

**TOWN & COUNTRY PLANNING ACT  
(1990) APPEAL BY E SMITH ESQ**

**RELATING TO**

**LAND NORTH OF THE VALE, FOREST  
ROAD, WOKINGHAM RG40 5QY**

**MLP REF: FR/25/198**

**MAY 2025**

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- 1. Appeal decision 29<sup>th</sup> July 2015 relating to what is now The Vale

## **1.0 INTRODUCTION**

- 1.1. This appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended). It is in respect of the refusal of an outline application for the erection of 1 no. dwelling with all matters reserved. The proposal is for a self-build dwelling to be occupied by the appellant's with the Part 1 CIL forms being submitted to confirm this position.
- 1.2. The application was submitted on 17<sup>th</sup> March 2025 and was determined on 12<sup>th</sup> May 2025. During the course of determination there were various consultation and notification responses and details of these are attached to the appeal questionnaire.
- 1.3. This Statement sets out a description of the site and surrounds, the relevant planning history and policies; and the case as to why planning permission should be granted. It concludes as follows:
  - As of March 2024 the lpa conceded that it could not demonstrate a five-year supply of housing land and the presumption in favour of sustainable development must be applied in accordance with the Framework. As such the principle of the 'tilted balance' applies and the concept of significant or demonstrable harm is fundamental.
  - The Government and Ministerial position on housing delivery has been made clear with the stated policy of accelerating provision and this emphasises the weight to be afforded to granting planning permissions. Given the return to a five-year position and pending the publication of housing land supply in March 2025, the position will have worsened from the existing 1.7 years. By any judgement this is a severe shortfall.

- In accordance with paragraph 11(d) of Framework24 and given that the policies of the development plan are to be considered as being out-of-date, planning permission should be granted unless “any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed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”.
- Moreover, there is planning policy support for self-build housing and it is acknowledged that this can make a “an important contribution to meeting the housing requirement of an area” (73). This is a case in point and the dwelling can be delivered quickly.
- It is shown on appraisal that the proposed dwelling sits within a cluster of built development and is contained by this and verdant landscape along with a commercial access road to the adjoining development. As such the effects on landscape character are not adverse and would not result in such material harm that planning permission should be withheld.
- It should be noted that the appeal site lies outside of a ‘valued landscape’ and the proposed development must be judged in accordance with this position and Framework policy which pertains to the hierarchy of landscape designations. For the reasons set out in this Statement any perception of harm would not significantly or demonstrably outweigh the benefits of housing provision.
- This position was expressed by a Planning Inspector in June 2015 who granted permission for a dwelling which has been constructed and was varied by permission granted in May 2023. Since this time permission has been granted for a substantial outbuilding to the host dwelling and this has been implemented.
- In all respects there is a cluster of built which comprises residential, educational and commercial buildings as well as three dwellings and an access road to the adjoining commercial land use. To this extent the discrete group is one which can accommodate the additional development as is proposed.
- In regard to the sustainability of the location, we submit that this is one which is overstated. The location is proximate to the principal settlement in the Borough - Wokingham - and as a matter of fact would be entirely similar to those living in the Strategic

Development Location(s). One of these is close to the appeal site to the north of Wokingham.

- Here residents will be reliant on the car for their day to day needs and the provision of public transport and propensity to walk to supermarkets, the railway station and other infrastructure is broadly similar to the appeal site. In short, both are entirely similar and cycling is readily accessible to central Wokingham and Binfield. As such whilst outside of a defined settlement boundary, the appeal site is not remote.
- The other material considerations relating to ecology is shown to be resolved in a satisfactory manner and there is scope for biodiversity enhancement which can be secured through appropriate planning conditions. This is the position stated by the Council's Ecologist.
- Matters pertaining to highways and parking are detailed on the submitted plans. At reserved matters stage they can be detailed and implemented in a manner which meets the adopted standards of the local authority.

- 1.2. As such, the proposal is sustainable development and the presumption in favour should be applied in accordance with paragraph 11(d) of Framework24.

## **2.0 DESCRIPTION OF THE APPEAL SITE AND SURROUNDS**

- 2.1 The appeal site comprises an area of open land which sits to the north of a substantial 4 bay garage and storage building. Beyond this and to the south are two dwellings, known as The Vale and Cherry Trees; and a residential annexe to The Vale. There is a group of buildings alongside the larger curtilage building.
- 2.2 The appeal site is enclosed by a close boarded fence and soft landscape along the periphery. To the west are three large portal framed buildings which are variously in Class B use.
- 2.3 To the south of these and facing Forest Road are two dwellings known as Harp Farm and Cherry Trees. To the east are a complex of buildings which accommodate Just Around the Corner which is an educational charitable use (Rehoboth).

2.5. The close proximity of Ashridge Manor Garden Centre to the appeal site along with the range convenience concessions is material and we refer to this below.

2.6. In its wider context the appeal site is located approximately 1.9 miles from Wokingham railway station and town centre and 2.0 miles west of Binfield which has schools and a range of retail and cultural uses. We refer to these matters in the discussion of the main issues below.

### **3.0 RELEVANT PLANNING HISTORY**

3.1. Planning permission for the dwelling known as The Vale was refused

December 2014 under reference O/2014/1798. This decision was overturned at appeal dated 29<sup>th</sup> July 2015. The appeal decision is attached at appendix 1 and we draw attention to the findings in so far as they relate to:

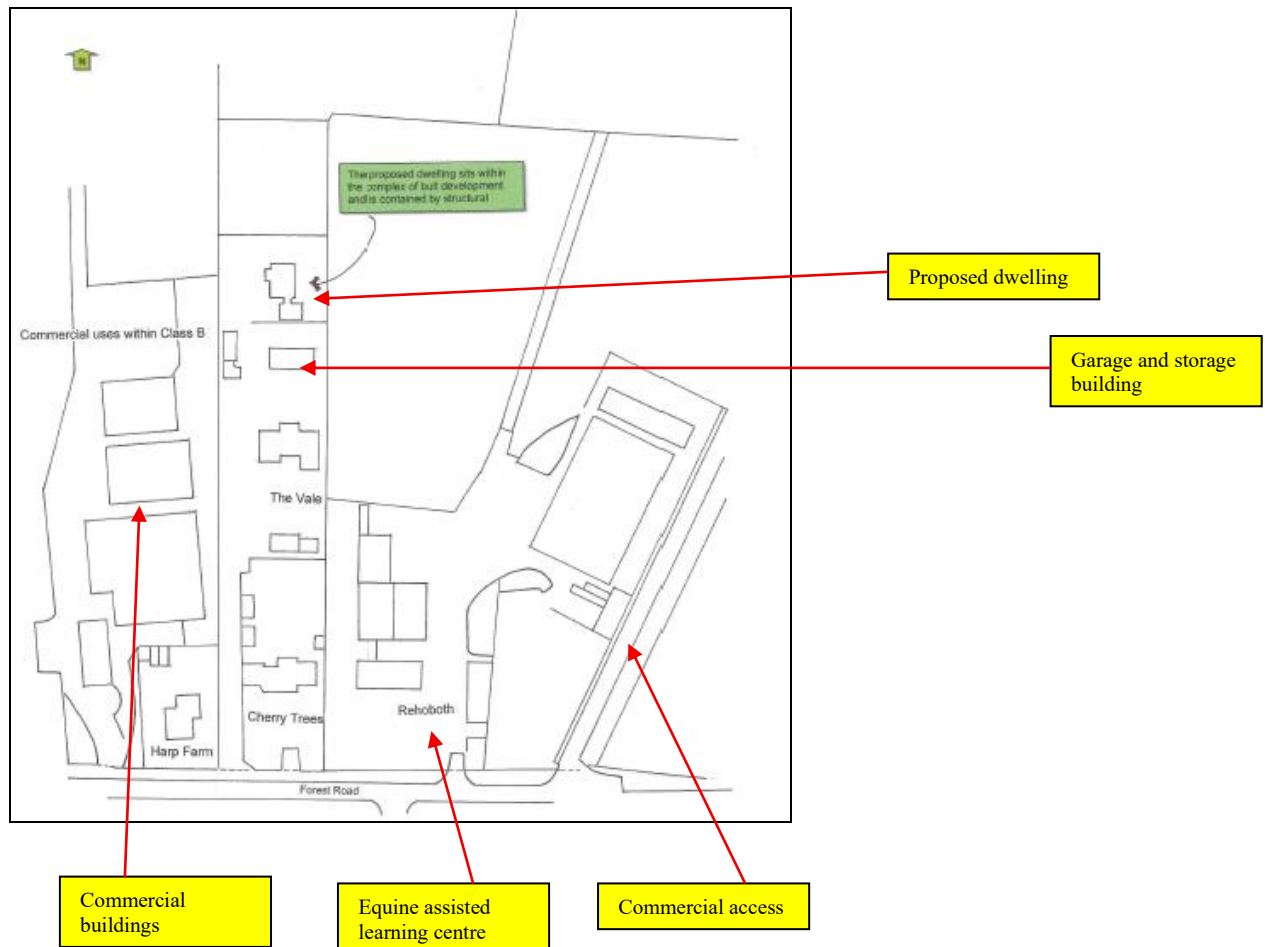
- The adjoining buildings are substantial (paragraphs 6, 7 and 8)
- The proposal will not be harmful to the surrounding landscape (10)

3.2. Subsequently reserved matters was approved under reference 161905 in May 2017 and the dwelling was constructed.

3.3. In April 2023 an enforcement appeal upheld the Notices pertaining to a building, hardstanding and car sales north of The Vale and quashed the Notice relating to The Vale and an annex building which the local authority had claimed to be a second dwelling. The central issue, in short, was that The Vale had been constructed in a position which was considered to be materially different to the 2017 permission.

3.4. In November 2023 under reference 232260 planning permission was granted for a 4 bay garage and storage building and this was implemented. This is a substantial structure and can be seen on the site visit.

3.5. It was in fact the building for which permission was refused at appeal in 2023 and it was relocated to the position which the appointed Inspector may observe. For ease of reference an annotated extract from the site plan is produced below.



#### 4.0. **RELEVANT PLANNING POLICIES**

4.1. The application site lies within the open countryside. There are no other landscape designations although the Landscape Character Assessment identifies the locality as being within the Ashridge Farmed Clay Lowlands.

4.2. The following Core Strategy policies are relevant to consideration of this proposal:

- CP1 - the generic policy of, inter alia, seeking to provide sustainable development
- CP3 - General principles for development
- CP5 - Housing mix
- CP7 - The safeguarding of biodiversity interests
- CP11 - Development outside of the development limits

4.3. The adopted MDD DPD also forms part of the development plan and the relevant policies are as follows:

- CC01 - The presumption in favour of sustainable development
- CC03 - Trees and landscaping
- CC04 - Sustainable design and construction

- CC07 - Parking
- CC09 - Development and flood risk
- CC10 - Sustainable drainage
- TB07 - Internal space standards
- TB21 - Landscape character
- TB23 - Safeguarding biodiversity interest in accordance with CP7

4.4. The Borough Design Guide (BDG) also refers to rural dwellings and replacements as well as garden size and design. It encourages the use of traditional materials and sympathy with the rural vernacular and general form. This is a matter for reserved matters consideration and can be properly applied at a later time.

4.5. In terms of national guidance, the 2024 Framework is relevant and the key sections are as follows:

- |     |                                                                                                                            |
|-----|----------------------------------------------------------------------------------------------------------------------------|
| 11  | Sustainable development                                                                                                    |
| 73  | Recognition of the value of small and medium developments and opportunities for self-build projects as a supply of housing |
| 170 | Safeguarding and enhancing biodiversity interests                                                                          |
| 171 | Distinguishing between local and national landscape designations and the weight to be afforded to them                     |

4.1. The following section applies these policies and other material considerations to the determination of the development proposal.

## **5.0 THE MAIN ISSUES**

5.1. The appellant's case for the development is set out in relation to the following matters.

1. Is the location sustainable?
2. Is the visual impact on the landscape and countryside acceptable?
3. Are there any other material planning considerations?

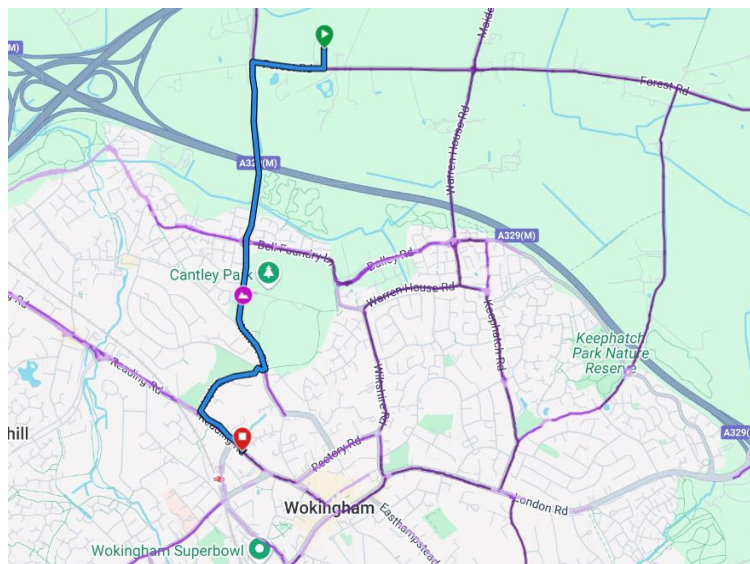
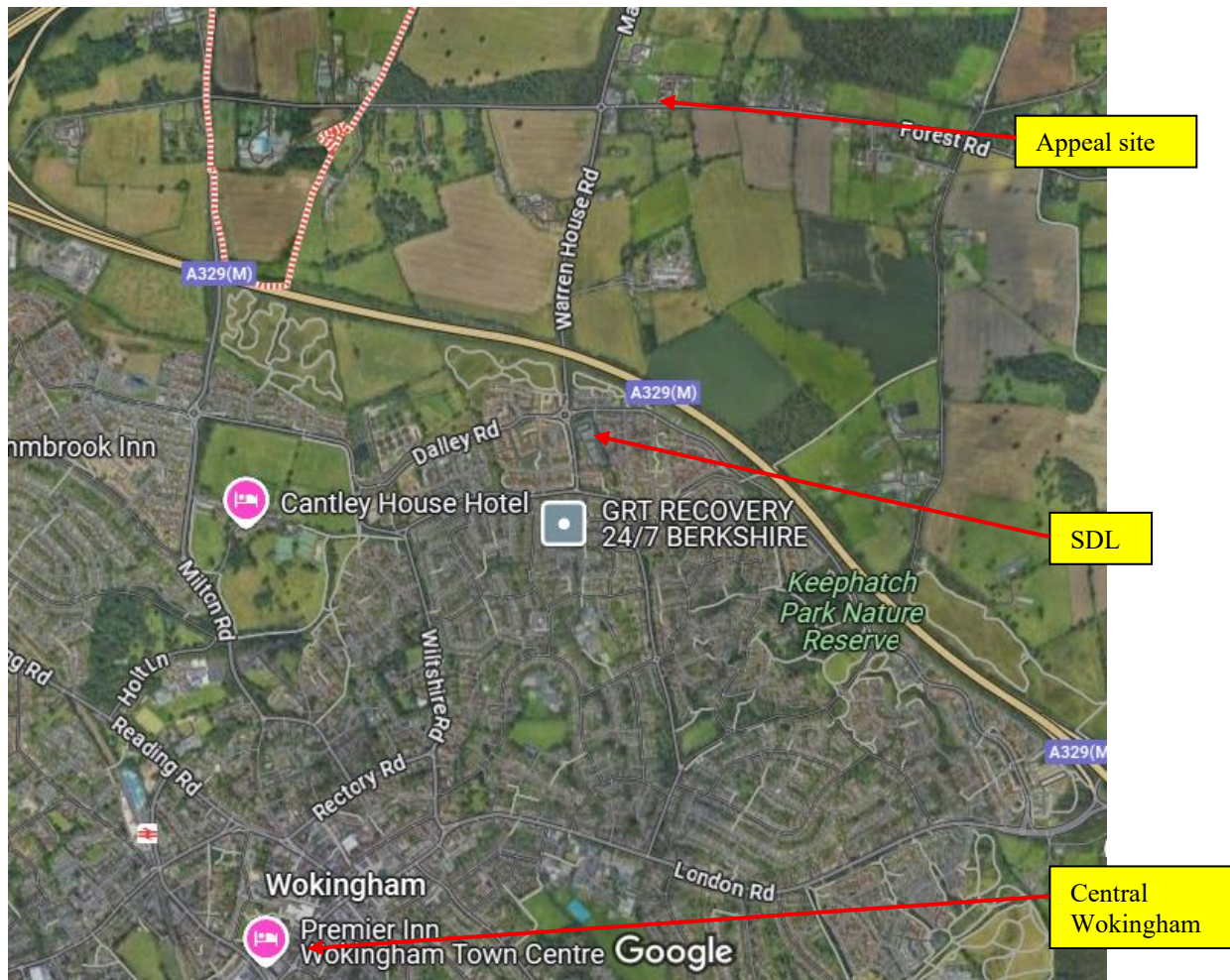
### **The principle of development and sustainability credentials**

5.2. The starting point for considering the appeal is whether the location is acceptable in principle for the proposed development and how it performs in relation to sustainability credentials.

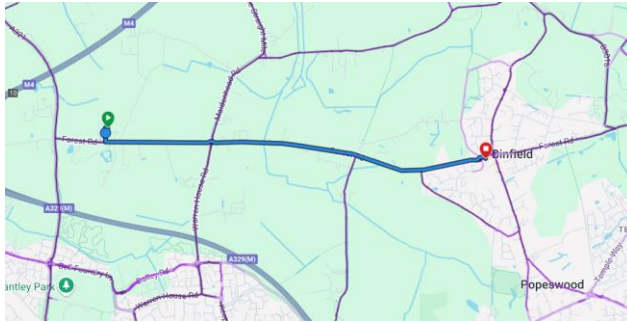
5.3. It is matter of fact that the appeal site lies outside of a defined settlement and in the countryside designation. The development plan is one which would ordinarily resist development in these locations and designations preferring instead the identified settlements for housing development purposes. The development proposal plainly falls foul of policy CP11 and the appellant would need to cite reasons for exception to the development plan.

- 5.4. The basis for departure is that as of March 2024 the local authority could not demonstrate a 5-year supply of housing land and in fact the figure of 1.7 years represents a severe shortfall in provision. It is acknowledged that the current government is committed to the provision of housing supply and the granting of permissions to enable this.
- 5.5. In these circumstances the Inspector will be aware of paragraph 11 of the Framework<sup>24</sup> which for ease of reference states:
- Plans and decisions should apply a presumption in favour of sustainable development*
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:*
- (i) the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or*
  - (ii) any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this 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.*
- 5.6. Thus the starting point is that permissions should be granted and the presumption in favour of sustainable development should be applied (CP1 and CC01). The presumption in favour of the development plan (CP11) has diminished weight where those policies are out of date and, in this case, a very significant position in terms of housing land supply and the delivery of housing.
- 5.6. The fact that the housing land supply position is acknowledged and the, inter alia, housing policies are out of date does not of itself justify the grant of planning permission. Thus whilst the 'tilted balance' must be applied towards securing housing, this is not sufficient to allow for all applications/appeals to grant planning permissions.
- 5.7. In appraising this matter, the appellant has regard to the fact that the appeal site sits within a cluster of housing and to this end it is served by day to day services such as deliveries, refuse collection and the like. This is a point in favour of development although the substantive point of principle and sustainability (reasons for refusal 1 and 2) needs to be assessed.

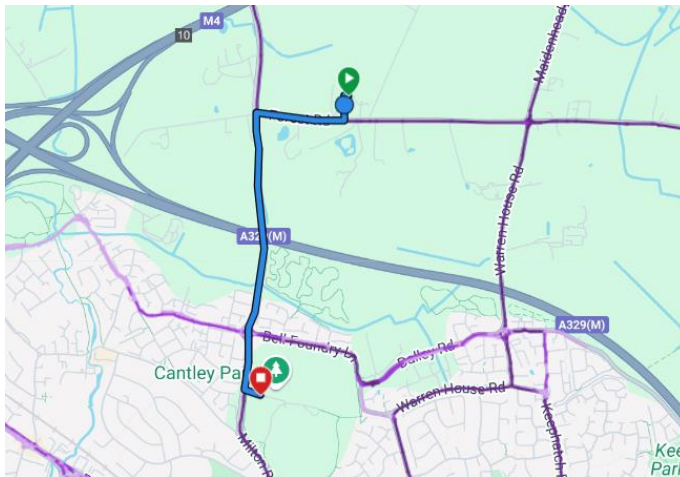
- 5.8. The common approach is simply to state that where development lies within a defined settlement it is sustainable and where it does not, it is unsustainable. The appellant could reasonably concur with this approach if the appeal site was remote from services, which as is shown below, it is not.
- 5.9. The appeal site is around 1.9 miles from central Wokingham which is the principal settlement of the Borough; and around 2 miles from Binfield which possesses a lower level of infrastructure including shops, public houses, churches, primary schools and employment provision.
- 5.10. Wokingham has these facilities and food supermarkets as well as a railway station serving Reading and London Waterloo.
- 5.11. The issue is whether there are alternatives to the private car which would allow for modal shift to alternative means of transport. These same criteria may reasonably be applied to the strategic housing development which is situated to the south and comprises recently developed housing. Taking this position the houses on Dalley Road or Diamond Jubilee Way - see below - are around 1.2 miles from central Wokingham and the Railway Station.
- 5.12. By comparing the appeal site to the north of the Strategic Housing Development (SDL) it can be seen that the relative position is one which is entirely comparable to the appeal site in terms of distance to the centre of Wokingham. Whilst there are pavements the walking distance from the SDL to the centre and railway station is in excess of a mile. This is beyond that which people would usually perceive as being achievable dependent on the purpose of the journey.
- 5.13. In cycling terms, the appeal site is certainly one which would be achievable to central Wokingham and Binfield where the distance of circa 1.9 and 2.0 miles respectively is achievable given the relatively flat topography. The Garmin routes below show this position and to the sports/recreational facility at Cantley.



Cycling from the appeal site to Wokingham centre and station  
1.9 miles 28m elevation



Cycling from the appeal site to central Binfield  
2.0 miles 36m ascent



Cycling from the appeal site to Cantley Fields  
1.0 mile 9.1m elevation

- 5.14. The propensity to cycle depends on the nature of the roads and visibility as well as the topography. In this case the key consideration of visibility is based on the straight configuration of the roads and the fact that drivers will have clear sight of cyclists who can wear suitable clothing such as hi-visibility vests and lights so that they can be seen.
- 5.15. In this case there is no clear reason why the alternative of cycling from the appeal site cannot represent an alternative to the car and is a sustainable form of transport. This same position and the relative walking distances from the SDL's is of equal merit in terms of the alternatives to the car.
- 5.16. The propensity to use other means of transport is one of time constraints, weather conditions and the function of the trip. Work place is not determinative of the location of a house/home although the propensity for home working has increased post-pandemic and the position of the appeal site as compared to an identified settlement cannot reasonably be said to influence sustainability credentials.

- 5.17. This said, use of the train station for work trips to Reading or London may equally use cycling from the appeal site, in the same way as they would from parts of the defined settlement of Wokingham. This is entirely dependent on proximity to the station. The additional cycling distance of around one mile is immaterial.
- 5.18. Where there are trips to supermarkets for food shopping, the practicality of cycling or walking is determinative of the weight of the purchased goods and whether there is a need to be accompanied by children. In practice the appeal site is no less sustainable than parts of the settlement for this activity and supermarkets have substantial car parks with limited cycle provision which demonstrates the point.
- 5.19. In terms of convenience shopping we ask that the appointed Inspector notes the proximity of the appeal site to Ashridge Manor Garden Centre - below - which has a range of concessions including convenience goods, fruit and vegetables, bread, milk, cheese and various other products. There is also a café and business hub at the garden centre.
- 5.20. In all respects this is a facility which provides for day to day needs and directly opposite the appeal site. As with any shopping the propensity to travel is determinative of the weight of goods which may be purchased and the time involved. Unless the location is directly proximate to the food outlet then walking or cycling is less likely than the use of the private car.



Appeal site

Ashridge Manor Garden Centre and concessions

5.21. The purpose of this appraisal in rebutting reasons for refusal 1 and 2 is to show:

1. That the appeal site is not remote from day to day facilities and indeed to Wokingham or Binfield.
2. That it is only marginally more distant from these facilities than the SDL housing developments.
3. That in either case there are decisions to be made on the alternatives to the private car. They are a factor of many considerations and use of cycles is equally achievable for the appeal site as it is for parts of the settlements.
4. There is a cluster of housing around the appeal site and this will be serviced to the extent that there will be no additional pressure on these services.

5.22. On this basis the appeal site, whilst outside of a defined settlement boundary, is neither remote or unsustainable. As such, there the 'tilted balance' could be applied in favour of the grant of planning permission without falling foul of transport sustainability policies. The relative distances are a matter of fact and degree in terms of the proximity to services and there are opportunities to access facilities which are certainly comparable to the SDL which have recently been developed.

#### **Visual effect on the landscape**

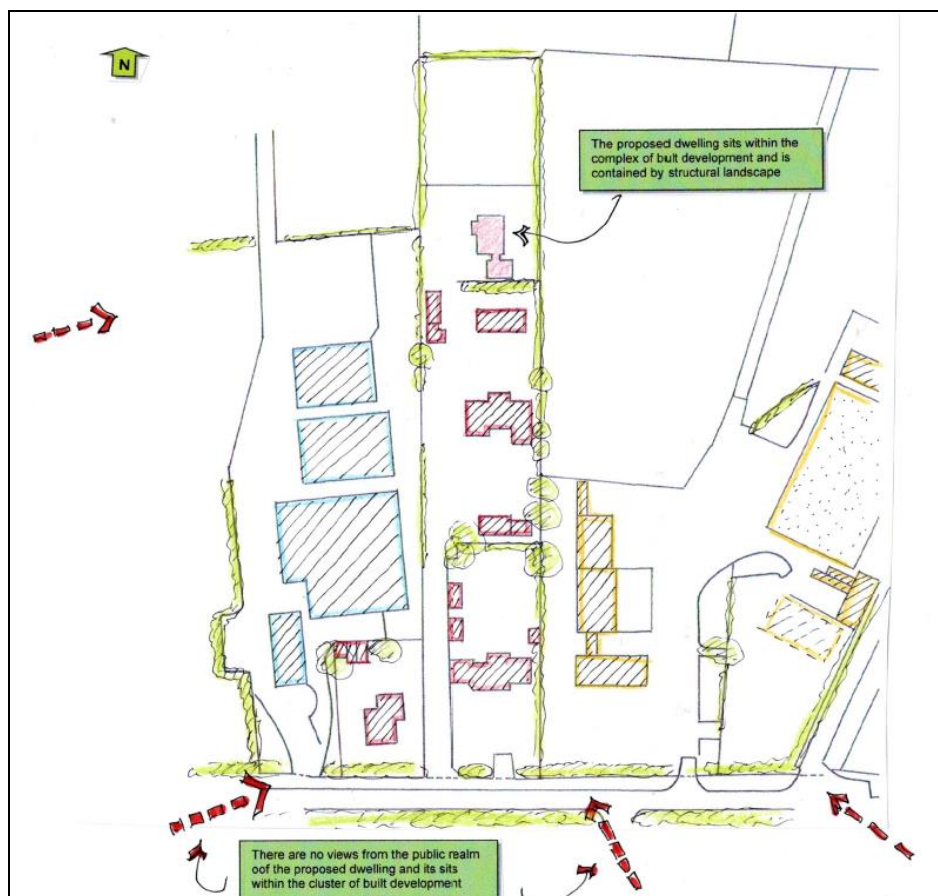
5.23 In granting permission (July 2015) for the dwelling now known as The Vale, the appointed Inspector concluded, inter alia:

5. The Borough Council and the Hurst Parish Council have raised objections to the proposal given its countryside location. Whilst such objections may have been valid at some time in the past, my decision has nevertheless been influenced by the physical features associated with the site. These include large, modern structures to the west at Harp Farm, which closely abut the boundary with the appeal site and include B8 uses.
6. The most adjacent large building was, I understand, recently erected following the grant of planning permission in 2014 (ref: F/2014/0678). This building projects rearwards beyond the proposed site of the new dwelling. There are also substantial modern barnlike structures that extend beyond the rearmost part of the proposed domestic curtilage. All of these represent dominant features within the countryside. Additionally, there is a house associated with Harp Farm close to Forest Road.
7. To the east is an array of new buildings, which I understand are to be used by a charity for equestrian purposes. The large buildings that I noted during my site visit are immediately to the east of the appeal site with the fields beyond divided into paddocks, together with a hard surfaced manege for equestrian use. This new feature is shown on the submitted drawings and is described as the JAC development, for which permission was granted in 2012 (ref: F/2012/0651).
8. The appeal site is therefore effectively surrounded on three sides by substantial development, that to the west representing a dominant feature within the countryside. In addition, I am aware that the site has a permitted use which is personal to the appellant for the sale of cars and for car repairs undertaken within outbuildings abutting the main house. These uses and the associated buildings would be removed to permit the proposed new dwelling.
9. These factors, in combination, have led me to conclude that there are special reasons for making an exception to the normal rural policies for the protection of the countryside.]

10. Subject to an appropriate design for the new dwelling and proposals to provide native hedging to the north and east boundaries of the curtilage indicated on Drawing no. AJT/03, I find on the main issue that development as proposed will not be harmful to the character and appearance of the surrounding landscape, as required by national policy in the Framework<sup>1</sup> and by Policies CP3 and CP11 of the Core Strategy<sup>2</sup>.

5.24. In this case, the Inspector agreed that there were no views from Forest Road or surrounding roads and referred to the access to Warren Farm which, of course, is a private view and not material. Moreover, since the time of the decision in 2015, the landscape has matured around the appeal site itself and along the frontage of Rehoboth and along the commercial access to the east. This can be observed on the site visit and it has the further effect of enclosure from the wider landscape.

5.25. These are statements and decision are based on the visual effect of a dwelling and the containment by built development on three sides. Since this time the reserved matters application has been granted and this context is shown by the design principles diagram which is submitted as part of this application (MLP/DESIGN/01).



- 5.26. To reinforce the point photographs 1 and 2 below show the views from Forest Road which can be verified on the appeal site visit. They clearly show that there are no public views to the application site. The appointed Inspector will be able to verify this position on the site visit.



1



2

- 5.27. Photograph 1 looking west shows Harp Farm, Cherry Trees and the buildings at Rehoboth above the hedgerows along Forest Road. From the east, photograph 2 shows how the commercial buildings dominate short and medium range views.
- 5.28. It is, of course, accepted and acknowledged that the dearth of views to the application proposal is not, of itself, justification for allowing development and this is not the position adopted by the appellant.

- 5.29. Rather, it is a matter to be weighed in the planning balance having regard to the Framework test of whether allowing development for housing would significantly and demonstrably outweigh the benefits of that provision. In effect the application of the 'tilted balance'.
- 5.30. On appraisal it is shown that the impact of development is not one which is adverse when considered against the landscape impact and views around the cluster of buildings. As such there is no prima face conflict with TB21 or the policies of the Farmework24 which would militate against the granting of planning permission.
- 5.31. The other material considerations of access, appearance, landscaping, layout and scale are all capable of satisfactory resolution in accordance with policies of the development plan and the Borough Design Guide. This has been shown to be the case with the decisions pertaining to The Vale and related buildings.
- 5.32. When seen in the context of built and natural development, we say that the test of "significant and/or demonstrable harm" is not such that it would justify the withholding of planning permission and the 'tilted balance' should fall in favour of the appellant.

**Other material considerations**

- 5.33. The lpa takes no issue with flood risk, surface water flooding, BNG/ biodiversity or residential amenity. No case is sited in respect of the effect of traffic generation or road safety. There are no other development management considerations which would militate against the grant of planning permission.
- 5.34. As set out above, the proposal has been submitted as a self-build project and has been registered as such with the local authority. Framework24 paragraph 73 acknowledges and supports this type of project as a means of housing supply and encourages lpa's to have policies which "support" such development.
- 5.35. Matters of biodiversity gain and detailed considerations can be addressed at reserved matters stage and this is the view of the Council's Ecologist.

## **6.0. PLANNING CONDITIONS**

6.1. In terms of planning conditions we have regard to the consultee responses as set out in the Officer report. These are set against the tests in the Framework and Practice Guidance and suggest the following may, subject to the Inspectors consideration, be attached to a determination:

- The provision of details pertaining to reserved matters and relevant timescales
- The retention of landscaping and boundary treatments
- EV charging points

6.2. In fact many of the sustainable construction matters are covered by Building Regulations and this includes sustainable construction, SAP calculations and the provision of EV charging points. Additionally, matters such as internet connections are contained in the Building Regulations.

## **7.0 APPLYING THE 'TILTED BALANCE'**

7.1. Having regard to the foregoing, the following points are made by way of conclusion:

- It is clear that as of March 2024 the lpa conceded that it could not demonstrate a five-year supply of housing land and the presumption in favour of sustainable development must be applied in accordance with the Framework. This is accepted as the application of the 'tilted balance'.
- The Government and Ministerial position of housing delivery has made clear with the stated policy of accelerating housing provision and this emphasises the weight to be afforded to granting planning permissions.
- The consequences or a return to Given the return to a five-year position, is that many local authorities cannot demonstrate a deliverable supply of housing land. In the case of Wokingham this shortfall is, by any judgement, severe and at March 2024 was 1.7 years. It is expected that this will worsen when the most recent HMA and supply position is published. This will be detailed in the lifetime of this appeal.
- As per paragraph 11(d) of Framework24 the policies of the development plan are considered as being out-of-date and the 'tilted balance' must form part of the decision-making process.

- In seeking to address this matter, the appellant sets out a case for exception to the out-of-date development plan policies, given that the appeal site lies in the open countryside designation.
- It is shown that the site is not remote and that there are opportunities for realistic use of alternatives to the private car. This includes cycling and the close proximity of both settlements and the convenience shopping at Ashridge Manor Garden Centre. Moreover, it is shown that the SDL housing development which is close to the appeal site, is no more or less sustainable than the proposed house. This is a factor of urban extensions and the relative position to town centre infrastructure.
- On the matter of effect on the landscape, it is shown that the site sits within a cluster of development and is contained by verdant landscape within and outside of the site. In all respects, the effect would not result in any seriously deleterious impact on the open countryside.
- On this basis it is shown that permission may be granted on the basis of applying the 'tilted balance' in so far as "any adverse impacts of doing so would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole".
- The planning policy support for self-build housing is part of the 'tilted balance' and it is acknowledged that this can make a "an important contribution to meeting the housing requirement of an area" (73). This is a case in point and the dwelling can be delivered relatively quickly.
- We have regard to the position expressed by a Planning Inspector in 2015 who granted permission for a dwelling which has been constructed and was varied by permission granted in May 2023. Since this time permission has been granted for a substantial outbuilding to the host dwelling and this has been implemented. All form material planning considerations.
- The other material considerations relating to ecology is shown to be resolved in a satisfactory manner and there is scope for biodiversity enhancement which can be secured through appropriate planning conditions. This is the position stated by the Council's Ecologist.

- Matters pertaining to highways and parking are detailed on the submitted plans. At reserved matters stage they can be further detailed and implemented in a manner which meets the adopted standards of the local authority.

7.2. Having regard to the foregoing, the proposed development would not result in significantly or demonstrably outweigh the benefits of housing provision. Whilst for a single self-build dwelling the housing land supply position shows a significant shortfall and the 'tilted balance' should fall in favour of development.