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## Appeal Decision

Inquiry opened 12 August 2025

Site visit made on 14 August 2025

**by Guy Davies BSc (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10<sup>th</sup> November 2025

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### Appeal Ref: APP/X0360/W/25/3364304

#### Land between Lodge Road and Tape Lane, Hurst RG10 0EG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Mactaggart and Mickel Strategic Land against the decision of Wokingham Borough Council.
  - The application reference is 242067.
  - The development proposed is the erection of up to 99 new homes, green infrastructure, open space, pedestrian and cycle links, recreational facilities and other associated infrastructure and access points on Lodge Road and Tape Lane with required improvements.
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**This decision is issued in accordance with section 56 (2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 9 October 2025.**

#### Decision

1. The appeal is dismissed.

#### Applications for costs

2. Applications for costs were made by Wokingham Borough Council against Mactaggart and Mickel Strategic Land; and Mactaggart and Mickel Strategic Land against Wokingham Borough Council. These applications are the subject of separate decisions.

#### Preliminary Matters

3. The inquiry was held in public between 12 to 14 August, 19 August and 22 September 2025. Closing submissions were made in writing on 26 September 2025. The inquiry was closed in writing following receipt of all costs claims and rebuttals on 1 October 2025.
4. I have deleted the words 'outline application' and 'all matters reserved except access' from the description. Although it is an outline planning application with all matters reserved other than for access, that is not a description of development and therefore superfluous for the purposes of describing the proposal.
5. The means of access includes a vehicular access to Lodge Road, an emergency vehicular access to Tape Lane, and two pedestrian access points to Tape Lane. All other highway matters, including internal roads and paths, are for illustrative purposes only.

6. The appellant has submitted a revision to the parameter plan which makes a change to the extent of the southern housing area. Given the minor nature of the revision, I do not consider that any prejudice arises to the interests of other parties, and I have taken it into account in my decision.
7. Following discussions between the main parties, some of the issues in dispute have been resolved. These comprise the baseline assessment for biodiversity net gain (reason for refusal 6), and the provision of infrastructure and public services (reasons for refusal 8-11). There are other obligations offered by the appellant which are disputed by the Council including a travel plan, a bus improvement strategy, and the provision of a strategic cycle route. The provision of infrastructure and services is secured through a legal undertaking under Section 106 of the Town and Country Planning Act 1990 which I consider in more detail later in my decision, including the elements in dispute.
8. The effect of the development on ecology (reason for refusal 7) has been narrowed in scope but there remain two elements in dispute relating to how the removal of two oak trees in 2021 should be treated, and the retention of a culvert on the western side of the site.
9. During the course of the inquiry the appellant submitted further information relating to flood risk on the site, including modelling data and a revised flood risk assessment. As a result of that information, the Environment Agency has withdrawn its objection to the proposal. Consequently, the Council does not now contest the scheme on the absence of a satisfactory flood risk assessment but does maintain its objection in terms of a failure to meet the sequential test.
10. The Wokingham Borough Local Plan Update 2023-2040 was submitted for examination in February 2025. The examination is still at an early stage and it is therefore unknown whether the plan is legally compliant and sound, or whether modifications are required. For that reason, I give the plan only limited weight in this appeal.
11. Complaints have been made by interested parties against the appellant's submission of revised flood risk information during the course of the appeal. However, flood risk is a material consideration in this appeal and I considered it necessary to accept the revised information in order to gain a better understanding of the issue.
12. That approach is consistent with the advice in paragraph 11.11.4 of the planning appeals procedural guide<sup>1</sup>, which in the case of the inquiry procedure recognises that there may be a need to identify any additional technical reports, including a timetable for sharing technical information. Production of revised modelling and flood risk assessment took longer than anticipated, which necessitated a delay to the inquiry, but has resulted in agreement between the appellant and Environment Agency on the extent of the flood risk and possible mitigation measures. It is also the case that the Flood Map for Planning has been updated since the Council's decision, and I consider it is reasonable to allow the appellant to address that change in circumstances as part of its evidence.
13. Other than the minor alteration to the parameter plan, the additional information on flood risk has not resulted in any substantive change to the scheme and it remains

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<sup>1</sup> Procedural Guide: Planning appeals – England, updated 20 June 2025

essentially the same as that considered by the Council at the application stage. The mitigation measures included in the revised flood risk evidence, such as flood compensation storage, are indicative only with the details of such measures being a reserved matter. To avoid any procedural unfairness to interested parties, I allowed further representations to be submitted on the revised flood risk evidence, which I have taken into account in reaching my decision. I also allowed questions to be put to the appellant's flood risk witness at the inquiry.

## **Main Issues**

14. Having regard to the matters that have been narrowed or overcome, the main issues for the appeal are the effect of the proposal on:
- The location of development in relation to the spatial strategy of the development plan
  - Landscape character and appearance
  - Accessibility to services and facilities
  - Flood risk
  - Ecology
  - Loss of agricultural land.
15. It is also necessary to consider the benefits of the proposal, and the consequences of a shortfall in housing land supply. I do this as part of the planning balance.

## **Reasons**

### *Location of development*

16. The site comprises undeveloped land outside the development limits of Hurst as defined by Policy CC02 of the Wokingham Borough Managing Development Delivery Document (the Local Plan) and as shown on the adopted Policies Map. For land outside defined development limits, Policy CP11 of the Wokingham Core Strategy Development Plan Document (the Core Strategy) resists development except where it falls within a limited range of categories considered appropriate in the countryside. The proposed development does not fall within any of those categories.
17. Within the hierarchy of development locations identified in Policy CP9 of the Core Strategy, Hurst is recognised as a limited development location. For such locations, Policy CP17 of the Core Strategy allocates 100 dwellings over the plan period, with individual sites generally expected not to exceed 25 dwellings. Even were the site to have fallen within the development limits of Hurst, its scale of up to 99 dwellings would exceed that intended for limited development locations.
18. Consequently, I conclude that the proposed development conflicts with Policies CP9, CP11 and CP17 of the Core Strategy and Policy CC02 of the Local Plan because it would result in development taking place outside the development limits of Hurst, and at a greater scale than anticipated for a settlement of its size.
19. Although in broad terms the spatial strategy in the adopted development plan has been successful in delivering the housing requirement set out in the plan, that

requirement is no longer consistent with the higher level of need identified using the standard method of calculation in Planning Practice Guidance. The most recent assessment of housing land supply was undertaken in August 2025 as an update to the evidence base for the local plan examination. It found that there is currently 2.5 years' worth of housing land supply. As half that required by national policy it is a significant shortfall. This reduces the weight that should be accorded to the spatial strategy. For that reason, I give the conflict with spatial strategy policies only moderate adverse weight.

20. The Council's first reason for refusal relating to the spatial objectives of the development plan also refers to other policies. Policies CP1, CP2 and CP3 of the Core Strategy provide overarching criteria for all development but are of less relevance to the specific issue of the location of development. Policy CP6 of the Core Strategy relates to managing travel demand, which I consider under the issue of accessibility. Policy CC01 of the Local Plan relates to the presumption in favour of sustainable development, which I consider as part of the planning balance. Policies CC03 and TB21 of the Local Plan relate to green infrastructure, trees and landscaping, which I consider as part of landscape character and appearance and ecology.

#### *Landscape character and appearance*

21. The site lies within the C2 – Hurst River Terrace landscape character area of the Wokingham Landscape Character Assessment 2019. The area is described as a relatively flat lowland agricultural landscape lying to the east of the River Loddon floodplain. Arable fields tend to be large with areas of pony and horse grazing. The area is connected to the river valley by a series of ditches and ponds. A network of rural roads connects farms and settlements.
22. Hurst and Whistley Green originally developed along Broadwater Lane, although both have subsequently expanded along and between adjoining roads. There is now almost a continuous frontage along the south-western side of Broadwater Lane linking the two settlements to form a reversed C-shaped developed area. Although for the most part built on previously-developed land or former horticultural nurseries and allotments, recent developments are of a more suburban character with houses based around cul-de-sacs. This has tended to consolidate built development into a nucleated form rather than the dispersed form of the original settlements.
23. Tape Lane shows its rural origins through its narrow width and lack of separate footways although it is now bounded on one side throughout its length by houses and their gardens, making it part of the settlement. Lodge Road retains more of a rural character, in particular the section north of Nursery Close and south of Whistley Green, where the lack of footways and boundary vegetation form a 'green tunnel' typical of rural lanes in this landscape character area.
24. The appeal site exhibits many of the characteristics of the landscape character area consisting of a large grazing field of generally flat land with ditches along its southern and western sides that drain towards the River Loddon. Its boundaries are defined by hedges and field trees. The site is enclosed by the reversed C-shaped layout of surrounding development, forming open land on the edge of the built-up area. It is in moderate condition.

25. Glimpsed views of the site are obtained from Tape Lane and to a lesser extent Lodge Road, with more open views through field gates and the open space and allotments next to Martineau Lane. Having regard to all these factors, I agree with the Inspector in a previous appeal<sup>2</sup> that the site has a moderate or medium baseline value in landscape terms.
26. The construction of housing at either end of the site would inevitably urbanise those parts of the site through new buildings, roadways, and associated domestic activities such as the presence of people and movement of cars. Existing boundaries are intended to be retained and reinforced with further hedge and tree planting, but nevertheless the presence of buildings and associated paraphernalia would be apparent from along Tape Lane in oblique views and more directly at its northern and southern ends. The southern block would also be readily visible from the open space and allotments near Martineau Lane.
27. The blocks of housing would be separated by a large common in the middle of the site. This would to some extent retain the sense of openness currently provided by the site and enable views across it to the far boundary. However, in landscape terms its use and maintenance as public open space would alter its character from one of agricultural grazing land to a more managed form, reducing the sense of it being undeveloped countryside. I address the benefit of the common as a public amenity space later in my decision.
28. The access from Lodge Road would include a new bell mouth, a right turn lane and a new footpath running north to Whistley Green. It would also necessitate the removal and replanting of a length of the eastern boundary hedge. These highway works would erode the rural character of this stretch of Lodge Road. While that impact would be less once the hedge had regrown, it would still appear as a more engineered and less rural environment than it is at present. However, in contrast to the previous appeal scheme, the proposed housing blocks would not be readily visible from Lodge Road due to their location, the screening provided by trees and hedges, and by an orchard that is proposed to be planted on land immediately behind the new access.
29. In the wider context the development would have only a limited impact on the Hurst River Terrace landscape character area because it would be contained within the reversed-C layout of the settlements. There would be at most only limited views from wider afield and where those views do exist, the proposed development would be seen in conjunction with existing houses. The northern block of housing would further consolidate built form between Hurst and Whistley Green but as these settlements are already perceived as continuous, I do not consider that to be a major detractor of the scheme. Similarly, because there would be only limited views of the development from Broadwater Lane, it would not have any appreciable effect on the Village Centre (Hurst) Area of Special Character.
30. Having regard to these landscape and visual effects, I conclude that the development would have a moderate adverse effect on the character and appearance of the landscape and that adverse effect would persist even once planting had matured. In comparison to the previous appeal scheme however, that adverse impact would be towards the lower end of the moderate scale because of

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<sup>2</sup> APP/X0360/W/22/3309202: Land east of Lodge Road, Hurst, Reading

the smaller quantum of development, the retention of a sizeable part of the field as open land, and the lesser visual impact when viewed from Lodge Road.

31. As a result of the adverse effect, the development would conflict with Policies CP1, CP3, CP9 and CP11 of the Core Strategy and Policies CC02, CC03 and TB21 of the Local Plan, which seek to retain or enhance the condition, character and features that contribute to the landscape.
32. The Council's reason for refusal on landscape grounds also refers to Policy CC01 of the Local Plan. This policy relates to the presumption in favour of sustainable development, which I deal with elsewhere in my decision.

#### *Accessibility to services and facilities*

33. Hurst is recognised in the Core Strategy settlement hierarchy as a limited development location, which is defined as a settlement containing a basic range of services and facilities and which is physically and socially cohesive. In Hurst these services and facilities include a primary school, pre-school club, cricket and football fields, a playground, allotments and public houses. Immediately outside the settlement boundary is a village hall and a church. A convenience shop is shortly to reopen on Broadwater Lane. All these services and facilities are within a 10-minute walking distance of the site, albeit in some cases via lanes without footways.
34. To access higher order services and facilities, and for most employment opportunities, occupants would have to travel to neighbouring towns. The nearest is Twyford to the north, with Winnersh, Woodley and Wokingham further away. These are outside reasonable maximum walking distances but are within acceptable cycling distances, although all routes use non-segregated public highways. Twyford can in part be reached by an indirect 'quiet link' along Hogmoor Lane, but the more direct route is along the busier A321 Hurst Road.
35. Higher order centres can also be accessed by bus. There are bus stops within walking distance of the site. The 128/129 service connects to Twyford, Winnersh, Wokingham, Woodley and Reading on roughly an hourly basis but with a limited evening service and no service on Sundays. Even with a recent improvement to the bus services through Hurst, they fall below the standard of service considered to be 'good' in the supporting text to Policy CP6 of the Core Strategy. Both bus and cycle routes connect with Twyford and Winnersh train stations, which have onward connections to Reading and London Paddington. The Elizabeth line service through Twyford provides further direct connections to central and east London.
36. The appeal scheme seeks to improve walking, cycling and bus travel opportunities through a range of measures. These include improvements to footpaths in Hurst and Whistley Green, a new segregated cycleway for part of the route to Twyford Station along Hurst Road with on-carriageway advisory cycle paths for the remainder of Hurst Road and on Lodge Road and Broadwater Lane, and a package of transport measures designed to encourage sustainable modes of travel. Such measures include a mobility hub with access to a car club, travel vouchers for initial residents of the scheme, secure cycle storage at Twyford Station, an option to divert the bus service through the site, and a contribution towards the Council's 'My Journey' travel campaign.
37. In addition to these opportunities, it is proposed to set up a private minibus service providing a dedicated service for occupants of the scheme. This would provide a

half hourly service during extended peak hours, Monday-Saturday, between Hurst and Twyford, including the station and The Piggot secondary school. Funding would be provided through a developer contribution and a service charge on residents of the proposed market dwellings. Alternatively, the legal undertaking provides an option for the Council to use the developer contribution to help fund public bus services.

38. The strategic cycle link proposed along Hurst Road would not be ideal in that users would have to cross and re-cross the carriageway at certain points because the new route is only partly off-road. However, the route has passed a road safety audit and aligns with the aspirations for an active travel network as set out in the Council's Local Cycling and Walking Infrastructure Plan 2023, which identifies Hurst Road as a primary cycle route. I consider it would encourage cycling along this route, and therefore give it weight in my decision.
39. I also have reservations about the proposed private bus service. While the proposal is funded, it is necessarily time limited and therefore cannot be relied upon to continue for the life of the development, which would remain long after the funding had been exhausted. It would only provide one route, and then only during the mornings and afternoon/evenings. Unlike most of the other travel initiatives, it would also only benefit occupiers of the development and therefore would not have the advantage of supporting bus services more generally. However, for the period when it was operating it would be of benefit to some residents of the development, and the clause in the obligation allowing the Council to use the funding to improve public bus services in large part addresses the latter concern. I therefore give it limited weight in my decision.
40. Notwithstanding these concerns, when taken overall the package of travel measures is a comprehensive one and significantly better than the more limited proposals offered with the previous appeal scheme.
41. As a result of the footpath improvements, occupants of the proposed development would have adequate access on foot and by bicycle to the local range of services and facilities in Hurst and Whistley Green. However, higher order services and facilities such as secondary and tertiary education, large convenience stores, medical services and most employment opportunities would all require travel to neighbouring towns, or onward travel to other centres. The opportunities to do so by bus and bicycle are currently limited, such that the majority of trips to those services are likely to be by private motor car.
42. The package of measures proposed with the development would go some way to addressing that conflict, but nevertheless the standard of bus service and the quality of the cycling routes would still be likely to lead to a significant proportion of occupants choosing to use their cars in preference to more sustainable forms of transport.
43. I conclude that the location of the development is not readily accessible to services and facilities by sustainable means of transport, and while the package of travel measures would be of benefit it would not increase accessibility to higher order services and facilities to the extent that would make it fully sustainable. The development would therefore conflict with Policies CP1, CP3 and CP6 of the Core Strategy which seek to provide choices in the mode of transport available and minimise the distance people need to travel. I recognise that opportunities to

maximise accessibility varies between urban and rural areas, but that does not by itself justify significant development being located in an area with restricted accessibility. I give the conflict with the policies moderate weight.

44. The Council's reason for refusal on accessibility refers to other policies. Policy CP2 of the Core Strategy is concerned with accommodating the needs of specific groups. Policies CC01 and CC02 of the Local Plan refer to the presumption in favour of sustainable development, and the application of development limits. None are directly relevant to the matters set out above.

#### *Flood risk*

45. As shown on the Flood Map for Planning, parts of the western side of the site fall within flood zones 2 and 3 in respect of fluvial flood risk, and there are pockets of medium and high surface water flood risk across the wider site. Flood risk modelling by the appellant indicates that these areas of flood risk are more extensive than shown on the Flood Map for Planning. Some criticism of the flood modelling has been raised by interested parties. However, it has been robustly scrutinised by the Environment Agency who is satisfied that in its revised form the flood model is fit for purpose. As the flood risk modelling is site-specific, more detailed than the Flood Map for Planning and has been agreed with the Environment Agency, I place weight on its forecasts.
46. The surface water flood risk takes the form of ponding in low spots rather than overland flows. This is corroborated by photographic evidence submitted by interested parties which shows standing water on the field during periods of heavy rain. The appellant proposes a sustainable drainage system which would be able to store surface water on the site and manage its release in a controlled manner.
47. The Planning Practice Guidance was updated shortly before the close of the inquiry. It now advises that where a site-specific flood risk assessment demonstrates clearly that the proposed layout, design and mitigation measures would ensure that occupiers and users would remain safe from current and future *surface water flood risk* [my emphasis] for the life time of the development (therefore addressing the risks identified by e.g. Environment Agency flood risk mapping) without increasing flood risk elsewhere, then the sequential test need not be applied<sup>3</sup>. Although detailed layout, design and mitigation measures are reserved for later consideration, I am satisfied that the indicative approach shown in the revised flood risk assessment shows that surface water flood risk can be adequately mitigated. On that basis, and having regard to the updated Planning Practice Guidance, a sequential approach to surface water flood risk is not necessary in this case.
48. That is not the case with fluvial flood risk on the site. The fluvial flood risk arises from overspill from the main river Hatchgate Ditches which borders the western side of the site. The inclusion of parts of the site in fluvial flood zones 2 and 3 arose following an update to the Flood Map for Planning in March 2025. This represents a change in circumstances to that considered in the last appeal on the site.
49. The flood risk modelling indicates that the area at risk of fluvial flooding includes part of the southern housing block and the access road from Lodge Road. A revised parameter plan was submitted during the appeal which omits a small part of

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<sup>3</sup> Planning Practice Guidance ID: 7-027-20220805, revised 17 09 2025

- the southern housing block subject to the greatest flood risk. However, in the revised model the fluvial flood risk extends beyond this area to include a larger part of the intended developable area.
50. Because parts of the site which are intended to contain built development, including access and escape routes and land raising, are at risk of flooding, both main parties accept that it is necessary to undertake a sequential approach in accordance with national planning policy. Notwithstanding the updated Planning Practice Guidance relating to surface water flood risk, I agree that a sequential approach is necessary in this case because of the fluvial flood risk.
51. The appellant has carried out a sequential test, which concludes that there are reasonably available sites appropriate for the proposed development in areas at a lower risk of flooding, and therefore acknowledges that the development fails the sequential test. The main parties disagree on some points of methodology which result in differing numbers of alternative sites. Given that there is agreement that the sequential test is failed, it is not necessary for me to consider those differences in any detail. For the purposes of this appeal, I am satisfied that there are reasonably available sites appropriate for the type of development proposed in areas with a lower risk of flooding.
52. While acknowledging that the sequential test is failed, the appellant argues that the development would nevertheless meet the exception test because it could be made safe for its lifetime without increasing flood risk elsewhere. That would be achieved by raising the level of the developable parts of the site which are subject to flood risk, lowering ground levels elsewhere on the site to provide compensatory flood plain, and providing wider sustainability benefits to the community.
53. While that may be the case, putting mitigation before avoidance runs counter to national flood risk policy, which is to steer new development to areas with the lowest risk of flooding from any source. Interpretation of that policy has been modified with the updated Planning Policy Guidance, in particular with regards to surface water flood risk. However, it remains the case that the Planning Practice Guidance advises that avoiding flood risk through the sequential test is the most effective way of addressing flood risk because it places the least reliance on measures like flood defences, flood warnings and property level resilience features<sup>4</sup>. It also notes that the exception test is not a tool to justify development in flood risk areas when the sequential test has already shown that there are reasonably available, lower risk sites, appropriate for the development<sup>5</sup>.
54. I have been referred to a number of appeal decisions where Inspectors have reached differing views on the weight to be attached to a failure to meet the sequential test. Those at Chescombe Road, Yatton, Ham Road, Faversham, Colestocks Road, Feniton and Grove Lane, Lydney found that such a failure did not provide a strong reason for refusal<sup>6</sup>. Conversely, those at Bailrigg Lane, Lancaster and Galgate, Lancaster found that it did<sup>7</sup>, albeit they were determined under earlier versions of the Framework where the test was providing a clear reason for refusal. The appeal decisions turn on the facts of each case, which for flood risk differ in the type and extent of flooding to that found in this appeal, as well as the range and

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<sup>4</sup> Planning Practice Guidance ID: 07-023-20220825, revised 17 09 2025

<sup>5</sup> Planning Practice Guidance ID: 07-031-20220825

<sup>6</sup> APP/D0121/W/24/3343144, APP/V2255/W/24/335024, APP/U1105/W/24/3357849, APP/P1615/W/25/3363981

<sup>7</sup> APP/A2335/W/24/3345416, APP/A2335/W/23/3326187

relative importance of other planning issues. It is apparent from these decisions that differing weights have been given to the failure to meet the sequential test, and I acknowledge that it is a matter to be weighed in the planning balance, as noted in the Mead case<sup>8</sup>. Beyond that, I have relied on the particular circumstances of this appeal and my own judgement in reaching conclusions on the relative importance of the issues relevant to it.

55. National flood risk policy places a strong emphasis on avoiding locating vulnerable development such as housing in areas at risk of flooding. Even with mitigation in place, there will always be a residual risk of flooding. If flooding does take place, it can cause significant damage to buildings and their contents, and disrupts the lives of occupants both during a flood and afterwards. It therefore makes sense to avoid such potential harm wherever possible. Paragraph 174 of the Framework says that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. That is a strongly worded policy. Since there are reasonably alternative sites available in this case, it follows that the development should not be permitted.
56. I conclude that the development would fail the sequential test as set out in national flood risk policy. It would also conflict with Policies CP1 and C9 of the Core Strategy and Policy CC09 of the Local Plan, which seek to avoid placing new development at risk of flooding unless exceptional circumstances apply. In my view that conflict weighs heavily against the development.
57. The Council's reason for refusal also refers to Policy CP3 of the Core Strategy. This policy relates to general principles for development rather than the specific issue of flood risk and is not therefore relevant to this issue.

### *Ecology*

58. In March 2021 two trees were felled on part of the site intended for an internal roadway in a previous development proposal. There is disagreement between the parties as to whether those trees were veteran trees and the relevance of paragraph 193(c) of the Framework relating to the loss or deterioration of irreplaceable habitats.
59. My starting point is that the two trees are no longer there, and therefore the proposed development would not result in their loss. Hence, paragraph 193(c) is not relevant. I do not condone the premature felling of trees ahead of development taking place, and I understand the continuing anger of interested parties to that action. However, the trees were not covered by a tree preservation order at the time of their felling, and their removal was therefore legal irrespective of whether or not they were veteran trees.
60. Even if I am wrong in reaching that finding, there is considerable doubt that the trees were in fact veteran trees. There was no assessment at the time of their felling, and the only evidence remaining of their condition is the stumps. The assessment carried out on behalf of the appellant suggests that they were not veteran trees under the definitions in either the Framework or biodiversity net gain regulations. The Council has provided no alternative assessment. Given the paucity of evidence, it is simply not possible for me to conclude that they were veteran trees.

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<sup>8</sup> Mead Realisations Ltd v SSLUHC [2024] EWHC 270 (Admin)

61. Separate to the above, the provision of biodiversity net gain requires a baseline assessment of the site. That assessment is based on the pre-development biodiversity value of the onsite habitat. Where activities carried out since 30 January 2020 have lowered that biodiversity value, it is taken to be the value of the onsite habitat immediately before the carrying out of the activities. Where there is insufficient evidence to determine what the biodiversity value was, it is taken to be the highest value which is reasonably supported by any available evidence. That assumption is however only for the purposes of calculating biodiversity net gain. It does not introduce a retrospective assessment of the trees for the purpose of national planning policy contained in paragraph 193(c) of the Framework.
62. Because of the lack of evidence of the value of the two trees, the appellant has treated them as veteran trees for the purposes of calculating biodiversity net gain. A suitable compensation strategy has been proposed, to which no objection is raised by the Council, and which could be secured by condition. The strategy is sufficient to compensate for the loss of the trees in terms of biodiversity net gain.
63. Running along the western side of the site is a watercourse (Hatchgate Ditches), the northern 90m of which runs in a culvert. The Environment Agency actively pursues the deculverting of watercourses wherever possible to minimise the risk of blockage and improve their biodiversity value as wildlife and habitat corridors.
64. The appellant has chosen not to deculvert the watercourse in the manner sought by the Environment Agency. The appellant's position has changed during the course of the appeal, the most recent stance being that it would be amenable to deculverting the watercourse other than for a section running underneath the proposed access from Lodge Road. It was argued at the inquiry that to do otherwise would materially change the proposed access such that it would fall outside the terms of the current proposal. Neither main party considers that details of the crossing point of the access over the watercourse can be reserved by condition.
65. The culvert is already in place and its retention would not therefore cause harm to the existing biodiversity value of the watercourse. The appellant has submitted evidence to demonstrate that in principle a 23.75% biodiversity net gain in watercourse units (12.50% following publication of the Local Nature Recovery Strategy) could be achieved by other measures without deculverting. Detailed consideration of biodiversity net gain is a matter for the reserved matters stage but those figures have not been disputed by either the Council or Environment Agency. While it may be disappointing that the scheme would not realise the benefit that fully deculverting the watercourse would bring, no harm would be caused by its retention, and adequate biodiversity net gain is likely to be achievable on site through other means.
66. I conclude that the development would not result in the loss or deterioration of irreplaceable habitats and would not harm the existing biodiversity value of the site. There would therefore be no conflict with Policies CP3 and CP7 of the Core Strategy and Policy TB23 of the Local Plan, all of which seek to protect and enhance biodiversity.
67. The Council's reason for refusal 7 also refers to Policy CP1 of the Core Strategy and CC01 of the Local Plan. These relate to general principles of sustainability and

the presumption in favour of sustainable development respectively. Neither are of direct relevance to the more detailed considerations set out above.

### *Loss of agricultural land*

68. Approximately half the site is classified as grade 3a agricultural land, with the remainder grade 3b or in non-agricultural use. The development would give rise to the loss of some of the best and most versatile agricultural land, which the Framework defines as including grade 3a agricultural land. For that reason, there would be a conflict with Policy CP1 of the Core Strategy, which requires development to avoid areas of best and most versatile agricultural land.
69. At present the land is used only for the extensive grazing of horses and donkeys and has been so used for many years. While that could change, the land does not form part of an active agricultural operation and its loss would not result in any material reduction in food production. Given the development pressures in the borough, it is also inevitable that some agricultural land will need to be built upon, which is likely to give rise to the loss of at least some best and most versatile agricultural land. Therefore, while I acknowledge the conflict with local and national policies, I give that conflict limited weight.

### **Other Matters**

70. Some other matters relating to flood risk have been raised in representations but are not of such import that they materially affect the outcome of this appeal. The site is at risk of groundwater flooding because of underlying ground conditions. However, the effect of this type of flood risk is similar to the surface water flood risk and could be addressed in a similar manner. The risk of flooding from a reservoir breach is low and is therefore not a determining factor in this case. It is reasonable to assume that riparian owners will comply with their responsibilities to maintain adjacent watercourses. The development would therefore be able to discharge surface water to Hatchgate Ditches, subject to an appropriate flow rate, without increasing the risk of flooding off-site.
71. Thames Water raises no objection to the proposal in terms of foul drainage capacity. While instances of foul drainage surcharging are reported in representations, these appear to result from rainwater overwhelming the foul drainage network during periods of heavy rain. As the proposed development would have separate surface water and foul drainage systems, it would not contribute significantly to that problem.
72. The Berkshire Local Nature Recovery Strategy has been agreed by its constituent councils and was published after the close of the inquiry. In anticipation of that happening I gave the main parties the opportunity to comment and allowed an interested party to respond to the appellant's submission.
73. Local nature recovery strategies do not prevent development taking place but rather are focused on a strategic approach to increasing biodiversity. The strategy identifies the appeal site as land which has potential to provide enhanced biodiversity. Transitional arrangements mean that for this proposal the baseline biodiversity assessment would remain, but post-development biodiversity net gain calculations may change. That would be a matter for a reserved matters application

but having regard to the appellant's submission, I am satisfied that the development would still be able to achieve biodiversity net gain in excess of the 10% required by the Environment Act 2021.

74. Differing evidence was presented on forecast demand for primary school places, and whether the village school has sufficient capacity. The school is popular but it appears that at least some of the current pupils come from outside the village. Depending on the admissions policy it is likely that children living on the appeal site would be admissible to the school with those more distant having to choose other primary provision in the area. Ultimately, it is for the education authority to decide how to balance demand and capacity; I do not consider it to be a reason to prevent development taking place in this case.

### **Planning Obligations**

75. Planning obligations contained in the legal undertaking submitted with the appeal would secure a range of benefits and contributions towards infrastructure and public services. Those relating to vocational initiatives, the provision of affordable housing, highway works, the provision of open space, and sport and recreation facilities are agreed between the main parties and address reasons for refusal 8-11. Having regard to the Council's compliance statement which sets out the policy justification for each of these obligations, I am satisfied that they meet the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (the Regulations) and accordingly I have placed weight on them.
76. There are other obligations offered by the appellant which are disputed by the Council. These comprise a travel plan, a bus improvement strategy, and the provision of a strategic cycle route.
77. The travel plan would cover matters such as the provision of a car club, a travel plan co-ordinator, monitoring fee and travel vouchers for initial residents. These provisions are specific to the site and differ from the Council's 'My Journey' initiative which seeks to promote active travel throughout the borough, and to which the appellant is proposing to make a financial contribution. In my view these approaches are complementary rather than the same, and do not amount to 'double counting'. I therefore give both obligations weight in my decision.
78. The obligation relating to the bus improvement strategy provides two options: the first for a private bus service run by a management company, and the second for the bus improvement strategy contribution to be paid to the Council to support the public bus service. I have set out my reservations about the weight to be accorded to a private bus service in my reasoning, but in so far as it would help improve sustainable transport to Twyford for a period, I consider both options meet the tests in the Regulations and give them weight.
79. Lastly, as will be apparent from my reasoning on the issue of accessibility, I consider that the obligation on the developer to provide a strategic cycle route to Twyford does meet the tests in the Regulations, in that it would be necessary to improve the active travel route to the nearest town, is directly related to the development, and fairly and reasonably relates in scale and kind to the development. Consequently, I give it weight in my decision.

### **Planning Balance**

### *Benefits*

80. There are a range of benefits that would flow from the development. The most significant is the provision of up to 99 dwellings. Although there is some disagreement on how soon those dwellings could be built, they would nevertheless make a meaningful contribution to meeting housing demand in an area where there is an acknowledged shortfall in housing provision. Furthermore, 50% of those dwellings would be affordable. That proportion exceeds the minimum requirement for sites outside development locations required by Policy CP5 of the Core Strategy. Given the high affordability ratio in the borough, I also give that provision significant beneficial weight.
81. The package of transport measures including pedestrian, cycle and bus improvements would be of moderate benefit in improving accessibility locally and to a lesser extent wider afield. Those measures would benefit occupants of the development and, other than for the private bus service, other residents in Hurst and Whistley Green. If the Council were to exercise the option of using the bus funding to support the public bus service, that would also benefit other residents in the vlocal area.
82. The development would include a generous proportion of open space within the scheme, including a large common. While there is no indication that Hurst or Whistley Green are sub standard in the provision of public open space, the addition of such a large amount of new space, centrally located and publicly accessible, would be at least of moderate benefit to all those living locally.
83. The scheme would also provide a community orchard, additional allotments and biodiversity net gain exceeding the 10% required for new development. The latter would include new hedge and tree planting in and around the site. I consider these to be of modest beneficial weight.
84. The development would give rise to economic benefits directly to the building industry during the construction phase, and indirectly through the spending power of new occupants. That spending power would help to support local businesses and services, such as the village shop, which rely on local demand to survive and thrive. I give those benefits limited weight.
85. The development would also provide contributions towards wider transport initiatives, recreation and sport facilities and employment skills. These contributions are primarily intended to meet demands arising from the development and therefore while necessary, are only of limited benefit more widely.

### *Weighting*

86. Set against those benefits are the adverse factors that I have identified above. These comprise the conflict with the spatial strategy of the development plan in terms of the location and scale of development, the adverse impact on the character and appearance of the landscape, the difficulty in accessing higher order facilities and services by sustainable means of transport, the failure to meet the sequential test, and the loss of best and most versatile agricultural land. These range in adverse weight from strong through moderate to limited for the reasons set out in detail above. When considered together, I conclude that the proposed development conflicts with the development plan when taken as a whole.

87. Paragraph 11 of the Framework says that where the policies which are most important for determining the application are out-of-date, planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
88. In this case the policies most important for determining the proposal are deemed to be out-of-date by virtue of footnote 8 of the Framework because the Council cannot demonstrate a five-year housing land supply. However, areas at risk of flooding are considered to be of particular importance by virtue of footnote 7 of the Framework. Because I consider the failure to meet the sequential test in this appeal to form a strong reason for refusal, the presumption in favour of sustainable development (sometimes referred to as the ‘tilted balance’) is not engaged.
89. I acknowledge that considerable thought has gone into the proposal to try and overcome the reasons why the previous appeal was dismissed, including the comprehensive package of transport improvements and the attention paid to the scale and siting of development. However, the benefits of the scheme, significant though some of them are, do not outweigh the cumulative harms outlined above, including its locational disadvantages, the impact on the landscape and in particular the flooding issue whose importance emerged during the course of the appeal.

### **Conclusion**

90. I conclude that the proposed development conflicts with the development plan, and that other considerations do not justify a departure from it. Consequently, the appeal should be dismissed.

*Guy Davies*

INSPECTOR

## Appearances:

For the appellant:

John Litton KC and Nick Grant	Barristers, Landmark Chambers
Clare Brockhurst FLI BSc (Hons) DipLA	Director Leyton Place Ltd
Stephen Jenkins BSc (Hons) MSc MCIHT MRTPI	Partner, i-Transport LLP
Ian Walton BSc (Hons) MSc DIC MICE CEng	Technical Director, SLR
Marcus Adams BA (Hons) DipArch, MA ARB RIBA	Managing Partner, JTP
Jamie Pratt BSc (Hons) MArborA	Director, Tyler Grange Group Ltd
Emily Major BSc (Hons) MSc MCIEEM	BNG Lead, Tyler Grange Group Ltd
Stuart Slatter BA MRTPI	Managing Director, Planning Potential Ltd

For the Council:

Matthew Lewin	Barrister, Cornerstone Barristers
Stuart Ryder BA (Hons) CMLI	Director, Ryder Landscape Consultants Ltd
Grace Blizzard MSc MCIHT CMILT	Associate, WSP
Lesley Sproat BSc MSc MCIEEM	Biodiversity Officer, Environment Agency
Mark Croucher BA (Hons) MSc	Principal Planning Officer, Wokingham BC

Christopher Holmes (for appellant) and Amanda Pierce (for the Council) took part in the round table session on the legal undertaking and draft conditions.

Proofs of evidence were submitted by Robert Walker and Ian Walton (for the appellant) and Dr Joanna Marchant (Environment Agency on behalf of the Council) relating to flood risk modelling but were not tested through cross examination. Ian Walton answered questions on flood risk matters.

Interested parties:

David Boyd	Vice Chair, St Nicolas Hurst Parish Council
Nick Willson	Planning Lead, New Hurst Village Society
Jonathan Norris	Resident
Andrew Butler	Resident
Belinda Robinson	Resident
Ivor Fiennes	Resident

Cllr Stephen Conway	Twyford, Ruscombe and Hurst Ward
Frances Davis	Resident
Huw Griffiths	Resident
Katherine Howe	Resident

### **Documents received during the inquiry:**

(The core document library is available to view at <https://www.wokingham.gov.uk/planning/live-planning-inquiries>)

- CD 13.1 Opening statement by appellant
- CD 13.2 Appellant's schedule of appearances
- CD 13.3 Opening statement and appearances by the Council
- CD 13.4 Statement by David Boyd
- CD 13.5 Statement by Nick Willson
- CD 13.6 Statement by Jonathan Norris
- CD 13.7 Statement by Andrew Butler
- CD 13.8 Statement by Belinda Robinson
- CD 13.9 Statement by Huw Griffiths
- CD 13.10 Statement by Katherine Howe
- CD 13.11 Extract from Wokingham Bus Service Improvement Plan 2024
- CD 3.3 Transport statement of common ground
- CD 9 Revised flood risk assessment dated 14 August 2025
- CD 13.12 Draft version of legal undertaking
- CD 13.13 Compliance statement on legal obligations
- CD 13.14 Consolidated list of draft conditions
- CD 13.15 Updated list of draft conditions
- CD 13.16 Updated draft version of legal undertaking
- CD 13.17 Appellant's note on Berkshire local nature recovery strategy
- CD 13.18 Final draft version of legal undertaking
- CD 13.19 Update note from appellant
- CD 15.1 Letter from Environment Agency
- CD 15.2 Representation by St Nicholas Hurst Parish Council

- CD 15.3 Representation by Belinda Robinson
- CD 15.4 Representation by Andrew Butler
- CD 15.5 Representation by Andrew Dolinski
- CD 15.6 Representation by Jean Dolinski
- CD 15.7 Representation by Jonathan Norris
- CD 4.5 Addendum to proof of evidence of Mark Croucher
- CD 5.13 Proof of evidence of Robert Walker and associated modelling data
- CD 5.14 Addendum to proof of evidence of Stuart Slatter
- CD 5.15 Addendum to proof of evidence of Ian Walton
- CD 5.16 Addendum to proof of evidence of Ian Walton
- CD 13.20 Letter from St Nicholas Hurst Parish Council
- CD 13.21 Letter from Andrew Dolinski
- CD 13.22 Letter from Environment Agency withdrawing objection (amended version updating conditions)
- CD 13.23 Updated list of draft conditions
- CD 13.24 Final version of legal undertaking
- CD 13.25 Closing statement by the Council
- CD 13.26 Closing statement by the appellant