



## Appeal Decision

Hearing held on 22 February 2022

Site visit made on 21 and 22 February 2022

**by Rachael Pipkin BA (Hons) MPhil MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 31 March 2022**

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**Appeal Ref: APP/X0360/W/21/3276169**

**Land at Baird Road, Arborfield Garrison RG2 9YU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Baird Road Ltd against the decision of Wokingham Borough Council.
  - The application Ref 202303, dated 1 September 2020, was refused by notice dated 3 December 2020.
  - The development proposed is the erection of single building providing 10 apartments.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The original application was made in outline with only access to be determined at this stage. I have had regard to the existing and proposed site plans and the indicative layout of the proposed development as shown in these drawings, but have regarded all elements of these drawings as indicative apart from the details of the access.
3. During the course of the appeal, the appellant submitted a completed signed planning obligation by way of a legal agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) dated 9 December 2021 (the S106 agreement). This deals with the provision of affordable housing, contributions to mitigation against adverse effects on protected habitats sites and employment skills. I will discuss this in more detail later in this decision.
4. Since the appeal was lodged, the Council has confirmed that its third, fourth and fifth reasons for refusal have been addressed. These were concerned with the absence of a legal agreement in relation to those matters covered by the subsequently executed legal agreement. I have proceeded on this basis.

### Main Issues

5. The main issues are:
  - the effect of the proposed development on the character and appearance of the area, including trees and green infrastructure; and

- whether there are any material considerations which mean that the decision should be made otherwise than in accordance with the development plan.

## **Reasons**

### *Character and appearance*

6. The appeal site lies outside the defined development limits of Arborfield Garrison and therefore within the countryside. Due to its location, the proposal would be contrary to the countryside protection and strategy for development within the Borough as set out under Policy CP11 of the Wokingham Borough Core Strategy 2010 (the CS). This policy seeks to protect the separate identity of settlements and maintain the quality of the environment and only allows proposals outside development limits in a number of exceptional circumstances. Of relevance to this appeal, is whether or not the proposal would lead to excessive encroachment or expansion of development away from original buildings and whether it would maintain the quality of the environment.
7. The site forms part of a wider landscape strip of open and well treed land which lies between Baird Road to the south and Eversley Road (the A327) to the north. This landscape strip extends for some distance around the north-western edge of the settlement. It is undeveloped apart from a modest single-storey pump house building adjacent to Baird Road. On the opposite side of Baird Road, development is characterised by a mix of 2 and 3-storey residential development and a recently constructed single-storey convenience store. These buildings form a well-defined and visible edge to the settlement.
8. Beyond the A327 the land is primarily agricultural with some dispersed commercial development along the road. The landscape strip which includes the appeal site is not agricultural, however it has a distinctly rural character due to the absence of development and the presence of woodland areas and open grassland. Whilst it is not a valued landscape in terms of paragraph 74 of the National Planning Policy Framework (the Framework), it nevertheless contributes both visually and functionally to the quality of the area by providing a verdant landscaped buffer between the settlement and the main distributor roads beyond the settlement.
9. Despite some small pockets of development beyond the settlement edge, notably the line of development on the east side of Rickman Close, the perception on the ground, when travelling along either Baird Road or the A327, is of the settlement being contained to the south-eastern side of Baird Road. The landscape strip and grass verges found along the A327 are viewed as a green buffer separating the settlement from the busy roads encircling it and form a distinctive feature of the area.
10. The indicative layout shows the proposed building positioned towards the wider eastern end of the site adjacent to a traffic roundabout where 4 roads converge. There is no built development on the land between any of the arms of the roundabout which are characterised by grass verges, shrubs and trees. In this context the introduction of a substantial building so close to the roundabout would appear at odds with its surroundings. Whilst built development can be seen both along Baird Road and Rickman Close, this is only glimpsed beyond trees and is not prominent on the roundabout. The

appeal proposal, by contrast, would dominate the landscape around the roundabout due to its size and proximity to the site boundaries.

11. I appreciate that the scheme is only indicative, however, due to the shape of the site there would be limited options for siting the building further from the roundabout and less prominently within the site and none were suggested to me at the Hearing. On this basis, it seems reasonable to assume that whatever layout might be finalised through any subsequent reserved matters approvals, it would likely occupy a similar position.
12. The indicative design of the building shows its height would be limited to 2 storeys with first floor accommodation proposed to be within the roof. This is intended to minimise the bulk of the building. In the context of the adjacent development along Baird Road, the appeal scheme would not appear excessively large or at odds with the established scale of development locally. However, it would appear as an anomaly beyond the established line of development on the opposite side of Baird Road and encroaching into the green landscaping that forms a defined transition zone and buffer to the busy roads surrounding the settlement. This would be apparent on the approach to the settlement, particularly when approaching along Eversley Road in either direction.
13. The appeal site is viewed in the context of the existing settlement, the surrounding roads including the recently constructed Arborfield Cross Relief Road (Observer Way) which lies some 100m to the south-west of the site and the surrounding open countryside. Observer Way is a significant road, as is Eversley Road which extends around the north and western edges of the settlement. These roads do have an urbanising effect on the landscape with traffic islands, signage and streetlighting. Moreover, these are busy routes with increased volumes of traffic. To my mind, this makes it all the more important to provide appropriate landscaping and separation of these roads from the settlement through protection of landscape buffers. The appeal proposal would undermine this, particularly if further developments were to follow on these landscape areas.
14. The appellant recognised that the site is clearly influenced both audibly and physically by the presence of the surrounding road network with the emerging Arborfield Cross Relief Road increasing this influence. In this context, and given my findings in respect of landscaping mitigation which I come on to next, it seems to me that the development of this site would extend the influence of these road networks closer to the settlement, where it has evidently been planned to avoid such scenarios through the retention of these landscape buffers. Indeed, it is acknowledged that the new bypass route will take significant traffic flow from Arborfield Garrison which serves to further reinforce my view of the importance of this buffer.
15. The appellant has described the scheme as being sited within a heavily landscaped setting. The appellant's Arboricultural Impact Assessment (June 2020) (AIA) confirmed that the development would not result in the loss of any key trees and this was reaffirmed in the Landscape and Visual Hearing Statement.
16. The evidence indicates that the appeal site did contain a number of larger trees within the central part of the site. Photographs of these trees included within the appellant's Design and Access Statement (the DAS) show these

trees to be modest in height, similar to the ash tree at the northern corner outside of the site with much of the site boundaries being open. These were described by the Council's landscape officer as being reflective of the character of the landscape buffer beyond the site boundary. The DAS also went on to explain that the majority of existing trees and vegetation would be retained and enhanced by new landscape planting.

17. At the time of my site visit, there were no trees within the northern section of the appeal site beyond the pump house although there were a few dispersed trees on the site boundaries with boundary vegetation which appeared to include significant amounts of bramble. I also observed many tree stumps of varying sizes, a number of smaller stumps were indicative of trees having been recently felled.
18. I have no firm evidence of when trees were felled on the site. The Council's landscape officer indicates early 2020 but the DAS post-dates that. In any event, as a consequence of trees being cleared from the site, in November 2020, prior to the determination of the planning application for the proposed development, the Council issued a notice of intention to create a TPO<sup>1</sup> on the site. This was subsequently confirmed on 20 May 2021. This was made as a 'woodland TPO' and covers trees of all species on the land in the vicinity of the pump house, Baird Road.
19. The Planning Practice Guidance<sup>2</sup> (PPG) advises that anyone who contravenes an Order by damaging or carrying out work on a tree protected by an Order without getting permission from the local planning authority is guilty of an offence and may be fined. The AIA indicates many tree stumps within the site which indicates that several trees were felled prior to the trees being protected by a Tree Preservation Order (TPO).
20. At the Hearing, the appellant acknowledged that the site had been subject to further tree removals since the TPO was in place and that the extent of the clearance had arisen due to a miscommunication between the appellant and their contractor. I have no conclusive evidence of what was cleared from the site at that time. Nevertheless, it is not for me to judge the extent of any contravention of the Order.
21. Given the above, it would not be appropriate for me to assess the effect of the scheme on the basis of the cleared site. For this reason, I am basing my assessment on the information provided within the AIA, taking into account the trees identified within the area G2. I have had regard to how these may appear in their maturity.
22. The AIA indicated that vegetation on the site, identified as G2 within the tree schedule, extended into the site along both its north-eastern side and south-western side. It describes this as intermittent parcels of colonising scrub, considered to be of low arboricultural quality. It comprises a number of young to semi-mature species, including goat willow, English oak, gorse, hawthorn, ash, elm and field maple of heights varying for 2m to 5m.
23. The appellant has submitted a series of viewpoint photographs which were taken in June 2020 and therefore represent summer views of the site. Whilst these indicate a degree of tree cover and screening, it is not clear how many

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<sup>1</sup> TPO 1764/2020

<sup>2</sup> Paragraph: 135 Reference ID: 36-135-20140306

trees were on the site at that time and how that compares to the current situation. Certainly, the Viewpoint Location Plan<sup>3</sup> indicates that tree cover on the site would have been extensive. With much of this vegetation now removed, there would be very limited screening of the site and the proposed building would be widely visible.

24. Much of the appellant's argument in terms of landscape impact is reliant upon the retention of key trees on the site. However, there are very few trees now remaining on site. New landscape planting is proposed, the details of which would be determined under a reserved matters application. Whilst this could provide some screening of the proposed building from some viewpoints, the success of this would depend on the nature of the planting and the space available for this.
25. From the indicative drawings, there is, however, very limited space between the edge of the proposed building and the northern boundary of the site. Whilst I acknowledge that neither the layout nor landscaping has been confirmed at this stage, as I have already found, the scope to reposition the building is limited. Consequently, I do not consider that a sufficient amount of landscaping could be provided between the proposed building and the site boundaries to deliver the landscape mitigation for the scheme upon which the appellant has relied.
26. I appreciate that the landscaping would be established over a 10 year period. However, given I do not consider there would be adequate space for the required landscaping I am not persuaded that it can be satisfactorily provided in the first place. Elsewhere within the site, I accept that landscaping could be more successful and may be able to contribute to the verdant character of the landscaped buffer. However, this would not address the fundamental harm that would arise from the urbanisation of this area of land in the first place.
27. Part of the appeal site lies within a Green Route Enhancement Area (GREA). The Council describes a Green Route as a road into a settlement which is lined with trees and other vegetation which make a significant contribution to the character and environment of the area and contributes to the Borough's network of wildlife corridors. A GREA is defined in the Managing Development Delivery Local Plan 2014 (the MDD LP) as a stretch of road that has the potential to be green routes, particularly sections running between existing green routes. The GREA extends along Eversley Road and encompasses the north-western boundary of the site, extending to within the northern corner of the site.
28. This is the part of the site where the indicative drawings show the proposed building and where I have found the space for landscaping would be inadequate. In view of my findings, it therefore follows that the scheme would undermine the site's potential to contribute to the GREA. This would be harmful to the character and appearance of the area.
29. My attention has been drawn to various appeal decisions where development has been permitted on land outside development limits. In addition to finding the location acceptable in policy terms, the Inspectors have gone on to consider other matters. In the appeal at Lambs Lane and Beech Hill Road,

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<sup>3</sup> Appendix BW4, Landscape and Visual Hearing Statement

Spencers Wood<sup>4</sup>, the Inspector concluded that the proposal would be heavily screened from the surrounding road network. This is not the case in the appeal before me as the proposed building would necessarily need to be close to the boundary leaving insufficient space for effective landscaping to screen it. I do not find the circumstances comparable to the scheme before me.

30. In the appeal at Sonning Golf Club, Duffield Road, Woodley<sup>5</sup>, the Inspector concluded that the encroachment would be fairly limited. I have however not been provided with details of the relationship between that approved scheme and the countryside and existing built development although I note the Inspector concluded that it would extend an area of existing built development, thereby not appearing unduly incongruous in relation to the overall pattern and built development in the area. In the scheme before me, the proposal would appear detached from the settlement and entirely at odds with the undeveloped landscape strip on which it would be located. The conclusions of the Sonning Golf Club Inspector do not lead me to a different conclusion in this regard.
31. I conclude that the proposed development would result in significant harm to the character and appearance of the area, including trees and green infrastructure. It would therefore be contrary to Policies CP1, CP3 and CP11 of the CS, Policies CC01, CC02, CC03 and TB21 of the MDD LP and Policies IRS1 and IRS2 of the Arborfield and Barkham Neighbourhood Plan 2020 (the ABNP). These policies together seek sustainable development of an appropriate scale and character for the area that: maintains or enhances the high quality of the environment and the character and features that contribute to landscape character; respects the rural setting of settlements; preserves the character and appearance of the countryside; does not lead to excessive encroachment or expansion away from the original buildings; is within development limits and respects the transition between the built up area and open countryside by taking account of the character of the adjacent countryside and landscape; protects and retains existing trees and protects the Borough's Green Infrastructure networks.
32. It would also not accord with the Borough Design Guide Supplementary Planning Document 2012 which amongst other things supports new development on the edge of settlements that maintains or enhances the setting of the village in the landscape and relates to the local pattern of development.

### ***Other Considerations***

#### ***Planning Policy Context***

33. The development plan includes the CS, the MDD LP and the ABNP. The Council is in the process of preparing a new Local Plan, but this is at an early stage and has not been submitted for examination. It therefore carries limited weight at this time.
34. Paragraph 11 d) of the Framework sets out that for decision taking where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless: i. the application of policies in the Framework that

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<sup>4</sup> APP/X0360/W/18/3199728

<sup>5</sup> APP/X0360/W/17/3167142

protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii. 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.

35. At the Hearing, there was agreement that Policies CP1, CP3, CP9 and CP11 of the CS and Policies CC02, CC03 and TB21 of the MDD LP were the most important policies as well as Policies IRS1, IRS2 and IRS3 of the ABNP.
36. The Council considers all these policies are up to date and should carry significant weight. The appellant considers that Policies CP9, CP11 and CC02 are not up to date and should be accorded limited weight. This is on the basis that whilst these policies seek to deliver development in sustainable locations and to respect the character of the area which is not inconsistent with the Framework, they are restrictive policies based on out-of-date settlement boundaries. It is the appellant's view that since the Council is increasingly reliant on sites that are outside of the settlement boundaries, which is contrary to existing policy, to deliver its housing supply, these boundaries must be out-of-date.
37. These matters and the various appeal decisions in support of both parties' views were also put to me in the recent Willow Tree House appeal<sup>6</sup>. It will be seen from my decision on that appeal that I concluded that the defined development limits were out-of-date. There is nothing before me in this appeal to change my view in this regard. Therefore, those policies, namely Policies CP9, CP11 and CC02, insofar as they relate to the settlement boundaries are out-of-date. It follows therefore that Policy IRS1 of the ABNP which requires compliance with Policy CP11 must therefore also be out-of-date.
38. In addition to the 10 policies listed above, I consider that since the scheme proposes to deliver affordable housing, Policy CP5 of the CS would be a most important policy. This policy includes a provision that residential proposals of at least 5 dwellings will provide 50% affordable housing, where viable. This policy does not accord with paragraph 64 of the Framework and therefore is out-of-date.
39. The site also falls within 5km of protected habitats sites which could be adversely affected by additional residential development. Policy CP8 of the CS and Saved Policy NRM6 of the South East Plan are also most important policies. In seeking to avoid harm to protected sites they are consistent with the Framework and therefore not out-of-date.
40. Overall, I have found of the 13 most important policies for determining the application, 5 are out-of-date. I will return to the matter of whether the 'basket' of policies itself is out-of-date and therefore whether the appeal scheme complies with the development plan as a whole in my final conclusions.

#### *Housing Land Supply*

41. The Council considers it can demonstrate a 5.1 year supply of deliverable housing sites based on its Housing Land Supply Statement at 31 March 2021 (HLSS). This equates to 4,115 houses and a surplus of 83 dwellings over the

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<sup>6</sup> APP/X0360/W/21/3275086

- 5 year requirement of 4,032 dwellings. The appellant disagrees with this on the basis that 10 sites included within the Council's trajectory should be excluded as they are not deliverable. The appellant considers that the Council's deliverable housing supply would be 3,348 dwellings, equivalent to 4.15 year supply.
42. Housing land supply was a matter before me in the recent Willow Tree House appeal. This was also based on the same 2021 HLSS. It will be seen from that decision that, on the evidence before me then, I concluded the Council could identify a 4.84 year supply of deliverable sites, based on 3,904 dwellings being deliverable.
43. The parties have disputed some of my conclusions in that previous appeal, the Council in respect of some of the sites I excluded from the trajectory and the appellant in respect of some of the sites I included as well as the inclusion of a windfall allowance for large sites. I consider each of the disputed sites in more detail below.
44. The Framework sets out within its glossary that to be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within 5 years. It goes on to give examples under a) and b) of the categories of sites which are capable of meeting that definition. Under a) this includes all sites with detailed planning permission; and under b) those sites which have outline planning permission for major development and whether there is clear evidence that housing completions will begin on site within 5 years.
45. It is recognised that this is not a closed list and whether a site does or does not meet the Framework definition of deliverable is a matter of planning judgement on the evidence available.
46. The Council pointed out that, despite its efforts to obtain information about progress and predicted completion rates, developers and housebuilders do not always provide a response, as has happened in a number of cases below. This was a point discussed by the Inspector in assessing the housing land supply (HLS) in the Wyvols Field, Swallowfield appeal<sup>7</sup>. The Inspector recognised that the Council was making concerted efforts to enhance the robustness of its approach to assessing HLS and that some developers and housebuilders could do more to assist in this regard. He also recognised that scarce public resources should not have to be used to tease information out of those who stand to benefit from the inclusion of the sites within the Council's HLS.
47. I agree with the Inspector's findings in this regard. From what I have read and heard, I am satisfied that the Council has made efforts to gather evidence to underpin its HLSS even if that information has not always been forthcoming. On this basis, the absence of a recent response to the Council's request for information does not automatically make the Council's evidence on supply unreliable.
48. The appellant has raised a concern about the release of the HLSS some 9 months later than the base-date for the 5 year period. Whilst I note this point, the Council has provided a reasonable explanation that this has

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<sup>7</sup> APP/X0360/W/17/3170340

occurred due to resourcing issues. I have nothing before me to suggest that this has arisen for any other reason. I appreciate that, in the interim, additional evidence will have emerged, however, that will always be the case as circumstances on the ground continuously evolve.

49. The appellant has drawn my attention to the Council's deteriorating HLS position, with the Council's identified surplus reducing from 5.2 year supply in 2020 to 5.1 years in 2021 as well as under-delivery within the Strategic Development Locations (SDLs) against CS expectations. Whilst this is noted, in recent years delivery has been strong, as evidenced in the most recent Housing Delivery Test results. Nevertheless, I accept that delivery has not been consistently so during the CS plan period although, as I set out in my Willow Tree House decision, the evidence suggests that CS housing figures may be exceeded.
50. I have previously concluded that the Council cannot demonstrate a 5 year supply of deliverable sites. It therefore follows that I agree that the Council will need to rely on unidentified sites where they will not cause unacceptable harms to meet its housing needs. The extent of any shortfall is a matter to which I now turn in assessing the individual sites and sources of supply in dispute.

*Large sites with outline permission*

Land to the west of Trowes Lane, Wokingham

51. This site has outline permission for 20 dwellings granted on appeal in 2018, with a reserved matters application submitted in October 2020 prior to base date. This was subsequently approved in June 2021, 3 months after base-date.
52. There is one developer on site, Cove Construction Ltd, who did not provide any response to the Council on forecasted completion rates. The appellant has stated that the site is only listed as 'coming soon' on the company's website.
53. The appellant has argued that the reserved matters approval included 2 pre-commencement conditions, one in relation to drainage, the other in relation to the provision of electric vehicle charging which added to its view that there was not clear progress. However, at the Hearing I was told that the condition in relation to drainage had been discharged in January 2022 and that the one in relation to electric vehicle charging was all that was outstanding.
54. With reserved matters approved and evident progress in discharging pre-commencement conditions, I do not consider that the Council's approach in including this site, which had a reserved matters application under consideration at base date, within its 5 year housing land supply (5YHLS) to be misplaced. It follows therefore that I consider these 20 dwellings should be retained within the trajectory.

Land at Stanbury House, Basingstoke Road, Spencers Wood

55. Outline planning permission was granted on appeal for 57 new dwellings (56 net) on 18 September 2018. A reserved matters application was validated by the Council on 25 August 2021, some 4 months later than indicated on the developer's completed proforma, and is still pending a decision. Furthermore, the developer has completed a proforma advising that they would expect to

complete discharging pre-commencement conditions in October 2021. However, I have no evidence of progress in relation to this more than 3 months after this date. This indicates that delay has occurred in bringing this site forward.

56. I have been told that Cooper Estates are strategic land promoters rather than developers. Whilst I appreciate this may mean the site were to be sold this may lead to some further delay in bringing the site forward, I have no firm evidence of this and this therefore adds limited weight to the appellant's argument that the site will be delayed.
57. With the reserved matters application outstanding and no evidence of progress in the discharging of pre-commencement conditions, I do not consider the evidence to be sufficiently robust in terms of delivery at this time. Even if the timescales and allocation of this site for delivery is within year 5 of the trajectory, this does not alter my view.
58. The Council has argued that the extension of the Detailed Emergency Planning Zone for the Atomics Weapons Establishment Burghfield will have a knock-on effect on developments coming forward in this area in future. This will make delivery of existing sites with permission, such as this one, more attractive. Whilst I agree with this, I have nothing before me to indicate that there has been adequate progress in bringing this site forward to confirm its delivery. Given limited details about progress on site, I consider that these 56 dwellings should be excluded from the trajectory.
59. I appreciate that this site was not contested in the recent Willow Tree House appeal and that the appellants in that case confirmed that they would not challenge the deliverability of this site. However, on the evidence before me I have concluded that these dwellings should be excluded.

Hogwood Farm, Sheerlands Road, Arborfield

60. This is part of a larger scheme which had outline permission for 1,500 dwellings at base date. The scheme is being progressed in 3 phases. A reserved matters application in relation to parcels 2, 3 and 7 was approved on 21 July 2021. This relates to phase 2. The developer subsequently sought to split parcels 2 and 3 from parcel 7 which required a further reserved matters application. At base date, this later reserved matters application had not been submitted. It was subsequently validated in November 2021 but remains outstanding. Together, parcels 2 and 3 would deliver 135 dwellings. Of these, the Council considers 73 dwellings will be delivered within the 5 year period.
61. In my Willow Tree House decision, I determined that this site should be kept in the trajectory. At the Hearing, I was invited by the appellant to reconsider my position on this.
62. On the evidence before me, I am aware that the later reserved matters is only required in order to enable the split of parcel 7. In other respects, the content and form of the reserved matters application remains unaltered from that previously approved. As this is simply a mechanism for splitting out the parcels of land, I am satisfied that there is a reasonable likelihood that the reserved matters should progress relatively unimpeded.
63. Phase 1 is already underway and the developer had previously advised that they would have 2 phases delivering units at any given time. It is not clear

when this view was expressed but I am aware that the developer has not provided a more recent response on its delivery plans in response to the Council's request for delivery rates in March 2021. I have nothing to suggest that the developer does not intend to bring forward 2 phases concurrently and the absence of a response to the Council's request does not mean this would not happen.

64. The developer had previously indicated commencement of construction of this phase as being October 2021 which has not occurred since the reserved matters application remains outstanding. However, completions are not due until years 4 and 5 of the trajectory which even taking into account that construction may have been delayed, given the approvals already in place this does not seem unreasonable.
65. This does not therefore alter my position on this site and I conclude that these 73 dwellings should be retained in the trajectory.

*Large sites with full permission*

Land at Arborfield Garrison SDL

66. This site has outline planning permission for 2,000 dwellings granted on 1 April 2015. The delivery of these have been separated into a number of parcels. To date, of that outline permission, 858 dwellings have been completed. A further 489 dwellings are forecast by the Council to come forward within the relevant 5 year period, taking the total completions to in that period to 1,347.
67. Of these 489 dwellings, 126 units were subject to outline only permission at base-date. These fall within Parcel V1S for which a reserved matters application had been validated in March 2021 and approved in August 2021. The developer, Bloor Homes, provided details of projected completions on this parcel of land, based on their general delivery rates. This indicated that these 126 units would be delivered within the first 3 years. The Council has taken a more conservative view of delivery based on historic delivery rates but nevertheless considers them deliverable within the 5 year period. In view of the approved reserved matters and this evidence, I do not consider these 126 dwellings should be excluded from the trajectory.
68. It has been suggested that to take these 126 dwellings out from the trajectory would be consistent with my approach to Ashridge Farm within the Willow Tree House decision. However, Ashridge Farm had neither full nor outline permission at base date, unlike the proposed development of Plot V1S which did at least benefit from outline planning permission at that stage.
69. I note that this development is subject to a condition (Number 7) which requires a Development Brief to be prepared and submitted to the Council and for this to include a requirement for a programme for at least 25% of the commercial floorspace within a new district centre to be completed by the occupation of the 1000th residential unit, unless otherwise agreed by the Council. The appellant asserts this is a phasing restriction on further development. On the basis that 858 dwellings have been completed as indicated in the HLSS, only a further 142 dwellings could be completed before condition 7 of the outline permission is breached.

70. The new district centre is intended to contain an anchor foodstore as well as other shops, facilities and services. The HLSS sets out that reserved matters applications for the district centre are due to be submitted in 2022. Whilst the Council's interest in seeing this aspect of the development being completed is recognised, there is limited firm evidence of when this will happen.
71. The Council nevertheless considers it has been flexible in its approach and that, irrespective of the planning condition, delivery has continued on site, with the latest evidence indicated that 1,033 dwellings are occupied as of the end of January 2022. Whether this condition has been breached is not a matter for me.
72. The Inspector in her decision at Land North of Nine Mile Ride, Finchampstead<sup>8</sup> concluded that the delivery of dwellings above the 1,000 dwelling threshold should be excluded. However, evidence since that decision, albeit submitted late on in year 1 of the 5 year period, does demonstrate that some development above that threshold has already occurred. To my mind, this is firm evidence that the condition has not been a limiting factor.
73. To suggest that development on site should and would now cease because that threshold has been breached seems counterintuitive given the overarching objective for delivery of housing. Nevertheless, there is no evidence that any attempt has been made to vary the condition and it could, at some point, become a limiting factor if it became apparent that the required district centre was at risk of not being delivered. For this reason, I do not consider that there can be certainty that delivery will continue to progress unhindered by this condition. Equally, I do not consider that all development on site will simply halt because this condition has been breached.
74. In such circumstances I am unable to reach a firm conclusion as to what figure should be included within the trajectory. The difference between the total projected completions by the end of the 5 year period and what has been confirmed as delivered (and occupied) on site by January 2022 is 314 dwellings. For the reasons I have set out, I am of the view that the Council's 5YHLS should include a portion of these. I return to how this may affect the Council's final housing land supply position in my overall findings on this matter below.

1 Barkham Lane, Wokingham

75. This site is a brownfield site, located within an accessible location close to Wokingham railway station. It proposes 14 dwellings. At base date, there was a resolution to grant planning permission subject to the completion of a legal agreement. In my Willow Tree House decision, I concluded that in the absence of this, there is a degree of uncertainty that could put back the potential start date of a development by some time or may act as an impediment to development.
76. At the Hearing, the Council explained that the S106 agreement had been delayed due to land ownership issues relating to a slither of land and that there had been significant progress in resolving this. I acknowledge this, however, the matter remains outstanding with a timescale for completion indicated to be around 6 to 8 weeks which would take it up to the base date

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<sup>8</sup> APP/X0360/W/19/3238048

for the Council's next HLSS. Therefore, whilst I agree that with the S106 agreement in place on or around 31 March 2022, it would be appropriate to take it into account in the next assessment of 5YHLS, I am not persuaded to depart from the conclusions in my Willow Tree House decision. The 14 dwellings should be removed from the trajectory.

Auto Trader House, Danehill, Earley

77. This site was granted full planning permission on appeal for 76 dwellings, granted prior to the base date. The appellant has challenged the deliverability of this site on the basis that a subsequent application has been put in, accompanied by a planning statement which states that the extant planning permission remains unimplementable as it is an unviable development. This application, which seeks the redevelopment of the site for commercial purposes, is undetermined at this stage.
78. Under the Framework's definition of deliverable sites, it states amongst other things that all sites with detailed planning permission should be considered deliverable unless they are no longer viable. I note from the planning statement that the loss of residential use on this site was flagged up in pre-application advice as a potential issue with the subsequent application. Whilst I note the applicants have raised viability concerns, I am not aware that any viability assessment has been provided to confirm this and justify a change from the approved residential use of the site. In the absence of this, I do not consider this conclusive evidence and the extant full planning permission remains in place. I therefore do not agree that these 76 dwellings should be removed from the assessment.

Former Bearwood Golf Course, Mole Rd, Sindlesham

79. This has full planning permission for redevelopment of the site to provide new training facilities for Reading FC and includes the refurbishment and rebuilding of the existing house and farm and industrial buildings to provide 26 residential units, representing a net increase of 18 dwellings.
80. The developer has not provided any evidence of delivery rates in March 2021. However, the Council considers that with other elements of the permission progressing well, that the residential element of the scheme is under construction.
81. The appellant has highlighted that the HLSS does not record any details of conditions being discharged relating to the demolition of existing dwellings and ancillary buildings nor any details of transfer of interest in the residential dwellings, which is anticipated under condition 4 of the decision notice.
82. The approved dwellings are to be delivered through a combination of refurbishment and rebuilding. I have limited details before me in regards to how much of this will involve demolition. Nevertheless, I have been presented with evidence in support of the Council's position that the residential element of the scheme is now progressing on site.
83. The Council has suggested that Reading FC intends to hold onto some of the residential units for players on their books. However, I have no firm evidence of this. Irrespective of this, condition 4 does not require the disposal of the residential development but does allow for it to happen.

84. There is no evidence of marketing of the site. However, at the Hearing the Council provided evidence of a retrospective application having been made for the retention of a temporary entrance gate for a period of 3 years. The accompanying planning statement to the application explains the gate is required to prevent unauthorised access and fly tipping on the site and, specifically, that it will be removed once the residential development is substantially completed and prior to occupation of the first completed dwelling. It sets out that a period of 3 years is proposed to be sufficient for this purpose. I consider this evidence to be quite specific in regards to progress and the delivery of housing on this site within the next 3 years.
85. I therefore consider that the 18 dwellings should be retained within the Council's housing trajectory.

Ashridge Farm, Warren House Road, Wokingham

86. This site was one of the disputed sites in the Willow Tree House decision. This site is within the North Wokingham SDL. It has full planning permission for 153 dwellings granted on 25 June 2021. I concluded that the site did not meet the Framework definition of deliverable having neither full nor outline permission at base date.
87. At the Hearing, the Council set out that it disagreed with my findings as there was a housebuilder on site, a significantly advanced S106 agreement at base date and that the Northern Distributor Road allowed easier access to the site.
88. I agree that having a housebuilder and improved access to the site all lend weight to the Council's view that the site was deliverable. However, with an outstanding legal agreement, there was a degree of uncertainty that could delay the grant of permission and therefore any start on site. For this reason and given the absence of any permission, I am not persuaded to alter my findings in respect of this site. I therefore consider these 153 dwellings should still be excluded from the trajectory.

Land east of Gorse Ride South, south of Whittle Cross and north and south of Billing Avenue, Finchampstead

89. The Council disputes my findings in the Willow Tree House decision that 44 dwellings should be excluded from the trajectory in relation to this site. The site had full planning permission at base date and the scheme is being progressed by the Council who I was told was committed to delivering the development. Notwithstanding this, there are a number of outstanding issues in relation to land acquisition and securing a legal agreement which have not been evidenced as having been resolved although I appreciate that works have commenced on site. With uncertainty on these issues, I remain of the view that the evidence that the dwellings will be delivered within the timescales is not sufficiently robust. The 44 dwellings should therefore be excluded.

*Large sites with prior approval not started / under construction*

Indigo House, Fishponds Road, Wokingham

90. This site has approval for 30 dwellings, granted on 11 March 2021. The site has a history of unimplemented and refused applications for planning

permission and prior approval notifications, variously seeking a change of use to 30 or 54 dwellings plus most recently, for the addition of 11 apartments.

91. The evidence suggest that a developer may purchase the site, but on the basis of the 54 dwelling scheme which has not been approved. There is nothing before me to suggest that this developer would be interested in implementing the approved scheme for 30 dwellings. As suggested by the Council, the approved scheme appears relatively straightforward involving the conversion of an office block and I have no firm evidence to support the appellant's view that this site will not be developed.
92. I have noted that there is a further full planning application for 11 apartments. However, whilst I agree it may be easier to implement both the extension and conversion at the same time, there is nothing to prevent the approved conversion scheme progressing whether this extension gains permission or not.
93. I therefore consider that these 30 dwellings should be included within the trajectory.

47 Peach Street, Wokingham

94. The site has prior approval for conversion of offices to 29 flats. This is subject to a standard condition that the development be completed within 3 years from the date of the prior approval, which would be by 11 December 2022.
95. Information provided to Council as part of its housing land supply evidence indicates that existing tenants are in place until 2023 and that development will commence in 2024. However, the prior approval would have lapsed by 2024 and it is not clear how the scheme could be implemented. A fresh prior approval would be required or a variation of the condition, neither of which have been evidenced. On this basis, I consider the delivery of these dwellings to be uncertain and therefore 29 dwellings should be removed from the trajectory.

Interserve House, Ruscombe Park

96. Prior approval was granted for the conversion of this office building into 41 flats, a subsequent application reduced this to 40 flats and was granted on 9 March 2021. A full planning application was subsequently submitted to construct 30 apartments, through the addition of a fourth storey and the construction of a separate building. This has since been withdrawn.
97. The appellant has argued that the need for this additional development indicates that the prior approval scheme on its own is not sufficiently viable. This is based on the developer's expressed intention to deliver both the prior approval and the full permission in tandem, had this been approved. It is also based on the assumption that the developer has stated the 30 dwellings scheme would not be viable enough to deliver any affordable housing.
98. However, the scheme has permission for 40 dwellings and that permission remains valid. Whilst the additional development proposals are noted, there is no clear evidence that this conversion could not be delivered as a standalone development. I therefore have no substantive evidence on which to exclude this from the trajectory. The 40 dwellings should therefore remain.

### Windfalls

99. In my Willow Tree House decision, I concluded that a contribution of 32 dwellings per year for years 4 and 5 of the 5 year housing land supply period was not unreasonable. This was on the basis of past completions showing that, on average, 51 dwellings are completed on large, previously unidentified sites each year and that such developments tend to be built out relatively quickly, on average taking just over 2 years.
100. The appellant considers that there is no compelling evidence that these sites will keep coming forward and that the Council will begin approving such sites in the future. Whilst this is recognised, the evidence of completions included within the HLSS shows that over the past 5 years completions have been between 48 and 195 dwellings.
101. I appreciate that the build out rates also only demonstrate delivery on those sites which do get built. Nevertheless, there is evidence that such sites deliver quickly and that, based on completion numbers, they have made a reasonable contribution to annual housing delivery in recent years.
102. For these reasons, I am not persuaded to depart from my conclusions in the Willow Tree House decision.

### Overall findings on HLS

103. Based on my assessment above, and taking into account my findings on 5YHLS as set out in my Willow Tree House decision, I find that 296 dwellings should be taken out of the trajectory. However, this figure does not include any potential reduction for the Arborfield Garrison site. This would mean that the Council's overall number of deliverable dwellings during the 5 year period would be 3,819. This amounts to a shortfall of 213 against the 5 year requirement of 4,032 dwellings and a 4.74 year supply of deliverable sites.
104. However, the shortfall could be more significant given my findings in respect of the land at Arborfield Garrison as set out above. If applied strictly, this could reduce the deliverable supply of housing by a further 314 dwellings, which would reduce the overall supply of housing for the 5 year period to 3,505 dwellings, equivalent to a 4.35 year supply. However, I do not consider a strict application of this would be appropriate for reasons I have set out. Nevertheless, it seems that based on the evidence put to me in this appeal, the Council's 5YHLS lies somewhere between 4.35 and 4.74 years.

### *Benefits*

105. The proposed development would deliver a policy compliant 40% affordable housing units. These would be 2 x 1 bedroom and 2 x 2 bedroom which would be a mix of units indicated as being appropriate by the Council's housing officer. In the context of a considerable affordable housing shortfall against needs, as established in various appeal decisions including most recently within the Willow Tree House decision, the provision of affordable housing is a benefit. However, the scheme would deliver just 4 units and would make a very limited contribution to the overall supply. This benefit therefore carries moderate weight.
106. It has been suggested that the provision of smaller units would enable households to downsize thereby freeing up much needed family homes within

the area. However, I have little evidence in respect of this, and I give this benefit limited weight.

107. The proposal would deliver economic benefits through the provision of jobs during the construction phase as well as through future occupants utilising local services and facilities. Due to the modest scale of the development, this benefit carries moderate weight.
108. The appeal site is in a reasonably accessible location and future occupants would not be reliant on the private car to access day-to-day services. This is a benefit of the scheme that also carries moderate weight.
109. The scheme proposes the provision of public open space to the south of the building which would include enhanced landscape planting through wild meadow, native scrub and tree planting. The existing bridleway would be retained and the improved public access provided to this part of the site. Whilst there would be some environmental benefits arising from this, with limited trees retained on site, harm to the landscape and little evidence to support biodiversity gains, I give these environmental benefits limited weight.

## **Other Matters**

### Habitats Sites

110. The appeal site lies within 5km of the Thames Basin Heaths Special Protection Area (the SPA). This is protected as a European Site of Nature Conservation Importance and is subject to statutory protection under the Conservation of Habitats and Species Regulations 2017. Regulation 63 prevents the competent authority from granting permission unless the proposal would not adversely affect the integrity of the European site. I am the competent authority for the purposes of this appeal.
111. The Council, in consultation with Natural England, considers that any net increase in residential development between 400m and 5km straight-line distance from the SPA is likely to have a significant effect on the integrity of the SPA, either alone or in combination with other plans or projects. This is due to a potential increase in recreational activity on the SPA.
112. The Council has completed an Appropriate Assessment (AA). This concluded that without any appropriate avoidance and mitigation measures in the form of Suitable Alternative Natural Greenspace and Strategic Access Management and Monitoring Measures, the proposed development would be likely to have a significant effect upon the integrity of the SPA. The Council advised that if the appellant were to make a financial contribution towards the costs of SPA avoidance and mitigation measures, the adverse effect on the integrity of the SPA could be avoided.
113. The appellant has agreed to this and the submitted S106 agreement could secure those contributions. Notwithstanding this and the Council's findings, as the competent authority, I would need to undertake an AA to confirm that it would not adversely affect the integrity of the SPA. However, as I am dismissing the appeal for other reasons, I do not need to consider this matter further.
114. Even if I were to find that mitigation could be provided in this regard which would avoid harm to the SPA, this would be a neutral factor in the balance.

### Planning Obligation

115. The S106 agreement would secure affordable housing, contributions to employment training as well as mitigation against any harmful effects on protected habitats sites.
116. In each case I am satisfied that the Obligation meets the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) and complies with the tests set out in paragraph 57 of the Framework. Since they are to ensure that effects of the development are mitigated, I consider them to be neutral in the final balance.

### **Planning Balance**

117. Paragraph 11 of the Framework establishes the presumption in favour of sustainable development. Where there is no 5YHLS or where the most important policies for determining the application are out-of-date, the 'tilted balance' should be engaged.
118. I have concluded that the Council cannot demonstrate a 5YHLS. For reasons set out above, I am unable to reach a firm conclusion on the overall supply but I have established the shortfall, which would be somewhere between 4.35 and 4.74 years, would be moderate to modest.
119. I am required to determine whether the most important policies, the 'basket' of policies, taken as a whole, are to be regarded as out-of-date for the purposes of this decision. Of these, I consider Policies CP9 and CP11 of the CS, Policies CC02 and TB21 of the MDD LP and Policies IRS1, IRS2 and IRS3 of the ABNP, which relates to the location of development and character and appearance, have the greatest bearing on my decision. I therefore give these policies more weight when considering the overall 'basket'.
120. On the basis that more of those most important policies which I have identified as carrying more weight in my decision are out-of-date, I am led to the conclusion that the basket itself is out-of-date, although I consider this to be marginal. Nevertheless, given the absence of a 5YHLS and the out-of-date basket of policies, the 'tilted balance' would be engaged. In such circumstances, in accordance with paragraph 11 of the Framework, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
121. The provision of 10 dwellings in an accessible location, served by public transport would make a modest contribution to the Council's housing land supply. Whilst taking into account the shortfall in housing land supply, due to the limited scale of the development, I consider this carries moderate weight in favour of the scheme. In addition, the proposed development would also contribute to affordable housing, providing a policy compliant 40% of on-site affordable housing. Again, due to the limited scale of the development, this carries moderate weight.
122. The proposed development would also deliver a number of social and economic benefits. It would also deliver environmental benefits, although the landscape harms arising from the proposal would undermine some of these. In combination and within the context of a development providing just 10 dwellings, I give these benefits moderate weight.

123. The appeal site lies within the countryside and outside the development limits for Arborfield Garrison. While the development would not accord with planning policies in terms of its location being outside defined development limits, given the absence of a 5YHLS and that the policies for the delivery of housing are considered out-of-date, I can only give this conflict with policy limited weight.
124. However, the proposal would cause significant harm to the character and appearance of the area, including trees and green infrastructure. The harmful impact is a matter of very substantial weight and importance in the planning balance.
125. In my view, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. Therefore, the proposal would not constitute sustainable development with regard to paragraph 11 d ii) of the Framework.

### **Conclusion**

126. The proposed development would be contrary to the development plan and there are no material considerations that outweigh this conflict. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be dismissed.

*Rachael Pipkin*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

|                |                                      |
|----------------|--------------------------------------|
| Jon Goddall    | Director, DLP Planning Ltd           |
| Graeme Fell    | Associate Director, DLP Planning Ltd |
| Ben Wright     | Senior Director, Aspect              |
| Stuart Oldroyd | Chartered Surveyor                   |

### **FOR THE LOCAL PLANNING AUTHORITY:**

|                   |                                                   |
|-------------------|---------------------------------------------------|
| Adriana Gonzales  | Senior Planning Officer                           |
| Andrew Chugg      | Team Manager, Development Management & Compliance |
| Ian Church        | Team Manager, Growth and Delivery                 |
| Catherine Brimble | Senior Landscape Officer                          |
| Gordon Adam       | Highways Officer                                  |

### **INTERESTED PARTIES:**

|                 |                                       |
|-----------------|---------------------------------------|
| Paul Stevens    | Arborfield and Newland Parish Council |
| Michael Knowles | Local resident                        |
| Girish Gala     | Local resident                        |

## **HEARING DOCUMENTS**

|     |                                                                                                               |
|-----|---------------------------------------------------------------------------------------------------------------|
| HD1 | Appeal Decision APP/X0360/W/21/3275086                                                                        |
| HD2 | Appeal Decision APP/X0360/W/17/3170340                                                                        |
| HD3 | Plan showing extent of Green Route Enhancement Area                                                           |
| HD4 | Planning Details for application Bearwood Park, Mole Road, Sindlesham, Council Ref 220165                     |
| HD5 | Extract from Planning Statement for application Bearwood Park, Mole Road, Sindlesham, Council Ref 220165      |
| HD6 | Letter dated 10 February 2022 from Crest Nicholson advising of occupancy level within Arborfield Garrison SDL |

## **POST-HEARING DOCUMENT**

|      |                                              |
|------|----------------------------------------------|
| PHD1 | Map showing location of Rooks Nest Wood SANG |
|------|----------------------------------------------|