regimes at the appropriate stages.

Bats

87. All bat species are classified as European Protected Species (EPS), and the site has been shown in the final PSR to support up to seven species of bats. The majority of passes recorded by the surveys were of common and soprano pipistrelles, with Myotis mostly using the site in early summer before breeding, and one Daubenton's bat caught in one survey. The PSR classifies the value of the site as local or district, scoring 20 for the small number of common species and 18 for individuals of rarer species using the *Wray et al* methodology. However, this is not to be read as a rulebook and requires professional judgement.
88. In my view the appellant's approach undervalues the site; the county value threshold of 21 is reached for two main reasons. Firstly, a maternity site for common species roosts at tree T4 is clearly included in the *Wray et al* methodology²⁰. Despite the appellant's assertion that alternative guidance should be used for this particular aspect of the *Wray et al* methodology calculation, I see no persuasive reason why a single methodology should not be

¹⁹ Inquiry Document 21

²⁰ Table 2, *Wray et al*, Mr Ryman Second POE Appx 1

followed as a whole. Secondly, the characteristics of the habitat better fit the description of being part of “a complex network incorporating rivers and streams and a mosaic of woodlands and wetland areas” than being part of lesser valued “well-grown and well-connected hedgerows, small field sizes and woodland blocks”.

89. The proposed outline development is likely to be concentrated within the strips of woodland to the north and west of the lake. The consequence of this is that a maternity roost at tree T4 on the northern edge of the lake would be lost due to siting of the proposed chalet blocks. Furthermore, there would be impacts on bats commuting and foraging in the woodland strips along the north, where the chalets would be sited, and along the west, along the proposed access route. As such, I find that the impact of the proposal would be significant. The appellant proposes the following mitigation measures.
90. As the roost is used by up to 11 bats of two common species, it is proposed that either the roost should be translocated, or a maternity bat box should be integrated or attached to the buildings or trees. Whilst no details have been provided, the Council accepted at the inquiry that there is no reason why a derogation licence for this would not be granted by NE. Although the effectiveness of bat boxes has been questioned²¹, and guidance cited that advises against use of bat boxes as a like-for-like replacement for existing roosts²², that same guidance is also quite clear that replacing removed roosts can be classed as appropriate mitigation or compensation and indeed provides advice on doing so. I see no substantive evidence why such mitigation would not be successful, even taking a precautionary approach.
91. The buildings, access roads, and parking would require to be lit, and the final PSR recommends a low impact lighting scheme to minimise disturbance to commuting and foraging bats to the north and west of the site. Whilst such lighting schemes may be commonly required by planning condition, and the bats found at this site are mostly more light tolerant species, there are several key matters that reduce the weight I can give to the proposed mitigation in this particular case.
92. Firstly, the proximity of the access road to the open body of water would be likely to create a tension between low level lighting for bat mitigation and the safety of visitors to the site. Secondly, the scale of the chalet buildings, indicatively proposed at four storeys in height will be likely to introduce lighting from windows up to canopy level. This appears to contradict the final PSR recommendation that lighting should be as low to the ground as possible and specifically not above 8 metres. The proposed use of smart glass that obscures windows by timer at night-time would not overcome opening of windows or use of any balconies, even if it could not be overridden by occupiers.
93. Thirdly, building over water was accepted by the appellant at the inquiry to have a bigger impact due to reflected light. As a consequence, this would impact negatively upon bats, particularly the rarer species of Daubenton’s bat which feeds by skimming the water surface for insects, notwithstanding that the southern part of the lake would not be affected. Finally, the appellant accepts that dark corridors will be possible along the south and east of the lake, but the north and west are currently less dark due to street lighting. As it

²¹ Collins et al, Appx 3, Mr Ryman Second POE

²² NE/DEFRA standing guidance, Appx 2, Mr Ryman Second POE

is in this less dark area that bats have been detected, where the woodland will already be more affected by lighting from the urban area than elsewhere within the woodland, the baseline for any lighting scheme will be affected accordingly.

94. Overall, in these particular circumstances, I see no persuasive evidence that any proposed lighting scheme will be achievable along the woodland edges and lake. Indeed, this is an area where the final PSR recommends avoidance of lighting. Whilst lighting schemes are commonly dealt with by condition, particularly for development on open sites, to do so here would not represent a sufficiently precautionary approach given the size of the proposal and the value of the site.
95. The development area only takes up a relatively small proportion of the wider woodland and lakes habitat. However, the size of the development, the loss of trees and the absence of a robust lighting mitigation scheme based on existing light levels, together indicate that this area of land will potentially be lost or significantly diminished as habitat. The size of the outline development and the consequential impact of tree loss is such that, overall, I find it is likely that there will be a significant negative impact on the bat population.

Otters

96. Evidence of otters, an EPS, using the site has been found in the form of a single spraint in 2021, with feeding remains found in 2017. However, no otter holts or resting places were found at either time, suggesting that otters pass through and forage within the site. The final PRS concludes that the temporary impact of the proposal during construction can be satisfactorily mitigated, and that the effects during the operational phase are negligible. Whilst the Council disagree that effects are negligible, it does not consider that the impact on otters is the most troubling ecological aspect of this proposal.
97. Even though the footprint of the development is likely to be where the feeding remains and spraint were found, the range of otter territory stretches for as much as 25 to 30 km along a river. As such, the site already represents just one part of a much larger territory, and one which is already close to the urban environment and on the periphery of the riparian environment, such that there would be minimal impact on any attempt by otters to continue to use existing routes at the lake's edge. If otters are disturbed during the construction period, they are likely to return thereafter, when the site will continue to be available for use by otters, particularly given that they are largely active at night, which is when there will correspondingly be less human activity. Consequently, the risk of injury to otters by slow moving vehicles is low, and would be lower still with driver warning signs.

Reptiles

98. Slow worms and grass snakes are both classed as a Species of Principal Importance (SPI). The final PSR indicates that two slow worms were found in surveys in 2016 and 2021, with the later survey also finding of two grass snakes²³. In 2016, the finds were to the north of the site, in 2021 they were to the west. No refugia were placed to the north in the 2021 survey due to the TW works. The majority of the site is of local value to reptiles, albeit that the

²³ Both being peak counts of one

population of reptiles is low, and the Council are principally concerned by fragmentation of that habitat and the risk arising from vehicles on site.

99. In terms of fragmentation, the siting of the development would unavoidably impact the surveyed location of the reptiles found, and whilst habitat corridors would be maintained, these would be considerably restricted in width and in proximity to considerable increase in human activity. Whilst this increases the risk to the reptile population, the survey results following the recent TW works suggest that the reptile population will move and adapt to new surroundings during construction and return once operational.
100. The proposal set out in the final PSR to clear vegetation in a staged and directional manner to allow reptiles to move away and prevent re-entry represents a practicable and not uncommon solution to address the risk of direct harm, despite the Council's reservations about the complexity of doing so. During the operational phase, no mitigation is proposed to reduce the risk from vehicles visiting the site but, given the low population levels, such risks are correspondingly low.

Desmoulin's whorl snails

101. Desmoulin's whorl snails are the qualifying feature for the aforementioned Kennet and Lambourne SAC within the citation for the Thatcham Reed Beds SSSI, and a SPI. Although potential suitable reedbed habitat exists at the appeal lake, no Desmoulin's whorl snails have been found. Some 61 square metres of that potential habitat would be lost as a result of the indicative proposals, but this is proposed to be replaced with a larger area of some 120 square metres as an expansion of the existing reedbeds at the outflow of the lake. As a precautionary measure, the appellant proposes to prevent dogs accessing the site, thereby protecting environmentally sensitive areas. The risk to potential habitat is therefore low.

Birds

102. A total of 27 bird species were recorded during the breeding bird survey results set out in the PSR, two of which have SPI status, namely the song thrush and dunnock, along with three red list species and four amber list species. That the site is only of local importance and of low conservation value is not disputed. Potential for direct harm to birds caused by angling equipment is intended to be addressed through effective site management and site bailiff. Although the Council consider this may be difficult to monitor and enforce, it could nonetheless be reasonably secured by a standard environmental condition, as could the requirement to only undertake habitat clearance outside of nesting season.
103. Wintering wetland birds may be temporarily displaced during construction, but they would simply relocate to other nearby lakes, as would other birds to the remaining woodland, subject to avoidance of disturbance during nesting season. Overall, the proposal would maintain sufficient diversity and area of habitat for wild birds, subject to the proposed habitat mitigation.

Biodiversity net gain

104. Policy CS17 of the CS does not require achievement of a biodiversity net gain, but rather seeks to maximise opportunities to achieve it. The Framework also seeks to minimise impacts on and provide net gains for biodiversity. No

such assessment has been provided to date, whether metricated or not. Instead a biodiversity net gains assessment is proposed to be dealt with at the detailed application stage.

105. The appellant suggests that the site requires active management and, without it, the biodiversity value of the site will instead deteriorate. However, there is no substantial evidence before me to suggest that the natural process that have created this woodland would not continue to maintain the woodland and lake as the vibrant and diverse habitat that it already is, albeit one that is not designated as being particularly special.
106. The Council is concerned that not even no net loss has been demonstrated to be achievable. It further highlights that replacement of lost mature trees with saplings does not represent gain, but rather a gradual diminishment of harm over time. Given my above conclusions on the harm caused to habitats and species, the proposal has not demonstrated that it will be likely to achieve any net gains, or even maximise opportunities to do so. I am not persuaded that even neutrality in net gain assessment could be achieved at the detailed stage for the size of this outline proposal, even though there is no requirement to provide a metricated assessment. Accordingly, this is not an appropriate circumstance in which biodiversity net gain should be addressed by planning condition or obligation.

Conclusion on ecology

107. In having regard to the purpose of conserving biodiversity, I have found that significant harm would be caused to the woodland habitat and to the habitat of commuting and foraging bats, despite proposed mitigation. As a consequence, it is unlikely that biodiversity net gain could be achieved. Any other harm caused to biodiversity would be no more than limited.
108. Policy CS17 states that development should only be permitted where there are no reasonable alternatives and there are clear demonstrable social or economic benefits of regional or national importance and that adequate compensation and mitigation measures are provided when damage is unavoidable. I have already concluded that the planning benefits of the proposal are no more than considerable, even when taken together. Whether or not these benefits are as great as of regional importance, they would not outweigh the significant harm I have found.
109. I conclude that the size of the outline proposed development and the extent of the loss of trees is such that, overall, the proposal would have a significant adverse effect on biodiversity, with particular regard to the impact of the proposed tree works. The proposal is contrary to policy CS17 of the CS and paragraph 180 of the Framework. Whilst paragraph 179²⁴ is cited in the reason for refusal this instead relates to plan making.

Transport

110. The existing access to the site from Hambridge Road, close to the junction with London Road, would be moved further south, to a location between the Ham Bridge and the opposite access to Two Rivers Way. The Council now consider that the proposal would not impact upon the now implemented London Road / Hambridge Road junction improvement scheme referred to in

²⁴ Formerly paragraph 174

the first reason for refusal, neither is there any objection on traffic generation grounds. Instead, the dispute turns on the layout of the new access and the effect on highway safety of any vehicles turning right into and out of the site.

111. The proposed left-in left-out access arrangement is clearly intended to prevent right hand turns into or out of the site. Whilst most drivers would follow the lead suggested by that layout, there is the potential for smaller vehicles such as cars to turn right into and out of the site, because the access geometry is sufficiently large to accommodate service vehicles. However, whilst this may be possible, to my mind doing so would involve awkward and constrained manoeuvring in either direction, thereby discouraging reasonable drivers from doing so.
112. Furthermore, the likelihood of right turns into the site would be limited given the low number of vehicle movements from the south. Most of the traffic arriving at the site would be from the A4 to the north, reflecting the land use to the south, which is predominantly industrial. Indeed, the appellant's vehicle distribution analysis suggests that traffic from the south may comprise as little as 15% of the total. The Transport Statement trip attraction methodology indicates that total two-way vehicle trips at peak hour would be some 16 trips. When taken together, these two figures suggest that the number of vehicle trips to the site from the south would be very small indeed.
113. Although there is some concern that vehicles from the south may conduct U-turns at the London Road / Hambridge Road junction, at the inquiry the Council agreed that such a manoeuvre would constitute an offence. There is no evidence before me to suggest that the development would encourage such illegal manoeuvres, as opposed to permitted U-turns at nearby roundabouts. Similarly, vehicles leaving the appeal site could easily and readily double back using the nearby roundabout.
114. Furthermore, the recent removal by the Council of a dedicated right-hand lane from Hambridge Road into Two Rivers Way as part of a wider road improvement scheme suggests that the proposed highway alterations do not in themselves introduce unacceptable highway safety risks at this location, notwithstanding that the Two Rivers Way realignment may have created other benefits to traffic queueing north.
115. Consequently, I find that the layout of the proposed access provides sufficient direction to drivers about what vehicle movements should and should not be appropriately undertaken. Whilst the Road Safety Audit recommends that additional signage should "reinforce" the right turn restriction, it does not suggest that such signs are essential to the safe operation of the access, regardless of the enforceability or otherwise of such signs.
116. I conclude that the use of the proposed access would not have an unacceptable effect on the safety of road users using Hambridge Road and the surrounding road network. As such, the proposal complies with policies CS5, CS13 and CS14 of the CS. Saved policy TRANS.1A of the West Berkshire District Local Plan (2007) is no longer relevant as it relates to protection of land for the now implemented road improvement scheme.

Flooding

117. The appeal site is located largely within Flood Zone 3 and the proposal for holiday units is classified as a more vulnerable use. As such, both the sequential and exception tests in policy CS16 and the Framework require to be met. Given the existing use of the site for angling and the proposed holiday usage, the main parties agree that the sequential test has been met. I see no reason to conclude otherwise.
118. Mitigation measures proposed by the Flood Risk Assessment (FRA) include compensatory storage of flood water, raised finished floor levels, and management measures in event of flooding of access roads. The Environment Agency and the Council both agree that the second part of the exception test, relating to the technical aspects of flood risk, has been complied with. The occupants of the development would therefore remain safe for its lifetime and the proposal will not increase the risk of flooding elsewhere. On that basis, I find that the harm caused by flood risk is limited.
119. Nonetheless, the first part of the exception test also requires to be passed. It must therefore be demonstrated that the development would provide wider sustainability benefits to the community that outweigh the flood risk. No definition of what these wider sustainability benefits should comprise has been provided. The PPG suggests that each local planning authority will need to advise applicants on what criteria will be used, with reference to its local plan sustainability framework. In this case, the Interim Local Plan Sustainability Appraisal Report (2020) is a plan-making tool that is not particularly helpful in assessing the current proposal. Consequently, the primary reference is to the definition of sustainable development contained within the Framework, that is the economic, social and environmental objectives.
120. There is no dispute that the economic and social benefits arising from the proposal outweigh the flood risk. Rather, the Council claim that it is in the environmental aspect that the first part of the exception test is not passed, suggesting that there are no environmental benefits and that it is necessary to demonstrate all three objectives through economic, social and environmental benefits. However, the wording of the exception test is clear. It is only the benefits that require to be weighed against the flood risk at this stage. The lack of any environmental benefit does not prevent the economic and social benefits being taken into account.
121. Overall, I conclude that the flood risks can be adequately managed by conditions such that the weight I attribute to that risk is limited. Overall, the wider sustainability benefits to the community outweigh the flood risk and, as such, the first part of the exception test has been met. Accordingly, the proposal would comply with local and national policy which seeks to steer new development away from areas at the highest risk of flooding, in accordance with policy CS16 of the CS and paragraph 164(a) of the Framework.

Planning benefits

122. For the avoidance of doubt, in ascribing weight to the benefits I have used the following scale; limited, moderate, considerable and significant.
123. West Berkshire has a strong existing economy, but that does not suggest there is no need for continued investment and job creation from developments

of the scale proposed. Indeed, economic benefits would include those arising from the construction stage, visitor spending, and jobs created. Construction would create some 71 jobs over two years notwithstanding that a proportion of those jobs may be secured from beyond the locality.

124. Visitors to the development would spend money locally. Even though the proposed accommodation is self-catering, there would nonetheless be at least some spending in the local area on food, entertainment and shopping. This spend would be long-term, enduring for the lifetime of the development. Ten direct full-time jobs would be created, which is likely to include management, administration, cleaning and groundworks employment. Whilst the number of indirect jobs that would be created was disputed, no alternative to the appellant's figure of a further 68 full-time jobs was suggested.
125. The appellant's evidence has been based on providing an angling destination, with some 25 fishing stations around a lake that would not be restocked with fish. Whether or not this represents a sustainable business model, the Council have indicated that the scheme will increase the local tourist accommodation offer and improve the tourism base of the district in line with the Council's economic strategy. There is, therefore, a need for general holiday accommodation as per the application description, whether or not occupied by anglers.
126. Overall, given the scale of the investment and the contribution to economic output that would accrue from the development, I attach considerable weight to these economic benefits. In attaching weight, I have taken into account the current Government drive to boost spending as part of the economic recovery from the pandemic. Whilst the appeal decision at Lower Farm in 2014 attributed significant weight to those economic benefits, that was a matter of planning judgement based on the evidence before that inspector.
127. West Berkshire has some well-known leisure attractions, such as the nearby Newbury Racecourse, and the provision of additional tourism accommodation is a benefit. Given that there are no holiday facilities in the area similar to that proposed, the appeal proposal would also add diversity to the region's tourism offer. These benefits attract moderate weight. The location of the appeal site for this proposal is agreed to be sustainable and accessible, and this attracts limited weight.
128. The benefits arising from increased access to the lake and woodland are very limited, given that the lake and grounds would remain private. Increased use of local transport facilities is unlikely to be significantly encouraged given the indicative provision of some 50 parking spaces, and accordingly this attracts very limited weight. Environmental benefits are proposed in the form of overall biodiversity net gain, but as this has not yet been satisfactorily demonstrated, no weight is attached.

Planning balance

129. The appellant argues that the presumption in favour of sustainable development applies, as set out in paragraph 11 of the Framework, due to development plan policies being out of date. The only policy specifically cited as being out of date is policy CS19. For the reasons given above, I have found that this policy is broadly consistent with the Framework and therefore the so-called tilted balance is not engaged. Even had I found that single policy to be

inconsistent, the overall basket of the most important policies against which the proposal must be assessed is not out of date.

130. Instead, planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations determine otherwise. The Framework also makes it clear that the planning system should be genuinely plan-led.

131. I have found that the size of the proposal would result in significant adverse harm to landscape character and visual impact, woodland habitat of principal importance, and the foraging and commuting habitat of bats. As such, the proposal fails to meet the requirements of the above identified development plan policies. The proposal conflicts with the provisions of the development plan as a whole.

132. The material considerations in this case which weigh in favour of the grant of permission are as identified above are no more than considerable. Even taken together, the benefits of the proposal do not outweigh the significant harms I have found. Even had I found the economic benefits of the proposal to be significant, this would not have altered my overall conclusion.

Conclusion

133. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Patrick Hanna

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Jonathan Clay of Counsel, instructed by Jim Bailey, Pegasus Group

He called:

Jim Bailey BA(Hons) MRTPI	RPS Group
Nicholas Harman BA(Hons) DipLA CMLI	Pegasus Group
Claire Gayle B.EnvD MSc MA IHBC	Pegasus Group
Richard Cook BA(Hons) MA	Pegasus Group
David Gwyn Lewis BSc(Hons) MSc MCIHT	Motion Consulting
Kirsty Thomas BSc PGDip MCIWEM C.WEM	Herrington Consulting
Vivienne Greenough BSc(Hons) MSc CEcol MCIEEM	Tetra Tech
Frank Spooner BSc(Hons) RCarborA AA TecCert MArborA	SJA Trees

FOR THE COUNCIL

Noémi Byrd of Counsel, instructed by the Council's instructing solicitor

She called:

Michael Butler BSc(Hons) MPhil MRTPI	Principal Planning Officer
Liz Allan CMLI	EPLA
Debra Inston BA(Hons) PGDipTP PGDipHC	Principal Conservation and Design Officer
Paul Goddard BEng(Hons)	Highways Officer
Gareth Ryman BSc(Hons)	Ecology Officer
Andrew Giles HND	Senior Tree Officer

INTERESTED PARTIES

Cllr Simon Pike	Thatcham Town Council
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DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Appellant opening statement
- 2 Council opening statement
- 3 Revised core documents list (13 April)
- 4 Internal Council email correspondence dated 1 December 2014 and 5 October 2017 regarding status of appeal site
- 5 Natural England email correspondence dated 25 February 2021
- 6 Appellant's application for adjournment dated 14 April 2021
- 7 Email from Vivienne Greenough dated 14 April 2021 regarding ecology surveys
- 8 Email from Gareth Ryman dated 14 April 2021 regarding ecology surveys
- 9 Email from Simon Pike dated 15 April 2021 regarding participation in event
- 10 Claire Gayle Summary Proof of Evidence
- 11 Richard Cook CV statement
- 12 Visit England Occupancy Survey January 2020 Results
- 13 Thatcham Town Council written statement
- 14 Email from Vivienne Greenough dated 15 April 2021 regarding ecology surveys
- 15 Email from Vivienne Greenough dated 20 April 2021 regarding ecology surveys
- 16 Council closing statement (part one)
- 17 Appellant closing statement (part one)
- 18 Labelled and ordered set of core documents
- 19 Protected Species Report, by TetraTech, dated 5 July 2021
- 20 Updated Protected Species Report, by TetraTech, dated 17 August 2021
- 21 Final Protected Species Report, by TetraTech, dated 3 September 2021
- 22 Appellant Supplementary Statement of Case on Ecology
- 23 Appellant Supplementary Statement of Case on Arboriculture
- 24 Appellant Statement on updated Framework
- 25 Frank Spooner updated Proof of Evidence and appendices
- 26 Frank Spooner second rebuttal
- 27 Vivienne Greenough updated Proof of Evidence and appendices
- 28 Vivienne Greenough updated rebuttal with appendices
- 29 Andrew Giles updated Proof of Evidence with appendices
- 30 Andrew Giles updated rebuttal
- 31 Gareth Ryman updated Proof of Evidence with appendices
- 32 Gareth Ryman rebuttal with appendices
- 33 Council costs application
- 34 Guidelines for Ecological Impact Assessment in the UK and Ireland, CIEEM 2018
- 35 Thatcham Town Council document on impact of tree canopy on visibility
- 36 Email from Nick Harman dated 14 September 2021 regarding TTC document
- 37 Otters: surveys and mitigation for development projects, NE & DEFRA guidance
- 38 List of agreed proposed conditions
- 39 Council closing statement
- 40 Council updated costs application
- 41 Appellant closing statement
- 42 Appellant costs application
- 43 Council reply to costs application
- 44 Appellant reply to costs application