

**APPEAL BY MACTAGGART AND MICKEL STRATEGIC
LAND**

APP/X0360/W/25/3364304

LAND BETWEEN LODGE ROAD AND TAPE LANE, HURST

**LOCAL PLANNING AUTHORITY'S
OPENING SUBMISSIONS**

Introduction

1. This inquiry will consider an appeal by Mactaggart and Mickel Strategic Land ("the Appellant") against the refusal of planning permission for the following development:

Up to 99 no. dwellings, 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

on land between Lodge Road and Tape Lane ("the Appeal Site").

2. In summary, the Council's case on each of the main issues identified by the Inspector is as follows:

(a) The location of the development in relation to the spatial strategy of the Local Plan, including scale and location of development

The proposed development is in clear conflict with both the current and emerging spatial strategies of the development plan, being located outside of the settlement boundary of Hurst and of a scale far in excess of that planned for the village which is – and will remain – in the lowest tier of the Borough's settlement hierarchy. The access and development parameters for which approval is sought at this outline stage represent a poor-quality design out of keeping with the prevailing settlement pattern of Hurst.

(b) The effect on landscape character and appearance

The proposed development will result in lasting and unacceptable harm to the landscape and visual amenity of the area by urbanising the village's rural setting.

(c) Accessibility to facilities and services

The Appeal Site is not a sustainable location for development of the scale proposed. The findings of the Inspector for the previous appeal relating to the Appeal Site (dismissed in 2023) remain valid, even with the additional measures now proposed by the Appellant: the range of everyday facilities and services available in Hurst is limited and sustainable transport modes to higher order settlements do not provide a genuine alternative to the use of the private car.

(d) Flood risk

As of the opening of this inquiry, the Appellant has been unable to resolve the Environment Agency's objection that the Flood Risk Assessment is inadequate, even with the submission of a further revision of (Rev 5) supported by updated hydraulic modelling and hydrological analysis. Without an adequate flood risk assessment, the Appellant cannot satisfy the requirements of paragraph 181 of the NPPF.

In addition, it is now common ground that the sequential test is both required and that the proposed development fails the sequential test. In these circumstances, the proposed development is contrary to paragraph 174 of the NPPF which states unequivocally that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. This (along with the real-world impacts of significant areas of the development parameters being affected by fluvial and pluvial flooding) provides a "strong reason" for refusing planning permission and disapplies the "tilted balance" that would otherwise be required due to the agreed shortfall in the Council's housing land supply.

(e) The effect on best and most versatile agricultural land

It is common ground that the proposed development would result in the loss of permanent loss of best and most versatile agricultural land.

(f) The effect on ecology and biodiversity

It is now agreed that the proposed development is capable of achieving the statutory requirement for a 10% biodiversity net gain. There are two outstanding areas of dispute as to which the Council's position is as follows. First, the existing culvert of the Hatchgate Ditches should be removed and an open watercourse reinstated. Second, there has been

deliberate felling of two trees that were potentially of veteran status and therefore “irreplaceable habitat” has been lost as a result of the proposed development. The loss of this irreplaceable habitat, without exceptional circumstances capable of justifying the grant of permission, provides a strong reason for refusal and also disapplies the tilted balance.

(g) The effect on infrastructure and public services, including vocational initiatives, affordable housing, highway works, provision of open space and sport and recreational facilities

The Council’s sixth, seventh and eighth reasons for refusal have now been resolved by the planning obligations agreed in the draft section 106 agreement.

3. Overall the Council submits that the proposed development is in conflict with the development plan and, applying the ordinary planning balance, there are no material considerations of sufficient weight to justify granting planning permission for it despite that conflict. Therefore this appeal should be dismissed.

List of appearances

4. The Council will call the following witnesses:
 - (a) Stuart Ryder BA (Hons) CMLI, Director, Ryder Landscape Consultants (dealing with landscape and visual matters);
 - (b) Grace Blizzard MSc, MCIHT, CMILT, Associate, WSP (dealing with accessibility);
 - (c) Dr Joanna Marchant BSc (Hons), PhD, Flood Risk and Coastal Risk Advisor, Environment Agency (dealing with flooding);
 - (d) Lesley Sproat, BSc, MSc, MCIEEM, Biodiversity Officer, Environment Agency (dealing with ecology matters relating to Hatchgate Ditches only);
 - (e) Mark Croucher BA (Hons), MSc, Principal Planning Officer Team Leader, Wokingham Borough Council (dealing with design and planning matters).

Matt Lewin
Cornerstone Barristers

12 August 2025