

Land between Lodge Road and Tape Lane, Hurst

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

Appellants' Opening Statement

Introduction

1. The appeal is made by Mactaggart and Mikel Strategic Land ("Mac Mic") against the refusal by Wokingham Borough Council ("the Council") of its application for outline planning permission for up to 99 dwellings on Land between Lodge Road and Tape Lane in Hurst ("the Site" or "Appeal Site").

Background

2. Mac Mic previously applied for permission for approx. 200 dwellings on the Site which was refused by the Council and then dismissed on appeal in March 2023. Much is made of the 2023 appeal by the Council in its evidence but the only similarity the Appeal Scheme has to the earlier scheme is that it is for much needed housing.

The Site

3. The Appeal Site comprises 10.68ha of modified grassland between Lodge Road to the west and Tape Lane to the east in Hurst. It is predominantly used for grazing horses, ponies and donkeys. There are no public rights of way across the Site. Although outside the settlement boundary of Hurst, the Site is immediately adjacent to existing residential development on Tape Lane to the east and the rear gardens of existing dwellings on Martineau Lane to the south. There is further existing residential development to the north of the Site.

4. The Appeal Site is not in a conservation area and there are no listed buildings or other heritage assets on the Site. The closest listed buildings to the Site are circa. 60m away and screened from the Site by existing vegetation. There is no suggestion that the proposed development would cause any harm to the significance of any heritage asset.
5. Although the Appeal Site is designated in policy terms as being in the countryside (simply because it is outside Hurst's settlement boundary), it is not within any national landscape designation (such as a National Landscape) nor is it within any local landscape designation. And it is agreed that it is not a "valued landscape" within para. 187a) NPPF. It is further agreed that the Site's landscape value is moderate [**CD3.2**].

Hurst

6. Hurst, together with Whistley Green, wrap around the Appeal Site. Once a separate village, Whistley Green is effectively now part of Hurst. Hurst, as a settlement, dates back to 1220 AD. Originally a small collection of cottages built to house workers and other buildings connected by association, the village remained largely rural and dispersed until the second half of the 20th Century. Since then, there has been incremental growth with the development of semi-detached houses until the 1980's when development accelerated with the construction of housing estates on Barber Close and Martineau Lane and the infilling of land between Tape Lane and Lodge Road for more houses.
7. Further residential development and infilling have occurred at Dalby Lane, Orchard Chase and along School Road. Most recently, the former nursery at Whistley Green has been developed for housing, infilling land to the rear of properties facing Lodge Road and Broadwater Lane. The incremental growth of Hurst to form a collection of loosely dispersed housing developments means that there are very varied buildings and architectural styles, although in terms of their height most buildings are generally 2 storeys.

8. In addition to being only 2.4 km south of Twyford with its greater range of facilities and services (including Twyford Railway Station with its direct links to Central London and elsewhere), Hurst has a range of services and facilities itself. The village shop closed under the former owners but has or will be re-opened imminently. Out of all the Tier 3 settlements within the District, Hurst has the joint-highest ranking for key services and facilities; and Hurst provides a good range of local services/facilities within a walkable distance to meet many of the day-to-day needs of residents. Higher order settlements (e.g. Twyford, Winnersh, Wokingham and Reading) are all accessible by regular bus connections from Hurst.

Proposed Development

9. Of the proposed dwellings, 50% will be affordable. This is in excess of the 40% required by policy and will make a very real contribution towards the 352 affordable dwellings per annum required to be delivered and the shortfall of over 600 affordable homes. Circa. 600 households are on the Council's housing list as being in priority need. As the Conclusion in the Council's own Affordable Housing Topic Paper **[CD12.5]** notes:-

“7.2 The evidence presented shows that there are high levels of affordable housing need in Wokingham Borough. Despite consistent affordable housing delivery, and a pipeline of future affordable housing both on committed sites and those identified in the Proposed Submission Plan, affordable housing needs are unlikely to be achievable.

10. The three development parcels on the Site proposed for housing reflect the more recent residential development schemes in Hurst with two parcels in the north and one in the south separated by a Common which will be of benefit to the whole village. Further allotments and a community orchard are also to be provided. Of the 10.68 ha Site area, 3.98 ha will be built development with 6.79 ha of Green Infrastructure including the Common.

11. The sustainability of the proposed development, and Hurst more generally, will be substantially improved by the provision of a Mobility Hub and Car Club facility and new private bus service. A new cycle link to Twyford will help to deliver the Council's Active Travel Network and, in particular, deliver a key part of the Council's primary cycling and pedestrian network between Hurst and Twyford, in line with the Council's recently published Local Cycling and Walking Infrastructure Plan – [CD12.6, Appendices D1, D2, D3 & E].
12. Existing trees and hedgerows will be enhanced and the Scheme will deliver in excess of 10% bio-diversity net gain.

Housing Land Supply

13. The Statement of Common Ground [CD3.1] agrees that the Council's housing land supply is 1.7 years as at 31st March 2024. This was based on the Council's 5-Year Housing Land Supply Statement published in January 2025 [CD12.7]. The Council's most recently published 5 Year Housing Land Supply Statement published on 31st July 2025 identifies the current local housing need in Wokingham to be 1,382 dwellings per annum using the standard method and the total deliverable supply for the period 1st April 2025 to 31st March 2030 to be 2.5 years.
14. Even if the land supply has increased to 2.5 years there is a very substantial shortfall against the requirement to maintain a 5-year supply and the Council does not have any plan for how it proposes to address that substantial shortfall. Moreover, as the Council accepts, the consequence of not being able to demonstrate a 5-year supply is that the para. 11d) NPPF tilted balance applies and there is a presumption in favour of development.

Development Plan

15. The Council's Core Strategy was adopted in 2010 [CD12.1] and its Managing Development Delivery Plan in 2014 [CD12.2]. In accordance with fn 8 NPPF,

the Council's inability to demonstrate a 5-Year supply of housing land means that the policies which are most important for determining the application/appeal are deemed to be out-of-date.

16. The Council submitted a new draft Local Plan for examination in February 2025 [CD12.3]. However, little or no progress has been made with the draft plan. No examination hearings have been scheduled; and in April 2025 the Examination Inspectors issued their Initial Questions raising issues relating to, *inter alia*, the delivery of Loddon Garden Village, a strategic site intended to deliver approx. 3,930 dwellings but which is critically dependent on large infrastructure requirements including bridges over the M4 motorway and River Loddon. Given the stage it is at, only very limited weight at best can be given to the draft plan.
17. Importantly, the new plan sets a housing need of 751 dwellings per annum, just over 50% of the Council's local housing need calculated using the standard method (1,382 dpa). Thus, even if the emerging plan is found sound and adopted, it will not meet the Council's housing need and the Council will have to start work immediately on a further new plan – see para, 236 NPPF.

Issues

18. It was anticipated that the issues arising from the Council's 11 reasons for refusal would be narrowed more than they have been. As things stand, the issues are:-
 - (1) the location of development in relation to the spatial strategy of the Local Plan, including scale and location of development;
 - (2) the effect on landscape character and appearance;
 - (3) accessibility to facilities and services;
 - (4) flood risk;
 - (5) the effect on best and most versatile agricultural land;
 - (6) the effect on ecology and biodiversity; and

- (7) the effect on infrastructure and public services, including vocational initiatives, affordable housing, highway works, provision of open space, and sport and recreational facilities.

Issue (1) - location and scale of development

19. Hurst is identified by CP9 as being a 'Limited Development Location' where new houses, albeit smaller in number than the proposed development, is acceptable in principle. Further, this issue has to be seen in the context of the most relevant policies (CP9 & CP11 of the Core Strategy and CC02 of the Development Management Delivery Document) all being agreed to be out of date. Moreover, the fact is that to get anywhere near meeting its housing needs development will have to take place outside of the existing settlement boundaries. Thus, any conflict with policies restricting development outside of settlement boundaries set in 2010 should be given limited weight.
20. So far as scale is concerned, the three development parcels reflect the scale of the more recent housing developments that have occurred in Hurst. Although planning permission is sought in outline only (except for the proposed access onto Lodge Road), the Parameter Plan [CD1.4] restricts the height of the proposed dwellings to up to two storeys to reflect the prevailing height of existing dwellings in Hurst. The density of the proposed houses at around 25 dwellings per ha is also consistent with the existing density within Hurst.

Issue (2) - The effect on landscape character and appearance

21. There is no dispute as regards the methodology applied in the Landscape and Visual Impact Assessment prepared by the Appellants; the issues between the parties relate to the judgments reached by the Appellants and Council's landscape consultants respectively. However, the starting point is that the Appeal Site does not fall within any national or local landscape designation and

is not a valued landscape. It is ordinary landscape and is agreed that the Site is of moderate value.

22. Plainly, there will be some landscape and visual impacts but these are largely constrained to the Site itself and the boundaries of the Site. They are not sufficient to demonstrably and significantly outweigh the substantial benefits of the proposed development.

Issue (3) - Accessibility to facilities and services

23. This is touched upon above. The fact that Hurst is identified as a location for limited development is indicative that it has already a degree of sustainability. Additional residents from the proposed development using local services and facilities will help to enhance and maintain the vitality of the village making it more sustainable. Conservative estimates put increased local spend from additional residents in the range of circa £200,000 - £300,000 [CD5.1, App. 4].
24. The proposed improvements for cyclists and pedestrians in a manner which the Council seeks to encourage through its recently published Local Cycling and Walking Infrastructure Plan [CD12.6] would make Hurst more sustainable still, as would the proposals to provide a private bus service in addition to the existing bus service and proposed Mobility/Car Club hub. All these measures help to provide new and/or existing residents with a genuine choice of transport modes – see para. 110 NPPF – and should be encouraged not criticised.
25. The Appellants have examined with great care how the existing 128/129 bus services from/to Hurst can be improved and concluded that the provision of a bespoke private bus serving Twyford Railway Station, Twyford Town Centre and Piggott Secondary School to supplement the existing 128/129 bus is preferable and can be delivered for a period of 14/15 years with the option for the Council to draw on the ring-fenced funds to improve the existing 128/129

service. This further enhances the sustainability of the proposed development and the Site.

Issue (4) - Flood risk

26. The issue of flood risk and the sequential test only recently arose following the publication by the EA of revised flood maps in March 2025. This has resulted in two streams of work being undertaken by the Appellants, namely a hydraulic model and undertaking a borough wide search for reasonably available alternative sites that are sequentially preferable to the Appeal Site.
27. From an initial 420 sites across the borough, the Appellants' Sequential Test [CD9.20] has identified 35 sites that are reasonably available for the proposed development in areas with a lower risk of flooding and are, therefore, sequentially preferable in flooding terms. Thus, the Sequential Test has been failed. However, the requirement to undertake (and pass) the sequential test is a policy requirement and failing the sequential test is only a material consideration. It is not fatal to the appeal and does not mean that planning permission should be refused. Moreover, of these sequentially preferable sites, only 17 are deliverable. Even if all 17 sites were developed, they would not address the Council's unmet need or housing shortfall. This reduces the weight to be given to the policy breach – see *Mead Realisations* [CD9.21].
28. Three recent Appeal Decisions¹ demonstrate the need to look at whether there is “real world” harm arising from failing to undertake a sequential test, or undertaking a sequential test but failing it. In all three recent cases, the risk of flooding was capable of being mitigated such that the developments could be made safe for their lifetimes and not increase the risk of flooding off site. Therefore, although there was a policy breach there was no real-world harm - so in this case. Any risk from fluvial flooding in a design flood has been

¹ [CD9.22], [CD9.23] and [CD9.24].

eliminated by moving any dwellings out of the flood zone with only internal access roads affected in a way that poses no risk to residents. The surface water flooding (caused by localised ponding on the Site in heavy rain) can be mitigated by the proposed drainage scheme.

29. As regards the hydraulic modelling, there are four outstanding issues following the EA's 2nd review. One relating to the roughness of the existing culvert pipe is a misunderstanding by the EA. The other three issues relate to the hydrology inputs into the model. Correcting these and re-running the model shows that there is no material increase in the fluvial flood risk.

Issue (5) - The effect on best and most versatile agricultural land

30. The issue is not what grade or how much agricultural land will be lost. 5.6 ha or 52% of the Site is Grade 3a (i.e. best and most versatile) with the rest of the Site Grade 3b or below. Of the Grade 3a land, 2.4ha will be lost to development. Whilst a material consideration to be weighed in the planning balance, the loss of best and most versatile land is limited - not least because there is no likelihood of the Site being used again for agricultural purposes having been grazed by horses, ponies and donkeys for many years.

Issue (6) - The effect on ecology and biodiversity

31. The Council confirmed on 14th July 2025 that the BNG baseline had been agreed and that Reason for Refusal 6 has fallen away. Thus, the remaining issues relate to Reason for Refusal 7 and are (1) whether two oak trees felled by the land-owner in 2021 should be classified as veteran trees for the purposes of para. 193 NPPF; and (2) what harm, if any, would be caused to ecology by not de-culverting (wholly or partially) the Hatchgate Ditches within the Appellants' control.
32. As to the two oak trees, they do not meet the definition of a veteran tree in the NPPF Glossary because they were not of sufficient age or size and para. 193(c)

NPPF does not apply. Nor are they likely to have met the less restrictive definition in the BNG Regulations. However, for the purposes of calculating the BNG base line and as a precaution, the two trees have been included by the Appellants in the BNG baseline metric. Including the oak trees in the baseline still results in the net gain exceeding 10%. Further, a Tree Assessment and Compensation Strategy [CD11.3] has been agreed with the Council.

33. As to the EA's objection based on not de-culverting the Hatchgate Ditches, the objection appears to be the EA's alone and not supported by the Council. There is no national or local policy requirement to remove existing culverts and the only policy support the EA is able to rely on, if any, is its own internal guidance. Not de-culverting the Ditches does not cause any ecological harm and the EA has not advanced a case that harm is caused. Its position appears to be that it would be better to de-culvert the Ditches.

Issue (7) - The effect on infrastructure and public services etc

34. These issues are all addressed by the draft agreed s.106 agreement. The only disagreements between the Appellants and the Council relate to the necessity of the Travel Plan and Car Club, the principle of the Bus Improvement Strategy, the Bus Improvement Contribution, the suitability of the Management Company delivering the Bus Improvement Strategy and the proposed Strategic Cycle Route Highway Works.

Dated 12th August 2025

John Litton KC

Nick Grant

Landmark Chambers