

Proof of Evidence (Planning)

Volume 1

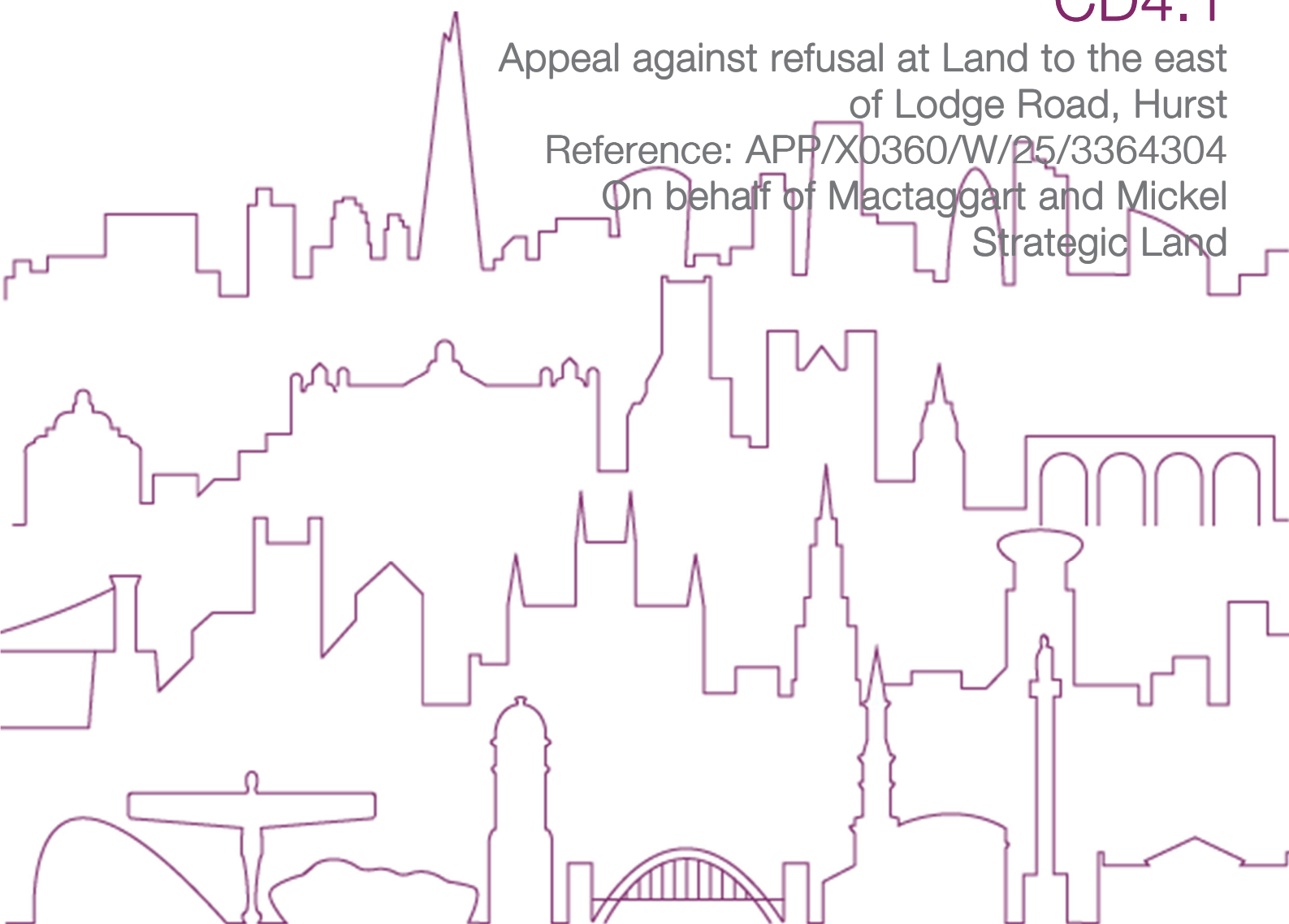
Stuart Slatter

CD4.1

Appeal against refusal at Land to the east
of Lodge Road, Hurst

Reference: APP/X0360/W/25/3364304

On behalf of Mactaggart and Mickel
Strategic Land



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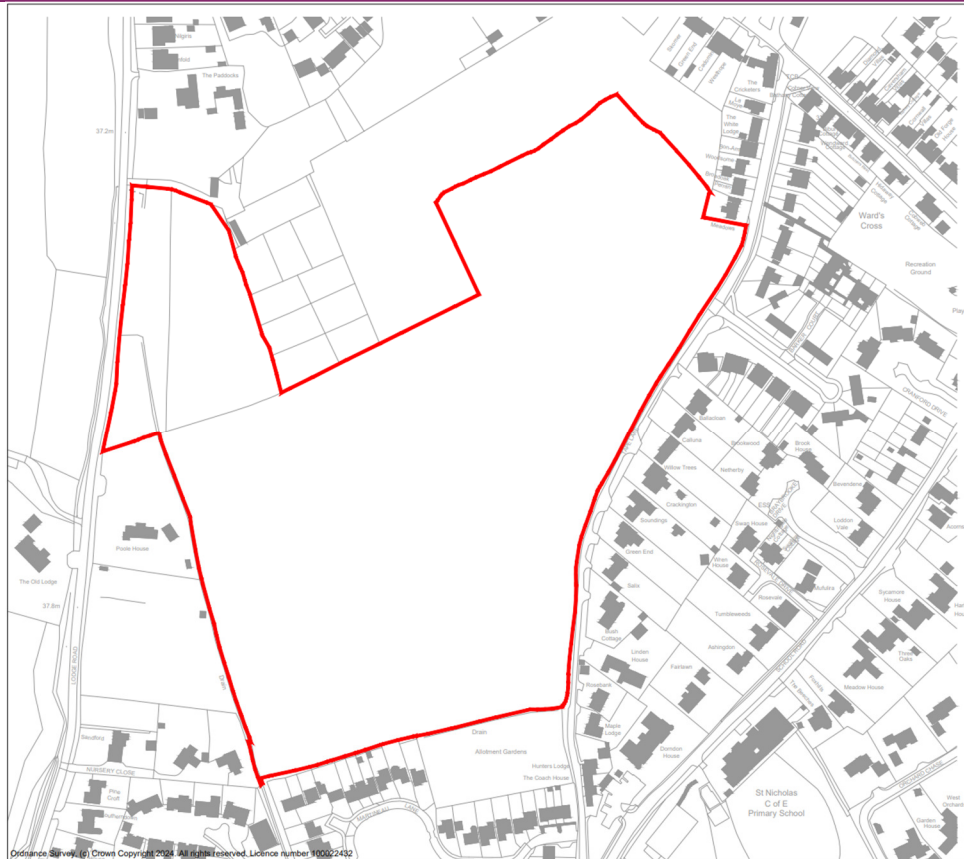
1. Qualifications and Experience

- 1.1. My name is STUART JAMES SLATTER. I am Managing Director at Planning Potential Ltd. I hold a Bachelor of Technology degree, in Town and Regional Planning, from the Cape Peninsula University of Technology in Cape Town, South Africa. I am a full chartered Member of the Royal Town Planning Institute (RTPI) and have over 25 years of experience working as a Town Planner.
- 1.2. I started my career working for a generalist Town Planning Consultancy in Cape Town, South Africa for 3 years, advising clients on householder applications, residential, mixed use, commercial and institutional redevelopments.
- 1.3. My first UK appointment was with an East-London Borough, where I was employed for a year working in their Regeneration Team. I then spent 3.5 years with a South East England based House Builder, employed as part of their in-house planning department, rising to the position of Principal Planner. I have also spent a year as a Planning Manager for a Strategic Land and Planning Consultancy promoting development opportunities through the Local Plan (the LDF) process. I have since 2006 been employed by Planning Potential Ltd, to advise our Residential clients. I have been a Director of the company for 15 years, sitting on the Board for the same period of time, and more recently, took on the role of Managing Director in April 2025. I head up the residential team within the London Office of the company.
- 1.4. I am therefore experienced with regards to applications and proposals for major housing developments.
- 1.5. I was first instructed in relation to the Appeal Site in the summer of 2023. I have been involved throughout the planning application and Appeal stages, therefore I am familiar with the site, the surrounding area, the appeal proposals, and applicable planning policy and guidance. I have been to site and been party to discussions with the Local Planning Authority in relation to this Appeal (and the application).
- 1.6. The evidence which I have prepared and provide for this appeal is true and has been prepared, and is given, in accordance with the guidance of my professional institution, and I confirm that the opinions expressed are my own, true and professional opinions, irrespective of by whom I am instructed.

2. The Appeal

2.1. The Appeal relates to land to the east of Lodge Road, Hurst within Wokingham Borough Council (WBC) and is in response to the delegated refusal of an outline planning application, reference: 242067. The red line boundary of the appeal site has been reproduced below.

Figure 2.1 Site Location Plan



Source: Mosaic

2.2. I would like to start by setting out the merits of the Appeal proposals. The proposed development provides for a wide range of significant benefits, which include:

- The delivery of up to 99 much needed, high quality, family sized homes, particularly given the context of an agreed housing land supply position of only 1.7 years.
- The provision of much needed affordable housing, totalling 50% of the proposed units. (in the context of Wokingham Borough Council (WBC) Affordable Housing Strategy 2024-2028 (April 2024) **(CD12.4)**– requiring over 600 affordable homes to be delivered through the Council's partnership with Registered Providers during the Affordable Housing Strategy period, at a minimum of 40% on site in accordance with the Core Strategy, and that as of September 2023, 606 households were identified as being in priority housing need. This number was slightly lower in July 2024, at 582 (classified as most urgent and exceptional need) – as referenced in the Sept 2024 Topic Paper – Affordable Housing **(CD12.5, para 4.8-4.10)**)
- Creation of significantly improved sustainable transport connections, including through the provision of a new private bus service, delivery of a much sought after cycle link to Twyford Station in line with the published WBC LCWIP, and improvements to pedestrian safety and amenity throughout Hurst, including localised footpath widening and traffic calming measures.
- The provision of a footway that will tie into the existing footway provision on Lodge Road (west of the site) which commences c. 150m to the north of the site and will provide a continuous walking route from the Site to the existing residential area in Hurst and nearby Elephant & Castle Public House.

- High quality design and landscaping, which responds well to the character of Hurst and which enhances the biodiversity (indicative metric, see para 2.2 of **CD11.5**) of the site by 10% above the agreed baseline.
- 62% of the site will be kept free from development and delivered as publicly accessible open space, with green infrastructure features.
- A community orchard, and an extension to the Tape Lane Allotments (located immediately to the south of the appeal site).
- Significant additional tree planting and reinforcement of existing hedgerows.
- On site SuDS and local drainage improvements.
- On site Mobility Hub and Car Club facility.
- Significant S106 Financial Contributions (in addition to physical works or delivery of the many benefits controlled by the planning permission) in excess of £2.5m, including towards:
 - “Monitoring, Legal and ‘Order’ Fees
 - My Journey
 - Parks & Gardens
 - Sports Facilities
 - Employment Skills
 - Open Space / Green Infrastructure Commuted Sums (if management / ownership transferred)
 - Bus Improvement Strategy
 - Travel Plan associated costs

2.3. Alongside the adopted Development Plan, the NPPF provides for the presumption in favour of sustainable development, which is key within decision making. Paragraph 11d of the NPPF states decision making should apply the presumption, “where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date”. My emphasis added.

2.4. It is my opinion that the appeal scheme proposals, for up to 99 much needed new homes, alongside the extensive package of benefits to be delivered alongside the proposals, does constitute sustainable development, and therefore should be determined favourably. The illustrative masterplan, as submitted with the appeal, is seen below, found at **CD1.3**.

Figure 2.2 Illustrative Masterplan (ref: 002 C)



Source: Mosaic

- 2.5. When assessing the planning balance of the development, in light of the out-of-date development plan and failure to demonstrate a 5-year housing land supply, it is considered that the proposals are acceptable and will contribute significantly towards much needed local housing.
- 2.6. The Inspector is aware that the Parameter Plan was adjusted slightly to deal with some localised flooding, and that this was set out in advance of the CMC and discussed at the CMC. The Inspector indicated that he was prepared to determine the appeal on this basis, being plan 1422 002 Rev D. This can be found at **CD1.4**.
- 2.7. The Appellant has now also sought to update the Illustrative Masterplan alongside this, and we invite the Inspector to have regard to Revised Illustrative Masterplan (being ref: 1422 003-01RevC), found at **CD1.3**.

3. Appeal Background

- 3.1. Before responding to the reasons for refusal for this Appeal, I set out the history behind the appeal now lodged and how the Appellant would suggest matters are to be resolved. The current Appeal proposals respond to and address the issues raised by the previous appeal.
- 3.2. The Appeal proposals are significantly different to an earlier dismissed appeal, reference APP/X0360/W/22/3309202 (planning application ref 220458), for 200 units (Appeal Decision **CD7.1**). The planning application itself (Ref: 220458) was refused by the Local Authority for the following reasons – the officer report and Local Authority decision note are found at **CD7.7** and **CD7.8** respectively:
- Principle of development (Unsustainable pattern of development; Development of an area of Best and Most Versatile agricultural land and no justification has been provided regarding the loss of the grade 3a land; The application results in the development of land with sand and gravel deposits).
 - Impact on character and appearance of the area and landscape.
 - The application Site is within an unsustainable location that would not encourage a modal shift towards sustainable modes of transport.
 - Insufficient and contradictory information has been submitted that does not demonstrate and acceptable impact on existing trees and hedgerows.
 - The application has failed to demonstrate the proposed development will have an acceptable impact on ecology and biodiversity.
 - The application fails to demonstrate that the proposed vehicle access is acceptable.
 - Absence of a completed legal agreement / affordable housing S106.
- 3.3. The previous Appeal Inspector concluded (Paragraph 96, **CD7.1**) that the previous proposals were not *“sustainable for a development of the size and scale proposed through this appeal, nor do I believe it would be made sustainable by the improvements and contributions offered by the appellant through the appeal proposal itself.”*
- 3.4. The Inspector referenced that a development of the size and scale proposed was not sustainable, but in my view, he did not rule out that some level of development could be sustainable in this location.
- 3.5. However, the revised application (subject of this Appeal) was refused under delegated powers on 29th November 2024.
- 3.6. The Appeal scheme has sought to respond to the dismissed appeal and the associated reasons for refusal. This includes significantly reducing the amount of development down from 200 units, to ‘up to 99’ units, supported by a significantly larger package of additional highways benefits, and further aspects such as retaining views across the site and enhancing the open space and green infrastructure offering.
- 3.7. It must be noted that since the last appeal, the policy context at a national and local level has equally changed considerably. A revised NPPF was published in December 2024, and the government have stipulated a new national target of delivering 1.5 million homes over the next (current) parliament. A new Standard Method for calculating housing need is equally applicable and relevant. This significantly increases the local housing need in Wokingham and increased the Council’s 5-year housing land shortfall, so that it now stands at no more than 1.7 years.
- 3.8. WBC’s Emerging Local Plan is also stalling and suffering from delay, with the appointed Inspectors’ Initial Questions raising concerns about the proposed housing delivery over the plan period. The Emerging Local Plan further sets out a housing need of only 751 dwellings per annum. As noted above, a new Standard Method for proposed housing targets for local authorities was published alongside the revised NPPF in December 2024. As seen through the new housing figures, WBC are required to deliver 1,336 dwellings per annum. The proposed 751 dwellings per annum would therefore demonstrate a significant shortfall of 585 dwellings per annum (44% shortfall).

¹ Appeal Ref: APP/X0360/W/22/3309202, Paragraph 96, Mactaggart and Mickel Vs Wokingham Borough Council

- 3.9. Whilst the Emerging Local Plan is timetabled for Adoption in May 2026 (LDS:2024), the current progress has resulted in at least a 4-month delay, potentially longer. At the time of preparing this proof, the initial hearing sessions (expected to take place in April 2025) have not yet taken place. Nor has any timetable for examination hearings been set.
- 3.10. Accordingly, as per the findings of the Inspector in appeal ref: APP/X0360/W/24/3350170² (**CD7.2**), at land to the North of the A4, New Bath Road, Twyford, only limited weight can be afforded to the emerging Local Plan. Furthermore, in a more recent appeal Ref: APP/X0360/W/24/3354667³ (**CD7.3**), Land Adjacent to Blagrove Lane, Wokingham, the Inspector infers that the housing land supply in WBC is not likely to be resolved quickly, and the emerging local plan may need to look to allocate more housing sites in the countryside. These are matters which I agree with.

² Appeal Ref: APP/X0360/W/24/3350170, Paragraph 46, David Wilson Homes Southern Ltd Vs Wokingham Borough Council

³ Appeal Ref: APP/X0360/W/24/3354667, Paragraph 19, Berkeley Strategic Land Limited Vs Wokingham Borough Council

4. Issues in the Appeal

- 4.1. The planning application (ref: 242067) was refused by WBC under delegated powers on 29th November 2024.
- 4.2. The application decision notice (ref 242067) (**CD1.1**) was issued with 11 reasons for refusal. These are as follows, and will be dealt with as accordingly –
- 4.3. Reason for Refusal 1
- The proposal results in an unsustainable pattern of development by reason of the creation of a new unplanned large housing estate on a greenfield site in the countryside outside of settlement limits. It would be significantly out of scale with neighbouring small village of Hurst and the level of existing infrastructure within the village. The development is contrary to the spatial objectives of the development plan and policies CP1, CP2, CP3, CP6, CP9 and CP11 of the Core Strategy, CC01, CC02, CC03 and TB21 of the MDD Local Plan, the Borough Design Guide SPD and section 2, 4, 8, 9, 12 and 15 of the NPPF.
- 4.4. This will be dealt with through my evidence.
- 4.5. Reason for Refusal 2
- The application results in the loss of an area of Best and Most Versatile agricultural land contrary to Core Strategy policy CP1 and section 15 of the NPPF
- 4.6. This will also be dealt with through my evidence.
- 4.7. Reason for Refusal 3
- The proposed development will have a detrimental impact on the landscape and the character and appearance of the area by reason of the quantum, scale, parameters and location of the development. It would result in the loss of characteristic landscape features and erode of the separation between existing villages and their rural setting. The development is contrary to policies CP1, CP3, CP9 and CP11 of the Core Strategy, CC01, CC02, CC03 and TB21 of the MDD Local Plan, the Borough Design Guide SPD and section 12 & 15 of the NPPF.
- 4.8. This is dealt with through the evidence of Mrs Brockhurst.
- 4.9. Reason for Refusal 4
- The application site is within an unsustainable location where residents would be reliant on private vehicles for basic day-to-day needs, by reason of the countryside location outside of settlement limits, distances to facilities and services, limited public transport links and poor quality of the walking/cycling environment, contrary to policies CP1, CP2, CP3, CP6 and CP11 of the Core Strategy, CC01 and CC02 of the MDD Local Plan, the Borough Design Guide SPD and section 8 & 9 of the NPPF.
- 4.10. This is dealt with through the evidence of Mr Jenkins.
- 4.11. Reasons for Refusal 5
- In the absence of a satisfactory Flood Risk Assessment and the Environment Agency objection, the proposed development has failed to demonstrate it would have an acceptable flooding and drainage impact contrary to Core Strategy policy CP1 and CP3, MDD Local Plan Policy CC09 and CC10 and Section 14 of the NPPF
- 4.12. This will be dealt with through the evidence of Mr Walton.
- 4.13. In accordance with the timetable set out by the Inspector following the CMC, this will be submitted no later than the 29th July 2025. As the Inspector is aware, dialogue continues between Appellant, the EA and the LPA on the modelling and other flood related matters. Accordingly, I will prepare a Supplemental Proof, that looks at this matter only in greater detail, supported by my colleagues' evidence. I will also address any changes to the overall planning balance, and / or my conclusions should this be necessary. Equally, I will submit this no later than the 29th July 2025.
- 4.14. Reason for Refusal 6

- By virtue of a lack of accurate information, an assessment date for baseline biodiversity value cannot be agreed. Therefore, an assessment of how 10 percent biodiversity net gain will be achieved is not possible and as such, if granted planning permission, there is no guarantee if 10 percent biodiversity net gain will be achieved, hence would be contrary to Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).
- 4.15. Agreement has recently been reached with WBC on this RfR, and we have been advised that the Council will no longer defend or pursue this matter. This matter has however been dealt with by Miss Major and Mr Pratt in their evidence.
- 4.16. Reason for Refusal 7
- The application has failed to demonstrate the proposed development will have an acceptable impact on ecology and biodiversity by reason of the impact on protected species, wildlife and habitats, contrary to policy CP1, CP3 and CP7 of the Core Strategy, CC01 and TB23 of the MDD Local Plan and section 15 of the NPPF.
- 4.17. Although agreement has recently been reached with WBC on a number of technical points in relation to this RfR, this still stands, and is dealt with by Mr Pratt and Miss Major in their evidence.
- 4.18. Reason for Refusal 8
- In the absence of a completed legal agreement, the proposal fails to secure opportunities for training, apprenticeships and other vocational initiatives to develop local employability skills contrary to MDD policy Local Plan TB12.
- 4.19. This is dealt with by securing the necessary obligations, appropriately worded in the S106, provided to the Inquiry.
- 4.20. Reason for Refusal 9
- In the absence of a completed Legal Agreement, the scheme fails to make adequate provision for affordable housing, contrary to policy CP5 of the Core Strategy and section 6 of the NPPF.
- 4.21. This is dealt with by securing the necessary obligations, appropriately worded, in the S106, provided to the Inquiry.
- 4.22. Reason for Refusal 10
- In the absence of a completed Legal Agreement, the development fails to secure a schedule off-site highway works for pedestrian and sustainable travel infrastructure and the management/adoption of internal estate roads and public open spaces, contrary to Core Strategy policy CP1, CP3, CP4 and CP6 and MDD Local Plan policy CC03 and TB08 and sections 4, 8, 9 and 12 of the NPPF
- 4.23. This is dealt with by securing the necessary obligations, appropriately worded, in the S106, provided to the Inquiry.
- 4.24. Reason for Refusal 11
- In the absence of a completed Legal Agreement, the proposed development fails to make adequate contributions to sport and recreational facilities, contrary to MDD Local Plan policy TB08, Core Strategy policy CP4 and Sections 4 and 8 of the NPPF.
- 4.25. This is dealt with by securing the necessary obligations, appropriately worded, in the S106, provided to the Inquiry.
- 4.26. Where I set out any harms and / or benefits of the appeal proposal, I have applied the following semantic scale – None, Limited, Moderate, Significant, or Very Significant.

5. Considerations of the Main Reasons for Refusal

- 5.1. As detailed in the previous section, eleven reasons for refusal were given. Therefore, in this section, I address the main reasons for refusal – supported by the evidence and conclusions from my colleagues, where their evidence deals with specific issues.

Issue 1: Whether the Development is Contrary to the Spatial Objectives of the Development Plan

- 5.2. This is an appeal for development that has been considered to conflict with parts of the development plan.
- 5.3. Reason for Refusal 1 is stated as follows:
- The proposal results in an unsustainable pattern of development by reason of the creation of a new unplanned large housing estate on a greenfield site in the countryside outside of settlement limits. It would be significantly out of scale with neighbouring small village of Hurst and the level of existing infrastructure within the village. The development is contrary to the spatial objectives of the development plan and policies CP1, CP2, CP3, CP6, CP9 and CP11 of the Core Strategy, CC01, CC02, CC03 and TB21 of the MDD Local Plan, the Borough Design Guide SPD and section 2, 4, 8, 9, 12 and 15 of the NPPF.
- 5.4. The first element of the Reason for Refusal is that the development of the site is unsustainable. A wide range of improvements will be delivered alongside the development of the houses, which will ensure that the site can be considered sustainable from a transport and highways point of view. Indeed, the appeal site is well located to a number of everyday amenities. My colleague Mr Jenkins has demonstrated this in his PoE through his evidence on Reason for Refusal 4.
- 5.5. The second element is that the proposed development is a large unplanned housing estate on a greenfield site outside of the defined development limits. I disagree that the proposed development is large and thus unacceptable and take the view that this is not a binary consideration. The policy position, for a proposal within the designated countryside beyond the settlement limits, does not distinguish between “large” and “or otherwise” development. It is my view that the proposals should be acceptable for their context and other policy considerations, whether large or not. The Appeal proposals comprise half of the level previously proposed under the last appeal, reducing the number of housing units from 200, to 99 and the developable area covers only 38% of the site retaining 62% of the appeal site as open space.
- 5.6. I accept that the proposed development is an unplanned housing estate (in the sense that it is not allocated for development) on a greenfield site outside of the development limits, but given the context of the housing land supply (see below), and out of date development framework, I consider that housing will have to come forward in such locations – across the Borough.
- 5.7. Additionally, it is referenced that the proposed development is out of scale with Hurst and the existing infrastructure. Whilst the scale has been reduced significantly since the last appeal and the level of development proposed enables a wide range of benefits to be secured and delivered alongside, Mr Jenkins evidence and the supporting Transport Statement sets out the reasonable range of every day facilities located within a short and comfortable walk.
- 5.8. Policy CP9 Scale and Location of Development Proposals identifies Hurst as a Limited Development Location. The policy clearly states that it controls development within settlement limits. I therefore do not believe that this policy is strictly applicable to the appeal site. On this basis I don’t believe that this is a relevant policy for the consideration of this appeal.
- 5.9. I accept that the proposals conflict with Policy CP11 Proposals outside Development Limits (including countryside), as the site is located in countryside, outside of the settlement limits of Hurst and does not fall within any of the exceptions set out. Equally, there is conflict with Policy CC02 Development Limits from the MDD which sets the development limits for each of the boroughs specified settlements as required by CP9.
- 5.10. Quite clearly, conflict arises, but I now turn to other material considerations.

Other Material Considerations

Out of Date Development Plan Policies

- 5.11. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that the determination of an application or appeal must be in accordance with the development plan, unless material considerations indicate otherwise.

- 5.12. The NPPF is a material consideration and provides for the presumption in favour of sustainable development, which is key for decision making. Paragraph 11d) of the NPPF states decision making should apply the presumption, “where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date”.
- 5.13. The adopted development plan consists of the Wokingham Borough Core Strategy (the ‘CS’) adopted in 2010 and the Managing Development Delivery Local Plan (the ‘MDD’) adopted in 2014. Policy CP9 defines Hurst as a Limited Development Location, which as per Policy CP17 states development should not generally exceed 25 dwellings in these locations. Therefore, the proposal is contrary to CP17 – if taken at face value. The subtle nuance is that this particular policy seeks to restrict development within the defined settlement limits, rather than beyond its boundary, and as such, the policy is not strictly applicable.
- 5.14. Footnote 8 of the NPPF, which supports Paragraph 11d), further sets out that decisions should apply a presumption in favour of sustainable development, for applications involving the provision of housing, in situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. Currently, it is agreed (see SoCG) that WBC can only demonstrate a 1.7-year housing land supply (see below).
- 5.15. On this basis, it is considered that the adopted development plan, and certainly many of its policies, must be considered out of date. Indeed, the parties have agreed in the SoCG that Policy CP9, CP11 and CC02 (policies which are most important for determining the application) should all be considered out of date.
- 5.16. Therefore, although it is considered that there is conflict with certain policies of adopted development plan, with specific reference to several core policies, only limited weight can be afforded to these policies which are most important, and the conflict that arises. I will return to this in the overall planning balance.

Five Year Housing Land Supply

- 5.17. The parties have agreed through the SoCG that the Council can only demonstrate a 1.7-year supply of housing, against the 5-year land supply requirement.
- 5.18. It is my view that 1.7-year supply is a significant shortfall against the requirement to be able to demonstrate a rolling 5-year housing land supply and the provision of new housing would weigh heavily in favour of the granting permission.

Emerging Local Plan

- 5.19. Whilst WBC have submitted their Emerging Plan for Examination, this position is not expected to be resolved soon. Shortfalls have been identified with regards to the delivery of adequate housing numbers and the implication of the new standard methodology numbers. The appointed Inspectors have also raised substantial concerns over the Council’s approach to delivering some of its larger strategic allocations, through their submitted initial questions, which include further assessment on the proposed housing delivery.
- 5.20. The Emerging Plan sets out a housing need of 751 dwellings per annum. The Revised NPPF was published in 2024 alongside new Standard Method figures for proposed housing targets for local authorities, requiring WBC to deliver 1,336 dwellings per annum. The proposed 751 dwellings per annum would therefore demonstrate a shortfall of some 585 dwellings per annum (44% shortfall).
- 5.21. The Emerging Local Plan was submitted to the Inspectorate on the 28th of February 2025 and therefore I turn my attention to Paragraph 234b) of the NPPF:

For the purpose of preparing local plans, the policies in this version of the Framework will apply from 12 March 2025 other than where one or more of the following apply:

...

b) the plan has been submitted for examination under Regulation 22 on or before 12 March 2025;

- 5.22. Therefore, the Emerging Local Plan is not subject to the revised Framework, however, Paragraph 236 of the NPPF states –

Where paragraph 234b applies, if the housing requirement in the plan to be adopted meets less than 80% of local housing need the local planning authority will be expected to begin work on a new plan, under the revised plan-making system provided for under the Levelling Up and Regeneration Act 2023 (as soon as the relevant provisions are brought into force in 2025), in order to address the shortfall in housing need.

- 5.23. As set out, WBC are required to deliver at least 1,336 dwellings per annum. The proposed 751 dwellings per annum set out in the Emerging Local Plan would therefore demonstrate a mere 56% provision of that required, and evidently, far less than the 80% set out in Paragraph 236.
- 5.24. The Emerging Local Plan (if found sound and adopted) will therefore be subject to an immediate review, under the latest NPPF policies upon its adoption, rendering the policies controlling the delivery of housing (in the Emerging Plan) out-of-date until the further review has taken place. The timing for a Local Plan Review, at best, can be anticipated to take place in Summer 2028.
- 5.25. Under the currently published standard method for objectively assessed need, we are already in a position to understand that WBC are planning housing delivery at a level significantly below the need set out in the 2024 NPPF.
- 5.26. As it stands, and although I am aware other Appeal Inspectors have given limited weight to the Emerging Local Plan, I am of the view that in this case only very limited weight should be given to the Emerging Local Plan policies relevant to this appeal, as it fails to deliver against the required housing numbers. Equally so, at the time of writing, there are still no hearing sessions for the EiP planned, and it is inevitable, that should it be found sound, its adoption will be delayed quite substantially and will be subject to immediate review.

Housing Delivery

- 5.27. Beyond the position of the Local Plan and housing numbers in WBC, the Appeal proposals seek to deliver a considerable number of new homes, which are supported by a range of benefits to be delivered alongside (set out fully above).
- 5.28. The delivery of up to 99 new homes, with a provision of 50% affordable homes will make a significant contribution towards local housing targets, in a Borough which is struggling with the delivery of new homes.
- 5.29. In light of the Council's out of date development framework, the lack of progress on the Emerging Local Plan, and the significant shortfall in delivery at only 1.7 years, and through the engagement of Paragraph 11d) of the NPPF – the presumption of sustainable development should apply.
- 5.30. This is seen in a recent appeal decision, ref: APP/C1055/W/24/3356476⁴ (**CD7.4**), where the Inspector engaged the presumption in favour of sustainable development for a development of up to 90 dwellings in Derby. The Inspector stated that the policies most important for determining the scheme are deemed out-of-date and that the Council cannot currently demonstrate a five-year supply of deliverable housing sites.
- 5.31. The proposed development, located within a Green Wedge, was deemed by the Inspector to conflict with Core Policy, and harmful to the function of the Green Wedge.
- 5.32. Paragraph 43 of the decision states, "*Having considered the adverse impacts and benefits of the scheme before me, I conclude that the adverse impacts identified, comprising moderate harm to the function of the SCGW in association with identified conflict with Policy CP18, and limited harm to the character and appearance of the area, would not, in combination, significantly and demonstrably outweigh the proposal's substantial benefits when assessed against the Framework's policies taken as a whole whilst having particular regard to key policies as presented above. Thus, the presumption in favour of sustainable development, as set out in the Framework, applies.*"⁵
- 5.33. Here we can see a recent example where a shortfall in housing land supply (3.85-years) and an out-of-date local development plan, alongside the need for housing, can outweigh the harm of a development. This case in particular is an example of permission being granted in a more sensitive location, designated as a Green Wedge, whereas the site that is the subject of this Appeal, is in a far less sensitive location.
- 5.34. Most recently (February 2025), and within WBC, an Inspector allowed for a development of units in Twyford (ref: APP/X0360/W/24/3350170⁶) (**CD7.2**). Here, the Inspector accepted there was a conflict with the development plan and adverse

⁴ Appeal Ref: APP/C1055/W/24/3356476, Paragraph 30 and 40, David Miller Homes Vs Derby City Council

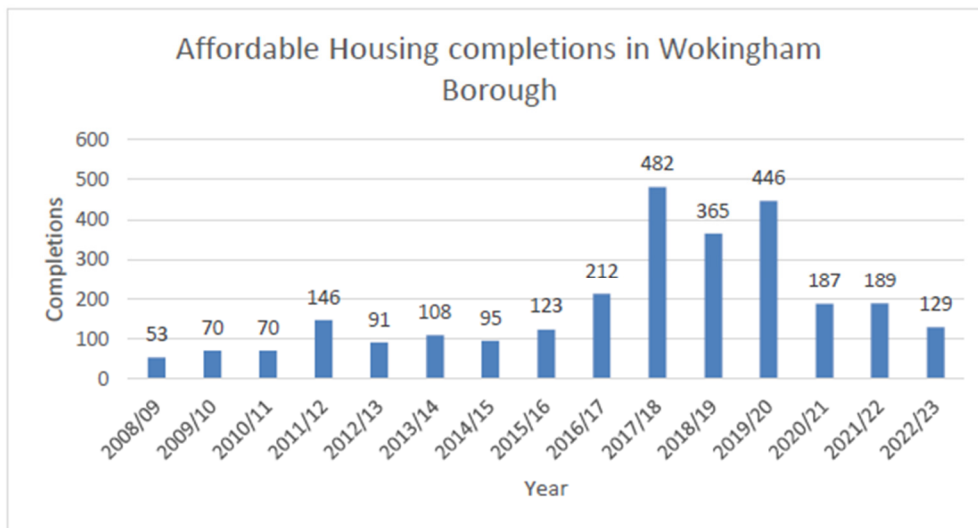
⁵ Appeal Ref: APP/C1055/W/24/3356476, Paragraph 43, David Miller Homes Vs Derby City Council

⁶ Appeal Ref: APP/X0360/W/24/3350170, Paragraph 68, David Wilson Homes Southern Ltd Vs Wokingham Borough Council

impacts on the countryside, which was assessed as limited harm – however, these would not significantly and demonstrably outweigh the benefits of granting planning permission.

- 5.35. Further, on a recent appeal on land at School Lane (ref: APP/X0360/W/24/3342812) (CD7.5), the Inspector stated, “*when I consider the development plan conflict in the light of the shortfall in housing land supply, it is likely that, to redress this situation, at least some housing is to be required outside Development Limits on greenfield sites that are deemed to be countryside.*”⁷
- 5.36. Similarly, and most recently, the Inspector for the appeal at Blagrove Lane, WBC (ref: APP/X0360/W/24/3354667⁸) (CD7.3) stated “*Thus, the current housing land supply position will not change overnight, and it may be that the emerging plan will look to allocate more housing sites in the countryside, and that may well be necessary.*”
- 5.37. These statements demonstrate that with WBC’s housing position, additional land must be identified for housing, and this will clearly result in conflict with the Local Plan spatial strategy as set out above, and potentially harm will arise. However, it is where that harm can be justified in order to address the shortfall, that must be considered.
- 5.38. Turning to the delivery of affordable housing, the appeal proposals deliver and above policy quantum. This must be considered in light of past delivery trends of affordable housing. WBC’s published completions (Fig 4 CD12.5, pg 13), are replicated below.

Figure 5.1: Affordable Housing Completions – Source: WBC Topic Paper: Affordable Housing



Source: Wokingham Borough Council Topic Paper – Affordable Housing (September 2024)

- 5.39. What can be seen from the above is that in the last 3 monitoring years, 505 affordable dwellings were completed. In contrast, during the same period, the published HDT data for 2023 shows that total dwelling completions were 3,511. Accordingly, affordable housing completions were only at 14%, well below the policy target. It is my view therefore that delivering above a policy level will assist in meeting the past shortfall. The Council clearly expresses that in July 2024 there was a “*most urgent and exceptional need*” for 582 affordable homes. (CD12.5, para 4.8-4.10)
- 5.40. It should also be noted, and I refer to Paragraph 187b) of the NPPF, that there is not a blanket ban on development within the countryside. Paragraph 187b) refers to recognising the intrinsic character and beauty of the countryside. The proposed development has followed an iterative process, responding to concerns raised, retaining the majority of the site as undeveloped land, and at the same time, protecting views across the site.
- 5.41. It is agreed between that parties that the approach of local policy CP11 – Proposals outside Development Limits (including countryside) and Policy CC02 – Development Limits) are out of date and therefore should only be afforded limited weight.

⁷ Appeal Ref: APP/X0360/W/24/3342812, Paragraph 90, Ms Penelope Clayden and Helmsley Land Ltd Vs Wokingham Borough Council

⁸ Appeal Ref: APP/X0360/W/24/3354667, Paragraph 19, Berkeley Strategic Land Limited Vs Wokingham Borough Council

- 5.42. It is therefore my view that the delivery of housing is a significant benefit of the appeal proposals, and that the delivery of Affordable Housing is a very significant benefit.

Design

- 5.43. Matters of detailed design will be a Reserved Matter if the Appeal is allowed and permission granted. However, the Appeal is supported by an amended Parameter Plan (**CD1.4**) and an Illustrative Masterplan (**CD1.6**) (and an amended Illustrative Master Plan – **CD1.3**), which demonstrate the approach taken to the design considerations. These matters are more fully assessed in the evidence of Mrs Brockhurst and Mr Adams.
- 5.44. I have read Mr Adams evidence and I agree with his conclusions.
- 5.45. I note that in summary, Mr Adams has explained how the limits which are set in the Amended Parameter Plan will shape the proposed development in a way that is sensitive to the site's context and the character of the village, and will not have a detrimental impact. Mr Adams goes on to say that the creation of a large area of publicly accessible open space in the form of a common between the development areas also recognises the opportunity to bring forward local facilities alongside housing for the benefit of the wider community.
- 5.46. Mr Adams concludes that the scale of development is acceptable and will reflect and contribute to the village character. He believes that the DAS and Amended Parameter Plan provides a sound basis for developing the detailed design, and delivering well designed, high quality homes on the site.
- 5.47. Mr Adams is of the view that there are no design issues that would warrant a refusal, and I agree with this.

Provision of Open Space

- 5.48. As part of the proposals, the development will deliver a significant amount of public open space (62% of the site or some 6.62ha), including an open common, community orchard, and an extension to the Tape Lane allotments. This is provided in place of the current status of the Appeal site, which is private land with no public access.
- 5.49. In order to assist the Inspector and define the weight that should be afforded to this beneficial provision, I have looked at what is available locally, and I am of the view that there are only two existing areas of publicly accessible open space which are evident within Hurst.
- 5.50. The first is the Hurst football pitch and playground located to the east of the Appeal site, and the second area is the Martineau Lane Common and playground, found at the south of Hurst. There is no provision north of the Appeal site.
- 5.51. I acknowledge that there are other spaces, such as the cricket and bowls club and the field adjacent to the village hall. However, the latter has the benefit of a recent planning permission for new homes and the former are private facilities not available for general use / amenity purposes.
- 5.52. Whilst it is not possible to say definitively whether there is a local deficiency or not, the appeal proposals will in my view, certainly provide significantly more, and less constrained space. Equally so, I am of the view that this space will be better located for any existing homes to the north of the appeal site.
- 5.53. I note that Mr Adams is of the view that (para 4.11 of his Proof - **CD5.6**) *"This space will be a significant new amenity for the village and a major benefit for the wider community. It is larger than the 'village green' at Martineau Lane, and its size, central location, and accessibility provide an excellent opportunity to make it a space for village events as well as a quiet space for enjoying exercise and nature. The Landscape strategy plan on Page 77 of the DAS illustrates how it could be successfully brought forward at Reserved Matters stage with strong tree lines and drainage ponds reflecting landscape features characteristic of Hurst"*, and at para. 4.18 notes that *"The creation of a large area of publicly accessible open space in the form of a common between the development areas also recognises the opportunity to bring forward local facilities alongside housing for the benefit of the wider community."*
- 5.54. The delivery of an open common space at the centre of the site, alongside an orchard, and extra 0.121Ha of allotment space at the Tape Lane Allotments will provide a tangible and beneficial contribution to Hurst in a central location. I therefore attribute moderate weight (benefit) to the delivery of additional and new public open space.

Issue 2: The effect on the Landscape Character and Appearance

5.55. A topic specific Landscape SoCG has been prepared (**CD3.2**), and this matter is dealt with in the main through evidence by my colleague, Mrs Brockhurst.

5.56. Reason for Refusal 3 is as follows:

- The proposed development will have a detrimental impact on the landscape and the character and appearance of the area by reason of the quantum, scale, parameters and location of the development. It would result in the loss of characteristic landscape features and erode of the separation between existing villages and their rural setting. The development is contrary to policies CP1, CP3, CP9 and CP11 of the Core Strategy, CC01, CC02, CC03 and TB21 of the MDD Local Plan, the Borough Design Guide SPD and section 12 & 15 of the NPPF.

5.57. I have read the evidence of Mrs Brockhurst, which I understand and agree with, and note her conclusions:

“Overall, the issue is not whether there is a change, development of greenfield locations inevitably leads to changes in landscape character and visual effects, a matter that is not an absolute impediment to granting consent and allocating land for new housing. From a landscape planning perspective, the key issue is whether the development results in undue, and significant effects.”

“In my professional opinion the proposals are consistent with the existing context, through their incorporation of accessible greenspace, inclusion of dwellings in a form consistent with the existing situation and response to the settlement pattern, grain and form that prevails in this location. They are neither excessive nor disproportionate.”

5.58. I acknowledge that the proposed development lies outside the settlement boundary as defined in the MDD Local Plan, as addressed in the previous headings. However, in light of the demonstrable housing shortfall, it is inevitably necessary to consider sites beyond the development limits, as currently defined on the Policies Map. Policy CC02: Development Limits is out of date. It is my view that in line with Policy CC01: Presumption in Favour of Sustainable Development, the adverse landscape impacts of the proposed development upon landscape character, which are neither excessive nor disproportionate, would only amount to moderate harm when considered in the planning balance.

Issue 3: Accessibility to Facilities and Services – is the site in a location that is unsustainable

5.59. A topic specific Transport SoCG has been prepared, but at the time of finalising this proof it has not yet been agreed. It is hoped that it will be agreed before the Inquiry and will be provided to the Inspector. It will be **CD3.3**. This issue is dealt with in the main through evidence by my colleague, Mr Jenkins.

5.60. Reason for Refusal 4 is as follows:

- The application site is within an unsustainable location where residents would be reliant on private vehicles for basic day-to-day needs, by reason of the countryside location outside of settlement limits, distances to facilities and services, limited public transport links and poor quality of the walking/cycling environment, contrary to policies CP1, CP2, CP3, CP6 and CP11 of the Core Strategy, CC01 and CC02 of the MDD Local Plan, the Borough Design Guide SPD and section 8 & 9 of the NPPF.

5.61. As detailed previously, the revised proposals are fundamentally different in both scale and size of the development and the transport package proposed to support the development is significantly enhanced.

5.62. I have read the evidence of Mr Jenkins, which I understand and agree with, and note his conclusions that the Appeal site is very well located to the settlement of Hurst with a reasonable range of everyday facilities within a short and comfortable walk/cycle. In addition, public transport is a realistic and attractive travel opportunity, and significant transport improvements will be delivered, including; local walking improvements in the village, strategic cycle connections to Twyford in line with the WBC LCWIP, on-site facilities including a mobility hub, an access strategy which prioritises sustainable movement, travel planning measures, a car club, travel vouchers, and the delivery of a high-standard bus service to improve connectivity to Twyford and schools.

5.63. In relation to schools and education provision, there is no direct RfR relating to lack of school places or the need for additional provision. I accept there are references to this though in the Officer's Report (**CD1.2**), matters raised by third parties. This is however raised in WBC's SoC (**CD2.2**). I have attached to my evidence a technical note on Education Provision, prepared by Mr Jan Kinsman, of EFM (**Appendix 1**).

- 5.64. Mr Kinsman's note, which I have read, understand and agree with, sets out very clearly and easily the matters for consideration.
- 5.65. He concludes in relation to Primary Schools, at 3.13, that "*ample capacity*" exists within existing schools" to absorb additional demand resulting from the proposed development and that the only displacement that may occur is of children from outside of the school catchment. In relation to Secondary School, he equally concludes that there are spaces available nearby to cater for the modest need arising from the proposed development.
- 5.66. The principal of displacement is fully addressed in his section 3, and Mr Kinsman concludes that "*If the Proposed Development were permitted, the result would be increased demand from within the school's catchment area. Fewer children from outside the school's catchment area would then be allocated places at St Nicholas, and those not allocated places at St Nicholas would be offered places at other schools - which would likely be closer to their homes and result in shorter travel journeys for those children.*"
- 5.67. I attach at, **Appendix 4**, a Retail Economic Assessment technical note, which assesses the expenditure which would be available to local businesses as a consequence of the 99 new homes provided through the Appeal Proposals. Even after applying significant sensitivity analysis, this demonstrates that using the Councils own evidence base, local businesses in the village would be able to benefit from the potential annual spend of over £200,000. This local expenditure would certainly contribute to making the village more sustainable, and would be a benefit of the scheme.
- 5.68. Thus, it is my view, that the site is in fact capable of being considered to be in a sustainable location, and with the benefits set out properly secured, should be considered beneficial, and carry moderate weight in favour. I attach significant weight to the delivery of the critical cycle connection to Twyford Railway Station (in line with the WBC LCWIP Proposals) and the pedestrian improvements. However, I am of the view that the Bus Improvement Strategy, which has been set out by Mr Jenkins, which would be available to new residents of the appeal only, should only be given limited weight as a benefit.

Issue 4: Flood Risk

- 5.69. This issue and associated matters, including the Sequential Test, will be dealt with in a Supplemental Proof of Evidence as directed by the Inspector at the CMC.

Issue 5: The effect on Best and Most Versatile (BMV) Agricultural Land

- 5.70. I will also deal with Reason for Refusal 2 within my evidence, which relates to BMV land.
- 5.71. Reason for Refusal 2 is as follows:
- The application results in the loss of an area of Best and Most Versatile agricultural land contrary to Core Strategy policy CP1 and section 15 of the NPPF.
- 5.72. There is no dispute between the parties that the site includes BMV land (see Main SoCG, para 7.6 - **CD3.1**). As is set out in The Agricultural Land Considerations report (dated March 2025) (see Appendix 7 of **CD2.1**), this comprises an area of 5.6ha (52%) in the west classified as Subgrade 3a (dark green), with 4.6ha (43%) in the east classified as Subgrade 3b (light green), and 0.5ha (5%) along the western boundary shown as non-agricultural land.
- 5.73. It has been agreed (SoCG) that there is no need for any further technical evidence on this given matter and is to be assessed in the planning balance.
- 5.74. It is my view that national policy does not preclude the loss of BMV land but indicates that decisions should recognise the economic and other benefits of BMV agricultural land. In this case, the economic benefits of BMV land are, and have been, very limited.
- 5.75. The site is grazed (has been for the past 40 years) as a single block with no differentiation in management between the Subgrade 3a and the Subgrade 3b land, and the land managed in accordance with the lowest grade present - the land has not been able to achieve the land uses and yields expected of Subgrade 3a land, as set out in Paragraph 4.7 of Appendix 7 (**CD2.1**), which also refers to the previous appeal decision, where the Inspector accepted this.

- 5.76. In the previous appeal on the site the Inspector only gave modest weight to the BMV matter⁹, as there is no indication that the land will be returned to agricultural use, and therefore the ability of the site to ever achieve its inherent Subgrade 3a potential is very limited.
- 5.77. Additionally, the appeal in WBC at Swallowfield (ref: APP/X0360/W/24/3340006) also dealt with BMV. The Inspector stated that, *“part of the appeal site used as an arable field is classified as best and most versatile agricultural land, containing grade 2 and grade 3a soils. No objection has been raised by the Council to the loss of the field in terms of agricultural production. As any development on agricultural land in the area is likely to result in the loss of best and most versatile land, I do not consider that the loss of this parcel of land carries material weight.”*¹⁰
- 5.78. As seen in this more recent Appeal decision in WBC (Swallowfield, above), an Inspector considered the loss of BMV to carry no material weight. The NPPF states at Footnote 65 that “Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality.” Compliance with footnote 65 is detailed in the Agriculture Land Considerations Letter (**Appendix 7, CD2.1**), which was submitted alongside the Appeal.
- 5.79. The previous appeal on the site accepted (para 72, **CD7.1**) that *“...there is no strong evidence to indicate any likelihood of an agricultural use starting up again on this land.”*
- 5.80. Core Strategy Policy CP1 seeks to avoid areas of BMV agricultural land (although this policy carries reduced weight as it is not consistent with the NPPF). However, it is evident that it is not possible to avoid BMV land in meeting local development needs around Hurst and that, of the known Agricultural Land Classification, the site between Lodge Road and Tape Lane represents the lowest quality land available.
- 5.81. With the housing pressures nationally and locally, it is unfortunately unavoidable to lose some BMV agricultural land. Given the unviability of the appeal site to be brought back into agricultural use, and the most recent long term use of the land for the grazing of animals, it is my view that the benefits of the housing delivery considerably and demonstrably outweigh this loss.
- 5.82. Due to the significant and persistent housing shortfall within WBC, which has worsened considerably since the previous appeal, I give limited weight to the harm from the loss of BMV. This can be correlated with a recent officer report in WBC¹¹ (**CD1.2**), where the loss of BMV was also given limited weight.

Issue 6: The effect on Ecology and Biodiversity

- 5.83. As noted above and in the SoCG, the parties have been working together in an attempt to resolve the issues between the main parties, such that both RfR 6 and 7 could potentially have fallen away. Whilst significant progress has been made, unfortunately this has not been possible for both, and **only RfR6 is able to fall away**. We understand therefore that RfR6 will not be a matter for this Appeal.
- 5.84. Mr Pratt and Miss Major have prepared evidence to deal with these two reasons for refusal, which I have read, understand, and am in agreement with.
- 5.85. Reason for Refusal 6 is as follows (**but no longer being pursued or defended by the LPA**):
- By virtue of a lack of accurate information, an assessment date for baseline biodiversity value cannot be agreed. Therefore, an assessment of how 10 percent biodiversity net gain will be achieved is not possible and as such, if granted planning permission, there is no guarantee if 10 percent biodiversity net gain will be achieved, hence would be contrary to Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021).
- 5.86. Reason for Refusal 7 is as follows:

⁹ Appeal Ref: APP/X0360/W/22/3309202, Paragraph 72 Mactaggart and Mickel Homes England Ltd Vs Wokingham Borough Council

¹⁰ Appeal Ref: APP/X0360/W/24/3340006, Paragraph 47, Croudace Homes Ltd Vs Wokingham Borough Council

¹¹ Application Ref: 250735, Paragraph 216, Outline application for the proposed residential development of up to 70 dwellings together with associated access, landscaping, open space and associated works. (All matters reserved except for means of access.) Land to the north of School Road Arborfield Cross.

- The application has failed to demonstrate the proposed development will have an acceptable impact on ecology and biodiversity by reason of the impact on protected species, wildlife and habitats, contrary to policy CP1, CP3 and CP7 of the Core Strategy, CC01 and TB23 of the MDD Local Plan and section 15 of the NPPF.

- 5.87. A specific Tree Compensation Strategy (**CD11.3**) has been prepared, alongside further justification and assessment of on-site habitats, which is now agreed with WBC. The biodiversity baseline has too therefore, been agreed with the Council's Ecologist. An updated metric has also been prepared and provided to demonstrate [at least] 10% BNG can be delivered on site, and to which I attach limited beneficial weight to this matter.
- 5.88. Equally, the Council's Ecologist is satisfied with the additional information on protected species mitigation, and the updated Bat Surveys (see **CD11.1 - 11.7**).
- 5.89. Despite this agreement between the main parties, at the time of preparing this Evidence, we understand that the Council maintain their objection to the appeal proposals, as is set out in their SoC, specifically having regard to NPPF 193c) and the two trees that have been removed . I replicate 193c) for ease;

" 193. When determining planning applications, local planning authorities should apply the following principles:

...

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons⁷⁰ and a suitable compensation strategy exists; and

..."

- 5.90. Footnote 70, which whilst not exhaustive, sets out examples, citing infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat.
- 5.91. I am of the view that the delivery of much needed housing, set against the context of the significant shortfall in WBC, and combined with the Ministerial Statement published alongside the NPPF (on the 12th December 2024) noting the "*acute and entrenched housing crises*" with the [NPPF] reflecting the government's commitment to tackle the housing crises, can be considered such an exceptional reason.
- 5.92. However. Mr Pratt has been clear to distinguish between the differences of the categorisation and or definition of a Veteran Tree, between the terms of the BNG Legislation and the Framework.
- 5.93. Under the BNG Regulations, certain trees may be classified as veteran based on ecological function, condition, or habitat value – there is a specific definition of a veteran tree within the BNG Regulations, and this is different to the definition of a veteran tree within the NPPF. The NPPF (paragraph 193c)) only applies to trees that meet the definition of veteran trees as set out within the NPPF, and I am told by Mr Pratt that this is a much higher bar than that of the BNG definition.
- 5.94. Mr Pratt is of the view that the removed trees did not meet the criteria to be veteran trees under the NPPF definition. This has been comprehensively set out within the submitted Tree Assessment and Compensation Strategy (**CD11.3**). As the trees in question do not meet the NPPF definition of a veteran tree, I am of the view that Paragraph 193c) is not engaged. Therefore, the Appeal Proposal is not subject to the irreplaceable habitat protections under the NPPF.
- 5.95. Mr Pratt goes on to acknowledge that, whilst unlikely, the trees had potential to meet the definition of a veteran tree under the BNG Regulations definition only. Therefore, the Appellant has taken a precautionary approach and has considered the two trees as veteran trees under the BNG definition (not the NPPF definition). Accordingly, the trees have been included in the BNG metric baseline and a separate Compensation Strategy has been submitted to address their loss in the context of the BNG Regulations.
- 5.96. This is consistent with the BNG guidance, which states that:

"Special compensation rules apply to irreplaceable habitat. If planning permission is given you will need to agree a compensation strategy with the LPA. Compensation for irreplaceable habitat needs to be relative to the baseline habitat type. The LPA will agree compensation as part of the determination of the planning application, on a case-by-case basis"

- 5.97. Furthermore, all existing veteran trees (identified under the NPPF definition) are being retained and appropriately buffered (through the appeal proposals) from the proposed development, in accordance with the Standing Advice / NPPF.
- 5.98. I am of the view that Paragraph 193c) is not engaged, and that this matter bears no impact on the planning balance in the Appeal.
- 5.99. However, if this is not correct, and the Inspector does not agree that Footnote 70 is satisfied, then I am mindful that I need to consider NPPF11 d) i. and Footnote 7, which sets out a further consideration for any decision maker.
- 5.100. In order to disengage the presumption (NPPF11d)), the conflict or harm that would otherwise arise from 193c) must provide a strong reason for refusing the development. The fact is, the loss of these two trees (irreplaceable habitat), is not brought about through the grant of planning permission of this appeal. These trees were removed quite some time ago, in the early part of 2021. They were not protected trees when they were removed, and the works were not undertaken by the Appellant. Whether this appeal is successful or not, will not result in the loss of irreplaceable habitat.
- 5.101. It is therefore my view that this does not provide a “strong” reason for refusal.
- 5.102. I do however accept that if the Inspector was persuaded that 193c) was engaged and disagreed with me that a “strong” reason did not exist, this would still only be a material consideration for him to weigh up. In such a circumstance, it would be my view that this would only amount to moderate harm. I reach this conclusion given the Compensation Strategy that has been prepared, which is agreed by the Council.
- 5.103. The loss of these trees is not directly linked to this Appeal, whether approved or not. Whilst their loss is unfortunate, I do not believe this presents a “strong” reason for refusal, but it would weigh against the appeal.

Issue 7: The effect on infrastructure, public services, affordable housing, highway works, public transport, open space, etc (Section 106)

- 5.104. It has been agreed between the parties that reasons for refusal 8, 9, 10 and 11 (not repeated in full) will fall away, with the signing of a suitable S106 Obligation.
- 5.105. The heads of terms are agreed, and the parties are working to reach agreement. Should any matters between the parties remain in dispute, these can be dealt with in the round table session.
- 5.106. The LPA will prepare a Reg 122 Statement (to ensure that the requirements set out in the CIL Regulations (122) that an obligation may only constitute a reason for granting planning permission for the development if the obligation is:
- (a)necessary to make the development acceptable in planning terms;*
- (b)directly related to the development; and*
- (c)fairly and reasonably related in scale and kind to the development - we should draw this inspectors attention the blue pencil clauses - just by reference, not repeating the words.*

6. Third Party Comments

- 6.1. I am aware of the third-party comments that have been received during the consultation of the Appeal.
- 6.2. My summary and response to these comments can be found at **Appendix 2** to this Proof.

7. Planning Conditions

- 7.1. To assist the Inspector, the parties are working on a draft set of planning conditions.
- 7.2. This will be provided in advance of the Inquiry.

8. The Weight to be Given to Relevant Development Plan Policies

8.1. As discussed throughout my evidence, it is my view that the development framework is out of date, but the most important policies for determining the appeal, those that are referred to in the reasons for refusal, are set out below, along with my opinion (supported by my colleagues) on whether the Policy is consistent with the current Framework, what weight I afford the policy, and my position on whether the appeal proposals are compliant or in conflict.

Table 8.1

Relevant Policies	Consistency with the NPPF	Weight to be Afforded	Appeal Scheme Compliance
CP1 – Sustainable Development	Yes	Full	Some conflicts, but as a whole yes,
CP2 – Inclusive Communities	Yes	Full	Yes, compliant
CP3 – General Principles of Development	Yes	Full	Yes, compliant
CP4 – Infrastructure Requirements	Yes	Full	Yes, compliant
CP5 – Housing Mix, Density and Affordability	Yes	Full	Yes, compliant, although will be considered through Reserved Matter Application
CP6 – Managing Travel Demands	Yes	Full	Yes, compliant
CP7 – Biodiversity	Yes	Full	Yes, compliant
CP9 – Scale and Location of Development Proposals	Out of date, no (see SoCG, 7.9)	Limited	No, conflict
CP11 – Proposals outside Development Limits (including countryside)	Out of date, no (see SoCG, 7.9)	Limited	No, conflict
CC01 – Presumption in favour of Sustainable Development	No, policy wording is inconsistent with current wording of 11d)	Limited	Yes
CC02 – Development Limits	Out of date, no (see SoCG, 7.9)	Limited	No, conflict
CC03 – Green Infrastructure, Trees and Landscaping	Yes	Full	Yes, compliant
CC09 – Development and Flood Risk	Yes (although based on the earlier Framework text)	Full	Yes, compliant

CC10 – Sustainable Drainage	Yes	Full	Yes, complaint
TB08 – Open space, sport and recreation facilities standards for residential development	Yes	Full	Yes, compliant
TB12 – Employment Skills Plan	Yes	Full	Yes, complaint
TB21 – Landscape Character	Yes	Full	Yes, compliant
TB23 – Biodiversity and Development	Yes	Full	Yes, compliant

9. Sustainable Development

- 9.1. At the heart of the NPPF, Section 2 sets out the requirement of the planning system to contribute to the achievement of sustainable development.
- 9.2. Paragraph 7 of the NPPF states, “*at a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.*”
- 9.3. Paragraph 8 of the NPPF sets out the three overarching objectives of the planning system – economic, social and environmental objectives.
- 9.4. Paragraph 9 of the NPPF states that these objectives should be delivered through the preparation and implementation of plans and the application of the policies in the Framework.
- 9.5. It is my view that the proposed development does contribute to the objective of the NPPF to achieve sustainable development.
- 9.6. The development will meet economic objectives through the creation of jobs and apprenticeships during the construction of the development and the longer term tax revenue from the completed and occupied development. In addition, the opportunity for local spend will also be increased as a consequence of the 99 new homes, supporting amongst others, the village shop (which is under new ownership and due to re-open shortly), the bakery / coffee shop and local pubs. The analysis set out in Appendix 4 identifies the level of potential available expenditure.
- 9.7. I note that the economic benefits of the delivery of 230 new dwellings, which included employment during the construction phases of the development, as well as increased spending within the borough as a result of the new occupiers were afforded moderate weight by the Inspector for a recent appeal in Twyford (ref: APP/X0360/W/24/3350170)¹² **(CD7.2)**
- 9.8. The development will meet social objectives through the delivery of much needed new homes, and especially so through the delivery of 50% of the units as affordable houses, whilst also investing (through the S106 and CIL) into local sports, schools, and healthcare facilities, providing a significant enhancement of these services. Equally so, the availability of additional local spend will support and benefit local shops and services, further supporting these social objectives. I note that the delivery of a provision of 40% affordable homes at the Twyford appeal (ref: APP/X0360/W/24/3350170)¹³ **(CD7.2)** was given significant weight by the Inspector, which is why I come to the conclusion 50% will attract very significant weight.
- 9.9. The development will also meet environmental objectives through the delivery of at least 10% biodiversity net gain on site. Significant investment will be made into enhancing the existing trees and hedgerows on site, whilst providing new green infrastructure across the site. This includes an extension to the existing Tape Lane allotments and the creation of a community orchard, and result in the provision of 6.62ha of publicly accessible good quality open space in Hurst. Significant investment will also be made into sustainable transport in and around the site. Albeit, the investment was to a lesser extent, the appeal scheme at School Road, Hurst provided upgraded bus stops and various open space facilities and were given moderate weight by the Inspector¹⁴ **(CD7.5)**, which I agree with.

¹²Appeal Ref: APP/X0360/W/24/3350170, Paragraph 64, David Wilson Homes Southern Ltd Vs Wokingham Borough Council

¹³ Appeal Ref: APP/X0360/W/24/3350170, Paragraph 63, David Wilson Homes Southern Ltd Vs Wokingham Borough Council

¹⁴ Appeal Ref: APP/X0360/W/24/3342812, Paragraph 88, Ms Penelope Clayden and Helmsley Land Ltd Vs Wokingham Borough Council

10. Planning Balance

- 10.1. As detailed in the preceding chapters, it is my view that the Appeal Scheme is, and must be, considered to be sustainable development.
- 10.2. With regards to the harms and benefits of the Appeal proposal I have applied the following semantic scale – None, Limited, Moderate, Significant, Very Significant.
- 10.3. In terms of my planning balance and exercise of judgement, associate the following weight:

Table 10.1

Harm	Weight Afforded
Conflict with Development Plan (as a whole), spatial strategy and scale and location of the development	Limited
Conflict with the Spatial Strategy of Emerging Local Plan	Very Limited
Landscape and Character of the Area	Moderate
Loss of BMV	Limited
Benefits	
The provision of much needed affordable housing, totalling 50% of the units;	Very Significant
The delivery of 99 much needed, high quality, family sized homes;	Significant
Delivery of a critical cycle connection to Twyford Railway Station (in line with the WBC LCWIP Proposals)	Significant
Improvements to pedestrian infrastructure throughout Hurst (Lodge Road, Broadwater Lane and Tape Lane) including the provision of new footways, widening of existing footways, improved crossing provision and traffic calming measures.	Moderate
Enhances the biodiversity of the site by 10%.	Limited
Economic benefits.	Moderate
Delivery of Bus Improvement Strategy.	Limited
Delivery of Accessible Open Space in an area of deficiency.	Moderate

- 10.4. It is my view that in light of the out-of-date Local Plan and the very low 1.7-year housing land supply position, it is evident that development for new homes will be required in areas that conflict with the adopted spatial strategy.
- 10.5. I note that the Emerging Local Plan does not make sufficient allowance for the required housing need for the next plan period. Whilst the weight to be afforded to the emerging local plan is discussed above, quite clearly it will be necessary for additional sites for development to come forward, and that it is highly probably they would be located on sites that are in conflict with it.
- 10.6. Where there is harm accepted, this is addressed and does not outweigh the benefits of the development, primarily the delivery of much needed homes, including an above policy level of affordable housing. The landscape harm has been addressed through

evidence of Ms Brockhurst, and the sustainability of the site has been addressed through the significant highways and transport deliverables, alongside the proposals, as is set out in the main by Mr Jenkins.

- 10.7. Given that the Council cannot demonstrate a five-year land supply, the presumption in favour of sustainable development, Paragraph 11d) of the NPPF is engaged.
- 10.8. I have set out that the development is sustainable development, and contributes positively to the economic, social and environmental objectives.
- 10.9. It is my view that there are no policies in the Framework that engage the first limb of Paragraph 11d), including Footnote 7.
- 10.10. With regards to the second limb, the harm that which I have identified which may arise from the development, will not in my opinion significantly and demonstrably outweigh the benefits (which are significant) that I have set out, when assessed against the policies in the Framework when taken as a whole.
- 10.11. I have had particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes.
- 10.12. At the time of preparing my Evidence the main matter of flooding is still being discussed by the parties and reviewed by the EA, so I have not had regard to this. This is a matter I will deal with in a Supplemental Proof.
- 10.13. I have also had regard to the situation where should the Inspector disagree with my view on Para 193c) and Footnote 70. In that scenario, I have set out the weight to be afforded to the harms, and if this were to be considered in the planning balance, for the reasons I have set out, I am of the view this would not change my overall conclusions.
- 10.14. It is my view that the appeal should be allowed, and permission should be granted.

11. Summary and Conclusions

- 11.1. This Proof of Evidence has been prepared by Stuart Slatter of Planning Potential on behalf of the appellant, Mactaggart and Mickel Strategic Land in response to the decision of WBC to refuse planning permission under delegated powers for an outline planning application for the development of up to 99 new homes, green infrastructure, open space, pedestrian and cycle links, recreational facilities and other associated infrastructure, and access points on Lodge Road and Tape Lane with required improvements.
- 11.2. At the time of writing, the main parties have entered into 2 Statements of Common Ground, dealing with Landscape and Planning related matters respectively. It is hoped that before the Inquiry, a third statement of common ground relating to Highways and Sustainability matters will be agreed and provided to the Inspector.
- 11.3. My Evidence addresses the development in light of the decision and in relation to planning policy. I have set out why I believe the application to be acceptable at a local and national level, in the context of the development plan and specifically, all other material considerations.
- 11.4. As set out in my Proof of Evidence, the tilted balance in Paragraph 11(d) of the NPPF is engaged for several reasons, including –
- WBC are only able to demonstrate a 1.7-year housing land supply.
 - The Development Framework is now out of date.
 - The Emerging Local Plan has been delayed, and concerns have been raised over the proposed housing delivery, which in any event would require an immediate review, if the Emerging Local Plan were to be found to be sound and adopted.
- 11.5. As a result of the tilted balance applying, my Evidence confirms why the appeal should be allowed and planning permission granted.
- 11.6. My Evidence primarily deals with Reason for Refusal 1, which states that the proposals result in an unsustainable pattern of development by reason of the creation of a new unplanned large housing estate on a greenfield site in the countryside outside of settlement limits and that it would be significantly out of scale with neighbouring small village of Hurst and the level of existing infrastructure within the village, whilst being contrary to the spatial objectives of the development plan.
- 11.7. However, my Evidence also addresses Reason for Refusal 2 and the loss of BMV land. With the housing pressures nationally and locally, it is unfortunately unavoidable to lose some BMV agricultural land. Given the unviability of the land to be brought back into agricultural use, and the most recent long-term use of the land for the grazing of animals, it is my view that the benefits of the housing delivery considerably and demonstrably outweigh this loss.
- 11.8. I have considered the appeal proposals in the context of delivering against the economic, social, and environmental objectives of Sustainable Development, which are set out at the heart of the NPPF. The appeal scheme will deliver against the objectives of the NPPF, whilst having only limited/modest harms.
- 11.9. On Issue 1: Whether the Development is Contrary to the Spatial Objectives of the Development Plan. I accept that there is conflict, and that harm arises, however, in the context of the material considerations (out of date policies, 5-year land supply, uncertainty over the emerging local plan, housing delivery, delivery of affordable housing, design and open space, I conclude that no harms will significantly and demonstrably outweigh the benefits.
- 11.10. On Issue 2: The effect on the Landscape Character and Appearance, I acknowledge the adverse landscape impacts of the proposed development upon landscape character, though they are neither excessive nor disproportionate, and would only amount to moderate harm when considered in the planning balance.
- 11.11. On Issue 3: Accessibility to Facilities and Services and whether the site is in a location that is unsustainable, or not, I am of the view that the site is in fact capable of being considered to be in a sustainable location, and with the benefits set out properly secured, should be considered beneficial, and carry moderate weight in favour. I attach significant weight to the delivery of the critical cycle connection to Twyford Railway Station (in line with the WBC LCWIP Proposals). However, I am of the view that the Bus Improvement Strategy, which would be available to new residents of the appeal only, should only be given limited weight as a benefit.
- 11.12. On Issue 4: Flood Risk, this matter is not assessed and I will cover this in a Supplemental Proof.

- 11.13. On Issue 5: The effect on Best and Most Versatile (BMV) Agricultural Land, given the significant and persistent housing shortfall within WBC, which has worsened considerably since the previous appeal, I give only limited weight to the harm the loss of BMV
- 11.14. On Issue 6: in relation to matters of biodiversity base line, this is now an agreed position between the parties, and not a matter for the Appeal Inspector. However, with regards to Ecology and Habitat matters, whilst I am of the view that no harms arise in respect of Irreplaceable Habitats, if this was wrong, I am of the view the harm that would then arise, are mitigated, not direct, and certainly not a strong reason for refusal.
- 11.15. On issue 7: The effect on infrastructure, public services, affordable housing, highway works, public transport, open space, etc (Section 106), the Appeal will be supported by a suitably worded S106 Obligation that will deal with these matters.
- 11.16. It is my view that, this level of development proposed can successfully deliver a range of benefits. The scheme will deliver a range of investment, creating public benefits which would not be possible if the scheme was any smaller.
- 11.17. It is considered that with the Council's out of date development framework and the significant shortfall in housing land supply (1.7 years), then as per paragraph 11d) of the NPPF, the tilted balance for the presumption in favour of sustainable development is applied.
- 11.18. Under this presumption, the impacts do not significantly and demonstrably outweigh the benefits of the proposed development when assessed against the policies in the NPPF as a whole – and as a result, represent sustainable development.
- 11.19. Therefore, the appeal should be allowed, and the development of this logical and sustainable site should be brought forward to allow for the delivery of significant and much needed housing, which include a significant provision of affordable housing, and a wide range of benefits to be delivered alongside the development.