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## Appeal Decision

Site visit made on 22 May 2025

**by Tom Bristow BA MSc MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 30 JUNE 2025**

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### **Appeal Ref: APP/W0340/W/24/3355686**

### **Woodstock, Paices Hill, Aldermaston, Berkshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended (the '1990 Act') against a refusal to grant planning permission.
  - The appeal is made by R Kaur against the decision of West Berkshire District Council.
  - The application is ref. 24/00384/FUL.
  - The development proposed is described on the application form as 'part retrospective: planning application for reduction in levels and the demolition of 1 no. storage unit. Permission is also sought for the erection of 1 no. storage unit and a retaining wall'.
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### **Decision**

1. The appeal is dismissed.

### **Preliminary matters**

#### *Statutory context*

2. Various statutory duties apply in my determination of this appeal. The appeal site- a roughly rectangular parcel of cleared land of approximately 0.54ha, to the east of, and accessed via, Paices Hill (A340)- is within the grade II registered park and garden of Aldermaston Court and opposite grade II listed Little Orchard.<sup>1</sup> There are various other listed buildings relatively nearby, principally towards the north of the site at and around the Village of Aldermaston.
3. Hereabouts the A340 declines from the south closer to the Atomic Weapons Establishment ('AWE') to the Village towards the valley of the River Kennet. Much of the Village is within the Aldermaston Conservation Area, drawn loosely around Paices Hill as it turns into the Street running centrally through the Village, and also around Church Road which spurs off from the former to head around Aldermaston Court.
4. I have therefore approached the appeal in the context of sections 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended. I am also bound by the general biodiversity duty in section 40 of the Natural Environment and Rural Communities Act 2006 as amended. More broadly, each proposal must be determined in accordance with the development plan unless material considerations indicate otherwise (section 38(6) of the Planning and Compulsory Purchase Act 2004 as amended).

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<sup>1</sup> List entry nos. 1000530 and 1117347 respectively.

### *Policy context*

5. At the time the appeal was made, the development plan here included policies of the West Berkshire District Local Plan 1991-2006 (adopted originally in 2002, certain policies of which were subsequently saved by Government Direction), and of the West Berkshire Core Strategy 2006-2026 (adopted in 2012).
6. On 10 June 2025, however, the Council adopted the West Berkshire Local Plan Review 2023 to 2041 (the 'LPR'). LPR Appendix 6 sets out a schedule of policies that it supersedes. I have also taken account of all relevant material considerations in determining the appeal, including the National Planning Policy Framework (7 February 2025, the 'NPPF') and the Planning Practice Guidance ('PPG').
7. The main parties have had the opportunity to comment on implications of the adoption of the LPR at appeal. The Council made comments, the appellant did not. In the interests of fairness, my decision therefore reflects on the relationship of the scheme to the development plan as it stood before the adoption of the LPR, and assesses it relative to extant provisions.

### *The development*

8. Paragraph 2.4 of the appellant's Planning Statement states that it is proposed to demolish no. 16 Chapel Street to provide 'a safer two way entrance road with sufficient visibility splays'. That must be in error. The site is instead accessed initially via Paices Hill, the appellant's Landscape and Visual Appraisal ('LVA') explaining simply that existing site access will be used. Access to the site is only realistically achievable by vehicle in the absence of footways beside the A340 for some distance hereabouts.
9. As in the application form, planning permission is sought for reducing levels, demolishing a unit and erecting a replacement, and the installation of a retaining wall. The application form states that the work started on 1 October 2022. The site has been cleared, levelled, and a retaining wall around the eastern and southern sides installed. Permission is therefore sought partially retrospectively.<sup>2</sup>
10. Nevertheless, for brevity, I have referred to the totality of the development for which planning permission is sought as the 'proposal' or 'scheme' in this decision. Under section 55(1) of the 1990 Act, building and engineering operations are defined as development, as is 'the making of any material change in the use of any buildings or other land'. The onus is principally on an applicant to substantiate their case.<sup>3</sup>
11. Whilst building and engineering works have been undertaken and are proposed, it is difficult to establish the nature of the use proposed. That is significant. In this case operational development is intended to facilitate the use of the land for a particular purpose. The two are inextricably linked. Whether a material change of use would occur, which is in dispute between the main parties, also bears upon several of the Council's reasons for refusing permission (as set out in their decision notice in respect of application ref. 24/00384/FUL).

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<sup>2</sup> As reiterated in the appellant's Planning Statement at paragraphs 1.1 and 1.2.

<sup>3</sup> Section 62(3) of the 1990 Act.

## Main issues

12. Against the context above, the main issues are:

- (i) whether the scheme would entail a material change of use,
- (ii) whether the appeal site is an appropriate location for the proposed use,
- (iii) the effect of the proposal in respect of character and appearance,
- (iv) the effect of the proposal in respect of historic significance,
- (v) whether the scheme would be acceptable with reference to public safety, and
- (vi) whether it has been demonstrated that the scheme would be acceptable in respect of drainage implications.

## Reasons

### *(i) Change of use*

13. The application form states that the appeal site is a 'b2/B8 Storage and Distribution site – Timber Yard'. B2 and B8 refer to use classes as in Schedule 1 to the Town and Country Planning (Use Classes) Order 1987 as amended (the 'UCO'). B2 'General industrial' is defined as 'use for the carrying on of an industrial process other than one falling within use class B1 ['Business'] above', and B8 'use for storage or as a distribution centre'. Use class B1 was for offices, research and development or industrial processes which could 'be carried out in any residential area without detriment to the amenity of that area...'.
14. The appellant was initially of the view that the proposed use would fall within use classes B2 and B8. If the extant permitted use and proposed use are within the same use class or classes, there may not be a material change of use. There are certain instances where there may be a change of use nonetheless, for example where the mix, predominance, or intensity of different uses changes. That may also be the case where limits have been placed on a use by virtue of conditions attached to a permission, or the operative terms of grant of planning permission.
15. The application form is silent on the nature of the proposed use. The supporting Planning Statement, and Technical Note in respect of biodiversity net gain ('BNG'), however, set out that the application is on behalf of Easy Concrete Limited. The appellant's LVA goes further in explaining that the site will be used for 'the applicant's concrete business...'. In support of the economic benefits of the scheme, paragraph 4.3 of the appellant's statement of case sets out how the proposal would 'bring a new employer to the area'. I will return to that point.
16. The Council's officer report in relation to application ref. 24/00384/FUL sets out how 'although not specified in the application submissions the proposal if approved would be for a future concrete mixing/ batching plant...'. The appellant does not expressly counter that position. The officer report also refers to the appellant failing to provide sufficient justification in respect of use in response to the Council. There remains no substantive information before me regarding the nature of the proposed operation, any processes involved, or of its likely intensity.
17. Section 55(2)(e) of the 1990 Act sets out that 'the use of any land for the purposes of agriculture or forestry (including afforestation) and the use for any of those purposes of any building occupied together with land so used' does not involve development of land. Forestry is not a use class. Forestry, accorded its ordinary definition, neither reflects an industrial process, nor purely storage or distribution

(although there may be some degree of overlap in terms of processing, holding and transporting timber).

18. Schedule 2, Part 6 to the Town and Country Planning (General Permitted Development)(England) Order 2015 as amended (the 'GPDO') sets out that certain agricultural and forestry development is permitted development, i.e. that it does not require specific planning permission. That includes works under GPDO Schedule 2, Part 6, Class E for the erection, extension or alteration of a building reasonably necessary for the purposes of forestry, subject to various limitations and conditions. Along with agricultural permitted development rights, those provisions reflect that forestry is inherently linked to the land in a way that general industrial production or storage and distribution are not.
19. Curiously, the Council indicate that the site may now be considered instead within use class E introduced on 1 September 2020 to Schedule 2 of the UCO. Use class E 'Commercial, Business and Service' was introduced by the Town and Country Planning (Use Classes)(Amendment)(England) Regulations 2020 (the '2020 Regulations'). Amongst other things, the explanatory note to the 2020 Regulations explains how use class E 'subsumes previous use classes which were specified in the Schedule to the Use Classes Order as Class A1(Shops), Class A2 (Financial and professional services), Class A3 (Restaurants and cafes) and Class B1(Business)...'.
20. In respect of offices, research and development or industrial processes, use class E(g) sets out the same caveats as in respect of former use class B1 as above, namely that office, research and development or industrial processes are those which 'can be carried out in any residential area without detriment to the amenity of that area...'. Whilst the appellant does not dispute that categorisation of the site use class E, that appears incorrect.
21. Regulation 7 of the 2020 Regulations defining use class E relative to earlier use classes does not include either use class B2 or B8. As above, both use class B1 and current use class E are caveated in that they relate to uses that can be carried out without undue effects in any residential area. That is not the case of forestry. For clarity, use class E is a separate consideration to the application of forestry permitted development rights (under GPDO Schedule 2, Part 6, Class E).
22. Noting that application ref. 24/00384/FUL recently followed application ref. 22/03132/FUL, which was for the same description of development, there is a lengthy planning history to the site dating back some 40 years. Permission was refused for an agricultural building in 1985,<sup>4</sup> albeit that mapping from 1992 reproduced in the appellant's Heritage Statement shows no built development at that latter juncture. Applications for certificates of lawful use or development related to 'timber/ log cutting, distribution/ storage' were not issued in 2004 and 2005.<sup>5</sup> Whilst that history does not indicate positively what occurred, it nevertheless attests to a use of the site since 1985 which is primarily land-based (whether agriculture or forestry).

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<sup>4</sup> Ref. 85/25120/ADD.

<sup>5</sup> Ref. 01/02446/CERT, 01/02445/CERT, 01/02444/CERT and 05/02513/CERTE.

23. Via decision dated 29 March 2007, planning permission was, however, granted for the 'continued use of land and structure as a timber yard for the storing and cutting of timber with ancillary sales' (ref. 07/00232/FUL, the '2007 permission').<sup>6</sup> The appellant draws my attention specifically to condition 7 attached to the 2007 permission, which is that 'the use of the site shall be retained in accordance with drawing title number PH/03 received on 2<sup>nd</sup> February 2007, unless otherwise agreed in writing by the Local Planning Authority'.
24. The appellant's central contention is that, in the absence of reference to forestry on plan no. PH/03, the 2007 permission enabled the site to be used for 'storage (covered and open air) and ancillary sales', which is comparable to the use now proposed. Setting aside that there is no certificate of lawful use in respect of a B2 or B8 use, for 4 principal reasons that is a flawed premise. That is also setting aside that intentional unauthorised development is itself potentially material.<sup>7</sup>
25. Firstly, and even if the proposed use were fully consistent with the extant use, there comes a point where intensification may result in a material change of use. The 2007 permission was expressly for 'continued use' of the site. What is now proposed, as above, is a new employer. Moreover, the appeal site in this instance is only part of the site to which the 2007 permission relates.<sup>8</sup> Furthermore, whilst plan no. PH/03 does not expressly state that the use of the site is forestry, the plan nevertheless refers to the site as 'The Wood Yard'.
26. Secondly, the site has not been retained in accordance with what is shown on plan PH/03. There is no indication that there has been other agreement in writing by the Council in accordance with the terms of condition 7 to the 2007 permission. The appeal site has been almost entirely levelled and is devoid of the buildings, tracks and fences illustrated on that plan. Even if a plan cannot logically secure a use in and of itself, it can secure the operational development upon which continuation of that use is reliant. There is instead no indication of any active use on site at present, the site effectively representing a void in the landscape.
27. Thirdly, the operative part of the 2007 permission was for the use of the land 'as a timber yard for the storing and cutting of timber...'. There is no mention of any freestanding or unfettered B2 or B8 use. On a fair reading, to the extent timber would have been processed, stored, or distributed that would necessarily have been as part of the site's functioning as a timber yard.
28. Fourthly a concrete batching plant would in all likelihood have various different planning implications compared to a timber yard. Different types and amounts of materials would be imported and exported. There would be differences in the types and number of vehicle movements. Working processes would also differ, which may well entail differential implications for both human and natural receptors (likely in respect of noise and emissions). As such I can only rationally reason that the proposal represents a material change of use.
29. There are various implications of that finding, setting aside tangential points such as that the appellant's Heritage Assessment starts from the instructed position that

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<sup>6</sup> Noting that 2 subsequent applications for storage buildings were approved in 2008 and 2009, ref. 08/01436/FUL and 09/00184/FUL.

<sup>7</sup> As in the written ministerial statement of 17 December 2015, official record HCWS423.

<sup>8</sup> Comparing current plan no. PP-12793758v2 with former plan no. PH/03.

there would be no change of use. Of particular relevance, however, is the Council's fourth reason for refusing permission related to the living conditions of the occupants of Little Orchard on the opposite side of the A340. Paragraph 8.2 of the appellant's statement of case sets out that it was not considered necessary to submit a noise report as there was no change of use proposed.

30. Given my reasoning above, that logic does not hold. I cannot reach a view as to whether the scheme would be acceptable in respect of noise, or that a high standard of amenity would be ensured for those nearby. It has therefore not been demonstrated that the scheme would accord with the relevant provisions of LRP policy DM5, criterion a,<sup>9</sup> or of NPPF paragraphs 135.f) or 187.e). In the absence of any substantive information on that point, I also cannot rationally address that matter via condition; such a condition would be imprecise and may not be reasonable.<sup>10</sup>

*(ii) Appropriateness of location*

31. In summary, Core Strategy Area Delivery Plan Policy 1 ('ADPP1') sought to ensure that new development follows or complements the existing District settlement pattern or hierarchy. There was no dispute between the main parties that the site lies within the open countryside, wherein policy ADPP1 set out that 'only appropriate limited development in the countryside will be allowed, focussed on addressing identified needs and maintaining a strong rural economy'. There is no evidence before me of identified needs in respect of the scheme.
32. LPR policy SP1 now defines the spatial strategy for the District, which similarly sets out how development will be required to follow the settlement hierarchy in LPR policy SP3 'which takes account of the function and sustainability of settlements and promotes sustainable communities'. Outside of settlement boundaries, as remains the case of the appeal site, LPR policy SP1 sets out how land will be treated as open countryside where development 'will be more restricted, as set out in policies DM1 and DM35'.<sup>11</sup>
33. Core Strategy policy CS9 articulated that there was forecast to be a sufficient supply of employment land at West Berkshire to meet demand to 2026 (as noted in supporting paragraph 5.46). Policy CS9 further directed proposals for industrial, distribution and storage uses to the District's Protected Employment Areas ('PEAs') 'and existing suitably located employment sites and premises'. The LPR contains Designated Employment Areas ('DEAs') as opposed to PEAs. The appeal site was not within a PEA, and is not now within a DEA.
34. As above, the scheme represents both an increased intensity and material change of use. As also noted earlier, whilst not isolated, and acknowledging the nuance in NPPF paragraph 89 regarding accessibility by public transport in rural areas, the site is only realistically accessible by private vehicle. Aldermaston was defined as a Service Village in the Core Strategy, however inherent in my reasoning above is the site is neither in, adjacent to, or physically well-related to it (related to bullet

<sup>9</sup> Which supersedes, albeit in substance is similar to, former saved policy OVS.6 in this respect.

<sup>10</sup> Setting aside that PPG Reference ID: 21a-012-20140306 guides that conditions should not be used to modify the development in a way that makes it substantially different from that set out in the application.

<sup>11</sup> LPR policy DM1 relating to residential development in the countryside.

points under Core Strategy policy 10 which concerned whether a location may be appropriate for business development).

35. The Village of Aldermaston is not now defined as a Service Village under LPR policy SP3 as part of the settlement hierarchy. Policy SP3 further sets out that 'development outside of these settlements, in other rural hamlets and in isolated groups of development will be restricted to that which is appropriate in a rural area as set out in policy DM1'. That indicates that a stricter, or less permissive approach, is now taken in the LPR compared to the Core Strategy in respect of the acceptability of development at or near Aldermaston.
36. Any employment development would theoretically entail some economic benefits, as recognised by LPR policy DM35, which supersedes Core Strategy policy 10. NPPF paragraph 88.a) sets out that planning should enable 'the sustainable growth and expansion of all types of business in rural areas'. The proposed use, however, has no particular relationship with the rural area or land as opposed to forestry or agriculture, noting that NPPF paragraph 88.b) accords support to the 'diversification of agriculture and other land-based rural businesses'.
37. The proposal is not so much a scheme to diversity the rural economy, but to establish a business use that may well be suited, or better suited, in many other locations. The scheme therefore does not appear consistent with LPR policy DM5, criterion a. As above, on the basis of the inadequate evidence before me regarding the proposed use and its implications, I have set out that I cannot be satisfied that the scheme would be compatible with uses in the surrounding area (setting aside my reasoning in respect of any other main issues). In that respect the scheme would conflict with LPR policy DM5, criterion c.
38. In summary the proposal would either not accord with, or benefit from support from, the relevant provisions of LPR policies SP1, SP3, DM35 criteria a. and c., or those of NPPF paragraphs 88 and 89. The appeal site is not an appropriate location for the proposal.

### *(iii) Character and appearance*

#### Context

39. The effects of the proposal to trees, the landscape, and in respect of historic significance are intertwined. Under this main issue I focus principally on the first two matters. Of 159 National Landscape Character Areas ('NCAs') the site falls within NCA 129, the 'Thames Basin Heaths'. Albeit an extensive area of land, key characteristics of NCA 129 include large areas of woodland, and high woodland cover, amidst a rolling topography often with an historic structure or time depth. The LVA notes that the site falls within the locally defined Woodland and Heathland Mosaic Landscape Character Type, more specifically within Local Character Area WH5, the 'Burghfield Woodland and Heathland Mosaic' ('LCA WH5').<sup>12</sup>
40. Key characteristics of LCA WH5 include a complex pattern of land use dominated by woodland, a significant proportion of ancient woodland, and an historic rural character. In that latter respect the Village of Aldermaston is mentioned as retaining an historic character despite the presence of the A340, noting also that the River

<sup>12</sup> As in the West Berkshire Landscape Character Assessment 2019.

Kennet valley was historically a desirable location for properties, evidently including Aldermaston Court. The area's extensive woodlands are noted as playing an important role 'by containing urbanising influences and maintaining distinction between settlements...'.<sup>13</sup>

41. GLVIA3 sets a methodology for evaluating the effects of proposals in respect of the landscape, both as a resource in itself and visually.<sup>13</sup> The landscape here is neither designated on account of its particular qualities, aside from being a registered park and garden, nor has it been expressly put to me that it possesses uncommon qualities that necessarily justify its treatment as a valued landscape within the terms of NPPF paragraph 187.a). That is notwithstanding that table 1 of TGN02/21,<sup>14</sup> sets out that various aspects of cultural heritage may be relevant in identifying landscape value.
42. Nevertheless in brief, via GLVIA3 the sensitivity of landscape and visual receptors is arrived at by combining judgements on value and susceptibility (to arrive at an indication of the likely magnitude of a scheme's effects). For all that terminology assessing landscape and visual effects is founded on judgement. Although all elements of the English landscape have been affected by human intervention to some extent, in this instance it is appropriate to assess the proposal relative to the authorised nature of the site. As above, permission is sought for engineering works and operational development both undertaken and proposed. The latter could not be proposed without the former having been undertaken.

#### The site in context

43. Aside from around access to the site, there is a highway verge flanking the eastern side of the A340 in which direction the appeal site falls. There is a modest embankment of variable height beyond the verge, overgrowth with apparently self-seeded vegetation and punctuated by occasional trees. As above, the A340 hereabouts declines from the south closer to the AWE, past the site, towards Aldermaston and the Kennet.
44. Naturally the topography rises from the A340 eastwards through and beyond the site. Instead the topography declines to the west through and beyond the plot of Little Orchard. Beyond the appeal site to the east the topography changes significantly eastwards of a wooded belt at a relative high point immediately next the site, the landform thereafter dropping towards the lake at Aldermaston Court.
45. Although the site has been cleared towards the A340, thereabouts it maintains roughly its former level. Given the landform as described above, levelling the site has resulted in what appears as a progressively deeper cut or excavation of the site moving west to east through it. Although the 2007 permission enabled some alterations to the site, the former topography is annotated on plan no. PH/03.<sup>15</sup>
46. With reference to plan no. PH/03 it appears that levelling has entailed the removal of a substantial sycamore tree shown on that plan. Although there is no photographic evidence before me of the former state of the site before levelling was

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<sup>13</sup> The Landscape Institute and Institute of Environmental Management & Assessment's Guidelines for Landscape and Visual Impact Assessment: Third edition (updated November 2021).

<sup>14</sup> The Landscape Institute's Technical Guidance note 02/21 'Assessing landscape value outside national designations'.

<sup>15</sup> Namely a 'flat lower area', 'sloping middle section' and 'flat top section'.

undertaken, more or less of the site is shown as occupied as trees in maps from 1882, 1900, 1913, 1974 and 1992 reproduced in the appellant's Heritage Statement. Excavations have been shored up to the east and south of the site by a series of steels sunk into the ground, into the webbing of which timber beams have been slotted. Several steels to the south are significantly out of plumb, evidently being insufficient to account for the force or movement of earth beyond. It appears beams have failed in the south-eastern corner.

47. The significant extent of levelling or excavation that has been undertaken is illustrated most clearly in plans within the Sustainable Drainage Assessment (the 'SDS'). Plan no. 'BA 0235 01 A' to the SDS gives the lowest level of the site, by the roadside embankment by the north-western corner, as 79.54m above Ordnance Datum ('AOD'). That plan gives the existing level, or pre-existing level, at the north-eastern corner of the site as 87.73mAOD, and by the south-eastern corner of the site as 89.62mAOD.<sup>16</sup>
48. SDS plan no. 'Geo22-150\_T' indicates that the north-eastern corner of the site is now around 83.84mAOD, the south-eastern corner at 83.78mAOD. That suggests levelling in the order of 3.89 to 5.84m in extent at certain locations. Plan no. 'Geo22-150\_T' also shows the locations of trees at the boundary of the site to the east and south, the severed roots of some remaining visible. I note that the appellant's BNG Technical Note sets out that ground works have damaged the root protection area of 4 trees 'by severing the roots and removing useable soil volume/ rooting environment'.
49. The earth or spoil that has been excavated has been left to the north of the site in a haphazard manner. Appearing uncompacted, that has significantly raised natural ground levels there (and there is no information before me as to any effects of depositing earth there to any trees formerly present). Given that nature has begun to recolonise the spoil, evidently it has been in place for several years. The LVA aptly notes that the 'quality and condition of the site is very poor', and that the heaps of sand or spoil resulting from levelling are a 'visual detractor'. I agree.
50. Paragraph 5.10 of the LVA makes recommendations 'which will help the site contribute more positively'. As articulated in paragraphs 7.2 and 7.3 of the appellant's statement of case, the appellant's position is that the proposal seeks to reinstate a 12m strip of land to the east of the site encourage new root growth to adversely affected trees, and 'the introduction of 41No. semi mature trees'.

#### The effect of the proposal

51. Paragraph 1.3 of the LVA, stated to be prepared proportionately in line with GLVIA3 and following discussions with the Council, aptly describes the site at the fringes of the registered park and garden as 'relatively well enclosed by dense woodland, in a well vegetated landscape, with no close rights of way, and very few rights of way in the local landscape'. In that context, within a landscape characterised in part by substantial areas of woodland, the visual sphere of influence of the proposal is fairly described as very localised.

<sup>16</sup> Acknowledging that those figures are points on a plan, and may relate to the level fractionally outside the appeal site itself.

52. In summary, with the removal of earth heaps, the LVA reaches the view that the visual effects of the scheme would, at most, become 'negligible adverse' over time. Relative to the poor quality and condition of the site at present the LVA also explains at paragraph 4.32 how, in landscape terms, 'there are opportunities for enhancement through replacing what has been lost over the years such as trees, woodland and hedges, and by appropriate management of woodland'. In my view, however, even with the measures set out in paragraph 50 above the effects to character and appearance would be clearly adverse.
53. As above, historically the contours of the site aligned with the local topography, with more or less of the site being wooded. In those respects previously the site would have had a clear affinity with, and would have contributed positively to, prevailing landscape characteristics as noted in respect of NCA 129 and LCA WH5. The sloping wooded nature of the site would also have previously contributed positively towards the ostensibly natural setting of Aldermaston Village and Aldermaston Court, authentically reflecting the nature of the historic landscape.
54. The site's character evidently changed, or was authorised to change, following the 2007 permission. However inherent in my reasoning above is that the 2007 permission related to forestry, a use intrinsically linked to the land and one which broadly maintained the existing topography. Moreover, as on plan PH/03, the site contained a substantial sycamore, and no works appear to have been proposed that would have adversely affected surrounding trees. The scheme before me is of a different order of magnitude in terms of intervention in the landscape.
55. NPPF paragraph 187.b) sets out how planning should contribute and enhance the natural and local environment including through 'recognising the intrinsic character and beauty of the countryside'. In my view 'recognising' in that context connotes a degree of protection, regardless of whether a landscape is designated or may be considered 'valued' in terms of NPPF paragraph 187.a). Removal of the sand or spoil heaps, which could be secured via condition, would clearly be beneficial. Notwithstanding the 12m buffer strip proposed, a substantial and artificial cut or scar in the landscape would nonetheless remain. As in GLVIA3, consistent with NPPF paragraph 187.b), the landscape is a resource in itself, setting aside the visual dimension of landscape effects.
56. Significantly in terms trees, the effects of the scheme are not confined to the site itself. As above engineering works have harmed nearby trees. Footnote 2 to the appellants BNG Technical Note sets out that 3 trees affected in that manner were category B as in British Standard 5837:2012 Trees in relation to design, demolition and construction - Recommendations ('BS 5837')..., and a fourth category C. Within BS 5837, category B trees are summarised as trees of moderate quality, possessing 'material conservation or other cultural value'. In other words trees of some value have been damaged by excavation undertaken, with attendant implications for their longevity (including through reducing their stability, exposing them to disease and reduction in soil in which new root growth could occur).
57. The arboricultural report which established the BS 5837 categorisation of affected trees is not before me. Nevertheless paragraph 1.4 of the Council's Rebuttal Statement at appeal in respect of trees sets out that 'some of these trees are noted by English Nature in 2005 as being veteran trees'. There is no countervailing

evidence before me to that position, which would be logically congruent with the prevalence of ancient woodland in LCA WH5, map regression in respect of the site as in the Heritage Statement, and given that the list entry indicates that Aldermaston Court traces its origins to a deer park established or existing in 1299. Clearly the reduction in levels has conflicted with the minimum buffer zone recommended guidance produced by Natural England and the Forestry Commission.<sup>17</sup>

58. Reinstating a 12m strip of land to encourage new root growth to adversely affected trees would now likely have limited beneficial effect on those trees that have been damaged (and have remained in that condition now for several years). Whilst replanting 41 semi-mature trees on site would be beneficial relative to its current condition, those trees would take many years to approach the likely level of maturity of the sycamore which has been lost and veteran trees whose health has been adversely affected. In short, the totality of the scheme would neither undo the harm that has occurred, nor return the site and its surroundings to its former authorised condition.
59. I accept that the visual effects of the scheme would reduce in time as planting matures, that the proposed building is not necessarily dissimilar to that which I am told existed here previously, and that there are few public vantage points in the surrounding area from which a clear view of the site can readily be obtained. I also acknowledge that, at 0.54ha, the site represents a small element of the registered park and garden and smaller element still of LCA WH5. Nonetheless, the scheme has and would continue to adversely affect trees, the landscape as a resource, and character and appearance more broadly. The scheme would be incongruous rather than consistent with its context.
60. Consequently the scheme would conflict with the relevant provisions of LPR policies SP7, SP8 and SP10 along with those of NPPF paragraph 135.c), 187.b) and 193.c). It would also have conflicted with the relevant provisions of Core Strategy policies CS14, CS18 and CS19 which the foregoing policies superseded. In summary and amongst other things, those provisions seek, and sought, to ensure that all development integrates appropriately with the nature or character of its surroundings.

*(iv) Historic significance*

61. As above, the registered park and garden of Aldermaston Court traces its origins back at least to 1299. The park, and grade II\* listed Aldermaston Court itself, reflect a complex historic overlay.<sup>18</sup> The relevant list entries note that the Aldermaston Court estate was much altered in the late eighteenth century commensurate with landscape architectural tastes of that era, and that formal gardens were created around 1849.
62. As set out in the appellant's Heritage Statement, in 1939 the estate was split into, and sold as, 394 individual plots. Before then the estate covered extensive tracts of surrounding land. I am told that the appeal site has been in separate ownership and used for a variety of uses spanning the past 40 years. Aldermaston Court was

<sup>17</sup> Ancient woodland, ancient trees and veteran trees: advice for making planning decisions, 14 January 2022.

<sup>18</sup> Grade II\* listed Aldermaston Court being list entry no. 1117317.

requisitioning during the second world war, thereafter used as a military installation. It is now a hotel and conference centre.

63. The list entry for Little Orchard indicates that it originated in the seventeenth century, albeit with subsequent alterations over time resulting in a somewhat complex form attesting to different eras of historic evolution (and likely increased agricultural buoyancy associated with successive urbanisation). Nonetheless Little Orchard, as with the registered park and garden, emerged in a rural context at a time that buildings, and the economy, was founded on what could be worked or wrought from the land.
64. As above, the Conservation Area is loosely drawn around Paices Hill as it turns into the Street running centrally through the Village, and also around Church Road which spurs off from the former to head east rounding the registered park and garden. The origins and morphology of the Village are intertwined with the landscape and broader social trends, notably increasing affluence and architectural preferences.
65. In short, insofar as this appeal is concerned, the historic significance and special interest of the registered park and garden and of Little Orchard, setting aside other heritage assets, are drawn in large part from the landscape context in which they emerged and developed. In my view that landscape context, as acknowledged in respect of LCA WH5, retains an important role in providing context to the foregoing heritage assets by authentically reflecting the past in the present.
66. Drawing on the Heritage Statement, the appellant's position is that the scheme would entail no impact on the setting of Little Orchard, nor any greater impact than the nature of the site as previously authorised. I disagree. As I have reasoned previously there would be a more intensive use, adverse effects to trees, landscape character, and to character and appearance beyond that which has previously been permitted. That cannot be described other than as detrimental to historic significance.
67. Moreover there are various shortcomings in the Heritage Statement. Firstly the site is explained both to be 'barren' but also containing 'a number of modern industrial structures'. It cannot be both. There is also reference in the Heritage Statement to there being 'many sites along the busy road which are similar in nature and have no impact upon the historic parkland'. I was unable to identify other sites within the registered park and garden of comparable nature during my site visit. Even if there were, that would not necessarily lend support to further encroachment (for example if those uses were historic, unauthorised or of lesser effect).
68. Thirdly, the conclusion of the Heritage Statement relies on the position that 'the site is entirely separate visually from both the historical context of Little Orchard, the nearby Listed Building, and the Grade II Listed Park and Garden of Aldermaston Park'. That is flatly incorrect as the site is within the registered park and garden. Moreover, in relying on the visual interrelationship of the site with its surroundings, the Heritage Statement fails to recognise that the concept of setting is not confined to the visual, but extends the surroundings in which assets are experienced.

69. I therefore conclude that the proposal would fail to preserve the significance of the registered park and garden and that it would harm the setting of Little Orchard, in the former respect in conflict with the expectations of NPPF paragraph 212 and in the latter respect in conflict with the expectations of section 66(1) of the LBCA. In both respects, given the comparatively modest extent of the site relative to both the registered park and garden and setting of Little Orchard, it is fair to categorise the resultant harm as less than substantial (logically towards the middle of a spectrum within that categorisation in respect of the registered park and garden and towards the lower end in respect of the listed building).
70. NPPF paragraph 215 guides that where less than substantial harm would result, that should be weighed against the public benefits of the proposal (to which I will return). Nevertheless NPPF paragraph 213 makes clear that any harm to, or loss of, the significance of designated heritage assets should require 'clear and convincing justification'.

*(v) Public safety*

71. Core Strategy policy CS8 set out that non-residential development within land use planning consultation zones around the AWE would be considered in consultation with the Office for Nuclear Regulation ('ONR'). As set out in the Council's Emergency Planning Statement at appeal, the site is within 600m of the site boundary of the AWE, putting it well within the 'inner' 0-3km zone as formerly set via policy CS8.
72. Although LPR policy SP4 supersedes former Core Strategy policy CS8, its approach is similar. Policy SP4 also sets out that the ONR will be consulted on development proposals in the Detailed Emergency Planning Zone ('DEPZ'). As shown in LPR Appendix 3, the appeal site falls within the DEPZ.
73. The ONR objected to application ref. 24/00384/FUL via correspondence of 2 April 2024. In that they set out that there was inadequate assurance that the proposed development could be accommodated within the Off-site Emergency Plan ('OSEP') established pursuant to the Radiation (Emergency Preparedness and Public Information) Regulations 2019 as amended.<sup>19</sup> LPR policy SP4 sets out, in summary, that development proposals that would pose an unacceptable risk with reference to the OSEP will be refused permission.
74. In brief the function of the OSEP is to ensure that appropriate emergency response capability is in place, and thereby to safeguard public health, safety and wellbeing. NPPF paragraph 102.b) sets out how planning should promote public safety and take into account wider security and defence requirements including by ensuring that operational sites are not adversely affected by the impact of other development proposed in the area.
75. Simplistically if there are to be additional people within close proximity to AWE Aldermaston, as is the location of the appeal site, suitable arrangements need to be put into place in terms of emergency preparedness. That is to both ensure the safety of those individuals in the event of an emergency, and others by ensuring appropriate response capacity. Paragraph 6.3 of the appellant's statement of case

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<sup>19</sup> Which, in turn, followed the Council's Emergency Planning Officer's observations of 28 March 2024.

sets out that ‘the proposal does not consist of new development, nor does it seek to increase staffing numbers significantly, it is therefore considered there is no increase in risk...’.

76. The proposal is, however, for new development. There is no information regarding staffing numbers, noting paragraph 16 of this decision. Moreover if I were to follow the appellant’s logic that staffing numbers would not increase, or that they would not increase significantly, then logically the economic benefits cannot be significant. Nonetheless, in the absence of suitable emergency planning measures based on the limited evidence before me, the proposal would fail to comply with the relevant provisions of LPR policy SP4 and NPPF paragraph 102.b). With reference to my reasoning in paragraph 7 above, there would also have been a failure to comply with Core Strategy policy CS8.
77. There is also a particular angle to the context around the AWE interacting with the second and fourth main issues in this case. Supporting paragraph 5.43 to Core Strategy policy CS8 set out that ‘the inner zones largely encompass countryside, but the service village of Aldermaston is within the inner zone...’. Whilst Aldermaston is no longer categorised in the LPR as a Service Village, that much of the DEPZ is countryside holds true. That reinforces my reasoning that the appeal site is not an appropriate location for the scheme, and also tallies with my observation regarding the absence of comparable uses nearby at paragraph 67 of above.

*(iv) Drainage implications*

78. I have described the topography above, along with how the site has been altered. Excavations mean that the site is now principally sand or clay subsoil. Drainage is evidently poor, I saw that there were substantial channels cut by surface water flowing into the site from the north, and through the site towards the A340. Theoretically it appears from the SDS that, subject to providing sufficient attenuation, surface water run off may be capable of being appropriately controlled or managed.
79. Acknowledging that an alternative approach could potentially be arrived at, the proposed drainage scheme layout is shown on SDS Figure 1 and on plan no. 78831 102 Issue P01. Neither are consistent with the Site Plan & Section as proposed, plan no. 13.433.P.001 B, in that both the new unit and concrete hardstanding are shown in different locations (with backfilling to the east of the site and replanting also apparently absent).
80. SDS Figure 1 refers to outfall or discharge to ‘surface watercourse’ in the absence of existing infrastructure,<sup>20</sup> but further states ambiguously that ‘the outfall would be subject to the capacity of the drainage ditch to accept the runoff and flood conditions. Further investigation would be required for this option’. Whilst it is unclear if that relates to an existing or proposed outfall, in either event there is ambiguity over capacity, ownership and feasibility.
81. Consequently on the basis of the evidence before me I cannot conclude that the scheme would comply with the relevant provisions of LPR policies SP6 or of NPPF

<sup>20</sup> Noting plan no. ALS/ALS Standard/2023\_4801752.

paragraph 182. Those provisions, as with Core Strategy policy CS16 which LPR policy SP6 supersedes, seek or sought, in summary and amongst other things, to ensure development is appropriate in terms of drainage implications.

### **Other matters**

82. The proposal would theoretically have some economic benefits in putting the site to active use and establishing a more intensive use for an incoming business. Removal of sand or spoil heaps, the creation of a 12m buffer zone and replanting would all be beneficial relative to the current state of the site (although, as abundantly clear from the evidence before me, the proposal is both for what has been undertaken and what is proposed).
83. There is, however, no evidence of the need for the scheme in its given location. If I am to follow the appellant's reasoning addressed in paragraph 76 of this decision that employment numbers would not increase significantly, the economic benefits of the scheme would not be significant. More fundamentally, however, there is no precise enumeration of any economic benefits, for example job creation, in the evidence before me. There is no justification that any works to improve the condition of the site are fundamentally contingent on allowing the scheme before me, noting that Councils have powers elsewhere to require the proper maintenance of land.<sup>21</sup>
84. Even if the scheme were acceptable in all other respects, or could be made so, including in terms of access, BNG and drainage, there is neither clear and convincing justification for the heritage harm that would result, nor do any other matters justify allowing the appeal. They do not even approach such a threshold.
85. Even were there a closer balance at play, it is worth reiterating the numerous shortcomings and ambiguities in the information presented by the appellant. As in paragraph 8 of this decision, there is an error in terms of the proposed demolition of an unrelated property. The edifice on which certain evidence is premised fails to acknowledge that the scheme would enable a material change of use in the land, the associated implications of which are not identified in anything approaching a suitable level of detail to reach an informed view on effects. As reflected in paragraph 79 of this decision, certain aspects of the design of the proposal also conflict with one another.

### **Conclusion**

86. For the reasons above, having considered the development plan as a whole along with all other relevant material considerations, I conclude that the appeal should be dismissed.

*Tom Bristow*  
INSPECTOR

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<sup>21</sup> Notably under section 215 of the 1990 Act.