

Land North of Reading Road

*Outline application for up to 111 no. dwellings with associated works, parking, landscaping,
publicly accessible open space and access from Reading Road planning permission (all
matters reserved except for means of access*

CLOSING STATEMENT FOR WOKINGHAM BOROUGH COUNCIL

INTRODUCTION

1. Having now heard the evidence, the Council maintains its objection to the appeal proposals.
2. The main issues in dispute between the Council and the Appellant are as follows:
 - (1) Whether the proposed development is in a suitable location having regard to local and national policies in relation to the location of housing.
 - (2) The effect of the proposed development on the character and appearance of the surrounding area.
 - (3) Whether the quantum and scale of development is acceptable.
 - (4) Whether the proposal would be sustainable development, having regard to its location and the opportunities for sustainable travel.
 - (5) Whether the development would be acceptable in terms of flood risk.
 - (6) Whether any potential adverse effects on the integrity of the Thames Basin Heaths SPA would be adequately mitigated.
 - (7) The effect of the proposal on irreplaceable habitats, in particular the adequacy of buffer zones around veteran trees.
 - (8) The overall planning balance.

THE COUNCIL'S CASE

(1) The suitability of the location

3. All parties agree that the appeal proposals are contrary to the development plan by reason of the site's location in the countryside, outside settlement limits. The scheme is contrary to Policies CP1, CP9 and CP11 of the Core Strategy, Managing Development Delivery Local Plan policies CC01, CC02, CC03 and TB21 and Arborfield Neighbourhood Plan Policy IRS1 and AD1.
4. The Council accepts that the housing requirement in Policy CP17 of the Local Plan does not accord with the level of housing need now identified by the standard method and that the settlement boundaries in Plan restrict the delivery of that housing need.
5. However, as has been recognised by a number of planning inspectors¹ and as agreed by Ms Taylor², the objectives underlying the spatial strategy and, in particular, Policies CP9 and CP11, accord with the aims of the NPPF insofar as they seek to identify appropriate and sustainable areas for development that are well located for facilities and services, to protect the identity of settlements, and maintain the quality of the environment. The agreed³ conflict with Policies CP9 and CP11 demonstrates that, even if the settlement boundaries themselves are accorded less weight, the scheme nonetheless conflicts with the strategy and objectives that underpin not only the Local Plan but also the NPPF.
6. Furthermore, as set out within the evidence of Mr Church,⁴ it is evident that the extant spatial strategy has functioned extremely well to deliver housing over and above both the need identified in the Plan and (until the recent changes to the method) against the standard method. Between 2006/07 and 2024/2025, 14,945 homes were delivered against the need identified in the Plan of 12,607.⁵ Following the introduction of the standard method in 2018, 7,781 homes have been delivered against a need of 6,137.⁶

¹ See, for example, the appeal at Blagrove Lane, CD10.05.01, paragraph 16

² XX by Mr Parker

³ Main SoCG, CD05.02, para 6.8

⁴ CD14.02.01, paragraphs 3.1 – 3.29 and 6.1 – 6.12

⁵ CD14.02.02, Table 1

⁶ CD14.02.02, Table 4

The Council's housing delivery score has not dropped below 157% and has been as high as 205% since 2018. Again, Ms Taylor did not dispute that to be the case.⁷

7. Looking to the future, the appeal site was assessed but rejected from inclusion with the emerging Local Plan Update. The LPU has now made significant progress since the time the application was determined with Stage 1 Hearings having now taken place in relation to the overall housing requirement, and the Strategic Development Locations ("SDLs"). The Stage 2 Hearings have now commenced and, while there is some way to go before the LPU is adopted, it is reasonable to assume that the Local Plan Examining Inspectors did not have any fundamental concerns with the overall housing requirement, the Council's strategy for delivering the majority of its housing need through the SDLs or the forecast delivery rates for those SDLs, as Ms Taylor accepted.⁸ While the Council notes that the Inspector in the Limmerhill Road decision accorded very limited weight to the conflict with emerging LPU policies on the basis that, amongst other reasons, the spatial strategy was yet to be examined,⁹ Ms Taylor did not share the Inspector's view insofar as she accepted expressly that the LPU was likely be adopted by reference to the housing requirement and, significantly, on the basis of the SDL strategy in the submission version of the Plan and that it was inevitable, when the Plan was adopted, that the appeal scheme would not accord with the LPU strategy. Given that acceptance on behalf of Ms Taylor, and for the other reasons above, the Council submits that greater than 'very limited' weight should be accorded to the strategic conflict with the LPU. So far as delivery is concerned, two of the three applications expected for the Loddon Valley Garden Village ("LVGV") have been submitted with a third expected shortly, the latter being a full application. As Mr Church explained in his oral evidence, there is no reason to think that the allocations cannot deliver housing in accordance with the housing trajectory.
8. It is important to bear in mind that this Council is willing to grant permission for development outside its settlement boundaries in appropriate circumstances. Indeed, very recently, the Council has resolved to grant permission for a scheme at Arborfield Cross in a location within an acceptable walking distance of a range of facilities.¹⁰ That

⁷ XX by Mr Parker

⁸ In XX by Mr Parker

⁹ ID15, paras 26-28

¹⁰ CD10.01.01 and CD10.01.02

scheme had been amended to take account of the Council's concerns in respect of its landscape impacts, and its scale had been reduced. It is therefore apparent that the Council takes an appropriately balanced view, recognising that its settlement boundaries are out of date, to development which is capable of meeting the Council's housing needs in a way which does not cause unacceptable harm. The circumstances of that scheme are very different to the circumstances of this.

9. Ultimately, the appeal scheme is contrary to both the extant and emerging spatial strategies in a district which has both a strong record of delivering plan-led growth and a reasonable expectation that it will be able to demonstrate a five-year housing land supply in the relatively near future (having regard both to the adoption of the LPU and the fact that planning applications are coming forward for development allocated within the LPU in advance of the adoption of the Plan). Indeed, just last week while the inquiry has been sitting, two emerging allocations were granted planning permission (Ref: 252138 for 183 units - Land East and West of Hyde End Road and Ref: 242484 for 191 units - Land north of Arborfield Road). While the Council accepts that it will have to review the LPU shortly after its adoption, such a review is explicitly foreshadowed by the transitional provisions in the NPPF¹¹ such that the LPU is being progressed in all respects in accordance with national policy. Given that national policy makes provision for a review to ensure that those housing needs not accounted for by the LPU can be addressed, there should be appropriate time given for that review process to play out so that those outstanding needs can be addressed in a plan-led way, rather than by reference to speculative applications.

(2) Harm to character and appearance

10. The Appellant accepts that the appeal scheme will cause harm to the character and appearance of the area.¹² The only dispute between the parties is therefore the extent to which it would do so (as recorded in the SoCG).¹³

¹¹ See para 236

¹² CD 13.06.01, see, e.g. paras 4.5 and 5.42 and as accepted by CB in XX

¹³ CD05.02, para 7.15

11. The main issues in dispute between Mr Hannington and Mrs Brockhurst, so far as the appeal development itself is concerned, related to the quality of the landscape in the vicinity of the appeal site, and whether the appeal proposals would comprise the ‘extension’ of any existing ‘settlement’ at Arborfield. There was also an issue between them as to the extent to which the s278 works on Reading Road would have an urbanising influence on that stretch of the road.
12. Mrs Brockhurst accepted¹⁴ that the appeal site was representative of several of the key characteristics from the relevant LCAs¹⁵ but suggested that those features and the landscape in the locality as a whole had become degraded through a lack of positive management and the influence of nearby housing and the road. Mr Hannington disagrees.¹⁶ While it is right that the site runs adjacent to Reading Road and there is dispersed settlement in the area surrounding it, the site maintains a clearly rural character, representative of many of the characteristics of the wider landscape. Given the obviously shallow lying groundwater and poor drainage, the site is unlikely ever to have been used for intensive agriculture and its condition in that sense has not become ‘degraded’. The site has small water features, drainage ditches and ponds, it has mature field boundaries containing veteran trees, it is surrounded by lanes, tracks, byways and footpaths, all of which are highly characteristic. Reading Route is identified to be part of a ‘Green Route’ which currently provides a rural approach to Arborfield Cross, with views into the site. The Green Route’s character in this location arises from the combination of the open rural frontage, the absence of urban highway interventions and the relative low level of lighting and signage. Such dispersed settlement as exists in the immediate vicinity of the site is entirely in keeping with the rural character of the wider area. Those distinctive characteristics are all qualities which the LCA seeks to conserve and enhance, as do the relevant development plan policies. Its distinctly rural character is evident, not least, from the ‘representative’ baseline viewpoint photographs supplied with the LVIA. It cannot be right to say, as Mrs Brockhurst sought to argue, that in a locality punctuated by dispersed forms of settlement, any countryside in between is degraded, or loses its sense of rurality. The Council contends that the appeal site is

¹⁴ XX by Mr Parker

¹⁵ J2 - Arborfield Cross Barkham Settled and Farmed Clay and C1 - Arborfield River Terrace

¹⁶ See CH Rebuttal, CD 14.08, para 2.1 – 2.26

clearly rural in character, of medium/high quality and performs an important function in that respect both as regards landscape character and visual amenity.

13. Mrs Brockhurst's analysis of the landscape character effects of the proposals also depended, to a large extent, on her view that, in landscape character terms, Arborfield functioned as a 'village' with a distinct settlement pattern. Mr Hannington firmly disagree with this proposition, also.¹⁷ The fact that Arborfield is identified as a place on the map at all is a result of its history, not a reflection of any settlement pattern which exists on the ground today. The original settlement of Arborfield adjacent to the River Loddon, to the north of Church Lane, before the 'new' St Bartholomew's Church was built on Church Lane in the 1860s.¹⁸ While there has been sporadic, linear development along Church Lane and Reading Road since then, and the 1960s Cul-De-Sac development at Walden Avenue, that dispersed built form does not have any coherence in terms of its townscape character, nor does it result in Arborfield being 'read' as a village whether in perceptual or character terms. So far as the appeal site is concerned, that is clearly not 'within' the 'village' of Arborfield even if it is surrounded on three sides by linear development. Its function and the perception of the site is as rural countryside beyond any settlement. Mrs Brockhurst accepted that, even on her analysis, any existing settlement of Arborfield was made up of linear forms and was not currently a 'nucleated' village, such as it would become with the appeal proposals in place.

14. Looking to the future, it is clear that the appeal site will not have any direct relationship, in landscape or visual terms, with the LVGV development, as it is separated from it by Church Lane and the sports fields and landscaping to be delivered as part of the allocation.¹⁹ Instead, the appeal site will function as part of the open countryside between LVGV and Arborfield Cross. The appeal proposals would therefore appear disjointed from the development at LVGV and erode the countryside gap between that development and nearby settlements.²⁰

15. Turning to the assessment of impacts, Mr Boyle KC spent some time in his cross-examination of Mr Hannington pursuing an argument that the landscape officer

¹⁷ See CH Rebuttal, CD 14.08, para 4.1 – 4.11

¹⁸ See CH Proof, CD 14.04, para 4.1 – 4.21

¹⁹ As Mr Hannington explains and as Mrs Brockhurst agreed with, in answers to the Inspector's questions

²⁰ CH Proof, CD 14.04, paras 4.11, 7.11 and 7.88 - 89

responsible for the consultation response to the application²¹ had failed to adopt a GLVIA3 or TGN 02/21-compliant approach by failing to ‘complete’ the partial LVIA submitted by the Applicant and by restricting her analysis to the effects of the proposals on the appeal site itself, rather than the wider area. He was wrong to do so on both counts. There was no need for the landscape officer to go through the exercise of completing the partial LVIA submitted in support of the application in order to provide, in a proportionate way, sufficient analysis of the likely landscape and visual effects of the proposals. If the Appellant now takes the view that a ‘full’ LVIA was required, the Appellant should have provided it in support of the application and there is no reason, as Mrs Brockhurst agreed²², why one could not have been carried out, notwithstanding that the scheme was in outline. So far as the scope of the landscape and visual effects is concerned, it is evident, when the officer’s consultation response is read sensibly and as a whole that the officer was not merely concerned with the effects of the proposal on the appeal site itself but also on the wider locality, as was the position when the application was determined²³ and remains the case.

16. The Council contends rather that it is the Appellant who has failed to properly analyse the effects of the scheme on the landscape. There was limited analysis of the effects of the scheme in winter, or at night and the AVRs produced in support of the Appellant’s position omitted important viewpoints, such as the site accesses, both along Reading Road and Church Lane.
17. The Council contends that the appeal scheme would result in an obviously fundamental alteration in the character of the landscape through the introduction of a dense residential estate. It will have an obviously urbanising influence which would completely erode the rural character the site currently exhibits. The appeal site would no longer read as an undeveloped, rural, field sitting between dispersed settlement but as part of a wider settlement. Filtered views through the appeal site would be replaced by built forms, or otherwise screened by reinforced boundaries. The settlement pattern in the locality would be fundamentally altered. The effects would be exacerbated in winter and at night there would be inevitable effects from lighting. The landscape character effects would not merely be felt within the site, given the change to the

²¹ CD 2.22

²² In XX

²³ Officer Report at CD03.02, p. 16

settlement pattern in the locality (and it is difficult to see how Mrs Brockhurst contends that such character effects are limited to the appeal site given, on her own evidence, that Arborfield will be transformed from a linear settlement to a nucleated settlement) and the visual effects, it is agreed between the parties, would be felt in the surrounding lanes.

18. So far as the s278 works are concerned, the Council does maintain its concern that the additional lighting columns and pavement widening will have an urbanising effect on the road, which is a Green Route, and that this would lead to additional harm and, in particular, be perceived to extend the settlement of Arborfield Cross to the Appeal Site.
19. The appeal proposals are contrary to CS Policies CP1, CP3, CP11 and CP9, MDD Policies CC02, CC03 and TB21, and ABNP Policies IRS1, IRS2 and AD1, as well as Sections 12 and 15 of the NPPF.²⁴

(3) The quantum and scale of development

20. The Council contends that the quantum and scale of development would conflict with the established rural character, the pattern and density of surrounding development and the essential functioning of this land as part of the countryside.
21. While the Appellant will no doubt point to the fact that the scheme is in outline, the question even at this stage is whether the appeal site can accommodate the quantum of development proposed.
22. The site is highly constrained having regard, in particular, to issues of flood risk and veteran trees and the need for SuDS, significantly reducing the area of the site that can be developed, alongside the requirements for public open space. While, as set out elsewhere, the Council is not satisfied that the effects on veteran trees and the flood risk issues have been resolved in any event, the consequence of the Appellant's attempts to avoid these constraints have resulted in a proposal for housing which obviously cannot be accommodated acceptably within the remaining footprint available.
23. However the site is laid out, it will inevitably result in a development of a suburban form and density that is fundamentally out of keeping with the low-density rural pattern

²⁴ See paragraphs 7.43 – 7.49 of JC's Proof, CD14.01, for an analysis of the ways in which these policy conflicts arise

of development in this area. Even if the Inspector accepts that Arborfield is a ‘village’ with a recognisable settlement pattern (which the Council of course disputes), it is evident that the appeal scheme would be highly discordant with that settlement pattern, resulting, as Mrs Brockhurst accepted, in a fundamentally different type of settlement..

24. The scheme would be approximately 28 dwellings per hectare. That is far higher than the density on Church Lane (4dph), Reading Road (10dph) or Walden Avenue (11dph). Indeed, it is far higher even than the density of the recently approved School Road Scheme²⁵ (22dph) even though the prevailing density in Arborfield Cross is 18dph, significantly higher than Church Lane, Reading Road, or Walden Avenue. While Ms Taylor sought to draw comparisons with the proposed densities at LVGV, they are plainly not comparable, insofar as LVGV is an exercise in place-making, rather than, as the appeal scheme seeks to, integrating into an existing settlement pattern. There is no sense in which the appeal scheme would have any relationship with the built form of development at LVGV (as Mrs Brockhurst stated²⁶).

25. While it is right that the NPPF encourages the efficient use of land, it does not do so at the expense of good design, as was recognised by the Inspector in the Limmerhill Road appeal.²⁷ The appeal scheme would not, by reason of the quantum and scale of development proposed, result in a development which respects the surrounding settlement pattern. It would be contrary to CS Policies CP1, CP3, CP9 and CP11, and ABNP Policies IRS1 and AD1 as well as Sections 11 and 15 of the NPPF.²⁸

(4) The sustainability of the location

26. The Council’s extant and emerging Development Plans, and the NPPF, seek to ensure that growth is directed to locations which are, or which can be made sustainable.²⁹

27. Here, there are no day-to-day services in the sporadic development which makes up the settlement of Arborfield. While some limited day-to-day services are available in Arborfield Cross, the site is appreciably detached from that settlement and those services are beyond the 800m walking distance referred to in Manual for Streets,

²⁵ CD10.01.01

²⁶ In answer to questions from the Inspector

²⁷ ID15, para 63

²⁸ See paras 7.63 – 7.66 of JC’s Proof, CD14.01.

²⁹ JC Proof, CD14.01, 7.67 – 7.68

National Design Guide and CIHT guidance. While there are some services within 1 – 1.4km and it is possible that some people might walk that kind of distance, they would be doing so along a busy main road (even taken account of the Appellant’s proposed highway improvements).

28. While the site does benefit from a ‘good’ bus service (as defined by CS Policy CP6), that service primarily serves longer distance or higher order trips. In reality, for most local convenience, school, health and leisure trips, residents are very likely to continue using their car.
29. The Appellant wrongly assumes that the appeal site would be within walking distance of day to day services provided as part of the LVGV allocation but the exact location and delivery of those services is not certain at this stage.
30. While the Appellant has committed to measures which seek to shift mode share, the development of the appeal site would not, in practice, reduce the need to travel by car. Overall, the appeal site’s location and distance from everyday services means that future residents will need to make frequent journeys for basic needs. The length and quality of walking and cycling routes (even taking account of the proposed improvements), and the evidence on typical walking behaviour, indicate that most such trips will be made by car. While longer distance and higher order trips can be made by bus, it does not alter the fact that the appeal scheme will, in reality, be car dependent.
31. The appeal scheme would therefore be contrary to CP1, CP2, CP3, CP6 and CP11 of the Core Strategy, Policies CC01 and CC02 of the MDD Local Plan, the Borough Design Guide SPD and section 8 & 9 of the NPPF.

(5) Flood Risk

32. Parts of the site, according to the updated EA fluvial mapping, is within Flood Zone 2 and 3. The Appellant’s recent site-specific groundwater modelling results also demonstrate that groundwater levels across the site are between 0.025 and 0.5m below the surface with groundwater in some parts of the site much closer to the surface.³⁰

³⁰ Levels of between 0.025 and 0.5m were recorded at all the borehole locations. 6 of the 8 borehole locations recorded levels of between 0.25m and 0.5m for the majority of the readings taken.

33. Para 175 of the NPPF makes clear that “[t]he sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk).”
34. So far as the fluvial risk is concerned, the Appellant’s position is that a sequential test is not required because no development is proposed within areas at Flood Risk. However, the appeal scheme would involve the creation of an access route to Church Lane across the area of land at flood risk. Access Routes are specifically identified in para 175 NPPF as triggering the need for a sequential test. On this basis, a sequential test is clearly required. Mr Seymour’s position is that, because a bridge is proposed to be constructed across the area at flood risk, the need for a sequential test is avoided. The Council’s position is that this cannot be correct. As noted above, the question is whether the ‘access route’ is on an area at risk of flooding. Even if a bridge is proposed by way of a solution to the flood risk, the fact remains that the access route is on an area at risk of flooding. There are in any event no details of the bridge available, and the EA has not been consulted.
35. So far as the risk from groundwater flooding is concerned, Mr Seymour agreed that the risk of groundwater flooding could, in principle, give rise to the need to carry out a sequential test.
36. There is no policy or guidance which provides any specific guidance as to when a site will be ‘at risk’ of flooding from groundwater. However, the approach adopted by the Council in its emerging plan is that sites with less than 10% of their area at a level of between 0 and 0.025m below ground or with less than 75% of their area at a level of between 0.025m and 0.5m below ground are considered to be low risk. Mr Seymour accepted³¹ that this was, in his professional judgment, an appropriate threshold to adopt. He also accepted that the corollary of a site being at ‘low risk’ of flooding if less than 75% of its area has a groundwater level of 0.025 – 0.5m below ground was that sites

³¹ XX by Mr Parker

where more than 75% of the area has a groundwater level of 0.025 – 0.5m are at risk of groundwater flooding.

37. The Appellant relies upon the Council's SFRA³² in support of its position that the site is at low risk of groundwater flooding. The SFRA contains two sources of information in relation to groundwater.

38. First, as described in the SFRA³³ 'there is the EA's Areas Susceptible to Groundwater Flooding (ASStGWF) dataset, showing the degree to which areas are susceptible to groundwater flooding based on geological and hydrogeological conditions. It does not show the likelihood of groundwater flooding occurring, i.e., it is a hazard, not risk, based dataset.' Mr Seymour agreed that if there was site specific evidence of a groundwater flood risk, you could not say that there was not such a risk, merely because the geological and hydrological conditions were not ordinarily susceptible to groundwater flooding.

39. Secondly, there is the JBA Groundwater Emergence map, which shows 'the risk of groundwater flooding to both surface and subsurface assets, based on predicted groundwater levels.' The predicted levels are those predicted to occur in the 1 in 100 year event.

40. The Groundwater Emergence map for the appeal site³⁴ identifies a risk of groundwater emergence in a relatively small part of the site (less than 25%) of 0.025m – 0.5m. On this basis, the Appellant argues, it can be concluded that the site is at a low risk of flooding from groundwater.

41. However, the Appellant now has the results of site-specific groundwater modelling undertaken between October 2024 and March 2025.³⁵ Mr Seymour suggested in his rebuttal proof that the groundwater monitoring results correlated with the Emergence Map.³⁶ However, in cross-examination, he accepted that the groundwater monitoring is not consistent with the mapping. As noted above, the Emergence Map shows a predicted groundwater level of 0.025m – 0.5m in the 1 in 100 year event in only a small

³² CD 17.14

³³ CD 17.14, p. 60 (PDF79)

³⁴ An extract of which is provided at Figure 12 of Mr Seymour's rebuttal proof, and is reproduced

³⁵ CD 17.08

³⁶ CD13.15, para 2.2.2

part of the site. The groundwater monitoring records levels of 0.025m – 0.5m in locations outside those predicted by the mapping.³⁷ In fact, levels of 0.025m – 0.5m were recorded in all the borehole locations. This means that the 1 in 100 year event was not only happening at the time of the monitoring but was occurring across a much wider area than was predicted by the mapping. The site-specific results therefore demonstrate that the groundwater levels across the site are higher than anticipated by the maps. It is nonsensical for the Appellant to continue to rely on the mapping in the face of detailed, site-specific evidence.

42. It was suggested by Mr Boyle KC that paragraph 174 of the NPPF mandates that the SFRA must be used as the basis for identifying whether a site is at risk of flooding and that it would be a departure from national policy if one were to have regard to site-specific flood risk evidence in making that determination. That is obviously wrong and a misunderstanding of the policy.
43. Paragraph 174 is not addressing the circumstances in which a sequential test will be required, but rather explains what is required by way the sequential test. Paragraph 173 makes clear that a sequential test is required for all ‘individual applications in areas known to be at risk now or in future from any form of flooding.’ Paragraph makes clear that if a site is at flood risk, development ‘should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.’ When paragraph 174 states that the strategic flood risk assessment will provide the basis for applying ‘this test’, it is talking about the sequential test, not the question of whether a site is at risk of flooding in the first place. The Council therefore submits that it would be a misunderstanding of policy if the Inspector were to adopt the approach suggested by Mr Boyle KC. Using site-specific evidence to determine whether a site is at risk of flooding would not involve any departure from national policy and would avoid the obviously absurd situation in which a site is treated as being at low risk of flooding by reference to predictive mapping which is shown in the case of a specific site, through site specific evidence, to be wrong.
44. So far as the practical consequences are concerned, it is not the case, as Mr Boyle KC suggested, that it would be impossible to undertake a sequential test in these circumstances because one would be relying on the SFRA which had been shown to be

³⁷ ID05 and ID06

wrong. The SFRA would continue to be a reliable basis on which to carry out the sequential test unless or until there were site specific evidence to show that, in respect of any given site, it is inaccurate, in which case the SFRA must yield to that site specific evidence. The identification of sites at risk of flooding, and the application of the sequential test must sensibly yield to the best evidence available. For the majority of sites, that is likely to be the SFRA. However, where site specific evidence is available it should be used.

45. Mr Seymour also asserted that the groundwater monitoring results were not representative of the site as a whole and so could not be used as the basis for finding that the site is at risk of groundwater flooding in any event.
46. At the very least (and as Mr Seymour accepted), the groundwater monitoring results demonstrate that the JBA Emergence Map is inaccurate so far as this site is concerned. So far as their geographical spread is concerned, no particular drainage expertise is required to identify that the borehole locations are spread around the site and are, in that sense at least, representative of the site as a whole.
47. Mr Seymour also asserted that it was not appropriate to rely on the groundwater monitoring results to assess whether the site was at risk of flooding because that monitoring was carried out for a different purpose, namely the SuDS and foundation design. The fact, however, that the monitoring may have been carried out for a particular purpose does not mean that it is not also evidence of other matters. The question is not whether the purpose of the monitoring was to assess flood risk, but whether that is what, in fact, the evidence demonstrates.
48. Mr Seymour also referred to the fact that that ground investigations had previously been carried out and that not all of those locations had been taken forward for groundwater monitoring. It is unclear how this took matters further. Mr Seymour explained that the borehole locations taken forward for winter groundwater monitoring were not selected because those locations were at higher risk of groundwater emergence. He also suggested that the initial ground investigations revealed that groundwater levels were variable throughout the site but, again, this does not take matters any further. Several of the groundwater monitoring locations at which winter groundwater levels of 0.025m – 0.5m recorded very low-lying groundwater levels in September 2024 (around 1.8-1.9m) whereas there were locations at which relatively shallow levels were recorded in

September 2024 (around 0.8m) which were not taken forward the winter monitoring. Thus, while conditions across the site may be variable, there is nothing to suggest that winter groundwater levels at locations which were not the subject of winter groundwater monitoring will show any lower risk of groundwater emergence than the results which are available.

49. The Council contends that the failure to carry out a sequential test does amount, in the circumstances of this appeal, to a ‘strong’ reason for refusal in terms of fn7 of the NPPF. The Appellant places weight on an appeal decision in Faversham,³⁸ in which the Inspector there accepted that the failure to carry out a ST did not amount to a strong reason for refusal. However, the circumstances of that appeal were very different. The flood risk there related to tidal flooding which, as Ms Carter explained, is highly predictable. The Appellant in that appeal had included, as part of the proposals before the Inspector, specific measures to mitigate the risk of flooding such that the Inspector was able to conclude, on the evidence before them, that the appeal scheme would not be at any risk of flooding.³⁹ The position here is different, as Ms Taylor accepted.⁴⁰ The Appellant has not put forward specific measures to mitigate the risk of flooding such that our Inspector can be satisfied that there would be no risk. Groundwater flooding is not predictable.⁴¹ Mr Seymour has suggested that, in principle, the risk of groundwater flooding could be mitigated through finished ground levels but we know that the Appellant is not proposing to carry out ground raising throughout the site. Thus, the mitigation measures that the Appellant accepts will be required are uncertain, both as regards their nature and extent, and their consequent effects. Insofar as the Appellant has said that there will not be ground raising in the vicinity of T72 it is unclear whether this will mean that the groundwater flood risk goes unmitigated, in which case the usability of the public open space, and potentially the proposed access road around it, is called into question, as is the case with the public open space proposed to the west of the site and the proposed pedestrian/cycle access route to Church Lane.

50. Taking all the above together, the Council contends that the site is at risk of flooding from both fluvial and groundwater sources, that none of the exceptions identified in

³⁸ ID17

³⁹ Paragraph 18

⁴⁰ XX by Mr Parker

⁴¹ CD 17.14, Section 5.7 on PDF78-9

paragraph 175 of the NPPF exists to obviate the need to carry out a sequential test and that the risk of flooding amounts to a ‘strong’ reason for refusal.

51. The appeal proposals are therefore contrary to CS Policies CP1 and CP3, MDD LP Policy CC09 and Section 14 of the NPPF.

(6) Mitigation for the effects on the TBH SPA

52. There is no dispute on the part of the Appellant that mitigation is required in respect of the effects on the Thames Basin Heath SPA. Unless appropriate mitigation is secured, the Inspector cannot be satisfied that the proposals will not adversely affect the integrity of the SPA, such that permission must be refused: Reg 63(5) of the Habitats Regulations 2017.

53. The parties are agreed that the proposals require 2.13 ha of SANG. The Appellant’s position is that any adverse effect on the integrity of the SPA can be avoided through the imposition of a condition preventing occupation of the development until adequate SANG has been secured.

54. The Council considers that such a condition is not appropriate in the circumstances of this appeal, having regard to paragraph 57 of the NPPF⁴² and the guidance from Natural England as regards the use of Grampian Conditions; Thames Basin Heaths Special Protection Area Strategic Solution - Natural England Advice to Local Planning Authorities.⁴³ NE make clear in that advice that they ‘will only support the use of a Grampian Condition to secure a SANG for a development when there is certainty the SANG will come forward and has sufficient capacity available, and we are just awaiting final sign off. If Grampian Conditions were the norm, there is a risk that schemes would get permission quickly, but then experience significant delays in being built, or occupied, whilst waiting for SANG to be delivered.’

55. The advice provides examples of where Grampian conditions will not be acceptable which, so far as relevant, include:

- SANG listed does not currently have planning permission in its own right

⁴² Which makes clear that conditions must be necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.

⁴³ ID25

- A list of SANG options are included, without a resolute choice.
- There is insufficient capacity in the SANG proposed to cover this application.
- The development is relying on strategic SANG owned by the LPA or other SANG Manager without their permission

56. Turning to each of the SANGs identified in the SoCG⁴⁴:

- a. Rooks Nest is a Council-owned SANG whose remaining capacity is limited to 07.ha. The Council is unwilling to allocate capacity to the appeal scheme as it wishes to preserve such remaining capacity as exists for other windfall development which accords with the extant spatial strategy which would not otherwise be able to provide its own SANG.
- b. Rooks Nest Extension is a Council-owned SANG which does not yet have planning permission. While there is currently envisaged to be spare capacity available for windfall development, the Council is unwilling to allocate capacity to the appeal scheme as to do so would be contrary to emerging LPU policy NE3 which makes clear schemes of greater than 50 units are expected to provide their own SANG or otherwise reach an agreement with a third party. The Council's emerging plan evidence base demonstrates that there is a considerable amount of windfall development expected to come forward which could require that capacity.⁴⁵
- c. Ridge and Ridge Reserve Extension. Ridge Reserve Extension SANG is owned by the University of Reading. It has planning permission and would have sufficient capacity to meet the needs of the appeal proposals
- d. Langley Mead Extension SANG is also owned by the University of Reading and would have sufficient capacity.
- e. LVGV 'Lourdes Meadow' SANG, owned by the University of Reading, does not yet have planning permission and so it is unclear whether or not there would be sufficient capacity.

⁴⁴ ID21

⁴⁵ ID26

57. So far as the Council-owned SANGs are concerned, the Council is unwilling to provide capacity to the appeal scheme in either of those SANGs. While the Appellant criticises the Council for its position, the Council is clearly not acting unreasonably in preserving such limited capacity as remains in Rooks Nest for any remaining development that comes forward within the settlement boundaries. The fact that the Plan has over-delivered by reference to its housing requirement is irrelevant (as it is evident that a considerable amount of development has come forward over and above that requirement which may, depending on its location, require SANG). Even if the Appellant (or the Inspector) consider it to be unlikely that further development will come forward, there is nothing unreasonable in the Council preserving what limited capacity remains for that possibility. So far as the Rooks Nest Extension is concerned, this appeal is obviously not the place to examine the soundness of Policy NE3. The question for our Inspector is whether it is reasonable for the Council to take the view that it is unwilling to allocate capacity to the appeal scheme in conflict with its emerging policy. Whatever view is ultimately taken of Policy NE3, it cannot sensibly be suggested that the Council is acting unreasonably at this stage in applying its emerging policies to SANG capacity which has been conceived to meet the needs of its emerging allocations.
58. So far as the UoR SANGs are concerned, only the Ridge Reserve Extension and Langley Mead Extension SANGs have capacity to meet the needs of the appeal proposals.
59. However, the Appellant has failed to provide sufficient evidence to demonstrate that SANG capacity is available to meet the needs of the appeal scheme in order to justify the use of a Grampian condition, having regard to the Natural England advice. In particular, the unsigned ‘Heads of Terms’ document produced on behalf of the Appellant⁴⁶ includes a list of SANG options, rather than specifying which SANG will be used. Furthermore, any agreement is expressed to be contingent upon negotiating not merely in respect of the cost of providing SANG, but also contributions sought by the UoR towards various forms of infrastructure unrelated to the provision of SANG. That conditionality introduces a considerable degree of uncertainty as to whether sufficient SANG capacity will in fact be available for the scheme. It is notable, insofar

⁴⁶ ID23

as the Appellant relies on the approach taken in the Limmerhill Road appeal, that the offer of SANG in that case⁴⁷ (which Natural England expressly endorsed⁴⁸) was for one specific site (i.e. not a choice) and was not conditional upon agreement being reached as to contributions towards infrastructure costs. The proposed arrangements in this appeal have not been provided to Natural England for their comment and so do not have their endorsement.

60. In the particular circumstances of this appeal, therefore, the Council does not consider it to be appropriate to impose a Grampian condition such as has been proposed by the Appellant. Insofar as the Appellant relies in the alternative on a Unilateral Undertaking, the terms of that obligation suffer from the same deficiencies as have been identified above. The UU does not overcome the Council's concerns.

61. In accordance with the view expressed by Natural England⁴⁹, the Council considers that the proposals are contrary to Policy NRM6 of the South East Plan, CS Policies CP4 and CP8 and Section 15 of the NPPF. Permission cannot in any event be granted by reference to Reg 63 of the Habitats Regulations 2017.

(7) Veteran Trees

62. The Appellant has produced a succession of layouts, in an attempt to overcome the concerns raised by the Council in relation to the effects on veteran/ancient trees.

63. However, the Council remains concerned that even the latest iteration of the layout fails to demonstrate that, so far as the design of the scheme is concerned, there will not be deterioration to veteran trees.

64. While the Appellant has provided compensatory buffer zones around the trees to account for the need for off-setting from roads, it has not done so to account for the fact that tree roots are likely to grow away from nearby trees⁵⁰ (of particular importance for the group of trees T3, T4, and T50), nor for the fact that the RPAs/buffer zones for one tree (T56) are within land outside the Appellant's control.

⁴⁷ ID27

⁴⁸ ID28

⁴⁹ CD16.13

⁵⁰ Mr Wilkins accepted, in XX by Mr Parker, that root growth was, at least to some extent, likely to be deflected by nearby tree growth

65. Even despite the disputes in respect of the buffer zones, the buffer zones themselves are identified to be within areas of public open space which will be subject to disturbance risking deterioration. That is particularly the case for T39 and even more so for T72, given its location immediately adjacent to a playground and an area of open space that is likely to attract recreational use (bearing in mind, of course, that the majority of the buffer zone is not beneath the canopy of the tree).
66. The potential direct/indirect effects are identified in the Natural England Standing Advice⁵¹ and include the effects of damaging roots and understorey, soil compaction, damaging functional habitat connections, increasing levels of air/light pollution, noise and vibration, domestic pets as well as the need for increased management to avoid damage to people which could cause deterioration.
67. While the Council accepts that these effects are capable, to a certain extent, of being managed in a way which reduces the potential for harm, the Council remains concerned about the potential for deterioration for trees within the site as well as a result of the s278 works on Reading Road.
68. The proposals would therefore be contrary to CS Policies CP1, CP3, CP7 and ABNP Policy IRS3 as well as paragraph 193(c) of the NPPF.

(8) Planning Balance

69. The starting point, given that the development is contrary to the Development Plan, is that permission should be refused.
70. Even though the settlement boundaries themselves are out of date, substantial weight should nonetheless be accorded the conflict with the spatial strategy, given its accordance with the objectives of the NPPF, and the fact that the appeal scheme would undermine the objectives of that strategy by introduce a substantial new housing estate into the open countryside, in a location whose very function is to maintain rural character and separation.
71. Notwithstanding the conclusions reached by the Inspector at Limmerhill Road, the Council maintains that, in the circumstances of this appeal, moderate weight can be accorded to the conflict with emerging LPU strategy given the stage that it has now

⁵¹ CD18.06

reached, the fact that the Examining Inspectors do not have any fundamental concerns with the housing requirement or the SDL strategy and, not least, because Ms Taylor accepted that the appeal scheme ‘would’, when the LPU is adopted, be in conflict with that strategy.

72. The harm caused to landscape character and appearance is substantial. Ms Taylor accepted that, if the Inspector were to prefer Mr Hannington’s analysis on the key issues (i.e. in relation to the contribution to landscape played by the appeal site and the settlement pattern in this locality), she would inevitably accord greater than ‘moderate’ weight to the landscape harms (as is her position based on Mrs Brockhurst’s evidence).
73. Substantial harm should be accorded, in addition to the harm to landscape character, to the fact that the proposed quantum of development would result in an overly dense and incongruous imposition of suburban estate which fails to respect the surrounding settlement pattern or landscape character.
74. While Ms Carter accepted that the scheme is not ‘the worst’ in terms of its locational sustainability, that is not saying very much. The majority of residents are unlikely to walk to facilities and services given the distance and nature of the journey and are likely to be reliant on their cars. This is not a ‘sustainable location’ which meets the aims of the development plan policies or NPPF. Moderate weight should be accorded to this harm.
75. The Appellant has failed to demonstrate that the proposals would not give rise to deterioration to veteran trees and this attracts very substantial weight. There would be a loss of BMVAL, although limited harm attaches to this loss given its quantum and location.
76. The appeal site is at flood risk, both by reference to fluvial and groundwater flooding, and there is not sequential test. For the reasons above, this amounts to a ‘strong’ reason for refusal. Very substantial harm should be accorded to this failure.
77. The Council accepts that the appeal proposals would bring about substantial benefits in terms of the delivery of market and affordable housing and some economic and environmental benefits, which would be associated with any scheme of this nature.

78. The Council maintains that there are strong reasons for refusal (by reference to flood risk, the failure to mitigate for the effects on the SPA and the effect on veteran trees) such that the tilted balance in paragraph 11(d) of the NPPF is disengaged. Even if it is not, however, the Council maintains that the adverse impacts of granting permission clearly significantly and demonstrably outweigh the benefits.
79. That remains the case even if the Inspector is satisfied that the issues of flood risk and the impacts on veteran trees have been addressed by the Appellant and that the locational sustainability concerns raised by the Council do not justify permission being withheld. The Council maintains the harm to landscape character and visual amenity, and the harm caused by the proposed quantum of development in this location are harms which, in and of themselves, significantly and demonstrably outweigh the benefits. This is not the right scheme, even if some form of development could be acceptable in this location.
80. The Council is firmly of the view that there are no material considerations which indicate that a decision should be made other than in accordance with the Development Plan and respectfully invites the Inspector to dismiss the appeal.

19 March 2026

Jack Parker

Cornerstone Barristers