

PLANNING APPEAL STATEMENT

Application Number: 260200

**Site Address: Brookfield Farm, Old Wokingham Road,
Crowthorne, Berkshire, RG40 3BU**

**Proposal: Permission in principle application for the proposed
erection of up to 9no. dwellings.**

Introduction, the site and context:

This appeal statement sets out the general grounds in favour of the proposed development. The content of the detailed Planning, Design and Access statement, policy analysis and submitted plans setting out the proposal and context are included with the appeal and it is not necessary to excessively repeat the points made within the appeal statement.

The appeal is advanced on grounds that planning permission should be granted.

Any **Traffic light underlining** and bold typeface throughout have been added for emphasis where applicable with relevance to the appeal proposal. The reasons for refusal are reproduced below and addressed within the main body of this appeal statement.

Reasons for Refusal

1. The site is **not sustainable in transport terms** with regards to its location and access to day-to-day services and facilities. Future residents of the development would also not have access to a good standard of bus service **and would have an attractive walking or cycling routes/ environments when outside the site.** The proposal will therefore result in high dependence on private vehicle use and represents an unsustainable development, contrary to policies CP1, CP3 and CP6 of the Core Strategy and policy CC01 paragraphs 110 and 115 of the NPPF.
2. The proposal represents **inappropriate development within designated countryside.** By virtue of the amount of development proposed the development would fail to integrate with the rural pattern of development along Old Wokingham Road and would **harm the character and appearance of the surrounding countryside.** The proposal is therefore contrary to policies CP1, CP3, CP9 and CP11 of the Core Strategy, policies CC01 and TB21 of the MDD, the Borough Design Guide and the NPPF.
3. The applicant has **failed to undertake the Sequential Test**, therefore, it has not been demonstrated that there are no reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding (paragraph 174 of the NPPF). The proposal therefore fails to adopt a sequential, risk based approach to flood risk, contrary to Section 14 of the National Planning Policy Framework (2024)

and policies CC09 and CC10 of the Managing Development Delivery Local Plan (2014).

4. The application site lies within Flood Zone 2 and within an area at risk from flooding **from groundwater and surface water**. As no site- specific Flood Risk Assessment has been produced, it has not been demonstrated that the proposal would not increase flood risk elsewhere and that the development would be safe for its lifetime. The proposal therefore fails to adopt a risk based approach to flood risk, contrary to Section 14 of the National Planning Policy Framework (2024) and policies CC09 and CC10 of the Managing Development Delivery Local Plan (2014).

5. In accordance with Article 5B of the Town and Country Planning (Permission in Principle) Order 2017 (as amended) and the National Planning Policy Guidance, Permission in Principle must not be granted for development which constitutes 'habitats development'. The application site lies approximately 1.7km from the Thames Basin Heaths Special Protection Area (SPA), which is a qualifying European site. In the absence of any **mechanism at the permission in principle stage to secure the avoidance and mitigation measures required to ensure that the development would not have an adverse effect on the integrity of the SPA**, the proposal is classed as habitats development and cannot lawfully be approved. Consequently, the LPA is unable to conclude as required by Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) and Article 6(3) of Directive 92/43/EEC, that the development would not harm the Thames Basin Heaths SPA. The proposal is therefore contrary to Policy NRM6 of the South East Plan, Policies CP8 and CP4 of the Wokingham Borough Core Strategy.

Appeal rebuttal

In addressing the reasons for refusal, it is germane to highlight and acknowledge that there is much common ground with the Council in respect of what is proposed. As can be seen in terms of planning balance and **real-world common-sense planning** there is very little between the parties and there remains little to be gained through the refusal, and it is not considered that the matters are insurmountable.

Clearly to **substantially boost housing** in areas of acknowledged unmet housing need tough decisions and compromises need to be made. **The Council's spatial policies have failed.** Consistent with the many allowed appeal decisions that were referenced in the Planning statement development has to be permitted outside the settlement boundary to meet the need for housing.

RFR 1. Alleged unsustainable location in the countryside, outside of a defined built-up area boundary

As planning consultants, we regularly obtain Permissions in Principle permissions for sites outside the settlement boundaries in Council's that have unmet housing land supply.

It is common ground with the Council that:

- the Council's Housing supply policies have all failed and or are out of date – hence the substantial unmet need for housing. The current land supply stands at only 2.5 years.

Five-Year Land Supply Position at 31 March 2025

At 31 March 2025, the council can demonstrate a 2.5 year deliverable housing land supply against the LHN of 1,316 with the total number of dwellings deemed deliverable in the 5-year period being 3,414.

Housing land supply at 31 March 2025	
Housing need at 1,316 homes per annum 01/04/2025 – 31/03/2030	6,580
Housing need plus 5% buffer for period 01/04/2025 – 31/03/2030	6,909
Annual rate for 5 years plus 5% buffer	1,382
Total deliverable housing supply for period ³ 01/04/2025 – 31/03/2030	3,414
Total deliverable housing supply in years for period 01/04/2025 – 31/03/2030	2.5 years

Irrespective of whether the site is countryside or grey belt (the former is applicable in this instance) the sole factor turns on location sustainability and a rational approach to whether the Council will be able to 'significantly boost' housing supply in accordance with the NPPF requirement.

Allowed Appeal Ref: APP/M3645/W/24/3352066 **decision date 09 MAY 2025** at Perrysfield Farm, Gibbs Brook Lane, Broadham Green, Oxted, Surrey RH8 9PG for the erection of 29 dwellings (including 10 affordable and 10 homes for active older persons) through conversions, demolition and erection of dwellings, plus associated parking, drainage infrastructure, access improvements, new footpath, landscaping and associated works - is included as a background document and relevant material consideration in terms of planning balance and real-world common-sense planning

COMMENT – In that instance the County highway authority objected to the Perrysfield Farm application on the same basis and site location unsustainability was a reason for refusal.

The APP/M3645/W/24/3352066 appeal Inspector concluded, in paragraph 85: "...it is very likely that most of the trips to and from the site would be undertaken by car." Nevertheless, he went on to conclude in paragraphs 86-87: *"I am also conscious when considering the suitability of a site from a transport sustainability perspective that the Framework advice is that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making..."* Also, by way of background, the Council is unable to demonstrate a Framework compliant supply of housing land **and this will probably necessitate in the future the exploring of some sites to meet the housing need that require some compromises in terms of sustainable transport options,** especially in a Council area that is predominantly rural."

COMMENT - Such a pragmatic approach is one that can be analogously adopted in this instance. The Council have provided no cogent evidence to the contrary; they simply can't keep saying that the increasing number of allowed decisions are rogue; at some point they need to accept the realisation that without tough choices being made there is no prospect of housing need being met in the short term let alone housing being significantly boosted.

Aside from the decision notice that has been published, frustratingly no officer report is available. The absence of an officer report denies the appellant to see whether a planning balance exercise has been carried out.

COMMENT - A Comparative sustainability report was submitted with the application. Obviously the acknowledgement of nearby bus stops creates an alternative to the car. Whilst there are only pavements for some of the distance to the bus stop it is clear that the verges are wide and regularly walked along.

Finally any car driving distances to facilities **will be short**. Given that the road is straight and flat – cycling or e-bikes area a realistic alternative.

RFR 2. Allegation that the site is inappropriate development within designated countryside and would harm the character and appearance of the surrounding countryside.

The site is simply countryside; it is not AONB, National Park or any other designations. The refusal states, “By virtue of the amount of development proposed the development would fail to integrate with the rural pattern of development along Old Wokingham Road”.

COMMENT – concern is expressed that a cogent Planning Balance exercise has not been undertaken. The proposed development is up to 9 houses. By definition this tests the acceptability of 1 house, 2 houses or any number up to 9. **It seems clear that no consideration has been given to whether a lesser number would integrate with the rural pattern of development along Old Wokingham Road.**

The Inspector will note on their site visit that the pattern of development along Old Wokingham Road **is mixed** with a range of commercial and residential development and dwelling types and sizes including the large Easthampstead Mobile Home Park Housing complex a short distance to the south.



COMMENT – To allow for negotiation this is purposefully why the application was described as ‘Up to 9 dwellings’. Our view is that 9 houses would comfortably fit on the site and be consistent with the requirements to make efficient use of land. In simple terms the greater number of houses permitted can be given greater weight towards the substantial unmet need for housing; currently around a dire 2.5 year Housing Land supply.

Notwithstanding the applicant is agreeable a lesser quantum. **What they need is the Inspector giving them a steer as to what quantum would be acceptable.**

The National Planning Policy Framework NPPF which postdates the Council's policies, recognises that:

Local planning authorities should consider using design codes where they could help deliver high quality outcomes. However, design policies should avoid unnecessary prescription or detail and should concentrate on guiding the overall scale, density, massing, height, landscape, layout, materials and access of new development in relation to neighbouring buildings and the local area more generally.

COMMENT - The relationship of the proposed development, to its neighbours and to the character and appearance of the area will not be materially different to the status quo and as such cannot therefore be said to have a materially or significant detrimental effect on the area.

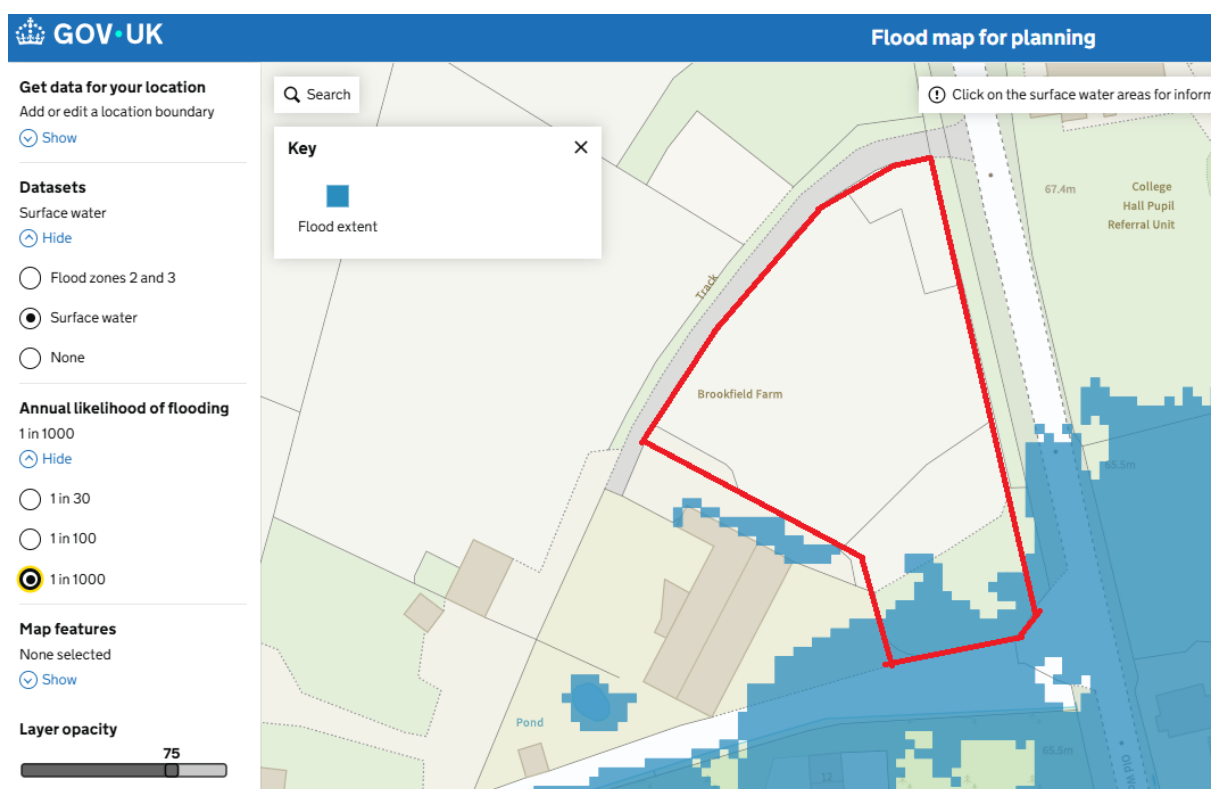
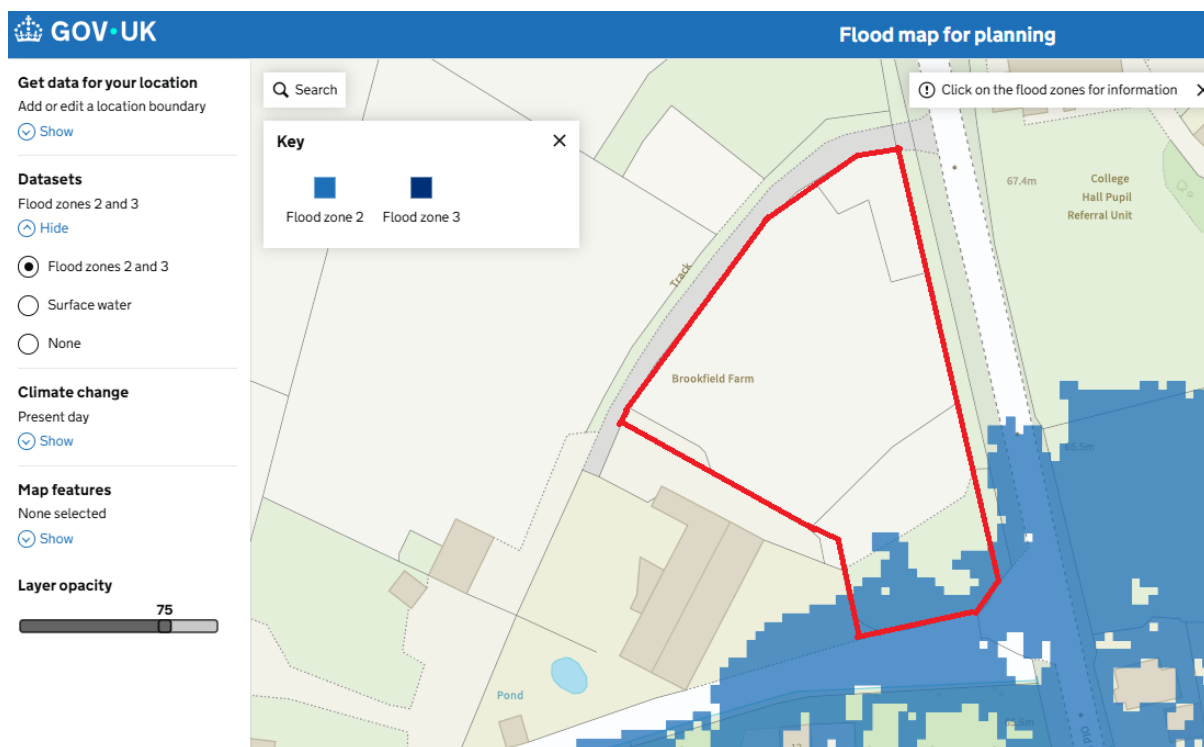
Notwithstanding, even if marginal harm is created there is no significant impact. It is further advanced in this instance *that any marginal impacts of permitting the development would not significantly and demonstrably outweigh the benefits.* The appellant's primary case is that by the imposition of suitable conditions, the proposal can be made acceptable.

RFR 3 and 4. Alleged failure to undertake the Sequential Test on the basis that the site lies within Flood Zone 2 and within an area at risk from flooding from groundwater and surface water

The red line application has been superimposed on the extracts the Flood and surface water maps below.

It is obvious that 7 out of the 9 houses proposed lies wholly outside any area of flood or surface water.

This is further indication that the Council has given no consideration of a lesser number of dwellings.



Government guidance confirms that a development is exempt from the sequential test if it is:

- a small non-domestic extensions with a footprint of less than 250 square metres
- solely at risk from surface water flooding and a site-specific FRA demonstrates it will be safe throughout its lifetime, without increasing flood risk elsewhere – this exemption does not apply to sources of flooding other than surface water

COMMENT – It is clear from the above maps that the only source of flooding is from surface water. The surface water map extract used is the worst case – the 1 in 1000 year scenario.

The extent of the site affected by surface water is less than 250 square metres.

Notwithstanding the clear unmet need for housing as a pragmatic exercise as part of the appeal process the Council's website was scrutinised for other alternative sites for housing in a lesser flood zone. The exercise could not find any suitable alternative sites that are available now.

If the Council are able to highlight any sites that they consider would be sequentially preferable the appellant is keen to analyse them.

RFR 5. Absence of mechanism to secure the avoidance and mitigation measures required to ensure that the development would not have an adverse effect on the integrity of the SPA

The appellant is aware of the need to make contributions towards sites of alternative natural greenspace (SANG) and is fully agreeable to making them.

What they need is the Inspector giving them a steer as to what quantum would be acceptable. This would then inform what payment level is required as part of the subsequent Technical details application.

Conclusion / general appeal points

The proposed development suitably considers Local and National planning policies and guidance and creates a positive planning balance.

The National Planning Policy Framework requires Council's to take a positive and proactive approach to development proposals focused on looking for solutions and to work with applicants in a positive and proactive manner.

The proposed development is sustainable development and accords with the NPPF guidance which acknowledges *“that sustainable development is about positive growth – making economic, environmental and social progress for this and future generations”*.

The NPPF outlines the wider dimensions of sustainable development and the presumption in favour of sustainable development. It is strongly advanced that the proposed development meets each of these dimensions and that the starting point for consideration for the appeal is that in relation to the specifics of the proposal is that the development is sustainable in **both** the narrow and wider sense.

The proposed development would create substantial sustainable economic benefits. The Country has a severe housing shortage. The proposed development would create building jobs for trades with multiplier effect spending for builders merchants and additional income for local businesses by virtue of the trickle-down effect from new occupiers. **Permission for housing would contribute to getting Britain building.**

Whilst each proposal is to be considered on its own merits it is also important for there to be consistency in planning. In this regard it is clear that other examples of where this approach has been accepted within the Council's administrative area include a recent appeal decision wherein the Inspector correctly acknowledges that in terms of planning balance, “Whilst the proposal would conflict with some of the wording of the above policy, it would not be contrary to its underlying objectives”.

It is forcefully advanced and readily acknowledged that the application sufficiently complies with the effect and spirit of the Council's own policies. Given the subordinate in-keeping design of the proposal, and the nature of development in the surrounding area, the proposed extension will not have a materially adverse impact on the character of the area.

The proposed development has been given consideration so as to be sympathetic to and harmonious with local characteristics and to demonstrate that it contributes to and does not materially harm the character of such areas.

The analysis of the local context confirms that the design of the proposed development has considered and responded positively to the prevailing characteristics.

The proposed development is set back from the general street scene and by mature boundary planting. The proposed development will remain screened and filtered by the landscaping around the boundary. The applicants are happy to accept conditions to maintain and improve this effect.

The proposed development is designed to simple and sound architectural principles - this can be further controlled by conditions including materials etc.

The relationship of the proposed development to its neighbours and to the character and appearance of its setting will not be materially different to the current established character. There is no particular rhythm or consistency with respect to the format of buildings in the area and would **not** harm the amenity of adjoining occupiers.

The location, scale and design of the proposed development is appropriate to the character and appearance of the surrounding area and reflects the pattern of development

The analysis of the local context confirms that the proposed development is considered and has responded to both the local and wider context.

A correct, considered and proportionate planning balance exercise in relation to the material considerations relating to the proposal, the need for the development and its context weigh in favour of approval. The basis for refusing the application is limited and cannot be substantiated.

- The Inspector is respectfully requested to grant the appeal subject to conditions.

COSTS CLAIM STATEMENT

Whilst we have not made a costs claim; it is open to the Inspector to decide on their own initiative whether.... the Councils actions **have acted wholly unreasonably**.

Paragraph: 029 Reference ID: 16-029-20140306

Who can apply for an award of costs and who can have costs awarded against them?

Local planning authorities, appellants and interested parties who have taken part in the process, including statutory consultees, may apply for costs, or have costs awarded against them. A party applying for costs may have costs awarded against them, if they themselves have behaved unreasonably.

An Inspector or the Secretary of State **may, on their own initiative, make an award of costs, in full or in part, in regard to appeals and other proceedings under the Planning Acts if they consider that a party has behaved unreasonably resulting in unnecessary expense and another party has not made an application for costs against that party.**

Revision date: 06 03 2014

The Council have:

- **Wholly misconstrued the proposal on the basis that the proposal allowed the latitude to discuss a lesser quantum of development.**
- **Failed to undertake a planning balance exercise (i.e. they have 'prevented and delayed development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations / failed to produce evidence to substantiate each reason for refusal on appeal and have acted contrary to, and followed, well-established case law**
- **Acted unreasonably and inconsistently by making vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis and contrary to both National guidance and their own adopted policies in relation to the self -explanatory highlighted text.**

The aim of the costs regime is to:

- encourage all those involved in the appeal process **to behave in a reasonable way and follow good practice**, both in terms of timeliness and in the presentation of full and detailed evidence to support their case
- encourage local planning authorities **to properly exercise their development management responsibilities, to rely only on reasons for refusal which stand up to scrutiny on the planning merits of the case, not to add to development costs through avoidable delay,**
- discourage unnecessary appeals by encouraging all parties to consider a revised planning application which meets reasonable local objections.

Revision date: 06 03 2014

Paragraph: 046 Reference ID: 16-046-20140306

When might an award of costs be made against a local planning authority?

Awards against a local planning authority may be either **procedural, relating to the appeal process or substantive, relating to the planning merits of the appeal.**

The examples below relate mainly to planning appeals and are not exhaustive. The Planning Inspectorate will take all evidence into account, alongside any extenuating circumstances.

Revision date: 06 03 2014

Paragraph: 049 Reference ID: 16-049-20140306

What type of behaviour may give rise to a substantive award against a local planning authority?

Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal, for example, by unreasonably refusing or failing to determine planning applications, or by unreasonably defending appeals. Examples of this include:

- **preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.**

- **failure to produce evidence to substantiate each reason for refusal on appeal**
- **vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.**
- refusing planning permission on a planning ground capable of being dealt with by conditions risks an award of costs, where it is concluded that suitable conditions would enable the proposed development to go ahead
- **acting contrary to, or not following, well-established case law**
- **not determining similar cases in a consistent manner**

(This list is not exhaustive).

Revision date: 06 03 2014

Paragraph: 031 Reference ID: 16-031-20140306

What does “unreasonable” mean?

The word “unreasonable” is used in its ordinary meaning, as established by the courts in *Manchester City Council v SSE & Mercury Communications Limited* [1988] JPL 774.

Unreasonable behaviour in the context of an application for an award of costs may be either:

- procedural – relating to the process; or
- substantive – relating to the issues arising from the merits of the appeal.

The Inspector has discretion when deciding an award, enabling extenuating circumstances to be taken into account.

That paragraph refers to Part B of the Circular, the most pertinent paragraph of which for present purposes is paragraph B16 which reads as follows:

“Authorities will be expected to produce evidence to show clearly why the development cannot be permitted. The planning authority’s decision notice should be carefully framed and should set out in full the reasons for refusal. Reasons should be complete, precise, specific and relevant to the application. **Planning authorities will be expected to produce evidence at appeal stage to substantiate each reason**

for refusal with reference to the development plan and all other material considerations including any relevant judicial authority. If they cannot do so, they risk a costs award against them for any unsubstantiated reason for refusal. This continues to be the ground on which costs are most commonly applied for and awarded against a planning authority. The key test will be whether evidence is produced on appeal which provides a **respectable basis for the authority's stance**, in the light of *R v SSE ex parte North Norfolk DC* 1994 [2 PLR 78].”