



## Appeal Decision

Inquiry held on 26-28 June and 2-3 July 2024

Site visit made on 26 June 2024

**by Guy Davies BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 19/07/2024**

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**Appeal Ref: APP/X0360/W/24/3340006**

**Land west of Trowes Lane and north of Charlton Lane, Swallowfield  
RG7 1RT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Croudace Homes Ltd against the decision of Wokingham Borough Council.
  - The application Ref is 230422.
  - The development proposed is the erection of 81 dwellings (including 40% affordable homes), open space, SuDS, landscaping, biodiversity enhancements, new vehicular access off Trowes Lane, pedestrian and cycle links, and associated infrastructure.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of 81 dwellings (including 40% affordable homes), open space, sustainable drainage system, landscaping, biodiversity enhancement, new vehicular access off Trowes Lane, pedestrian and cycle links, and associated infrastructure on land west of Trowes Lane and north of Charlton Lane, Swallowfield RG7 1RT in accordance with the terms of the application Ref 230422 and subject to the conditions set out in the attached schedule.

### Preliminary Matters

2. The description of development on the application form includes the words 'Full planning application' and 'on Land West of Trowes Lane and North of Charlton Lane, Swallowfield'. I have omitted them from the description in the banner heading above to avoid unnecessary repetition.
3. A bilateral legal undertaking has been submitted under Section 106 of the Town and Country Planning Act 1990. The Council is satisfied that the obligations contained in the undertaking address the matters raised in reasons for refusal 4-8 of its decision notice relating to the provision of affordable housing, mitigating harm to the Thames Basin Heaths Special Protection Area, providing contributions towards employment opportunities, sport and recreation, and highway matters. I consider the undertaking in more detail later in my decision.
4. Additional drawings have been submitted with the appeal amending the position of the play areas within the site, giving further details of the pedestrian access to Charlton Lane, and adding further landscaping on Trowes Lane and Charlton Lane. These additional drawings were the subject of publicity by the appellant and are accepted by the Council. They are relatively

minor changes and corrections to the plans on which the planning application was determined. I am satisfied that they do not prejudice the interests of any parties in this appeal and I have taken them into account in my decision.

5. The Wokingham Draft Local Plan was published under Regulation 18 of the Town and Country (Local Planning) (England) Regulations 2012 in February 2020. It has not yet progressed to Regulation 19 or independent examination and therefore I give it little weight in this appeal. I deal with its relevance in the calculation of the housing land requirement under main issues.

### **Main Issues**

6. Having regard to the matters addressed by the legal undertaking, I consider the main issues in this appeal are the effect of the development on:
  - The spatial objectives of the Local Plan as regards the location of new development
  - Landscape
  - Accessibility to facilities and services
  - Housing land requirement and supply
7. It is also necessary to consider other relevant matters including the benefits of the scheme, and how the main issues and other material considerations should be weighed together. I do this in the planning balance.

### **Reasons**

#### *Location of development*

8. The spatial strategy of the Wokingham Borough Core Strategy Development Plan Document adopted January 2010 (the Core Strategy) is to focus new development within strategic development locations and settlements that either have or are planned to have a significant range of facilities and services. The scale of development should reflect the existing or proposed levels of facilities and services available, with a hierarchy of settlements ranging from major through modest to limited development locations. Outside settlements only certain types of development are considered appropriate, primarily relating to agriculture, open recreation, burial grounds and the rural economy.
9. Swallowfield is recognised as a limited development location in Policy CP9 of the Core Strategy with its development limits defined by Policy CC02 of the Wokingham Borough Managing Development Delivery Document, adopted February 2014 (the Local Plan) and shown on the Policies Map. Policy CP17 of the Core Strategy allocates 100 dwellings across limited development locations, where sites should generally not exceed 25 dwellings each.
10. The appeal site lies outside the development limits of Swallowfield. The proposal does not fall into any of the categories of development included in Policy CP11 of the Core Strategy as being appropriate in the countryside. Even if it had fallen within the development limits of the village, at 81 dwellings it is of a scale of development that exceeds that envisaged for limited development locations.

11. The weight to be given to these policies are dependent on the degree to which they are consistent with the National Planning Policy Framework revised in December 2023 (the Framework), in particular the Framework's objective of significantly boosting the supply of homes. I address this weighting in the planning balance after having considered the issue of housing land requirement and housing land supply.
12. However, so far as these policies are relevant, I conclude that the appeal scheme conflicts with the spatial strategy of the development plan and runs counter to its approach to the location of new residential development. As a consequence, the proposal conflicts with Policies CP9, CP11 and CP17 of the Core Strategy and Policy CC02 of the Local Plan.
13. The Council's reason for refusal relating to this issue refers to other planning policies. Policies CP1 and CP3 of the Core Strategy are about sustainable development and general principles rather than development location and are of limited relevance to this particular issue. Policy CP6 of the Core Strategy on managing travel demand I look at in more detail under the issue of accessibility. Policy CC01 of the Local Plan reflects the presumption in favour of sustainable development which I consider in the planning balance. Policies CC03 and TB21 of the Local Plan relate primarily to landscape, which I address in the next section.

### *Landscape*

14. The site falls within the I2: Riseley Farmed Clay Lowland landscape character area as described in the Wokingham Borough Landscape Character Assessment 2019. The landscape is characterised by arable farming in large open fields bounded by hedgerows. Rural lanes are often narrow and lined with verges containing ditches and mature trees. There are occasional small blocks of woodland.
15. The settlement pattern consists of nucleated villages with a scatter of farmsteads. Swallowfield originated as a rural village centred on the crossing of The Street and Swallowfield Street. It expanded mainly during the 20<sup>th</sup> century to the west and south forming a compact settlement. The village is set back from the B3349 Basingstoke Road, surrounded by farm and park land.
16. Although the countryside around Swallowfield is not a 'valued' landscape in the sense used in paragraph 180 of the Framework, it retains a largely rural character and is recognised in the landscape character assessment as having valuable landscape attributes.
17. The appeal site exhibits many of the landscape features described in the landscape character appraisal. It currently forms an arable field on the southern edge of Swallowfield, surrounded by trees and woodland. Trowes Lane running along its eastern boundary is characteristic of the lanes in the area being narrow with verges and ditches either side, and lined with hedgerows containing mature trees. To the south a block of plantation woodland screens the arable field from Charlton Lane, other than for a limited view through a field access. Houses along its northern boundary, including a small estate currently under construction, form a boundary between the village and the countryside.

18. Development of the site with a housing estate would inevitably harm its contribution to the landscape by introducing built development on what is currently open agricultural land. The widening of the northern end of Trowes Lane and provision of footpaths to form the main access to the site would also erode its rural character. Some mitigation would be provided by setting the houses back from the eastern boundary with Trowes Lane, and tree planting and landscaping within the site, along the Trowes Lane boundary and around the Charlton Lane pedestrian access. Nevertheless, the presence of residential buildings would be apparent in views from Trowes Lane and from the permissive paths in the woodland, as would be the domestic activities and movement of vehicles that are inherent in a residential setting. The development would have the effect of extending the built form of the village further south into the countryside, and eroding the rural setting of Trowes Lane as it approaches the village.
19. Having said that, the effect on the landscape would be largely confined to the site itself and the section of Trowes Lane along its eastern boundary. The containment provided by the trees and hedges around the boundaries, and the block of woodland in the southern part of the site, would largely screen the development in views from the wider landscape. This includes views from Charlton Lane, where the view through the field access would be stopped by additional landscaping. The impact on the character and appearance of the countryside outside the immediate southern environs of the village would therefore be minimal.
20. The evidence presented to me on landscape impact was consistent in its assessment of character and visual effects, albeit with varying degrees of judgement on the scale of that impact. Once planting has matured, I consider that the effect of the development on the landscape would be moderately adverse in terms of its local impact, and at most slightly adverse in terms of its wider impact on the landscape. I conclude that the proposal would cause harm to the landscape and would therefore conflict with Policies CP1 and CP3 of the Core Strategy and Policies CC03 and TB21 of the Local Plan, which seek to retain or enhance the condition, character and features that contribute to the landscape, but only to the limited extent outlined above.
21. The Council's reason for refusal on the issue of landscaping includes further policies. While Policy CP11 of the Core Strategy and Policies CC01 and CC02 of the Local Plan do obliquely refer to countryside and landscape, their primary roles relate to the presumption in favour of sustainable development and the location of development outside settlement boundaries, which I address elsewhere in my decision. I consider they are of secondary importance to the issue of landscape.

#### *Accessibility to facilities and services*

22. Facilities and services available in Swallowfield include a public house, a church, a modern village hall, a recreation ground with play equipment, a small shop, and a general medical practice. As I found out at the inquiry, it has a thriving social scene with the hall in particular being used for a wide range of social activities. These facilities are within walking distance of the appeal site. Their presence supports the designation of Swallowfield as a limited development location in the Core Strategy, which is defined as being a

- settlement with a basic range of services and facilities and being physically and socially cohesive.
23. The village does not have a primary school, and a pre-school club held in the village hall has recently closed. While there are some employment opportunities in or around the edge of the village, it was acknowledged that most economically active villagers find employment elsewhere, unless they work from home. These needs, as well as access to higher order facilities and services such as secondary and post-16 education, larger convenience and comparison shopping, and leisure, require villagers to travel to centres some distance away.
  24. Public transport to other centres is limited. There is one bus route to Reading via Spencers Wood to the north, and to Riseley to the south, which operates Monday to Saturday but with a limited evening and no Sunday service. Cycling to the nearest centres is possible but is via well trafficked roads, and therefore not attractive for other than competent cyclists.
  25. The legal obligations linked to the appeal scheme would support improvements to footpaths and crossing points in the village, widen the footpath along the Basingstoke Road to Lambs Lane Primary School, upgrade local bus stops, provide a subsidy for the bus service, and encourage cycling, use of the bus service and car sharing as part of a travel plan initiative. While these improvements would help maximise the use of sustainable transport modes, given the limited availability and attractiveness of such options in Swallowfield it is likely that the majority of trips to facilities and services outside the village would still be undertaken using the private motor car.
  26. Policies CP1, CP3 and CP6 of the Core Strategy seek to locate new development where there is a choice in the mode of transport available and which minimise the need to travel. These aims are consistent with paragraph 109 of the Framework which requires significant development to be focused on locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes. I recognise that opportunities for sustainable travel will vary between urban and rural areas but given the scale of the proposed development, which exceeds that envisaged in Policy CP17 of the Core Strategy for limited development locations such as Swallowfield, it would inevitably generate a significant increase in trips by private motor car.
  27. Local residents are concerned about the capacity of local facilities and services to accommodate additional demand. The manager of the medical centre comments on the increasing pressure on medical services, although the centre remains open to new registrations. Access to education also clearly worries many villagers. The nearest primary school at Lambs Lane is at capacity, and children from the village have to attend a wide range of different schools in the area, in some cases considerable distances away, with the difficulties of travel and social cohesion that brings.
  28. While I understand the frustrations expressed about the capacity of local services, that is essentially a matter for the relevant service provider to resolve, including increasing capacity where needed to meet additional demand. In the case of primary education, the Council is seeking to build a new school that would free up space nearer Swallowfield, although that has been delayed because of the expansion of the detailed emergency planning

zone around the Atomic Weapons Establishment at Burghfield. Nevertheless, based on what I was told at the inquiry, the anticipated time scale for its provision would be broadly comparable to that for completion of the appeal scheme.

29. So far as the medical centre is concerned, it is large enough to cater for patients in Swallowfield but is under strain because it provides health services for patients well beyond the village. It is a matter for the Health Authority how best to cater for those demands, as new housing is built in the area. For those reasons, capacity concerns are not sufficient to prevent development on the appeal site.
30. The picture as regards the accessibility of the site to facilities and services is therefore a mixed one. I conclude that the proposal would conflict with Policies CP1, CP3 and CP6 of the Core Strategy because it would occupy a location that is not as accessible for a development of this scale as required by the spatial strategy, but that conflict is lessened because of the basic facilities and services that are available in the village, and because appropriate opportunities have been secured to promote the limited sustainable transport modes that are available. For those reasons, I give the conflict with the policies only moderate weight.
31. The Council's reason for refusal relating to the issue of accessibility refers to other policies than those identified above. Policy CP2 of the Core Strategy relates to accommodating the needs of specific groups. Policies CC01 and CC02 of the Local Plan relate to the presumption in favour of sustainable development and the application of development limits. None of those policies are directly relevant to this issue.

#### *Housing land requirement and supply*

32. Paragraphs 76-77 and 226 of the Framework establish how many years of housing land is required at any given time. Where a local planning authority has an emerging local plan that has reached either the Regulation 18 or Regulation 19 stage and includes both a policies map and proposed allocations towards meeting housing need, the requirement is to show 4 years' worth of housing land supply.
33. The Council published a draft local plan under Regulation 18 in February 2020, which contains both a policies map and housing land allocations. The appellant argues that given the length of time since its publication and the extent to which it is proposed to be revised, it should be disregarded. However, there is nothing in the Framework that suggests that should be the case. The circumstances of the plan also differ to those drawn to my attention in 2 appeal decisions<sup>1</sup>, one of which I determined. In those cases, the local planning authorities had effectively abandoned earlier draft plans and decided to begin the plan making process again. That is not the situation in Wokingham, where the Council has continued to develop its draft plan with revisions published in 2021. I therefore consider that the emerging plan does meet the requirements of paragraph 226 of the Framework, and for the purposes of this appeal the Council is required to demonstrate a 4-year housing land supply.

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<sup>1</sup> APP/D1265/W/23/3323727: Land between Sailsbury Street, Tanzey Lane and Sodom Lane, Marnhull, Dorset and APP/K2420/W/23/3330774: Land off Desford Lane, Ratby, Leicestershire

34. Because the development plan is more than 5 years old, calculation of housing land supply uses the methodology set out in the Planning Practice Guidance. The main parties are agreed that at present there is only 3.2 years' worth of housing land available. A revised affordability ratio was published in March 2024 that will affect the calculation to a small extent, but the Council is content to rely on the supply published in its current housing land supply statement until such time as the statement is updated.
35. The Council is therefore unable to demonstrate an adequate housing land supply position at present, with the extent of the shortfall being of the order of 0.8 years.
36. As the Council is unable to demonstrate an adequate housing land supply, footnote 8 of the Framework deems the policies which are most important for determining the application to be out-of-date. Where those policies are out-of-date, paragraph 11d) of the Framework says that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This is an important material consideration I consider in the planning balance.
37. The Council argues that the weight to be afforded to the shortfall in housing land supply should be tempered because of past over-delivery of housing. Paragraph 77 of the Framework indicates that past over-supply may be a relevant factor in calculating housing land supply, but notwithstanding what is said in that paragraph no methodology has yet been provided in national planning guidance for doing so. The main parties have offered me differing figures for over-supply based on methodologies of their own devising.
38. Measured against the housing targets in Policy CP17 of the Core Strategy, there has been an over-delivery of housing of some 16.9% over the plan period. Even when measured against the standard methodology, which produces the highest housing need figure, the last 5 years has seen delivery outstrip need by some 57%. An alternative approach put forward on behalf of the appellant using a different method of calculating housing need consistent with changes in national planning guidance over the plan period results in the over-delivery of housing being marginal. The Council considers this approach invalid as it double counts unmet need and under-supply.
39. Without an agreed methodology for factoring in over-supply in housing land supply calculations, it is difficult assign weight to this matter. Looking at the most recent housing delivery test for Wokingham, which at 205% is impressive, it is clear that recent housing delivery has been strong and has exceeded the minimum housing requirement by a considerable margin. However, it is equally clear from the shortfall in future housing land supply that such delivery will not be achieved over the next 4 years if the spatial strategy is applied rigidly. Since the requirement on local planning authorities to deliver housing is essentially forward facing, I give only limited weight to past over-supply.
40. Another matter that is disputed between the parties is whether past housing supply has been reliant on non-policy compliant schemes being either permitted or allowed on appeal outside development limits. There have been such schemes over the plan period. However, the majority of these are still within strategic development locations and were permitted by the Council

under a normal planning balance in order to help deliver highway infrastructure. I do not therefore consider that housing delivery has been reliant to any significant extent on non-policy compliant schemes.

### **Other Matters**

41. The site lies within the zone of influence of the Thames Basin Heaths Special Protection Area, which is noted as an internationally important habitat for rare bird species. I am required to undertake an appropriate assessment to determine if the proposed development could have a significant adverse effect on the special protection area, and if so whether that effect could be mitigated.
42. Increased recreational pressure arising from additional residents in the zone of influence could potentially have an adverse effect on the habitat, as some of the rare bird species it supports nest on the ground and could be disturbed by walkers or their dogs. To counter such potential harm local authorities, including Wokingham Borough Council, working in partnership with Natural England have devised a strategy to limit recreational pressure through a combination of providing alternative natural green space and managing access to the special protection area.
43. The development, through obligations contained in the legal undertaking, would provide financial contributions towards the provision of a strategic access management and monitoring scheme, and support the formation of an alternative natural green space at The Ridge which is being undertaken by the University of Reading. These measures would mitigate any additional recreational pressure arising from the appeal scheme. I am therefore satisfied that the development would not have an adverse effect on the integrity of the Thames Basin Heaths Special Protection Area. It would also comply with saved Policy NRM6 of the former South East Plan Regional Strategy and Policy CP8 of the Core Strategy.
44. I was told at the inquiry that there have been instances of foul sewer surcharging in the village. The reason is reportedly due to an excessive amount of surface water entering the foul sewerage system during times of heavy rain. The proposed development would have separate foul and surface water systems. While it would introduce an additional foul flow to the sewerage system, that would not include surface water and would not itself exacerbate matters during times of heavy rain. The onus lies with the drainage provider rather than the developer to resolve existing problems and where necessary increase capacity to accommodate demand. Therefore, where surcharging has happened, regrettable though it is, it does not amount to a reason to prevent the development taking place. I have imposed conditions allowing clarification and if necessary coordination between the development and any improvement works planned for the sewerage system.
45. Parts of the site has apparently been subject to seasonal waterlogging, although according to local knowledge this may be the result of lack of maintenance of the field drains. The proposal includes a sustainable drainage system that would provide a means of collecting and disposing of surface water to avoid such drainage problems affecting the proposed development. I consider that surface water drainage should not, therefore, be a limiting factor for development on the site.

46. Concern has been expressed about highway safety and congestion in the wider area, in particular accessing the primary road network at peak times. No objection has been raised by the Council as Highway Authority, and I see nothing in the scheme or proposed highway access works that lead me to reach a different view. The design and layout of surrounding roads, including the width of Trowes Lane, are not inherently unsafe or incapable of accommodating the additional vehicle movements associated with the scheme. So far as the wider road network is concerned, a development of the scale proposed would have little if any measurable effect on congestion, certainly on junctions as far away as those on the M4. The cumulative effect of new development on the road network is a matter for consideration as part of the existing and emerging local plans.
47. The 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. It is likely that similarly classified land in the borough will have to be released to meet housing demand.
48. Concern about harm to character, in terms of the increase in the number of houses and/or developed area compared to the existing or past size of the village, is more intangible. While increasing the number of people may make the village a somewhat busier place, which some might regret, it would also add to those participating in social activities and provide more custom for local businesses, such as the local shop, which would be of benefit to their continued operation, and therefore indirectly beneficial to all. The consequence of change to what may be described as the character of the village is therefore multifaceted, but in my view not intrinsically harmful.
49. My attention has been drawn to a wide range of appeal decisions. I have had regard to those decisions where applicable, in particular on an adjoining site<sup>2</sup>, elsewhere in Wokingham<sup>3</sup>, and in relation to housing land requirement and supply<sup>4</sup>. I have come to my own conclusions based on the evidence presented to me and the most recent version of the Framework.

### **Legal Undertaking**

50. The appeal is accompanied by a bilateral legal undertaking under section 106 of the Town and Country Planning Act 1990 that commits the developer of the site to several planning obligations.
51. Those obligations secure the provision of: 33 affordable dwellings in a range of agreed tenures; financial contributions towards the provision of allotments, off-site sports and recreation facilities, bus service provision, and the Thames Basin Heaths Special Protection Area strategic access, monitoring and management plan; an employment skills plan or contribution in lieu; highway works comprising construction of estate roads to adoptable standards, formation of new accesses, bus stop improvements, footpath widening on Trowes Lane, crossing points on The Street and Foxborough, and funding of

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<sup>2</sup> APP/X0360/W/17/3175817: Land to the west of Trowes Lane, Swallowfield

<sup>3</sup> APP/X0360/W/22/3309202: Land east of Lodge Road, Hurst

<sup>4</sup> APP/X0360/W/23/3331651: Land off Watmore Lane, Winnersh

footpath widening along Basingstoke Road from Swallowfield to Lambs Lane; establishment of a management company to maintain the woodland and any retained communal areas; a travel plan; transfer of open space and play areas to public ownership if agreed; and a contribution toward provision of suitable alternative natural green space at The Ridge.

52. The obligations are agreed by both main parties, and address reasons for refusal 4-8 on the Council's decision notice. Having regard to the submitted evidence contained in the Council's justification statement and the discussion that took place at the inquiry, I am satisfied that each obligation is necessary to make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and kind. The obligations therefore meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010, and I have taken them into account in reaching my decision.

### **Planning Balance**

53. I have found that the appeal proposal would conflict with the spatial strategy of the development plan as the site lies outside the settlement limits of Swallowfield and does not constitute development appropriate in a countryside location. Given the lack of housing land supply, application of that strategy needs to be applied in a flexible way to ensure that sufficient land for housing continues to come forward. However, even if the settlement limits around Swallowfield are applied flexibly to allow development on the edge of it, the scale of the proposed development is such as to conflict with the strategy for development in settlements of the size of Swallowfield. I give that conflict moderate weight.
54. I have found that the proposal would harm the character and appearance of the landscape, although that harm would be limited given the contained nature of the site. I have also found that accessibility to facilities and services is constrained and would generate a significant proportion of trips by motor car. I give moderate weight to that conflict.
55. Set against these conflicts are a number of benefits that would flow from the appeal scheme. The most important would be the provision of 81 new dwellings in a range of sizes. That would be of particular importance given the demand for housing in the area and the lack of available land on which to build new dwellings. Forty per cent of the dwellings would also be affordable housing tenures. I was presented with evidence at the inquiry which showed there to be a real problem of affordability in the area, with a persistent unmet demand from those unable to afford housing on the open market. The scheme would help to address that need. I give both these benefits substantial weight.
56. Other benefits would also accrue. There would be economic benefits arising in the short term from construction of the dwellings, and in the longer term from the spending power of future residents and their availability as part of the local workforce. The development would result in a biodiversity net gain on the site, greater than that required by policy. The same would apply to the construction of the buildings, which have been designed to mitigate carbon dioxide emissions in excess of that currently required by policy. The open space, woodland and play equipment on the site is intended primarily for the benefit of future residents but would also be open to other villagers to enjoy. I give these benefits limited weight.

57. My approach to balancing these competing factors must however rest on the presumption in favour of sustainable development contained in paragraph 11d) of the Framework, sometimes referred to as the 'tilted balance'. As the Council is unable to demonstrate an adequate housing land supply, national planning policy contained in that paragraph requires planning permission to be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits. I consider that the application of that national policy should be tempered to a limited extent because of recent past over-supply of housing and having regard to the size of the shortfall at 0.8 years. Nevertheless, the presumption remains and carries significant weight. The need to apply a presumption in favour of sustainable development is reinforced by Policy CC01 of the Local Plan.
58. I have concluded that there would be substantial benefits accruing from the scheme, in particular the provision of open market and affordable housing. Balanced against those benefits is the harm that would be caused to the strategy that directs where new development should be located, the landscape, and accessibility to facilities and services. However, in each case I have found that only moderate or limited weight should be given to that harm. It follows that the adverse impacts of the proposed development would not significantly and demonstrably outweigh the substantial benefits of the scheme. Accordingly, the Framework supports planning permission being granted.

### **Conditions**

59. I have considered the conditions suggested by the main parties, including additional and alternative conditions discussed at the inquiry, and imposed them where I consider they meet the tests set out in paragraph 56 of the Framework. I have made changes to the suggested wording where necessary in the interests of precision and enforceability. The conditions have been reordered in accordance with the advice in the Planning Practice Guidance. Conditions that are required to be discharged before development commences have been avoided where possible. Those pre-commencement conditions that remain have been agreed in writing by the appellant.
60. Conditions setting a time limit and identifying the approved plans are necessary for certainty. Pre-commencement conditions are necessary to agree and implement a construction method statement, exceedance flow routing, tree protection and archaeological investigation in the interests of the amenities of neighbouring and future residents, the natural environment and any remains of historic interest that might be found under the site.
61. Conditions that are required to be discharged before occupation of the development begins are necessary to agree external materials in the interests of the appearance of the site, construction of the highway accesses and provision and management of car and cycle parking in the interests of highway safety and to promote sustainable transport, provision and arrangements for maintenance of landscaping and surface water drainage in the interests of the appearance and operation of the development, the design of external lighting and means of enclosure in the interests of safety, amenity and wildlife, installation of energy saving measures in the interest of minimising carbon emissions, and the installation of refuse and recycling facilities in the interests of future occupants. I have combined conditions dealing with landscaping,

ecology and biodiversity net gain for simplicity and to avoid unnecessary repetition.

62. Other conditions are necessary to replace any trees, shrubs or hedges that are intended to remain but are removed or damaged in the interests of the appearance of the site, to control hours of construction in the interests of neighbouring occupants, to provide a framework for action in the unlikely event that contamination is found on the site in the interests of public health, and to clarify the position of the local area of play in the interests of certainty.
63. I have imposed 2 conditions having regard to the consultation response from Thames Water and in a modified form with the agreement of the main parties which deal with foul drainage and water supply, the first being a pre-commencement condition and the second a pre-occupation condition. These respond to concerns raised by local residents who have experienced deficiencies in the existing foul drainage system and water supply, and are concerned that the development might exacerbate those problems. While I understand the concerns, it is a matter for the utility provider rather than a developer to respond to existing problems in the sewerage and water networks and to provide additional capacity where required. The conditions are not intended to prevent the development being undertaken but to enable the Council to confirm that capacity is available in those systems or that suitable action is being taken by the utility provider to ensure that additional demand can be met.
64. I have not imposed a condition requiring approval and future maintenance of highway details as these are the subject of an obligation in the legal undertaking. I have not imposed a condition requiring the installation of electric vehicle charging points as this is now secured under the building regulations and to do so would result in unnecessary duplication of requirements. I have not imposed a condition requiring details of surface water drainage overflow as this is covered in the conditions on drainage management and drainage exceedance routing. I have not imposed a condition relating to noise as control over any such disturbance that might occur during the construction period is addressed by the construction and ecological management plan, and I see no need for noise controls over and above normal environmental health powers once the development is complete.
65. I have also not imposed conditions restricting how occupants could use their garages or make use of permitted development rights that allow for domestic extensions and associated works, including means of enclosure and paving. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. I do not consider that the arguments put forward by the Council clearly demonstrate that the circumstances of this development would be materially different to other housing estates where such rights apply.

## **Conclusion**

66. The development would conflict with policies relating to the location of new development, protection of the landscape, and accessibility to facilities and services. It would therefore conflict with the development plan when taken as a whole. However, the presumption in favour of sustainable development contained in paragraph 11d) of the Framework points towards planning permission being granted. In this case, I conclude that this significant material

consideration outweighs the conflict with the development plan, notwithstanding the scale of the current shortfall in housing land and past delivery of housing in the borough.

67. Consequently, I conclude that the appeal should be allowed.

*Guy Davies*

INSPECTOR

## Appearances

### For the appellant:

Andrew Tabachnik KC	Counsel
Clive Self Dip LA CMLI MA (Urb D)	Director, CSA Environmental
Tim Wall BA MA MCIHT CMILT	Partner, i-Transport LLP
Steven Brown BSc (Hons) DipTP MRTPI	Managing Director, Woolf Bond Planning Limited
Karen Charles BSc (Hons) DipTP MRTPI	Executive Director, Boyer

### For the Council:

Matthew Lewin	Counsel
Stuart Ryder BA (Hons) CMLI	Director, Ryder Landscape Consultants
Alan Lewis CEng FIHE CMILT	Highway Development Manager, Wokingham Borough Council
Ian Church BA (Hons) MA MRTPI	Local Plan Manager, Wokingham Borough Council
Laura Ashton BA (Hons) MSc MRTPI	Director, LAUK Planning

### Interested parties:

Ian Fullerton	Smallfield Community Action Group
John Anderson	Smallfield Parish Council
David Entwhistle	Resident
Richard Hale	Resident
Jeremy Bayliss	Resident
Philip Guard	Resident
David Edmunds	Ward Councillor
Colin Tweedale	Resident
Professor Richard Hoyle	Smallfield Community Action Group
Catherine Glover	Ward Councillor

For the round table sessions on conditions and legal undertaking:

Caroline Bailey	Group Legal Director, Croudace Homes Ltd
Mark Croucher	Development Management Team Leader, Wokingham Borough Council
Lyndsey Jennings	Solicitor, Wokingham Borough Council
Graham Stanley	Swallowfield Flood Resilience Group

## **Documents submitted at or after the inquiry**

- ID1 Appearances for appellant
- ID2 Note on public consultation of additional landscape plans
- ID3 Opening statement on behalf of the appellant
- ID4 Opening statement on behalf of the Council
- ID5 Statement and results of survey of households by Mr Fullerton
- ID6 Statement by Mr Anderson
- ID7 Statement by Mr Entwistle
- ID8 Statement by Mr Hale
- ID9 Statement by Mr Bayliss
- ID10 Statement by Mr Guard
- ID11 Hard copy of draft conditions
- ID12 Errata sheet for proof of evidence of Mr Lewis
- ID13 Statement by Professor Hoyle
- ID14 Statement by Mrs Glover
- ID15 Copy of email from Swallowfield Medical Practice Business Manager
- ID16 Draft copy of unilateral legal undertaking
- ID17 Compliance statement on legal obligations
- ID18 Confirmation of acceptance of pre-commencement conditions
- ID19 Draft copy of bilateral legal undertaking
- ID20 Closing statement by Mr Fullerton
- ID21 Closing statement on behalf of the Council
- ID22 Closing statement on behalf of the appellant
- ID23 Shadow appropriate assessment
- ID24 Copy of completed bilateral legal undertaking

## Schedule of conditions

1. The development hereby permitted shall begin no later than 3 years from the date of this decision.
  
2. The development hereby permitted shall be carried out in accordance with the following plans:
  - Site Location Plan 3145-A-1000-PL-B
  - Site Layout 3145-A-1005-PL-G
  - Site Layout Coloured 3145-C-1005-PL-H
  - Parking Plan 3145-A-1700-PL- E
  - Street Scenes 3145-C-1010-PL-D
  - Street Scenes 3145-C-1011-PL-E
  - Refuse Strategy Plan 3145-A-1701-PL-D
  - Boundary Treatments Plan 3145-A-1702-PL-D
  - Materials Plan 3145-A-1703-PL-D
  - Fire Strategy Plan 3145-A-1705-PL-D
  - Garden Sizes Plan 3145-A-1706-PL-F
  - POS Typologies Plan 3145-A-1707-PL-J
  - Landscape Masterplan CSA/5643/118G
  - LEAP Landscape Proposals CSA/5643/119C
  - LAP Play Area Proposals CSA/5643/120B
  - Hard Landscape Proposals (Sheet 1) CSA/5643/111F
  - Hard Landscape Proposals (Sheet 2) CSA/5643/112F
  - Hard Landscape Proposals (Sheet 3) CSA/5643/113F
  - Soft Landscape Proposals (Sheet 1) CSA/5643/114F
  - Soft Landscape Proposals (Sheet 2) CSA/5643/115G
  - Soft Landscape Proposals (Sheet 3) CSA/5643/116G
  - Soft Landscape Proposals (Sheet 4) CSA/5643/117F
  - Boundary Design Details Sheet 1 5643\_125\_A
  - Boundary Design Details Sheet 2 5643\_126
  - Proposed Access Road 5638/004D
  - Charlton Lane Pedestrian Connection ITB19769-GA-005
  - B3015 Plans and Elevations 3145-C-3005-PL-B
  - B3016 Plans and Elevations 3145-C-3010-PL-C
  - B3016 Plans and Elevation 3145-C-3011-PL-A
  - B3016+B2009M Plans and Elevations 3145-C-3015-PL-B
  - B3017 Plans and Elevations 3145-C-3020-PL-B
  - B3017 Plans and Elevations 3145-C-3021-PL-B
  - B3017 Plans and Elevations 3145-C-3022-PL-B
  - B3017 Plans and Elevations 3145-C-3023-PL-C
  - B3018 Plans and Elevations 3145-C-3025-PL-C
  - S4029M Plans and Elevations 3145-C-3035-PL-B
  - S4029M Plans and Elevations 3145-C-3036-PL-B
  - S4026M Plans and Elevations 3145-C-3040-PL-B
  - S4027M Plans and Elevations 3145-C-3045-PL-B
  - S4027M Plans and Elevations 3145-C-3046-PL-B
  - G4031M Plans and Elevations 3145-C-3050-PL-B
  - G4031M Plans and Elevations 3145-C-3051-PL-B
  - G4032M Plans and Elevations 3145-C-3056-PL-B
  - G4031M Plans and Elevations 3145-C-3059-PL-C
  - A2708M Plans and Elevations 3145-C-3060-PL-B
  - A2708M Plans and Elevations 3145-C-3061-PL-B

A2708M+A1702M Plans and Elevations 3145-C-3065-PL-C  
A3710M Plans and Elevations 3145-C-3070-PL-B  
A4714M Plans and Elevations 3145-C-3075-PL-B  
A1702M Plans and Elevations 3145-C-3080-PL-B  
Maisonette Block A Plans and Elevations 3145-C-3085-PL-C  
Maisonette Block B Plans and Elevations 3145-C-3086-PL-B  
A2706M Plans and Elevations 3145-C-3100-PL-B  
Garages & Stores Plans and Elevations 3145-C-3150-PL-A  
Garages & Stores Plans and Elevations 3145-C-3151-PL-A

3. No development hereby permitted shall commence until a construction method statement, including a construction ecological management plan, has been submitted to and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the construction period. The statement shall include but not be limited to the following:
  - (a) construction of suitable works access
  - (b) the parking of vehicles of site operatives and visitors
  - (c) loading and unloading of plant and materials
  - (d) storage of plant and materials used in constructing the development
  - (e) the erection and maintenance of security hoarding
  - (f) wheel washing facilities
  - (g) measures to control the emission of noise, dust and dirt during construction
  - (h) a scheme for recycling/disposing of waste resulting from demolition and construction works
  - (i) hours of construction
  - (j) hours of delivery
  - (k) mitigation and avoidance measures for ecology and biodiversity.
4. No development hereby permitted shall commence until an exceedance flow routing plan for flows above the 1 in 100 + 40% climate change event has been submitted to and approved in writing by the local planning authority. Exceedance flow paths should be directed to highways and public open space and should avoid paths through areas in private ownership. The approved exceedance flow routing plan shall be implemented prior to occupation of the development hereby permitted.
5.
  - (a) No development hereby permitted shall commence until a scheme for the protection of trees, shrubs and hedges to be retained on or adjacent to the site in accordance with BS5837:2012 has been submitted to and approved in writing by the local planning authority. The protection measures shall be implemented in accordance with the approved scheme and retained during the construction period including site preparation work, tree felling or pruning, soil moving, temporary construction access and any operation involving the use of vehicles or construction machinery.
  - (b) No development hereby permitted shall commence until written notice has been provided to the local planning authority with a period of not less than 7 working days to enable inspection of the measures undertaken to protect trees, shrubs and hedges in accordance with the approved scheme.
  - (c) No excavations, storage of materials or machinery, parking of vehicles, deposit of spoil or rubble, lighting of fires or disposal of liquids shall take

place within any area designated as being fenced off or otherwise protected in the approved scheme.

(d) The fencing or other means of protection installed in accordance with the approved scheme shall not be moved or removed until all construction works have been completed and all equipment, machinery and surplus materials removed from the site.

6. No development hereby permitted shall commence until a programme of archaeological work including a written scheme of investigation has been submitted to and approved in writing by the local planning authority. The scheme of investigation shall include but not be limited to the following:
  - (a) programme and methodology of site investigation and recording
  - (b) programme for post investigation assessment
  - (c) analysis of the site investigation and recording
  - (d) means of publication of the analysis and recorded finds
  - (e) archive deposition of the analysis and recorded finds
  - (f) nomination of a competent person or organisation to undertake the site investigation.The site investigation shall take place in accordance with the approved programme of archaeological work. The development hereby permitted shall not be occupied until the post investigation assessment has been undertaken and the analysis and recorded finds have been published and deposited.
7. Before any above ground construction works of the development hereby permitted are commenced, samples and details of the materials to be used on the external surfaces of the buildings shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
8. No development hereby permitted shall commence until details of the means of foul sewerage disposal have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
9. Prior to occupation of the development hereby permitted the Trowes Lane access shall be constructed in accordance with drawing 5638/004D and the Charlton Lane pedestrian access shall be constructed in accordance with drawing ITB 19769-GA-005 and the visibility splays to both accesses shall be cleared of any obstruction exceeding 0.6m in height. The accesses shall be retained in accordance with the approved details and the visibility splays shall be maintained clear of any obstruction exceeding 0.6m in height at all times.
10. Prior to occupation of any dwelling hereby permitted the vehicle parking space associated with that dwelling has been provided in accordance with the drawing 3145-A-1700-PL-E. All visitor and unallocated spaces shall be provided prior to occupation of all of the dwellings.
11. Prior to occupation of the development hereby permitted, a parking management strategy for the management of visitor and unallocated spaces shall be submitted to and approved in writing by the local planning authority. The strategy shall be implemented once approved.

12. Prior to occupation of the development hereby permitted, details of secure and covered bicycle storage shall be submitted to and approved in writing by the local planning authority. The bicycle storage shall be provided in accordance with the approved details prior to occupation of the dwelling to which each bicycle store relates and shall thereafter be retained.
13. Prior to occupation of the development hereby permitted, a landscape and ecological management plan shall be submitted to and approved in writing by the local planning authority. The plan shall include but not be limited to the following details: long term design objectives, management responsibilities, timescales and maintenance schedules for all non-private landscape areas which demonstrates habitat and hedgerow biodiversity net gain in accordance with Ecological Impact Assessment CAS/5643/05 (August 2023). The development shall be carried out in accordance with the approved landscape and ecological management plan.
14. Prior to occupation of the development hereby permitted a sustainable drainage system management and maintenance plan shall be submitted to and approved in writing by the local planning authority. The plan shall include details of the arrangements and responsibilities for securing the operation of the drainage system for the lifetime of the development hereby permitted and shall include details of maintenance access to all parts of the drainage system and a method for removal and disposal of waste. The approved drainage system shall be implemented prior to the occupation of the development hereby permitted.
15. Prior to occupation of the development hereby permitted details of external lighting shall be submitted to and approved in writing by the local planning authority. The details shall include but not be limited to the following: location, height, type and direction of light sources, intensity of illumination, and highway lighting. External lighting shall be implemented in accordance with the approved details.
16. Prior to occupation of the development hereby permitted, details of walls, fences and other means of enclosure shall be submitted to and approved in writing by the local planning authority. The details shall demonstrate how the walls, fences and other means of enclosure will be ecologically permeable to small mammals and other wildlife. The walls, fences and other means of enclosure shall be erected in accordance with the approved details.
17. Prior to the occupation of the development hereby permitted, the solar panels and heat pumps detailed in the Energy and Sustainability Statement BO.S.RG7 Rev 3 shall be installed and thereafter retained unless replaced by more efficient and sustainable equipment.
18. Prior to the occupation of any dwelling hereby permitted the bin storage area and facilities for that dwelling shall be installed in accordance with drawing 3145-A-1701-PL-D. The bin storage area and facilities shall thereafter be retained and used for no purpose other than the storage of refuse and recycling materials.
19. Prior to the occupation of the development hereby permitted a scheme shall be submitted to and approved in writing by the local planning authority

demonstrating that the water network infrastructure has capacity to serve the development. The development shall be carried out in accordance with the approved scheme.

20. No trees, shrubs or hedges shown to be retained on landscape plan CSA/5643/11F, CSA/5643/115G, CSA/5643/116G and CSA/5643/117F shall be felled, uprooted, damaged, destroyed or removed. Any trees, shrubs or hedgerows removed or damaged within 5 years from the occupation of all of the development hereby permitted shall be replaced with trees, shrubs or hedgerow plants or similar size and species unless any variation is agreed in writing by the local planning authority.
21. No work, including demolition and preparation prior to building operations, relating to the development hereby permitted shall take place other than between the hours of 0800 to 1800 Mondays to Fridays and 0800 to 1300 on Saturdays. No works shall take place at any time on Sundays or Bank Holidays or National Holidays.
22. If land contamination is found at any time during the construction of the development hereby permitted the discovery shall be reported in writing as soon as possible to the local planning authority. Prior to any further works being conducted, a contamination risk assessment shall be carried out and a remediation method statement submitted to and approved in writing by the local planning authority. Work shall only recommence if in accordance with the approved remediation method statement.
23. Notwithstanding drawings refs 3145-A-1700-PL-E, 3145-A-1701-PL-D, 3145-A-1702-PL-D, 3145-A-1703-PL-D, 3145-A-1704-PL-D, 3145-A-1705-PL-D and 3145-A-1706-PL-F, the Local Area of Play shall be located in the central greenspace as shown in drawing 3145-C-1005-PL-H.

**\*\*\* end of conditions \*\*\***