

**PLANNING STATEMENT (Including
Affordable Housing Statement) Rev
A**

**OUTLINE PLANNING APPLICATION FOR
THE ERECTION OF UP TO 24
DWELLINGS WITH ALL MATTERS
EXCEPT ACCESS RESERVED AND
PROPOSED 15 SPACE CAR PARK FOR
PRIMARY SCHOOL**

**LAND BETWEEN SCHOOL ROAD AND
ORCHARD ROAD, HURST, READING**

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1. INTRODUCTION AND SUMMARY

- 1.1. This Statement has been prepared in support of an outline planning application for land between School Road and Orchard Road, Hurst, Reading. The outline application includes the means of access, with all other matters reserved, for the erection of up to 24 dwellings, new public open space and new additional car park for the primary school on land between School Road and Orchard Road, Hurst.
- 1.2. This Statement sets out the characteristics of the site and surrounding area, provides information on the planning history for the site, and sets out an analysis of the proposal against the relevant planning policy context.
- 1.3. The application is accompanied by a number of additional supporting reports including a Design and Access Statement (including a heritage assessment), a Transport Statement, and Ecological Protected Species Report, an Arboricultural Impact Assessment and Method Statement, a Flood Risk Assessment and Drainage Strategy, and a CIL information form. The full list of supporting documents is set out in the covering letter accompanying this planning application.
- 1.4. This Planning Statement concludes that the proposal represents a logical development opportunity in the context of its location adjoining one of Wokingham Borough's Limited Development Location settlements (the village of Hurst) which has been confirmed as a sustainable location for growth through decisions on planning applications on adjoining land. The application is submitted at a time of a significant housing land supply shortfall and no strategy in the short to medium term to address it.
- 1.5. Whilst located within designated countryside, that "countryside" is enclosed by the Primary School (to the east) and the Village Hall (to the west) which confirms both its accessibility and sustainability to key local facilities. Its enclosure by existing development means it is of limited landscape quality. The Council acknowledge that it cannot demonstrate a five-year housing land supply¹. This triggers the tilted planning

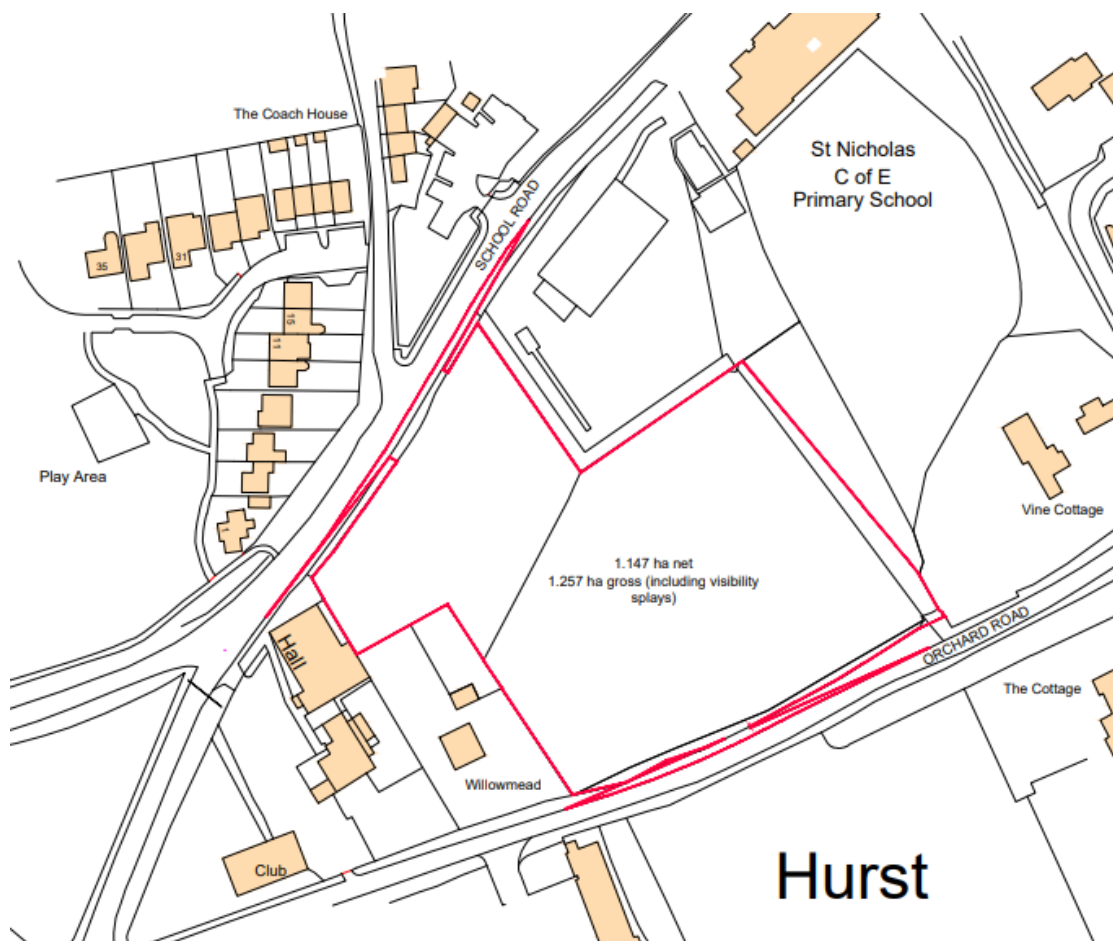
¹ Wokingham's five-year Housing Land Supply Statement at 31 March 2022 dated 9th January 2023 confirms only 3.95 years supply

balance within NPPF paragraph 11d and confirms the need for the proposed residential development and the out of date countryside/settlement boundary policies.

- 1.6. The Planning Statement considers the merits of the proposal, and relevant national and Local Planning Policy, and in this context, concludes that planning permission should be granted without delay.

2. THE SITE AND THE SURROUNDING AREA

2.1. The site is located adjoining the settlement of Hurst, a village which lies midway between the larger settlements of Twyford and Wokingham (both acknowledged major development locations within the existing Development (Plan) which both contain extensive services and facilities including high quality public transport. The site lies between Orchard Road and School Road (to the north and south respectively) with the primary school and village hall bounding the site on its eastern and western flanks as shown on the extract from the Site Location Plan below.



Extract from the Site Location Plan

2.2. The site extends to 1.257ha (gross (1.147ha (net))) and the extent of existing development, including its relationship to the Village Hall and Primary School is shown on the OS Site Location Plan above and the wider Aerial Plan below. This confirms the extent of enclosure of the site by both the existing built form of the village of Hurst together with the landscaping, especially along Orchard Road and School Road.



Copy of aerial photo of site: Source Google Earth (site edged red)

- 2.3. It is located within the established area of lower density development associated with the village of Hurst and is contained by Orchard Road to the south. Orchard Road forms the natural southern boundary of this part of Hurst.
- 2.4. In terms of land use designations, the application site is not subject to any constraints; it is not designated for any landscape value; it is not identified as a strategic or local gap between settlements; it does not fall within the Green Belt, or in an Area of Outstanding Natural Beauty; there are no local landscape designations applicable to the site, for instance, Special Areas of Conservation. It does not therefore fall to be considered as a 'valued landscape' within the definitions as set out in paragraph 171 of the National Planning Policy Framework.
- 2.5. The site is not located near any Conservation Areas. It is not identified as falling within any Historic Parks and Gardens designation, nor having any archaeological potential. The relationship with Vine Cottage, a grade II Listed Building, has been acknowledged within the Illustrative Site Plan and explained in the Heritage Statement. It does not fall within either Flood Zone 2 or 3.

- 2.6. It does not fall within the 5km mitigation zone for residential development in connection with the Thames Basin Heaths Special Protection Area (SPA). The site is not identified as having any nature conservation designations; it is not a local nature reserve, local wildlife site or site of special scientific interest.
- 2.7. As evidenced above through this lack of constraints in terms of planning policy designations, the site is one of the least constrained areas in the Borough in terms of matters that could otherwise prevent residential development on the site being acceptable.
- 2.8. As detailed in the Transport Statement accompanying this planning application, the site is well placed in relation to public transport, with bus stops within walking distance of the site, as well as a range of other local services and facilities within Hurst (especially the adjoining Village Hall and Primary School) together with those in Twyford, Winnersh and Wokingham.
- 2.9. As acknowledged in recent appeal decisions for other sites in Hurst², the village has a range of facilities which are all within a short walk of the site (up to 800m) including Village Hall, Primary School, Post Office and General Store, Cricket Club, playground, Church and public house.
- 2.10. Furthermore, the site adjoins the existing bus stops (at northern site access onto School Road) from where to hourly services Monday to Saturday and two hourly on Saturday to the larger settlements of Reading (via Twyford) and Wokingham are available. The Inspector in the Valley Nurseries appeal³ concluded that such a bus service provided future occupiers of that site to an acceptable range and was therefore sustainable within the context of national and local policy. Since the site between School Road and Orchard Road has better access to bus services with unchanged frequencies together with those within the village specified, it is a more sustainable location for housing.

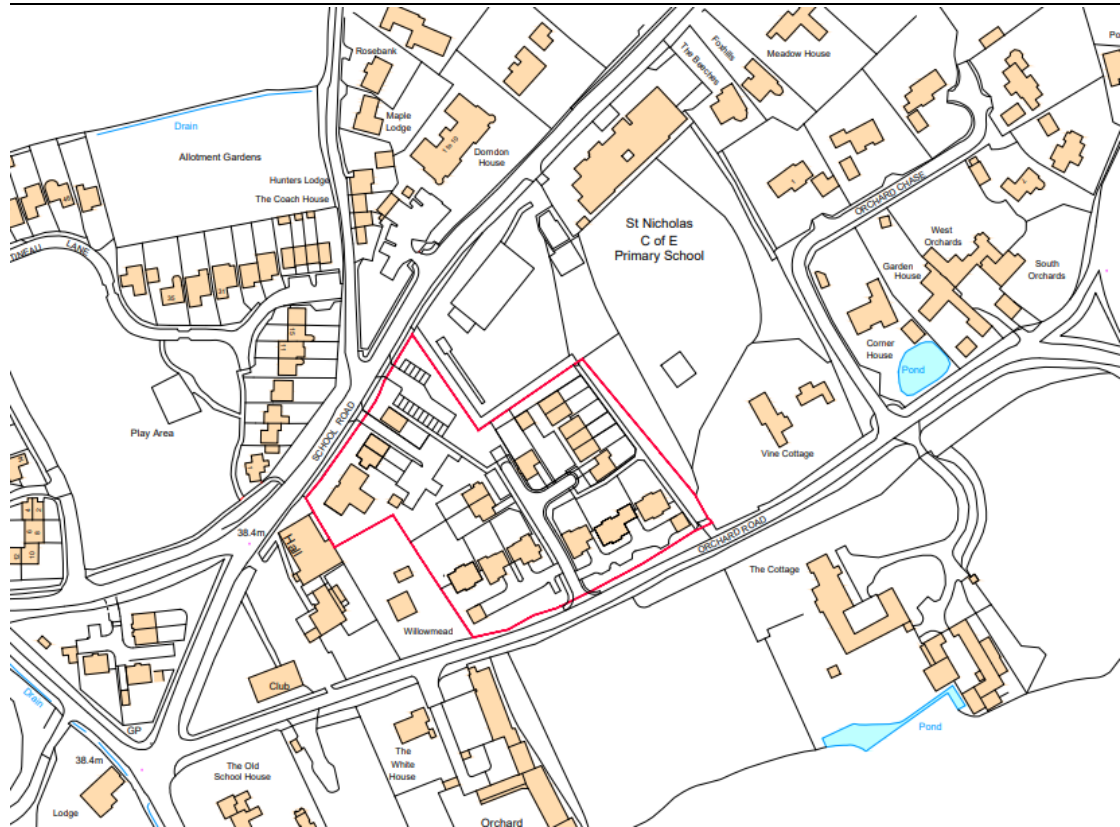
² Paragraph 50 of the appeal decision for land at junction of Sawpit Road and School Road, Hurst allowed on 4th August 2022 (LPA ref and PINS ref APP/X0360/W/21/3280255) and paragraph 17 of the appeal decision for land at Valley Nurseries, Whistley Green, Hurst allowed on 30th August 2017 (LPA ref 162219 and PINS ref APP/X0360/W/17/3171-83).

³ Paragraph 17

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- 2.11. In this sense, the development of the site for residential use is a logical use, on unconstrained land, with the proposal compatible with its location in relation to existing strategic development and supporting infrastructure.

3. THE PROPOSAL

- 3.1. The proposal is in outline form, to include two separate means of access provided from Orchard Road and School Road to serve the residential development with a further access from School Road to serve the additional car parking spaces for the school. All other matters within the application are to be reserved. The proposal will deliver up to 24 dwellings, of which 9 would be affordable (37.5%). The proposed mix of house sizes and tenures is consistent with the requirements of the existing development plan.
- 3.2. In addition to the dwellings, the scheme also includes the provision of a 15-space car park to serve the adjoining Primary School enabling vehicles to be parked off road while parents/guardians are collecting pupils. The location of the site means that the additional parking spaces can also be used by visitors to the Village Hall should additional capacity be required. The car parking for the school will be overseen by the management company which will be appointed for the site who will also maintain the open space and private roads. Finally, the new car park will help to address / limit existing issues associated with on-road parking described in the Transport Statement
- 3.3. Further details of the scheme are set out in the technical reports submitted in support of this planning application, including the Design and Access Statement. A summary of the matters that have influenced the proposal are set out below. However, the full suite of supporting technical reports should be referred to in the consideration of the application.



Scheme and Site Context Plan

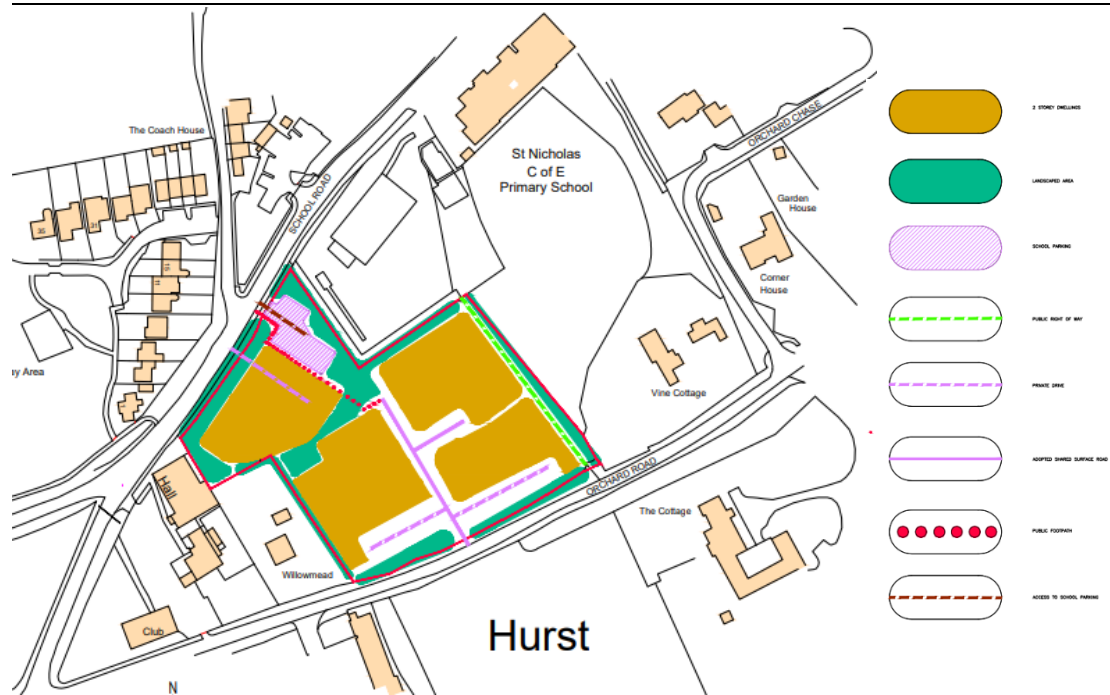
- 3.4. With reference to the above plan, in terms of the placement of the proposed built form on the site, and its relationship with the surrounding area, the scheme has been predicated on the existing form of the village of Hurst and the Council's Landscape Character Assessment. The inclusion of two cul-de-sacs served off the new accesses on Orchard Road and School Road is reflective of the built form including that off Martineau Lane and Barber Close. For the School Road frontage, the dwellings are parallel with the road reflecting that along this highway east of the site towards Wokingham Road. For the dwellings accessed off the cul-de-sac on Orchard Road, this built form also reflects that elsewhere on this road as illustrated by dwellings fronting the street with a close serving further dwellings to the rear as occurs at Orchard Chase (to the east of the application site).
- 3.5. The built form and indicative layout for the scheme is reflective of the variations within the existing village of Hurst and the specific approaches to Orchard Road and School Road has been tailored to the specifics of these streets. This is therefore a further illustration of the schemes consistency with the character and form of Hurst.

- 3.6. Utilising the existing landscaping and vegetation around the site, the proposal has been designed to work with these to limit the impact of development. As a result, the visual impact of the proposal is limited and localised.
- 3.7. In addition, the Indicative Site Plan designs the scheme to orientate the dwellings parallel with the tree belts along the Orchard Road and School Road frontages which is also reflective of the character of Hurst. The footpath through the site wraps around the proposed car park for the school and thereby contributes towards providing surveillance of this area. An extract from the proposed Indicative Site Plan is set out below.



Extract from Proposed Indicative Site Plan

- 3.8. Further information on the parameters for the design of the scheme is shown on the Parameters Plan which is submitted as part of this planning application. An extract from the Parameters Plan is set out below. Further information on the design considerations that have informed the Indicative Site Plan is set out in the Design and Access Statement that accompanies this application.



Parameter Plan

Access and car parking

- 3.9. The application is supported by a Transport Statement, which sets out the means of access to the site, proposals for car parking to meet the Council’s standards, and arrangements for service vehicles to attend the site. Electric vehicle charging points will be provided for every dwelling in line with BR Regs Part S. This supersedes electric vehicle advice in the Council’s guidance in Appendix E of the Living Streets: A Highways Guide for Developers document (2019).
- 3.10. The Transport Statement provides further information on the surrounding transport network, including the good accessibility of the site by public transport, demonstrating the sustainability of delivering residential development in this location. The Statement confirms how the proposed access design and strategy meets WBC Living Streets Guidance, and that there will not be any material adverse transport impacts.

- 3.11. As noted, the appeal decisions for other sites in Hurst⁴ concluded that the village has a range of facilities which are all within a short walk of the site (up to 800m) including Village Hall, Primary School, Post Office and General Store, Cricket Club, playground, Church and public house.
- 3.12. Furthermore, the site adjoins the existing bus stops (at northern site access onto School Road) from where hourly services Monday to Saturday and two hourly on Saturday to the larger settlements of Reading (via Twyford) and Wokingham are available. The Inspector in the Valley Nurseries appeal⁵ concluded that such a bus service provided future occupiers of that site to an acceptable range and was therefore sustainable within the context of national and local policy. Since the site between School Road and Orchard Road has better access to bus services together with those within the village specified, it is a more sustainable location for housing.

Trees, Landscaping and Open Space

- 3.13. The landscaping proposed for the development is shown for illustrative purposes on the proposed site plan. In respect of trees, the proposed location of the access points from School Road and Orchard Road avoids the loss of any good quality trees (only category C to be removed). All other trees on the boundary of the site are to be retained. The important trees within the site have also been protected as evident from the Indicative Site Plan and Parameter Plan. Further details of this will be secured through a reserved matters permission.

⁴ Paragraph 50 of the appeal decision for land at junction of Sawpit Road and School Road, Hurst allowed on 4th August 2022 (LPA ref 211532 and PINS ref APP/X0360/W/21/3280255) and paragraph 17 of the appeal decision for land at Valley Nurseries, Whistley Green, Hurst allowed on 30th August 2017 (LPA ref 162219 and PINS ref APP/X0360/W/17/3171083).

⁵ Paragraph 17

4. SITE PLANNING HISTORY

- 4.1. A review of the Council's website indicates that since 1998, no proposals have been submitted on the application site.
- 4.2. Whilst there are no relevant schemes on the application site, other proposals in the locations shown on the aerial photo below are relevant, especially with regard to sustainability as explained in this statement.



Aerial photo of Hurst illustrating relationships between application Site (edged red) and other relevant schemes (edged green and blue).

Other proposals relevant to the application

Map colour	Details of application (App. No., proposal and decision)
Blue area	162219: Valley Nurseries, Whistley Green – Erection of 16 dwellings. Refused 22 nd December 2016. Appeal allowed 30 th August 2017
Green area	211532: Land at junction of Sawpit Road and School Road - Application for erection of 4 dwellings. Refused 2 nd July 2021. Appeal allowed 4 th August 2022

- 4.3. These applications, particularly that on the green edged site provides the context for development in the locality. The appeal on the green edge site was as allowed a result of the shortfall in housing supply which could not be resolved in the short term. As outlined in this statement, the Council now accepts that it cannot demonstrate a five-year supply as at April 2022⁶.
- 4.4. As outlined in this section of the statement, the approvals of the applications in these two other locations confirm the sustainability of Hurst for growth and the form of development envisaged. This includes the use of land outside of the defined development limits which was confirmed through the recent Sawpit Road appeal.

⁶ Wokingham's five-year Housing Land Supply Statement at 31 March 2022 dated 9th January 2023 confirms only 3.95 years supply

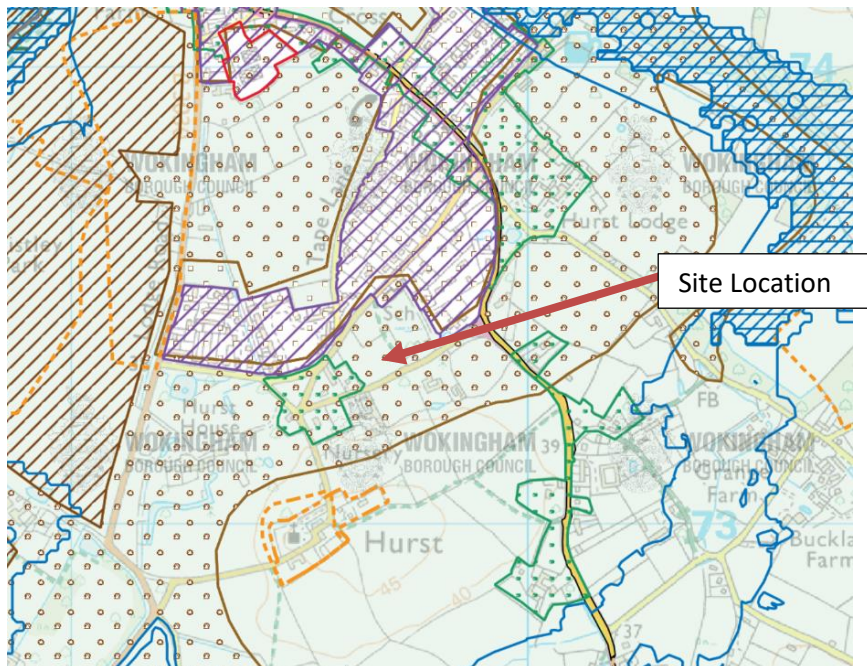
5. PLANNING POLICY CONTEXT

Development Plan Policy

5.1. For the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the relevant development plan against which the application proposal will be determined, comprises:

- Wokingham Borough Core Strategy (CS) (January 2010);
- Wokingham Borough Managing Delivery Local Plan (MDD) (February 2014)

5.2. As shown on the Wokingham Borough Proposals Map, the application site is located on the edge of Hurst. It is undesignated countryside.



Extract from the Wokingham Borough Proposals Map

5.3. The key development plan policies against which the application should be considered are set out in the Table below:

Relevant Wokingham Borough Development Plan policies for the application

	Subject
CS	
CP1	Sustainable development
CP2	Inclusive communities
CP3	General principles for development
CP4	Infrastructure
CP5	Housing mix, density and affordability
CP6	Managing travel demand
CP7	Biodiversity
CP9	Scale and location of development
CP11	Proposals outside development limits
CP17	Housing Delivery
MDD	
CC01	Presumption in favour of sustainable development
CC02	Development limits
CC03	Green Infrastructure, trees and landscaping
CC04	Design and construction
CC05	Renewable energy
CC06	Noise
CC07	Parking
CC09	Flooding
CC10	Drainage
TB05	Housing Mix
TB21	Landscape and character
TB23	Biodiversity and development
TB25	Archaeology

5.4. In considering the relevance and weight of the development plan policies for the determination of the applications (NPPF, paragraph 11), it is necessary to assess their consistency with the NPPF as required by paragraph 123. This is set out in the Table below.

Relationship of development plan policies listed in Table above to the NPPF and their weight and relevance to the determination of the application

	Most important policies for the determination⁷	Consistent with NPPF	Weight to be afforded	Scheme accords with policy
CP1 – Sustainable Development		✓	Full	✓
CP2 – Inclusive Communities		✓	Full	✓

⁷ Pursuant to NPPF, para 11(d).

	Most important policies for the determination⁷	Consistent with NPPF	Weight to be afforded	Scheme accords with policy
CP3 – General principles for development		×	Limited	✓
CP4 – Infrastructure requirements		✓	Full	✓
CP5 – Housing mix, density and affordability		×	Limited	✓
CP6 – Managing travel demand		×	Limited	✓
CP7 - Biodiversity		✓	Full	✓
CP9 – Scale and location of development proposals	✓	×	Limited	×
CP11 – Proposals outside Development Limits (including countryside)	✓	×	Limited	×
CP17 – Housing delivery		×	Limited	×
CC01 - Presumption in favour of sustainable development	✓	✓	Full	✓
CC02 - Development limits	✓	×	Limited	×
CC03 - Green Infrastructure, trees and landscaping		✓	Full	✓
CC04 - Design and construction		×	Limited	×
CC05 - Renewable energy		✓	Full	✓
CC06 - Noise		✓	Full	✓
CC07 - Parking		✓	Full	✓
CC09 - Flooding		✓	Full	✓
CC10 - Drainage		✓	Full	✓
TB05 – Housing Mix		✓	Full	✓
TB21 - Landscape and character		✓	Full	✓
TB23 - Biodiversity and development		✓	Full	✓
TB25 - Archaeology		✓	Full	✓

5.5. The out of date nature of most of the development plan policies, and therefore the weight to be afforded to them, and how this determines their applicability in respect of the consideration of the planning application, is explained further in Section 7 of this Statement. This out-of-date nature is reinforced by the lack of five-year supply within the Borough as outlined later in this section of the statement.

Supplementary Planning Documents

5.6. The Council has published the following relevant SPD:

1) Wokingham Borough Design Guide

National Planning Policy

5.7. The National Planning Policy Framework is also a relevant material consideration in assessing the application. The NPPF is underpinned by a presumption in favour of sustainable development, with three overarching, but interlinked objectives. Paragraph 8 is relevant to the application as the proposal would help to deliver each of the strands of sustainable development:

- a) **An economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth...**
- b) **A social objective – to support strong, vibrant and healthy communities, but ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations;**
- c) **An environmental objective – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land...**

5.8. The proposal will help to deliver each of these objectives, thereby responding to the requirement in paragraph 10 of the NPPF that development is pursued in a positive way, reflecting the presumption in favour of sustainable development which sits at the heart of the Framework.

5.9. Paragraph 11 of the NPPF sets out a presumption in favour of sustainable development. Paragraph 11 (d) notes that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be granted unless:

- i. **The application of policies in this Framework that protect areas of assets of particular importance provides a clear reason for refusing the development proposed; or**

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- ii. **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.**

5.10. As set out in paragraph 59, the NPPF is clear that the Government’s objective is to boost significantly the supply of homes, and in doing so, that the needs of groups with specific housing requirements are addressed. This includes the provision of affordable housing. A House of Commons Committee of Public Accounts report, published on 26 June 2019, entitled “Planning and the broken housing market”, concludes that:

“The Department has a highly ambitious target to deliver 300,000 new homes per year by the mid-2020s but does not have detailed projections or plans on how it will achieve this. Meeting the target of 300,000 new homes a year will need a significant step-up in the level of house building. Current levels are not promising: the number of new homes has increased every year since 2012–13, with 222,000 new homes in 2017–18, but the average number in the period 2005–06 to 2017–18 was still only 177,000 a year. The Department accepts that it will need to transform the housing market to get more new homes built and says that achieving the target would be “very challenging”. Despite having introduced some projects to help, including encouraging small builders through the small builders guarantee scheme and reforming the planning system, the Department simply does not have the mechanisms in place to achieve the 300,000 target. This is compounded by lack of detailed rationale as to why this target was chosen in the first place. It also lacks year-on-year projections on how it will ramp up house building, only illustrative projections which are not in the public domain. To make this even more concerning, the target does not align with the Department’s new method for calculating the need for new homes which shows that just 265,000 new homes a year are needed.” (My underlining)

5.11. In this context, it is clear that Councils should take every opportunity to boost the supply of housing within their administrative areas.

5.12. Paragraph 80 of the NPPF also makes it clear that:

“Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.”

5.13. With regard to promoting sustainable transport, paragraph 109 of the NPPF states that:

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts of the road network would be severe.”

5.14. With regard to achieving appropriate densities, the NPPF states at paragraph 123 that:

“Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site.”

5.15. Section 7 and Appendix 1 of this Statement explains that the ‘most important policies’ for determining the planning application (Policies CP9, CP11 and CC02) are out of date, triggering the tilted balance as set out in paragraph 11(d) of the NPPF. This triggering of the titled balance is reinforced by the Borough’s current lack of housing land supply as of 1st April 2022 as detailed below.

Housing Land Supply

5.16. The Council have just updated the five-year housing land supply position at a base date of 31st March 2022 with a publication release dated 9th January 2023. This confirms the continued existence of a five-year housing land supply deficit which, by comparison to the previous year, represents a deteriorating housing land supply. The Council's assessment is summarised in the table below:

Table 4.1. Housing land supply at 31 March 2022 (LHN 781, 5% buffer)

House Land Supply Category	Number of Dwellings Needed
Housing need at 781 homes per annum 01/04/2022 – 31/03/2027	3,905
Housing requirement plus 5% buffer for period 01/04/2022 – 31/03/2027	4,100
Annual rate for 5-year requirement plus 5% buffer	820
Total deliverable housing supply for period 01/04/2022 – 31/03/2027	3,237 ³⁰
Total deliverable housing supply in years for period 01/04/2022 – 31/03/2027	3.95

- 5.17. The Council's assessment confirms a shortfall of 863 dwellings resulting in a total deliverable housing supply of only 3.95 years. This represents a significant shortfall.
- 5.18. Therefore, with the ongoing delays to the preparation of the local plan, it means that the housing land supply shortfall will not be resolved and without approval of schemes such as the appeal proposal, there is no other solution which would fulfil the wider Government objectives of significantly boosting the supply of housing.
- 5.19. Without further additional land approved through applications and appeals, the Council has and will continue to fail to meet the wider Government objectives. Therefore, significant weight should be attributed to the role that this scheme has in addressing housing supply shortfalls.

6. EMERGING LOCAL PLAN

Development Plan Policy

- 6.1. The part of the development plan that contains the Council’s strategic planning policies which set the Borough’s housing requirement – the Core Strategy – was adopted in January 2010. This was of course 13 years ago, so is considered significantly beyond the five-year threshold beyond which those policies required to be reviewed (NPPF paragraph 33). The Local Authority has commenced work on a review of its development plan through the preparation of a new Local Plan, which will provide a strategic planning policy framework for development in the Borough until 2036. The timetable within the current Local Development Scheme (July 2021) for the preparation of the emerging Update of Wokingham Borough Local Plan is detailed in the Table below.

Key Milestone	Timescale
COMMENCEMENT OF REVIEW (Early Stakeholder and Community Engagement)	October 2015
Local Plan Update Scoping Report Consultation	November – December 2015
Issues & Options Consultation	August – September 2016
Spatial Options Consultation	November 2018 – February 2019
Draft Plan Consultation (Preferred Options)	February – April 2020
Revised Draft Local Plan	Autumn 2021
Publication of Proposed Submission	Summer 2022
SUBMISSION	November – December 2022
Start of Examination	During 2023
Report to Council/Adoption	End of 2023

Timetable for Local Plan Update from Wokingham Borough’s Local Development Scheme (July 2021)

- 6.2. As indicated above, the Council consulted on a Revised Draft Local Plan from 22nd November 2021 until 24th January 2022. This was marginally delayed from that outlined in the latest LDS (July 2021).
- 6.3. Furthermore, the Council have not to date released the proposed submission document, although this was anticipated in summer 2022. The Council’s website⁸ with respect to the timetable for the Local Plan Update indicates.

⁸ [Local Plan Update - Wokingham Borough Council](#)

“Following the recent elections there has been a change to the council's political administration and the newly appointed Executive Members are working with officers to consider the future timetable for the LPU. As a result, the proposed consultation in summer 2022 will not be going ahead, and an updated Local Development Scheme will be published in due course.”

- 6.4. At the time of preparing this planning statement (January 2023), the Council is silent on the revised timetable for the preparation of the Local Plan Update. Nevertheless, the emerging Local Plan is reliant upon greenfield sites adjoining current settlement boundaries to meet its housing needs. This raises questions over the weight and datedness of the current settlement boundaries and countryside notations.
- 6.5. The Consultation document from November 2021 nevertheless indicates (Draft Policy SS1) that the Authority expects to provide a minimum of 15,513 dwellings over the period April 2018 to March 2038. This equates to an annual average of 775.65 dwellings although the derivation of the requirement is through the application of three separate local housing need figures⁹. These being 864 dwellings from April 2018 to March 2019, 804 dwellings from April 2019 to March 2020 and 768dpa¹⁰ from April 2020 to March 2038 (18 years). This consequently results in the total of 15,492 dwellings¹¹.
- 6.6. Whilst the draft Local Plan includes a housing target which is contended to reflect the guidance in the NPPF, it includes completions which had occurred prior to the “current date” which is used to determine the Local Housing Need¹². Furthermore, the authority had not used 2021 as the “current year” nor given the envisaged programme for its preparation, drafted a strategy that will ensure the plan includes the minimum 15 years post adoption required by paragraph 22 of the NPPF¹³.

⁹ See footnote 2 on page 13 of the Revised Growth Strategy document

¹⁰ 768 was the Local Housing Need figure for 2021 as confirmed in the April 2021 assessment of land supply

¹¹ $(1 \times 864) + (1 \times 804) + (18 \times 768)$. This is consequently marginally less than the 15,513 specified in the Plan

¹² Step 1 of the calculation as detailed in the Housing and economic needs assessment section of the PPG (ID ref 2a-004-20201216)

¹³ As Council undertakes housing monitoring from 1st April to 31st March of the subsequent year

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- 6.7. These factors indicate that limited weight can be given to the approach of the emerging Local Plan as it does not identify sufficient land to fulfil the 15 years growth post adoption based upon requirements set consistent with the NPPF.
- 6.8. Therefore, further sources of specific, deliverable and developable sites are necessary to ensure that housing needs in Wokingham Borough can continue to be met, including those beyond those provisionally identified in the Revised Growth Strategy consultation document consulted upon from 22nd November 2021 through to 24th January 2022.
- 6.9. The identification of the numerous sites beyond the current development limits within Draft policy H2 of the Revised Growth Strategy (November 2021) illustrates the extent that there is insufficient land within the borough's boundaries to address the housing and other needs. This is further emphasised by the identification of the new settlement in the Loddon Valley within the draft plan.
- 6.10. It is therefore clear that the Council acknowledges that it will have to consider the potential of sites currently within the countryside beyond defined settlement boundaries which were established to accommodate the constrained needs¹⁴ associated with the Core Strategy. In these circumstances, and consistent with Secretary of State decisions, current countryside policies are out of date as a result of the very substantial increase in minimum annual requirements (at least 20% in comparing the 796dpa arising from the Standard Method¹⁵ with the 661dpa implied over the entire life of the current Core Strategy), together with at least an additional twelve years growth (from 2026 to 2038).
- 6.11. Furthermore, there are a number of steps that the Council still needs to take to enable the transition of the Local Plan from the Draft Local Plan consulted under Regulation 18, to one that is considered robust and sound for the purpose of publication under Regulation 19. Essentially, this "Draft" or "Pre" Submission Local Plan must be a document that the Council considers to be "sound" as set out in the tests set by the National Planning Policy Framework and accompanying guidance, including an effective strategy based on evidenced cross-boundary joint work. As part of this

¹⁴ See paragraph 77 of *Gladman v Wokingham BC* [2014] EWHC 2320 (Admin)

¹⁵ As detailed in Section 5 of this statement when considering an LHN calculated in accordance with the PPG for April 2021

transition to a “sound” Plan, it is indisputable that the Council needs to make various additional allocations on greenfield sites, particularly given that the Plan period is to 2038, in order to meet the requisite development requirements.

- 6.12. Consequently, there remains a need for smaller/medium sites that can come forward in the shorter term, for instance the application site, to bridge any gap before any larger, longer term strategic cross-boundary development sites come forward, given their intrinsic protracted lead in times, and the inevitable challenges to be overcome in the light of their cross-boundary nature.
- 6.13. As is clear from the emerging Local Plan and its evidence base, to meet identified development requirements, revisions to settlement boundaries are required and anticipated¹⁶. Whilst it is acknowledged that this is an early stage in the plan preparation, weight is still attributable to the future level of need for development and the recognition that settlement boundaries will need to be extended and countryside lost¹⁷.
- 6.14. In this overall emerging strategic planning context, the application site lies in an unconstrained location adjoining a confirmed sustainable settlement (Hurst) within the Borough where the emerging Local Plan has identified several housing allocations within draft policy H2¹⁸. The suitability of Hurst as a location for growth is confirmed by its identification as a limited development location for new residential development.
- 6.15. The application site therefore represents an immediately deliverable development option to meet shorter-term housing needs which is undoubtedly a requisite part of an overall development strategy if the Council wishes to pursue larger strategic, cross-boundary, and more complex development options, with commensurate long lead in times.
- 6.16. In this overall context provided by the emerging Local Plan, particularly the reliance in the spatial strategy on a large strategic development site (the new settlement in the Loddon Valley) to meet the Council’s housing need figure, the application scheme

¹⁶ Draft Local Plan – sites provisionally allocated in policy H2 i.e. east of Winnersh; east of Arborfield Garrison (Reading FC Training Ground) and at Bridge Farm, Twyford

¹⁷ Money Hill Secretary of State Appeal Decision letter paragraph 12

¹⁸ Land adjacent to Whitley Green Cottage, Whitley Green for 3 dwellings and land north-west of Hogmoor Lane for 12 dwellings.

offers the potential to contribute towards addressing the Council's identified housing needs in the shorter term.

7. APPLICATION OF PLANNING POLICIES AND THE NPPF

7.1. This section sets out the application of the relevant planning policy context. There are two alternative routes to a decision.

1. Section 38(6)

7.2. Firstly, applications should be considered in accordance with the development plan unless other material considerations indicate otherwise, in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2004.

7.3. The application scheme lies outside the currently defined built-up area of Hurst in designated countryside. In a technical sense the proposals are not consistent with the dated Core Strategy and Development Management Plan policies that seek to protect the countryside or policies relating to housing development outside defined settlement boundaries. However, the conflict with the dated development plan policies are outweighed by a number of material considerations that suggest, consistent with section 38 (6), that the application scheme should be determined other than in accordance with the development plan.

7.4. Material considerations relate to the out of date nature of policies relied upon by the Council in controlling development on the outer edge of currently defined settlements. The NPPF, a material consideration, confirms at paragraph 213 that:

“Due weight should be given to them [existing development plan policies], according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)”.

7.5. Furthermore, relevant countryside and settlement boundary policies are out of date and attract less weight in the determination of the application. This is due to their inconsistency with the NPPF¹⁹, their reliance upon a lower, out of date housing

¹⁹ Willow Tree House Appeal decision paragraphs 87 and 88

requirement²⁰, the existence of a five-year housing land supply deficit²¹, and the reliance on countryside sites beyond defined development limits to substantiate the current but still inadequate five-year housing land supply²². These points still apply and are elaborated in more detail in Appendix 1.

7.6. For these reasons, the policies are not up-to-date, and therefore attract less weight in the determination of the application scheme.

7.7. Although the site lies in the countryside, there are significant material considerations that outweigh any conflict with development plan policy and must therefore inform an appraisal of the planning balance. These include:

1. Contribution towards the much-needed supply of homes in the Borough, especially as outlined in section 5, there is a clear and significant shortfall in five-year supply within the Borough²³;
2. Provision of much needed affordable homes set against a backdrop of significant under delivery of such units of accommodation in the Borough; (see Section 8 of this Statement);
3. A housing mix that meets the identified housing needs of the Borough as identified by the most recent Local Housing Needs Assessment (January 2020);
4. Acknowledgement (including in the emerging new Local Plan) that future imminent housing requirements require release of land in countryside areas beyond current defined settlement area¹³ because the housing requirement cannot be met within existing urban areas. This establishes the principle that the development of greenfield edge of settlements sites is required, such that corresponding countryside policies are out of date and carry less or even no weight²⁴; and
5. Reduced harm to the wider area by reason of the proposed application scheme representing a small-scale, sensitive addition to the built form of Hurst on a well enclosed, naturally well contained site, with no visual impact on the wider area.
6. Provision of car parking to serve the primary school

²⁰ Willow Tree House Appeal decision paragraph 85

²¹ Willow Tree House Appeal decision paragraph 81

²² Willow Tree House Appeal decision paragraphs 78,81 and 82

²³ Wokingham's five-year Housing Land Supply Statement at 31 March 2022 dated 9th January 2023 confirms only 3.95 years supply

²⁴ Money Hill Secretary of State Decision Letter paragraph 12

- 7.8. The nature, merit and weight associated with these material considerations *outweigh*, in an unweighted balancing exercise within the context of Section 38(6), any conflict with development plan policy associated with the loss of countryside and development beyond currently defined, but as confirmed, out of date, built up areas.
- 7.9. In these circumstances, it matters not whether paragraph 11d of the NPPF and the tilted balance is engaged. This is for the simple reason that the other material considerations (as highlighted above) are so compelling that they outweigh any harm by reason of conflict with the dated development plan policies, even in an unweighted balancing exercise. Importantly, the weight to be afforded to these conflicts with the dated development plan policies is limited by virtue of their out-of-date status.
- 7.10. Notwithstanding this, however, in the event the tilted (weighted) balance is applied (the second approach to a decision with a route to the presumption in favour of sustainable development), then the case for the application is further reinforced.

NPPF Paragraph 11d

- 7.11. The second approach to reaching a decision relates to the engagement of the tilted planning balance through the application of NPPF paragraph 11d – the presumption in favour of sustainable development. Paragraph 11d states:

“Plans and decisions should apply a presumption in favour of sustainable development...

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁷, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”.

-
- 7.12. This paragraph of the NPPF can be engaged for two separate, independent reasons. The first of these relates to the existence of a five-year housing land supply deficit.
- 7.13. As outlined in section 5, the Council accepts that it is unable to demonstrate a five year supply of housing land as at April 2022.
- 7.14. In addition, the Council's most recent housing lands supply assessment confirms that the shortfall has deteriorated further. Therefore, this application should be determined under NPPF paragraph 11d.
- 7.15. Secondly, and furthermore, relevant countryside and settlement boundary policies are also out of date and attract less weight in the determination of the application. This is due to their inconsistency with the NPPF²⁵, their reliance upon a lower, out of date housing requirement²⁶, the existence of a significant five-year housing land supply deficit²⁷, and the reliance on countryside sites beyond defined development limits to substantiate the current but still inadequate five-year housing land supply²⁸. These points are elaborated in more detail in Appendix 1.

Summary

- 7.16. To summarise, NPPF paragraph 11d is engaged as the most important policies for determining the application are found to be out of date. This is due to the following independent reasons:
- Inconsistency of the tests and approaches within countryside and housing policies with the NPPF;
 - Combined with the out of date extent of defined countryside and settlement boundaries predicated on an out of date, lower, housing requirement;
 - An out-of-date housing requirement, and
 - The confirmed failure to provide for the minimum five-year supply at April 2021 which will not be resolved at April 2022.

²⁵ Willow Tree House Appeal decision paragraphs 87 and 88

²⁶ Willow Tree House Appeal decision paragraph 85

²⁷ Wokingham's five-year Housing Land Supply Statement at 31 March 2022 dated 9th January 2023

²⁸ Willow Tree House Appeal decision paragraphs 78,81 and 82

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- 7.17. These points confirm that the NPPF paragraph 11d “tilted balance” is engaged and provides a route through to a decision. Accordingly, 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 NPPF taken as a whole.
- 7.18. The tilted balance does not apply in certain circumstances where specific policies in the NPPF indicate development should be restricted, as set out in paragraph 11(d)(i) of the NPPF. Footnote 7 lists the restrictive policies which could disengage the tilted balance. None of these apply to the application site.
- 7.19. The presumption in favour of sustainable development therefore remains engaged, and the test is whether the adverse impacts of allowing the application proposal would significantly and demonstrably outweigh the benefits.
- 7.20. Cognisant of the fact that the start point for this assessment is that the most important policies against which the proposal would be assessed, when taken together, have been shown to be ‘out-of-date’, any conflict with these policies would attract only limited weight in this planning balance. This limited conflict is to be weighed against the benefits that would arise from the application proposal, those benefits which are set out below in Section 10 of this Statement. This will demonstrate that these benefits outweigh the impacts such that in applying paragraph 11d, the very minimal impact would not significantly and demonstrably outweigh those benefits. Consequently, the application should be approved.

8. AFFRordable HOUSING NEED AND SUPPLY

- 8.1. The provision of affordable housing is a key part of the planning system. A community's need for affordable housing was first enshrined as a material consideration in PPG3 in 1992 and has continued to play an important role in subsequent national planning policy, including the National Planning Policy Framework (2012, 2018, 2019 and 2021 versions).
- 8.2. The National Planning Policy Framework (NPPF) is a material planning consideration. It is important in setting out the role of affordable housing in the planning and decision-making process.
- 8.3. The NPPF sets a strong emphasis on the delivery of sustainable development, including affordable homes, at paragraphs 20 and 62.
- 8.4. Paragraph 60 clearly sets out the Government's aim to "boost significantly the supply of homes". To both achieve higher housing supply and address the needs of the whole community, paragraphs 61 and 62 indicate:

61. To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for.

62. Within this context, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes). (My underlining)

8.5. The need for affordable housing and importance is emphasised in many Government publications, including:

- Laying the Foundations – A Housing Strategy for England (November 2011)
- Fixing the Foundations: Creating a More Prosperous Nation (July 2015)
- Building the Homes We Need (2014)
- CBI - Housing Britain: Building New Homes for Growth (2014)
- Home Truths 2014/15: Broken Market Broken Dreams (2014)
- Planning and the broken housing market, Committee of Public Accounts, House of Commons (June 2019)

Affordable Housing Delivery and Supply

8.6. The Berkshire and South Bucks SHMA (February 2016), prepared jointly by the Council and the other Authorities in Berkshire, quantifies the Borough's affordable housing needs. This indicated an annual net need (2013-36) for 441 affordable dwellings (Table 81) and can be compared with the overall assessed need for 856 homes annually (Table 139). Seeking 441 affordable homes annually therefore represented 51.6% of the total housing need for the Authority over the period 2013 to 2036. This contrasts with a requirement of a minimum of between 20% and 40% (and up to 50%) in Core Strategy Policy CP5 – as the application site is green field and exceeds the threshold for major development in the NPPF, 40% affordable is required.

8.7. Since the publication of the SHMA, the Authority has undertaken a further appraisal of affordable housing need. This is with the Local Housing Need Assessment prepared by GL Hearn in January 2020. This provides an appraisal of affordable housing need alongside the calculation of the overall Local Housing Need figure derived from the PPG (ID ref 2a-004-20190220). This document indicates that over the envisaged emerging Local Plan period for 2018-36, an annual average of 407 affordable homes would be required (paragraph 7.68), which was 51% of then minimum Local Housing Need figure of 798dpa²⁹.

²⁹ See paragraph 14 of Executive Summary (page 9).

8.8. Alongside the consideration of affordable housing need within the SHMA and the LHNA, it is also important to review changes in the Council’s Housing Register over the period since the base date of the SHMA. This indicates a significant unmet need for affordable homes in the Borough which whilst recognised in the appraisals of the LHNA has continued to grow (as addressed in the next section).

8.9. The Table below indicates the changes to the Council’s housing register since 2013. To join the Council’s Housing Register, applicants must accord with the criteria as detailed in the Council’s “Housing Allocations Policy” (2022).

Comparison of Housing Register Changes in Wokingham Borough³⁰

	1/4/13	1/4/14	1/4/15	1/4/16	1/4/17	1/4/18	1/4/19	1/4/20	1/4/21
Number on housing register	2,274	2,417	1,622	1,527	1,702	1,613	1,498	1,510	2,086
Those in a reasonable preference category	1,000	1,000	900	405	425	334	77	103	255
Homeless	20	20	27	65	44	20	33	45	46

8.10. The extent of the continued growth in the need for affordable housing is further confirmed in the Housing Facts and Figures Report – this indicates that at 30th September 2021, there were 2,450 households on the housing register, an increase of 364 households compared to the end of the financial year as indicated in the Table 6 above. This is a 17% increase in the size of the Council’s housing register in just 6 months. A further FoI Response indicates that at 15th August 2022, the Council’s housing register stood at 2,489 households. This is a further increase on the figure at 30th September 2021 and that within the above table for 1st April 2021.

8.11. When this is compared to the scale of demand illustrated in the above table, it is clear that there have been around 1,500 households on the Council’s housing register for the five years from April 2015 to 2020 but that this has worsened in recent years. Therefore, insufficient new affordable homes have been completed in the Borough to off-set the increased demand for such properties which has resulted in the size of the

³⁰ Data obtained from <https://www.gov.uk/government/collections/local-authority-housing-data>.

register remaining broadly constant. Therefore, to make an effective contribution towards addressing the requirements of households as indicated on the Borough's housing register, it is essential that further affordable homes are delivered, as envisaged on the appeal site.

8.12. As indicated in the Table below³¹, the Council has delivered 2,226 affordable homes in the period April 2013 to March 2022. This is equivalent to an annual average rate of 247.3 affordable dwellings since 2013.

8.13. Alternatively, in the period since the start of that appraised in the Local Housing Need Assessment (2018), there have been 1,628 affordable homes completed, which is 422 dwellings less than that required to address its appraisal of affordable housing need (407dpa).

Net delivery of affordable homes in Wokingham Borough 2013-22

Year	Net housing completions			SHMA		Local Housing Need	
	All	Affordable	%	Affordable need	Shortfall	Affordable need	Shortfall
2013/14	488	108	22	441	-333		
2014/15	454	95	21	441	-346		
2015/16	675	123	18	441	-318		
2016/17	967	212	22	441	-229		
2017/18	1,528	482	32	441	41		
2018/19	1,284	365	28	441	-76	407	-42
2019/20	1,555	465	30	441	24	407	58
2020/21	1,129	187	17	441	-254	407	-220
2021/22	1,481	189	13	441	-252	407	-218
Total	9,561	2,226	23	3,969	-1,743	1,628	-422

8.14. Despite having completions in 2019/20 totalling 1,555, there were only 465 affordable completions in the Borough. During 2020/21, the provision was worse with 187 affordable units completed compared to 1,129 in the Borough overall and this poor provision has been repeated in 2021/22 with just 189 affordable homes completed compared to a total of 1,481 dwellings. The 2019/20 delivery of affordable housing was only 30%, it fell in 2020/21 to just 17% and in 2021/22 it was worse still at only 13%. These are both significantly below the 52% envisaged in the SHMA, the 52% of the

³¹ Sourced from the FOI response of the Council

Local Housing Need figure appraised in the January 2020 report or up to 50% through the Core Strategy policy.

- 8.15. The extremely poor delivery of affordable housing in 2020/21 has continued into 2021/22 as indicated in the above Table. This has consequently had significant impacts upon the ability to resolve the Borough's housing needs as illustrated by the changes in the housing register (both within the above Table and the Fol response of 15th August 2022).

Affordable Housing Shortfall

- 8.16. The appraisal in the SHMA identified that 441 net affordable homes were required annually within the context of an overall need of 856 dwellings (or 52%). Alternatively, the Council's Local Housing Need assessment (January 2020) calculated that the annual need for affordable homes in Wokingham Borough 2018-36 is for 407 units (or 52% of the then Local Housing Need figure of 798 dwellings (2020 based requirement).
- 8.17. It is consequently clear that there is a very significant need for affordable homes in Wokingham Borough. Furthermore, as envisaged in paragraph 60 of the NPPF, it is essential that sufficient housing is delivered to ensure that the **"needs of groups with specific housing requirements are addressed"**. This therefore includes providing for the full annual need of at least 407 affordable units as appraised through the Local Housing Need assessment, since paragraph 62 of the NPPF is clear that affordable housing comprises one of those groups with a specific housing requirement.
- 8.18. Compared to the assessed need for affordable homes in the SHMA, between April 2013 and March 2022 under-delivery has so far reached 1,743 dwellings (Table 7). In percentage terms, this represents a 43.9% shortfall against assessed needs during this period, a serious gap in provision which affects Wokingham Borough and how its effective economic and social functioning).
- 8.19. Furthermore, when reviewed in comparison to the existing policy requirement (Core Strategy policy CP5) (minimum of 20 - 40% affordable housing (typically at least 35%)), the 52% expectation of both the SHMA and Local Housing Need, the Council has seriously under-delivered on affordable homes. This is confirmed by the proportions of affordable homes completed in the Borough as detailed in the Table above.

8.20. The ability to contribute towards addressing the very significant under-delivery of affordable housing through this scheme is an important benefit associated with the proposal that attracts significant and substantial weight.

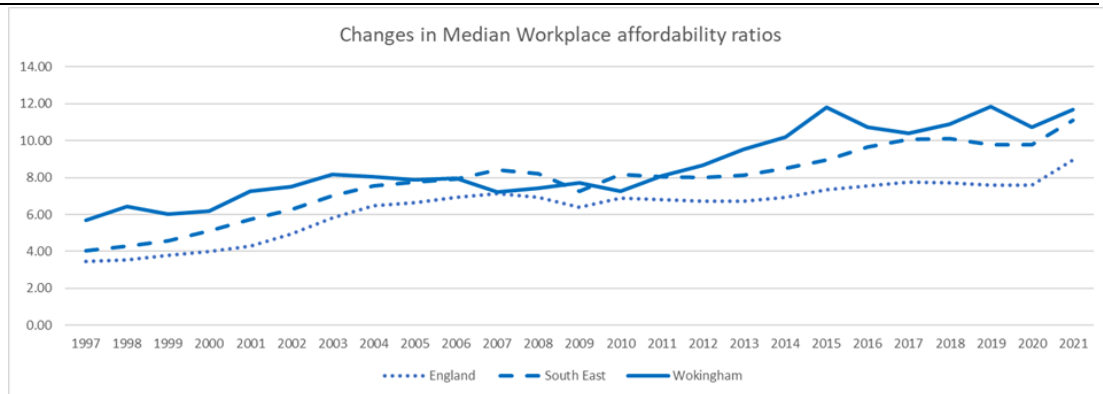
Future affordable housing supply

8.21. The future delivery of affordable housing in Wokingham Borough is highly uncertain. In addition to the shortfall, there is also the question of whether future needs will be met. The risks of not meeting these needs are heightened by the fact that any future housing supply delivered through permitted development conversions is exempt from affordable housing, and on brownfield sites, the affordable housing potential is tempered by vacant building credit. This has the potential to make the situation even more severe, not just for Wokingham Borough's vulnerable position on affordable housing land supply, but for the significant number (2,489) of households on the Council's Housing Register on 15th August 2022.

8.22. Whilst the Council's five-year land supply assessment on 31st March 2021 indicates that affordable homes are expected on a number of the sites listed, there is no information of the total number of such units still to be completed or their expected delivery rate. Therefore, there is no guarantee that existing permissions will provide sufficient homes to address continuing annual need for 407 affordable dwellings (assessed in the Local Housing Need Report) together with the 2,489 households on the Housing Register.

8.23. The concerns in the Facts and Figures Report (section 3) that increasing construction and labour costs has impacted and remains an issue for future delivery is a further factor indicating that insufficient affordable homes will be forthcoming.

8.24. The failure to meet the identified needs of affordable housing is a dire situation indicating that the Authority is not fulfilling the objectives in paragraph 61 of the NPPF. The continued under delivery of affordable housing, has contributed to the worsening of the affordability ratios in the Borough as indicated in the chart below.



8.25. The chart also shows that affordability ratios in Wokingham Borough have more than doubled between 1999 and 2021, and whilst they were below those of the South East region from 2001 to 2014, they are now back above them. This doubling in the affordability ratio has occurred because of a failure to deliver sufficient homes to meet market and affordable need in the Borough. This is illustrated by the extent that the affordability ratio of the Borough has remained above those for England and the Region. Consequently, it is essential that further increases in house building occurs to improve affordability, especially given the continual under-delivery in supply.

8.26. A step change in the delivery of affordable housing is therefore required if the Council is to get anywhere near the accepted identified need in the SHMA or the Local Housing Need Assessment and begin to address the dysfunctions of the local housing market. Such a step change would be consistent with the thrust of paragraph 60 of the NPPF, to boost significantly the supply of homes.

Weight attributable to affordable housing in planning decisions

8.27. The importance of affordable housing as a material consideration is reflected in a number of Secretary of State (SoS) and Planning Inspector decisions. A consistent theme is the significant amount of weight which is attached to affordable housing relative to other material planning considerations in the planning balance.

8.28. Of particular relevance is the weight to be attached to affordable housing provision even in situations where Councils believe they have a sufficient supply of housing land and other adverse impacts have been identified.

8.29. First, the planning Inquiry appeal decision for Land North of Nine Mile Ride, Finchampstead (dated 9 April 2020³²) confirmed at paragraphs 112, 113, 114 and 129 that:

“Affordable housing

112. Policy CP5 in the CS establishes a minimum requirement for 40% affordable housing on sites such as this, subject to viability. The Berkshire Strategic Housing Market Assessment 2013-2036 (2016) identifies a need for 441 dpa. In the 6 years since 2013, 1,317 affordable dwellings have been delivered or an average of 220 per annum. This means that a backlog will accumulate year on year. If this were to be addressed over the next 5 years, delivery would have to amount to over 700 affordable dpa. This is not far off the total annual housing requirement, which demonstrates the scale of the issue and that the need is acute.

113. Wokingham is an expensive area in which to live and incomes are not keeping pace with price rises. The average house price to average income ratio now stands at 12:1. The evidence shows that there were 1,860 households on the Council’s Housing Register on 1 April 2019 and that this had risen by 247 from the preceding year. In December 2019, 1,502 households were on the Help to Buy South Register, with 40 specifying a preference for a shared ownership dwelling in Finchampstead.

114. The proposed development would provide 50% affordable housing, which would amount to 59 units and be above that required by policy CP5 in the CS. The S106 Agreement indicates that the mix would be 66% social rented units and 34% shared ownership units with a mix of flats, bungalows and houses. Taking account of all of the above factors the affordable housing provision would clearly be an important benefit.

129. There is an acute need for affordable housing and this would be provided above the level required under policy CP5. The inclusion of 6 Self-Build and Custom-Build serviced plots would be a benefit that would clearly meet a local demand. In the circumstances I give substantial weight to these benefits.” (My underlining)

³² LPA ref 181685 or PINS ref APP/X0360/W/19/3238048

8.30. Similar conclusions and weighting have been given to affordable housing in Wokingham. An example of this was for a scheme in Charvil, Wokingham for 25 dwellings where a five-year housing land supply shortfall of 351 was identified (paragraph 45) and significant weight was applied to an affordable housing contribution equivalent to 40% on site provision (paragraphs 49 and 69).

8.31. The significant need for affordable housing has been reaffirmed in the appeal decision for land west of St Anne's Drive, Wokingham (paragraphs 41 and 42). These confirm:

40. There is no dispute that there is a need for more Affordable Housing within the Borough. 19 of the 54 units proposed would comprise Affordable Housing. This equates to just over 35% of the proposed units, in keeping with the requirement of CS Policy CP5 with respect to sites in Strategic Development Locations. Furthermore, WBC has confirmed that the proposed Affordable Housing mix and tenure would also be appropriate, having regard to the underlying character of the area and the needs of households, in keeping with the requirements of MDD Policy TB05. The provision of the proposed Affordable Housing units would be secured by the submitted section 106 agreement, in accordance with WBC's Affordable Housing Supplementary Planning Document, 2013 and Infrastructure Delivery and Contributions Supplementary Planning Document for the Strategic Development Locations, 2011 (IDCSPD).

41. I conclude that the proposal would make a positive contribution towards meeting Affordable Housing requirements in the Borough, consistent with MDD Policy TB05 and CS Policy CP5.

8.32. The decisions above emphasise the great weight to be attached to the provision of affordable housing in the consideration of planning applications and appeals. The appropriateness of attributing great weight to the benefits of affordable housing has also been accepted by the Courts.

8.33. Some of the key points that arise from these examples are that:

- Affordable housing is an important material consideration;
- Affordable housing can be considered in its own right;
- The importance of unmet need for affordable housing being met; and
- Even where there is a 5-year housing land supply, material benefits arising from affordable housing can still justify the grant of planning permission despite harm/development plan policy conflicts.

Conclusions

- 8.34. It is evident from the housing context that Wokingham Council has underdelivered against its development plan requirements and strategies. National policy, and Secretary of State and Inspector decisions, highlight the importance of the delivery of new affordable homes. Within Wokingham Borough there has been clear under delivery of affordable homes against identified levels of need resulting in a significant backlog of affordable homes. Future supply of affordable housing reinforces the position that there is an acute shortage of affordable homes against significant levels of need.
- 8.35. In all respects **substantial weight** should be attached to the benefit of providing additional new homes in Wokingham Borough through this application.

9. MAIN ISSUES

Context for considering the application proposal

- 9.1. Prior to considering the various individual issues, it is important to establish an overall context for considering the proposals.
- 9.2. As explained in section 7, the presumption in favour is engaged due to the existence of the five-year housing land supply deficit position as at April 2022.
- 9.3. Therefore, any adverse impacts would need to significantly and demonstrably outweigh the benefits that arise from these proposals when assessed against the policies in the NPPF taken as a whole. If not, then the proposals would comprise sustainable development and planning permission should be granted.
- 9.4. As noted, the application scheme is not caught by any the footnote 7 restrictive policies.
- 9.5. Overall, therefore, this application needs to be considered in terms of the weighted balancing exercise in NPPF paragraph 11d. All the issues set out above and considered below, need to be assessed in this context.
- 9.6. In respect of housing land supply, the Core Strategy housing requirement is expressed as a minimum. The standard methodology that is currently applied in Wokingham Borough is also a minimum requirement. Alongside the Council's acceptance that it cannot demonstrate a five-year supply of housing land, there is an acute housing shortage in England. This is recognised in the NPPF which nevertheless makes it clear its intention to boost significantly the supply of housing (paragraph 60).
- 9.7. The proposal will undeniably make a contribution towards boosting the supply of housing in the area. In this respect, the provision of extra housing to this national shortfall is a benefit in favour of the proposal. The recent Sawpit Lane, Hurst Inspector accepted that even 4 dwellings made an important contribution towards the housing

land supply shortfall³³. In addition, on site affordable housing also represent an important additional benefit. This is irrespective of the role that the site can readily play in contributing towards the acknowledged land supply deficit in the Borough.

- 9.8. Significant weight can and should apply to the provision of additional market and affordable housing. The acceptance of development at Hurst at Sawpit Lane reinforces the merits of the scheme and the weight to be attached to the provision of additional market and affordable homes.
- 9.9. There are no robust reasons to suggest that allowing the additional homes proposed would be so significant as to undermine the spatial distribution of housing in the Borough or lead to an unsustainable level of growth.
- 9.10. With this context in mind the main issues can be addressed in turn under a number of headings:
1. Development in the countryside beyond defined settlement edges;
 2. Additional car parking spaces for the Primary School;
 3. Sustainability of location in Hurst;
 4. Impact on the character, appearance and function of the site and surrounding area;
 5. Heritage Assests;
 6. Dwelling mix;
 7. Section 106 Agreement
 8. Compliance with the development plan; and
 9. Conclusions on main issues

³³ Paragraphs 84 and 90 of the appeal decision for land at junction of Sawpit Road and School Road, Hurst allowed on 4th August 2022 (LPA ref 211532 and PINS ref APP/X0360/W/21/3280255)

1. Development in the countryside beyond defined settlement edges

9.11. The development limits/settlement boundaries and consequently the extent of countryside is derived from an out-of-date housing requirement which does not address the obligations on the Council in the NPPF. Moreover, the countryside policies themselves are out of date and therefore attract less weight as highlighted in section 7 of this Statement with reference to the Willow Tree House appeal decision paragraphs 78, 81, 82, 85, 87 and 88 and Appendix 1. The Willow Tree Inspector concluded:

“77 Policies CP9, CP11 and CC02 are restrictive policies, which amongst other things, set out a settlement hierarchy, require development to occur within development limits, apart from allowing for some limited development including affordable housing on rural exception sites. The housing requirement set out under Policy CP17 of the CS reflects the revoked South East Plan. This has been superseded by the Local Housing Need (LHN) figure of 768 dwellings per annum plus a 5% buffer (806) compared to the CS requirement under Policy CP17 of an average of 623 dwellings per annum from April 2021.

78. The Council has set out that the defined development limits are not specifically drawn up to deliver a simple quantum of development. It has also confirmed that the housing numbers upon which these limits were based, in this case those set out under Policy CP17, are not a ceiling. Whilst this is accepted, it is nevertheless evident that the Council is reliant on several sites outside development limits in order to deliver a sufficient supply of housing. Together these sites would deliver 420 dwellings and just over 10% of the Council’s 5 year housing requirement.

79. Of the dwellings permitted outside development limits and included in the Council’s 5 year housing land supply (5YHLS), some 306 dwellings would be within the SDLs where significant investment in infrastructure has taken place or is programmed to be delivered as part of future housing. In these cases, the Council has stated that in granting permission a ‘normal balance’ was taken weighing up material considerations against any policy conflict. The remaining approvals were granted on appeal when the Council could not demonstrate a 5YHLS. This indicates that the policies can and are applied flexibly.

80. Recent HDT results show the Council is performing well in delivering its housing requirements and has significantly exceeded its annual requirement since 2018, with delivery at 189% in 2021. This indicates that the Council’s strategy for housing and other growth, as set out within Policies CP9, CP11 and CC02 and the policies relating to SDLs, can be applied flexibly to deal with changing circumstances including changes to housing requirements.

81. Nevertheless, it is clear that the policies are unable to deliver the housing requirement without having to be applied flexibly and reasonably often, in order to meet housing requirements. Given the extent of development outside settlement limits and my findings that the Council cannot currently demonstrate a 5YHLS, which I discuss in more detail later in my decision, I conclude that Policies CP9, CP11 and CC02 are all out-of-date and inconsistent with the Framework. This accords with a recent judgment, *Eastleigh BC v SSHCLG*³⁴, where it was held that development plan policies were not consistent with the Framework where compliance with a 5YHLS had been achieved, in part, by greenfield planning permissions outside settlement boundaries.

82. These matters have also been considered in various appeals within the Borough where Inspectors have reached differing conclusions. Most recently, Inspectors for appeals at Land east of Finchampstead Road, Wokingham³⁵ and Land north of Nine Mile Ride, Finchampstead³⁶ concluded that since the Council was relying on sites outside settlement limits for its 5YHLS, then Policies CP9, CP11 and CC02 are all out of date.

83. I am aware that the Inspectors in both the Land to the rear of 6 Johnsons Drive, Finchampstead appeal³⁷ and Land at Lodge Lane, Hurst appeal³⁸, which pre-dated the Finchampstead Road and Nine Mile Ride appeals, concluded that these policies were not out of date.

84. In the Johnsons Drive appeal, the Inspector found that the Council could demonstrate a 5YHLS even when deducting those sites outside the settlement boundary. Within the Hurst Lane appeal, there was no dispute that the Council could not demonstrate a 5YHLS, although it was not specified whether any of this would have been made on land outside settlement boundaries. The circumstances are therefore different to those before me where the Council acknowledges reliance on sites outside settlement boundaries and I have found a 5YHLS does not exist.

85. In coming to this view, I am also mindful of case law³⁹ which confirmed that the weight to be given to restrictive policies could be reduced where settlement boundaries were drawn up on the basis of out-of-date housing requirements. In this case, the settlement boundaries were drawn up in the context of a much

³⁴ *Eastleigh Borough Council v SSHCLG* [2019] EWHC 1862 (Admin)

³⁵ Appeal Ref: APP/X0360/W/19/3235572

³⁶ APP/X0360/W/19/3238048

³⁷ APP/X0360/W/18/3205487

³⁸ APP/X0360/W/18/3194044

³⁹ *Suffolk Coastal District Council v Hopkins Development Ltd* [2017] UKSC 37

lower housing requirement although I acknowledge that housing requirement was not set as a ceiling.

86. The Council has referred me to an appeal decision⁴⁰ at Land off Moseley Road, Hallow, Worcestershire where the Inspector concluded that since the Council could demonstrate in excess of a 5YHLS, its policy restricting development outside settlement boundaries was up-to-date. However, there is nothing to suggest that the 5YHLS was in dispute or whether it relied on the delivery of housing development outside defined settlement boundaries. For this reason, a comparison with the circumstances of the appeal before me is not possible. I therefore give this appeal decision limited weight.

87. It has been established through the *Eastleigh BC v SSHCLG* judgment that the Framework adopts a more nuanced approach requiring that planning decisions should contribute to and enhance the natural and local environment by meeting a series of objectives which includes the recognition of the intrinsic character and beauty of the countryside. Similarly, the Secretary of State⁴¹ in determining an appeal for the redevelopment of Wheatley Campus of Oxford Brookes University confirmed that ‘recognition’ and ‘protection’ are not the same being distinguishable terms, finding that the restrictive policies seeking blanket protection of the natural environment were not consistent with the Framework.

88. The type of restrictive approach that protects land outside of defined settlements as set out within Policies CP11 and CC02 does not, in my view, accord with the more nuanced approach advocated by the Framework. This also makes these policies out of date.

89. I acknowledge the benefits and the certainty that a plan-led approach to development provides, as recognised in the *Gladman Development Ltd v Daventry DC*⁴² judgment. I also recognise that the Council has taken steps to address issues arising within the Borough that have affected planned housing delivery, notably in relation to the extension of the Detailed Emergency Planning Zone around AWE Burghfield. I also appreciate that it can be unfair for landowners to seek to short-cut the plan-led process when the Council considers development needs are being met.”

9.12. These matters were reaffirmed in the more recent Sawpit Lane, Hurst appeal decision at paragraph 89 which summarised the position stating:

“Drawing all of these threads together I find that being outside the settlement boundary and within the countryside, the appeal

⁴⁰ APP/J1860/W/17/3192152

⁴¹ APP/Q3115/W/19/3230827

⁴² *Gladman Developments Limited v Daventry District Council and SSCLG* [2016] EWCA Civ 2246

proposal is not in accordance with the development plan taken as a whole. However, in the context of paragraph 11(d) of the Framework, I have found that some of the most important policies for determining this appeal are out-of-date, notably MDD Policy CC02 and CS Policies CP11 and CP9. I have attached only moderate weight to the conflict with these policies which lessens the significance of that conflict. The weight I therefore attach to the conflict with the spatial strategy is moderate". (My underlining)

- 9.13. The Council have recently approved planning applications for residential development within designated countryside on the outer edges of limited development locations owing to the existence of the five-year housing land supply deficit and the application of the tilted planning balance through NPPF paragraph 11d. This includes that for an application (LPA ref 222304) for land adjacent to Lane End House, Shinfield Road, Shinfield RG2 9BB where 6 dwellings were proposed. The planning officers report to the 12th October 2022 Planning Committee confirmed in relation to the principle of development stating at paragraph 19 that:

"Conclusion on the principle of development

19. Whilst the site is located within the countryside and would ordinarily be resisted in principle by local plan policies, Paragraph 11d) of the NPPF is engaged. In this regard, the site is not within an area or affects assets of particular importance; it is currently undeveloped land in a sustainable location. As such, it is considered to be a suitably available windfall development site which would bring with it a number of economic, social and environmental benefits that fulfils the overarching objectives of the NPPF. The principle of development is therefore acceptable in this instance subject to an assessment against all other relevant policies of the local plan".

- 9.14. This acceptance of the specific sustainability merits of a site beyond development limits has also been endorsed for an application at Bridge Farm, Twyford (LPA ref 212720) which was considered by the Council's Planning Committee on 14th December 2022. Whilst this application was deferred, this was with respect to specific detailed concerns and did not relate to the acknowledged sustainability of the location. Paragraphs 142 and 143 detail the conclusions of the officer's assessment on sustainability and confirm:

For the reasons outlined in the above report, the site is considered to be a sustainable and suitable development site that would offer public benefit to help meet the needs of the community. The application will deliver high quality development in accordance with the Council's overall spatial strategy and although it is situated beyond the existing settlement boundary

within the countryside, the site is located adjacent to a major development location and the benefits of the scheme are considered to outweigh limited conflict with the underlying aims and objectives of the development plan.

However, and as outlined above, as the Council cannot currently demonstrate a five-year housing land supply, the most important policies for determining the application are considered out of date and the NPPF tilted balance in the presumption of sustainable development is engaged. Furthermore, the proposals are not considered to result in any significant adverse impacts that would lead to suggest that the application should be refused and it is considered that an appeal Inspector would likely reach the same conclusion in this regard. Officers therefore recommend the application for approval, subject to the conditions listed and an accompanying S106 agreement.

- 9.15. These same principles and approach should be applied to the determination of this application too.

2. **Car parking for school**

- 9.16. The application scheme includes provision for a new car park. This will provide additional car parking spaces for the school being conveniently located to for parents/guardians to safely park whilst dropping off and/or collecting pupils. These spaces will be maintained and managed at no cost to the School or Council by the Management Company who will oversee the roads, pavements and landscaping on the site. The benefits of this facility are confirmed in highway terms in the Transport Statement which notes in the conclusions:

“The development proposal includes a 15-space car park accessed from School Road which is proposed to provide for dropping-off and picking-up school children from the adjacent school. This will provide a benefit to the local highway network by removing the cars which currently park on-street on School Lane during the school peak periods”.



Impact of parked cars in School Road

- 9.17. The provision of car parking spaces for the school will present an enhancement to the environment of the village and School Lane and to the operation of a community facility and is consequently consistent with Core Strategy policies CP3(h) and CP11(6).

3. Sustainability of location in Hurst for growth

- 9.18. The village of Hurst is categorised in the Core Strategy (Policy CP9) as a limited development location. Policy CP17 indicates that within such locations, schemes of up to 25 dwellings will be appropriate. Whilst the site adjoins the settlement boundary of the village, this does not detract from the accepted sustainability of the village confirmed by its inclusion as a limited development location.
- 9.19. Whilst the accompanying Transport Statement provides analysis of the range of services and facilities within both walking and cycling of the site thereby confirming the sustainability of the location, this is further reinforced as follows.

9.20. As noted earlier, several proposals for residential development have been approved around Hurst, both within and adjoining the defined development limits and these have confirmed the sustainability of the location. The locations of these other schemes are shown on the annotated aerial photo below.



Aerial photo of Hurst illustrating relationships between application (edged red) and other relevant schemes (edged blue and green).

9.21. The relevant assessment of sustainability for these sites is summarised in the table below.

Consideration of sustainability in other schemes within and adjoining Hurst development limit/settlement boundary

Colour on map	Details of application including LPA ref, location and proposal together with assessment of sustainability
Blue edged area	162219: Valley Nurseries, Whistley Green – Erection of 16 dwellings. Allowed on appeal 30 th August 2017 Paragraph 17 of the appeal decision states: <i>‘Hurst has a number of facilities to cater for the daily needs of its residents, including a local shop, a post office, a bakery, a playground, a church, a cricket</i>

Colour on map	Details of application including LPA ref, location and proposal together with assessment of sustainability
	<p><i>club and a public house. I was able to walk, at a moderate pace, to all of these facilities from the appeal site within approximately 5 minutes. This would not be an unreasonable distance for any future occupiers of the proposal to access these facilities on foot or by bicycle. In addition, these facilities are mostly accessible along level roadside footpaths. There are also some bus stops within a similar walking distance from the appeal site. These provide an hourly service on Mondays to Fridays and a two hourly service on Saturdays to the larger settlements of Reading and Wokingham. I consider that this would provide any future occupiers of the proposal a reasonable alternative to the use of a private motor vehicle for most days of the week to access the range of services and facilities available within these settlements. I therefore consider that any future occupiers of the proposal would have an acceptable level of access to local services and facilities to cater for their daily needs without the over reliance on a private motor vehicle. In addition, there is no substantive evidence to demonstrate that there would be any undue pressure on such services and facilities.'</i></p>
Green edged area	<p>211532: Land at junction of Sawpit Road and School Road - Application for erection of 4 dwellings. Allowed on appeal 4th August 2022. Paragraphs 40 to 53 of the appeal decision confirms the sustainability of the location and state:</p> <p><i>40. Although the appeal site is physically separated from the main body of the residential area to the north it is nonetheless geographically close to it. Hurst has a number of facilities which includes a Post Office and Village Store, Primary School, Pre-school, Public House, Bakery, Church and Village Hall. Secondary schools and medical surgeries are located further afield.</i></p> <p><i>41. There are two bus stops located near the appeal site which provide services to larger settlements including Reading and Wokingham. The nearest railway station is at Twyford, which the appellants indicate is approximately 2.9km to the north of the appeal site and is accessible by bus. The site is also close to promoted 'Quiet Links' suitable for cycling which provide connecting access south to Winnersh and into Wokingham, and north towards Twyford.</i></p> <p><i>42. Given the close geographical relationship to the existing settlement, in my view, future residents of the proposed development would experience a similar degree of accessibility to local facilities as those residents of the surrounding existing residential areas.</i></p> <p><i>43. The submitted Transport Statement and the evidence of the appellants' transport witness provide walking and cycling distances to local facilities that are located within 1.6km of the site which the appellants consider to be within reasonable walking distance (less than 20 minutes).</i></p> <p><i>44. There is no prescriptive and definitive national or local planning policy regarding acceptable walking distances to services and facilities as these will obviously vary between individuals and circumstances. However, the Chartered Institution of Highways & Transportation (CIHT) 'Guidelines for Providing for Journeys on Foot' (CIHT Guidelines) attempt to set out some parameters for appropriate walking distances. These have been used by the appellants in the assessment of the walking distances to facilities and I have no contrary evidence from the Council to suggest that the use of these guidelines is inappropriate.</i></p>

Colour on map	Details of application including LPA ref, location and proposal together with assessment of sustainability
	<p>45. The CIHT Guidelines suggest that the preferred maximum walking distance for commuting/schools/leisure is 2.0km with 1.0km being acceptable and 500m being preferred. The preferred maximum distance to walk to town centres and journeys elsewhere is 800m and 1200m respectively. Approximately 1.6km is the distance where most people (circa 80%) will walk.</p> <p>46. The appellants evidence refers to data provided within the National Travel Survey (2019) which demonstrates that the average distance per journey by cycling is approximately 4.4km, with the current average length of an employment and leisure cycle trip being some 5.2km. I concur with the appellants' view that a 5km cycle distance represents a 'reasonable' cycle distance.</p> <p>47. The submitted evidence demonstrates that all of the village facilities are located within 1.6km of the appeal site which is a 'reasonable' walking distance (less than 20-minute walk), and that many of Hurst's facilities can be reached within a much shorter 10-minute walking journey, including the Village Hall, Pre-School, Primary School, recreation ground, Public House and bus stops. The evidence also demonstrates that all facilities in Hurst are located within a short cycle journey of generally less than 5 minutes.</p> <p>48. In my view, future residents of the proposed development would benefit from realistic and viable opportunities to reach key local services and facilities on foot and by cycle, including employment, primary education, retail and leisure facilities, without the need to rely on the private car.</p> <p>49. Taking the above factors into account, I consider that the proposed development would be adequately accessible to local facilities by means of walking and cycling. Paragraph 79 of the Framework supports the sustainable growth of rural areas but it acknowledges that it is not always possible for such areas to provide for the full needs of its community, and in such cases, nearby villages will be likely to support each other.</p> <p>50. Whilst Hurst village offers a good range of local facilities to address many everyday needs which are accessible by walking and cycling, it is inevitable that there will be demands for travel outside of the village, to higher order settlements in the local area, or to alternative service centres that can offer facilities that Hurst does not. Further essential facilities and services including railway stations, local and supermarket shopping, a GP surgery, and employment, are provided in Twyford, Reading, Winnersh and Wokingham which are accessible from the bus stops in the proximity of the site.</p> <p>51. As a consequence of the above, I do not consider that the occupants of the proposed dwellings would be wholly reliant on the use of private motorised transport for most of their day-to-day needs. Moreover, the development would make a small contribution to supporting the vitality of the nearby shops and services. In coming to this conclusion, I have also taken into account the relevant obligations proposed in the UU regarding pedestrian improvements and the measures to promote sustainable transport options which are set out later in this decision.</p> <p>52. Whilst there would likely be some car use to access facilities further afield, there is no basis to support the assertion that the future occupants of the proposed dwellings would be overly reliant on private motor vehicles or that the site is so unsustainably located of an extent to dismiss this appeal on those grounds.</p>

Colour on map	Details of application including LPA ref, location and proposal together with assessment of sustainability
	<i>53. Taking the above factors into account, I do not consider that the proposed development would be contrary to the overall travel objectives of Policies CP1 and CP6 of the CS. These policies, amongst other things, require development proposals to demonstrate opportunities to reduce the need to travel by car and provide sustainable forms of transport that allow travel choice.'</i>

9.22. As noted in the Transport Statement, the application site has a range of facilities and services with both walking and cycling distances. The above appeal decisions confirm that for the Borough, especially the limited development location of Hurst such distances are appropriate for demonstrating the sustainability of the location. This sustainability is reaffirmed by the access to the same frequent bus service which was confirmed acceptable within the Valley Nurseries appeal.

9.23. The officers report on the planning application for land at Bridge Farm, Twyford (LPA ref 212720) considered at Planning Committee on 14th December 2022 states (page 182):

In this case, the location of the development is considered to be sustainable and would allow easy and safe access to facilities within walking distances to local services and facilities within Twyford. The proposals are therefore considered to be well aligned with the underlying objectives of the policies concerning proposals outside development limits and in the countryside. It should also be noted that the NPPF does not dismiss development which is located outside of defined development limits provided it is located in a sustainable location.

9.24. Whilst this application has been deferred, the sustainability credentials of the site were not disputed by the Councillors. Therefore, given the clear acceptance of the sustainability of Hurst confirmed through the appeal decisions references, the application site is equally appropriate for development reflecting the officer's appraisal of the Bridge Farm, Twyford site.

4. Impact on the character, appearance and function of the site and surrounding area

9.25. As to the impact on the countryside, the first point to note is that the site does not lie in an area of landscape/countryside which is designated as having any particularly great value according to footnote 7 of the NPPF (2021). In this context, the site lies beyond

the Green Belt, Special Protection Areas, Special Areas of Conservation, AONBs, conservation area or nearby heritage assets.



Aerial Context Plan

- 9.26. With reference to the above Aerial Context Plan and having regard to the character and appearance of the site and surrounding area, whilst designated countryside, the site itself is separated visually and physically by a belt of mature trees and Orchard Road itself from the open undeveloped countryside beyond that lies to the south of the settlement of Hurst. This means the site is well contained and has no undesirable impact on settlement patterns or the character and appearance of the wider landscape.
- 9.27. Orchard Road to the south provides a strong physical boundary to the site and the more open countryside to the south which lies beyond the commercial development to the south west of the application site and the large residential property and its grounds to the south east. The multiple layers of landscaping that form the landscape containment to the residential property to the south east and the two belts of trees either side of Orchard Road ensure that the site is extremely well contained to the south and will have no impact on the character and appearance of the wider open countryside to the south of Hurst.

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- 9.28. The Village Hall complex to the west and school and Vine Cottage to the east complete the built context and containment to the site reinforcing the limited impact on the character and appearance of the countryside. Moreover, given the immediate context to the site, it is very much within the developed framework of Hurst.
- 9.29. The inclusion of a parameter plan that can be conditioned allows the Council to control the extent of proposed development envelope, ensuring it is setback from the existing tree belts to create attractive features and corridors along the northern and southern boundaries of the site. This also ensures that the proposal successfully retains the tree and landscape buffers that visually and physically contains the site on its boundaries.
- 9.30. The Wokingham Borough Landscape Character Assessment 2020 confirms that the area within which the site sits forms part of C2: Hurst River Terrace. Analysis of the site and its surroundings confirm that the landscape at the site level is considered to have a low medium value and medium susceptible to change. The aggregation of the factors of value and susceptibility to change provide a landscape sensitivity of only medium. Accordingly, the site only has a moderate landscape value and should not be regarded as part of a valued landscape.

Street scene views



Orchard Road looking east with Willowmead and application site on the left. Strong landscape belt on the right (south) of Orchard Road providing a strong boundary to open countryside further to the south beyond.



School Road looking east. Village Hall to the right with Application site beyond



View from Tape Lane at its junction with School Road looking south. Parked cars on School Road associated with school pick up time with application site beyond post and rail fence.

- 9.31. The site is very well contained with very little influence on its surroundings with no clear views into or out of the site where the housing is proposed. The proposed housing development area will remain largely out of view from the surrounding countryside. In particular, it is noted that the average height of the trees on the northern and southern boundaries are 10.75m and 9.4m respectively⁴³ and will screen out the proposed 2 storey houses planned for the site. The tree belts will be supplemented to increase the degree of continuity of screening further reinforcing the containment of the proposed new residential area. The only views are localised ones. Firstly, from Orchard Road to the south, which lies in a developed context with commercial and residential development to its south. Secondly, from School Road which equally lies in a developed setting with the Village Hall and Village School to the south that flank the application site. Even from these localised street views the majority of the development will be screened from view by the retained tree belts. The magnitude of change on the “open countryside” is anticipated to be Medium at worst.

⁴³ See submitted Tree Survey: Section 6 Tree Survey Schedule



Scheme and Site Context Plan

- 9.32. The impact and degree of integration of the proposed development is reaffirmed by the Site Context Plan above. It is clear how well related the proposed development is to the built form and pattern of development that effectively surrounds the site.
- 9.33. In terms of the overall significance on the landscape character the Factors of Sensitivity and Magnitude of Change are aggregated and this correlates with a significance of Moderate-Major adverse impact to the site itself and Moderate impact on the wider surrounding countryside. The degree of impact to the site itself is inevitable with any greenfield site. However, the impacts on the wider receiving landscape are significantly tempered by the existing screening and developed and well contained context of the site which can be further mitigated with additional planting such that the significance of impact will reduce to Moderate-Minor overtime.
- 9.34. Therefore, the application scheme can be accommodated without any significant impact upon the surrounding countryside.

- 9.35. The absence therefore of any significant harm confirms that such a judgment must be set against the significant need for new housing development and the benefit that these new dwellings would bring. Moreover, it is now accepted that the needs of the Borough require greenfield releases and with those, visual change at the settlement edges.
- 9.36. The change and outlook and loss of the current undeveloped site itself to development is unavoidable. Any development in the Borough that is seeking to meet open market and affordable housing needs will give rise to similar change. This is evident by the nature of a large number of the allocations that the Council is relying upon. It would be impossible to deliver new housing at the edge of settlements without similar visual consequences. To that extent, a limited degree of impact will arise, but that impact is outweighed by its limited intrinsic character and quality of the site, its visual containment and potential quality of the new residential development, new market and affordable housing, new publicly accessible open space and community car park.
- 9.37. In conclusion, the proposal has an acceptable level of landscape and visual impact within the context of the tilted planning balance and the need for unavoidable edge of settlement greenfield development. In this context whilst there may be technical conflicts with policies CP9, CP11 and CC02 these have limited weight in the tilted planning balance. So, whilst the application scheme is located on the edge of a built-up area and beyond land designated for its landscape quality, the scheme will not result in any significant landscape or visual effects as they are visually well contained. The loss of part of the well contained field of limited intrinsic quality in itself would result in some loss of environmental value but owing to its enclosed characteristics and limited public realm aspect this loss is of limited significance. There would be no loss of important hedgerows and trees to form the access or develop the site. Accordingly, the proposals comply with Local Plan Policies CCO3(2(d)) and TB21 which require proposals to address the landscape character assessment, retain or enhance the condition and character of features that contribute to the landscape and provide protection for trees and hedgerows. Moreover, the open space proposals accord with Policy CC03.

5. Heritage Assets

- 9.38. Vine Cottage is a grade 2 Listed building that lies to the east of the application site.

The Heritage Statement identifies a low degree of less than substantial harm to the identified heritage asset of the neighbouring Vine Cottage. This planning statement highlights a number of benefits that arise from the proposal. These, within the context of NPPF Paragraph 202, comprise public benefits of significant weight that more than out way the identified low level of less than substantial harm to the listed building on the basis of no mitigation. Complying with paragraph 202, ensures that there are no clear cut reasons for refusing the application in respect of heritage assets, and therefore, the presumption in favour of sustainable development, the tilted planning balance at paragraph 11d, still remains engaged.

6. Housing Mix

- 9.39. As indicated earlier in the statement, the proposed housing scheme secures a dwelling mix compliant with the Council’s most recent assessment of housing need, the Council’s Local Housing Need Assessment (2020). This is for both the open market and affordable homes proposed. This is summarised in the Table below.

Housing Type					Total
Number of Bedrooms	1	2	3	4+	
Market	0	0	9	6	15
Affordable	2	4	2	1	9
Total	2	4	11	7	24

Summary housing tenure and mix

- 9.40. Accordingly, the proposal meets important needs from both a quantitative as well as qualitative sense. As a result, the proposals are consistent with relevant development plan Policies CP5 and TB05. This is important in the weight to be attached to the benefits that arise from the proposed housing development.

7. Section 106 Agreement

- 9.41. The planning application includes a commitment to a legal planning obligation delivering the proposed 37.5% on site affordable housing, management and maintenance of the proposed car park, any on site and off-site highway commitments and compliance with the Council's employment skills plan.

8.Compliance with the development plan

- 9.42. CP2 – Inclusive Communities. The residential and open space proposals, and their ability to relate to the existing areas of green infrastructure and development, ensure that inclusive communities can be created and, in this sense, enhanced through these holistic proposals, consistent with the objectives of Policy CP2.
- 9.43. CP3 – General Principles for Development. The individual and collective components of the application scheme accord with the principles and subject matter of the policy.
- 9.44. CP4 – Infrastructure Requirements. The application, through CIL and the open space proposals, ensure that the infrastructure requirements arising from the proposals are more than met, consistent with this policy.
- 9.45. CP5 – Housing Mix, Density and Affordability and TB05 – Housing Mix. The proposal complies with these policies by providing an appropriate mix of dwellings to meet the needs identified in the Council’s most recent assessment of housing need (Local Housing Need Assessment), and a density of development that is appropriate to the edge of settlement location of the site and the character, form and intensity of development adjoining the site. The level of affordable housing proposed on site accords with the Policy requirement of 37.5%.
- 9.46. CP6 – Managing Travel Demand. The Transport Statement confirms the appropriate location of the application site noting in particular the level of public transport accessibility from Hurst to Reading (via Twyford) and Wokingham, and the opportunities for, and access to, sustainable forms of transport.
- 9.47. The conclusions of the Transport Statement concur with the acceptability of services within the locality which also reflect the assessments of Inspector’s in the appeal decisions in Hurst for land at Valley Nurseries and at the junction of Sawpit Road and School Road.
- 9.48. CP7, TB23 – Biodiversity. The ecological assessment together with the open space led scheme ensures that the proposals will bring about an overall enhancement (net gain) in the biodiversity value of the site. In this regard the proposals more than meet

the requirements of Policies CP7 and TB23 together with the more up-to-date approach to biodiversity matters in the NPPF.

- 9.49. CP9 – Scale and Location of Development Proposals. The proposed development at Hurst is of an appropriate scale that reflects the scale of existing and proposed level of facilities and services at this location.
- 9.50. CP – 11 Proposals Outside Development Limits (including Countryside). Despite the out-of-date nature of this policy, the sensitive parameter plan defining the development envelope within the site ensures that the residential element of the application scheme and the quality, extent, location and form of the new public open space area means that the scheme protects the separate identity of settlements and maintains the quality of the environment in its wider setting consistent with the objectives of Policy CP11.
- 9.51. CP17 – Housing Delivery. The policy does not set an upper limit to residential development such that the proposal will accord with the objectives behind this policy. Moreover, and for the reasons set out in this statement the Council is unable to demonstrate a five-year supply of housing land.
- 9.52. As the proposed dwellings would meet the identified requirements arising from this policy, despite its out of date requirement, it is nevertheless consistent.
- 9.53. CC02– Development Limits. For the reasons set out in this Statement and Appendix 1 this policy represents a blanket ban on residential development outside defined settlement edges. This is inconsistent with the NPPF and therefore the policy is out of date. It is also out of date and attracts limited weight owing to the inability of the Council to demonstrate a minimum five-year housing land supply. In this context, any technical conflict with this policy attracts limited weight in the determination of the planning application.
- 9.54. CC03 – Green Infrastructure, Trees and Landscaping. The proposed new public open space and its ability to link up to existing areas of open spaces and public rights of way ensures that these proposals are consistent with this policy and its objectives.
- 9.55. CC09 – Development and Flood Risk (from all sources) and CC10– Sustainable Drainage. The submitted Flood Risk Assessment confirms that the application site

lies in Flood Zone 1 and that the proposed surface water drainage strategy is consistent with up-to-date guidance. Accordingly, there will be no flooding or drainage implications arising from the proposed development.

- 9.56. TB 21 – Landscape Character. The proposals have addressed the requirements of the Council’s landscape character assessment including landscape quality, landscape strategy, landscape sensitivity and key issues. The proposed parameters plan and illustrative master plan also confirm how the proposals have been landscape led, taking into account the character of the immediate and wider landscape to ensure that the proposals do not give rise to any material harm to the landscape.
- 9.57. This analysis confirms that the proposals comply with the development plan, as a whole, the correct test under section 38(6) when taking into account other material considerations that include the NPPF and paragraph 11d.

9.Conclusions on main issues

- 9.58. In conclusion, this section of the Statement has demonstrated that there are no significant planning matters that would cause material harm in the overall tilted planning balance. Moreover, the scheme would deliver significant housing and open space benefits. Only minimal adverse landscape impacts arise to a site of limited intrinsic quality and character whilst the impact on the wider surrounding landscape is tempered by the contained nature of the site and the proposed development area within it. The individual components of the application also accord with other requirements of the development plan.

10. PLANNING BALANCE AND CONCLUSION

10.1. The commentary below assesses the merits and potential impacts of the application scheme in relation to the three sustainability tests set out at paragraph 8 of the NPPF. Paragraph 8 of the NPPF states that (amongst other things) the assessment of the sustainability roles should not be undertaken in isolation, because they are mutually dependent. In accordance with the guidance at paragraph 8 of the NPPF, a combined analysis in relation to the sustainability role is set out below.

10.2. The principal economic benefits are summarised below:

- 1) Provision of net new residential accommodation, to meet identified unmet housing needs, in an area where there is a significant demand for new housing that in turn drives economic growth further and faster than any industry. In this regard the proposals will be contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is being made available in the right place and at the right time to support growth;
- 2) The application scheme is immediately available and can deliver much needed accommodation, including a boost to the supply of open market and affordable housing;
- 3) Meeting general housing needs is a benefit, consistent with the Government's objective of significantly boosting the supply of housing;
- 4) For the economy to function, sufficient housing of the right mix is required in the right locations and at the right time. This site, on the edge of one of Wokingham Borough's identified sustainable settlements – the limited development location of Hurst is consequently appropriate;
- 5) Creation of direct construction related jobs at a range of skill levels;
- 6) Supporting a further 'spin-off' jobs in services and other businesses during the construction phase;

- 10.3. By providing land to meet identified housing needs, the development of the application site would satisfy the objectives at paragraph 8 of the NPPF and assists in the aims of the NPPF in helping to build a strong and competitive economy (NPPF, paras 81-85).
- 10.4. In accordance with the provisions at paragraph 81 of the NPPF, the economic benefits set out in this Statement should therefore be accorded **substantial weight** in the planning balance.
- 10.5. One of the two principal benefits that would arise from the proposal in respect of the social role relates to helping to support strong, vibrant and healthy communities, including the provision of affordable housing to meet identified and as yet un-met local needs. In addition:
- 1) The significance of the benefit in providing additional affordable housing stock in a Borough that is not meeting its affordable housing needs is a substantial social benefit;
 - 2) Health and well-being benefits, through the provision of safe and secure accommodation for those in affordable housing need.
- 10.6. The second principle social and environmental benefit arising is the car park for the adjoining primary school, which forms an integral part of the application scheme. This will create a useful feature which will disperse demand for parking from parents/guardians of pupils at drop-off and collection times and address the existing issues of on-street parking on School Road. The proposal is therefore consistent with section 9 of the NPPF Local Plan Policy CP6.
- 10.7. Based on the foregoing, the social benefits of the scheme attract **significant weight** in the overall planning balance.
- 10.8. In terms of the environmental role, the appeal scheme is not located on land designated at a national or local level for its townscape, or ecological value. It makes good use of land on the edge of a defined settlement (Hurst), in a Borough with constrained opportunities for development, to help meet identified housing needs.

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- 10.9. Whilst the proposal will result in the loss of part of a greenfield site of limited intrinsic character and beauty, that is characterised by its natural containment as well as built up surroundings that create a physical and visual well contained parcel of land. The ability of the scheme to retain the landscape containment of the site ensures that the effect of the proposal on the landscape character on and beyond the site is limited. As a result, the degree of harm associated with the development within a countryside area, albeit at the edge of the settlement, is limited.
- 10.10. Important landscape features associated with the boundary features will be enhanced.
- 10.11. The proposal will also deliver a biodiversity net gain on the site.
- 10.12. As a result, the overall the character, appearance and function of the site, as a whole, in the wider area, through the sensitive layout and creation of a new well-defined residential area and village school car park will be preserved.
- 10.13. Accordingly, it is evident from economic, social and environmental perspectives that the scheme delivers many benefits that clearly outweigh any adverse impacts in the NPPF paragraph 11d tilted balance.

Conclusions

- 10.14. Planning applications should be determined in accordance with the development plan, section 38(6). In this ordinary, unweighted planning balance, this Planning Statement has demonstrated that the harm that would arise from the development of part of the site for residential use and community car park would be minimal, and that the benefits arising from the delivery of those new homes and new car park for the primary school will outweigh the minor harm arising through the loss of a greenfield land of limited landscape value. The scheme accords with relevant policies such that planning permission should be granted in accordance with the development plan, when considered as a whole.
- 10.15. In the alternative, and in the light of the matters discussed in this Planning Statement, paragraph 11(d) of the NPPF is engaged due to the Council not being able to demonstrate a five-year supply. The presumption in favour of sustainable development therefore applies. The identified benefits constitute public benefits within the context of NPPF paragraph 202. These more than outweigh the low level of less than substantial

harm to the neighbouring listed building despite attracting great weight to the conservation of the listed building. Accordingly, paragraph 11(d) remains engaged. Accordingly, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

- 10.16. This Planning Statement has considered the impacts that would arise from the delivery of the scheme on this site and demonstrated with the support of specialist technical reports that any impacts that would arise from the scheme can be addressed, and most certainly do not come close to significantly and demonstrably outweighing the benefits that would arise from the scheme. On this basis, the proposal delivers “sustainable development” within the terms of the NPPF, such that planning permission can be granted.

Appendix 1 – Out of date nature of policies CP9, CP11 and CC02

1.1. The approach to the application of NPPF paragraph 11d in respect of out of date policies was clarified in Wavendon Properties Limited vs Secretary of State and Milton Keynes Council CO/200/2019 [2019] EWHC 1524 (Admin). The judgement (paragraph 58) confirms that the application of NPPF paragraph 11d should be approached in the following way:

- i) Establish which are the policies most important for determining the application;
- ii) Examine each of these policies, applying the NPPF and the approach in the Bloor case to see whether they are out of date; and
- iii) An assessment as to whether or not these policies taken as a whole are to be regarded as out of date for the purposes of the decision.

1.2. In respect of the application, the policies most important for their determination are highlighted in Section 5 of this Statement. These Policies are CP9, CP11 and CC02.

Why are Policies CP9, CP11 and CC02 the most important policies?

1.3. These policies are also most important for determining the application as they too go to the principle of proposed development within currently designated countryside areas beyond currently defined settlement boundaries. They go to the heart of the application which is seeking to establish the principle of the acceptability of residential development on the site.

Why are these policies out-of-date?

1.4. As to whether these policies are out-of-date, the question of the meaning “out of date” in the context of paragraph 14 of NPPF 2012 was considered by Lindblom J (as he was) in case of Bloor Homes Limited v Secretary of State for Communities and Local Government [2014] EWHC 745 (Admin); [2017] PTSR 1283 at paragraphs 45 and 186 of the judgement which stated:

“45 These [“absence”, “silence” and “out-of-date”] are three distinct concepts. A development plan will be “absent” if none has been adopted for the relevant area and the relevant period. If there is such a plan, it may be “silent” because it lacks policy relevant to the project under consideration. And if the plan does have relevant policies these may have been overtaken by things that have happened since it was adopted, either on the ground or in some change in national policy, or for some other reason, so that they are now “out-of-date”. Absence will be a matter of fact. Silence will be either a matter of fact or a matter of construction, or both. And the question of whether relevant policies are no longer up-to-date will be either a matter of fact or perhaps a matter of both fact and judgment.”

“186 The question of whether a particular policy of the relevant development plan is or is not consistent with the NPPF will depend on the specific terms of the policy and of the corresponding parts of the NPPF when both are read in their full context. When this is done it may be obvious that there is an inconsistency between the relevant policies of the plan and the NPPF.” (My Underlining)

- 1.5. The Wavendon case (paragraph 49) also confirmed that it was uncontroversial that the approach taken by the court in Bloor was of equal application to the phrase “out-of-date” in paragraph 11 of the current version of the NPPF pertinent to the present application.

Are the most important policies for determining the application out-of-date?

- 1.6. This section undertakes an analysis of the policies that are considered most important for determining the application in relation to the location of the site outside the settlement boundary and identifies that limited weight should be afforded to the following policies, due to their inconsistency with the NPPF, thereby rendering them out-of-date. The policies are:

CP9;
CP11; and
CC02

- 1.7. In summary, two points arise. Firstly, the wording and application of the CS and DM policies controlling development within the countryside, beyond

defined settlement boundaries, strictly limit development beyond currently defined settlement limits subject to a set of specific exceptions, whereas the NPPF (paragraph 170a) has a more nuanced/sophisticated approach and is more about “recognising the intrinsic character and beauty of the countryside”. This is different to an overt and outright protection, the characteristic of Wokingham Borough Council’s development plan policies CP9, CP11 and CC02. When applying the test in Bloor, paragraphs 45 and 186, these policies are not consistent with the NPPF and are therefore out of date. The appeal Inspector at Lodge Road, Hurst⁴⁴ (paragraph 13) accepted that these policies are not consistent with the NPPF and therefore, taking into consideration High Court judgements, are out-of-date.

- 1.8. Secondly, it is acknowledged that the development plan housing requirement is out-of-date by reference to the assessment of development needs no longer being consistent with the subsequent approach set out in the NPPF. The policies setting out the spatial strategy are clearly related to the same out-of-date assessment of development needs and must, by definition, be also found to be out-of-date, similar to the Council’s acceptance of the development plan requirement being out-of-date too. This point has recently been established and accepted in the appeal on land North of Nine Mile Ride, Finchampstead (reference 3238048) dated 9 April 2020, where the Inspector at paragraph 26 concluded:

“The scale and location of housing and the associated development limits were established to accommodate this lower housing requirement. However, as the Hurst Inspector observed, policy CP17 does not cap housing numbers and includes flexibility to bring land forward in identifying future land supply. Housing land supply is considered later in the decision, but the evidence is clear that this depends on some sites that are outside the development limits. The delivery of a sufficient supply of homes is a fundamental objective of the Framework but cannot be achieved through adherence to policies CP9, CP11 and CC02, which are all dependent on the development limits. These policies are therefore out-of-date.” (My underlining)

⁴⁴ PINS ref APP/X0360/W/18/3194044

1.9. Having regard to other Appeal decisions, including in Bracknell, where these same issues have been addressed and, and as supported by High Court cases, the three most important policies for determining this application are out of date. These matters are addressed more fully below, leading to the conclusion that paragraph 11d of the NPPF is engaged, irrespective of the five-year housing land supply position.

Why are Policies CP9, CP11 and CC02 out-of-date?

1.10. These policies are out of date for three reasons:

- 1) The policy tests are inconsistent with the more nuanced/sophisticated approach in the NPPF;
- 2) They are derived from an out of date housing requirement that significantly influences the extent of the countryside designation and the restrictive nature and scope of the spatial strategy policies; and
- 3) Their inability to accommodate medium term housing needs (years 6-10)

1.11. Each of these points are addressed in turn below.

1) Inconsistency with the NPPF

1.12. The countryside policies CP9, CP11 and CC02 are the most important policies for determining the application. These Policies go to the principle of proposed housing development within currently designated countryside areas beyond currently defined settlement boundaries. They go to the heart of this application.

Policy CP11

1.13. Policy CP11 is seen by the Council as an ‘in general’ blanket policy, which applies its restrictions to all land outside the settlement limits, regardless of the character or quality of that land. The opening words of the policy do not introduce flexibility because the “policy would not allow [development] just because [it] did not harm separate identity or quality of environment. [It] would say ‘no’ [to such a proposal] since it was outside of settlement limits.”

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- 1.14. The word “normally” in the policy does not introduce flexibility to temper the strict approach of Policy CP11 because it does say that development outside development limits “will not normally be permitted” (leaving aside the identified exceptions, which are not applicable to general housing development). These words had also been alighted upon by the recent Johnsons Drive, Finchampstead, appeal Inspector (para 46). However, it is quite clear from the decision of Ouseley J in *Sefton MBC v SSETR* [2002] PLCR 23 (at paras 57 to 59) that the inclusion of a ‘not normally’ clause in a policy does not mean that the strictures of the policy are thereby reduced so as to make a departure from the policy somehow in accordance with it. All that those words do is to recognise the potential for other material considerations to outweigh a conflict with the policy (in line with s.38(6) of the 2004 Act). Nothing in the Supreme Court decision in *Tesco v Dundee* alters that conclusion. In other words, the policy is to be construed such that proposals are only in accordance with it if they satisfy its tests. In the case of Policy CP11 and general housing development, that means that the policy precludes such development on any land outside of the development limits, regardless of its effects. It is a ‘blanket’ or ‘in principle’ policy restriction.
- 1.15. The strictness of Policy CP11 is therefore not saved or diminished by the presence of a ‘not normally permitted’ clause. Putting that clause to one side, it is quite clear that Policy CP11 is inconsistent with the more nuanced approach of the NPPF in paragraph 174 to housing in the countryside. The general policy for the countryside in paragraph 174 is not one of constraint (absent some particular value, such as landscape or biodiversity), but of ‘recognising’, which is clearly more nuanced and does not imply a general and indiscriminating restriction. To ‘recognise’ the intrinsic character and beauty of the countryside involves an assessment of the actual features of those individual parcels of land that are contributing to that objective and allowing that contribution to be brought into account in a balanced judgment.
- 1.16. The difference between a blanket restriction and the more nuanced approach of the NPPF has been recognised by Inspectors and accepted by the Courts. As Garnham J held in *Eastleigh*:

“61. Policy 1.CO provided that planning permission would not be granted for development in the open countryside unless it met one of four listed criteria...

62. NPPF 2018 [170] adopts a much more nuanced approach. Instead of a blanket refusal of development subject to limited and specified exceptions, it requires that planning decisions should contribute to and enhance the natural and local environment by meeting a series of objectives. The Inspector rightly described the latter as a “flexible and balanced approach”. In my judgment the Inspector was fully entitled to conclude that this led to reduced weight being attributed to the retained policies.”

1.17. In *Cron dall, Dove J* held that an Inspector had been entitled to find that the relevant countryside policy (Hart Local Plan Policy RUR2) was out of date because “more recent national planning policy has taken a more nuanced and sophisticated approach to the protection of the countryside, which is also reflected in the 2021 Framework” (at para 174).

1.18. It is therefore quite clear that the restrictive approach of CP11 is not consistent with the more nuanced approach of the NPPF. The policy is clearly out-of-date. The same applies to CC02 of the MDD, which is also strict in its restrictions on development needing to be “*only*” within development limits.

Policy CP9

1.19. Policy CP9 is the counterpoint to Policy CP11. It is clear both from its express approach to rural exception sites (the only form of housing development permitted “*adjoining the Development Limits of Modest or Limited Development locations*”) and from para 4.52(C)’s reference to “Within the development limits of these settlements, limited development would be acceptable”, that general housing development outside of the development limits would not be in accordance with Policy CP9. This policy approach is also, therefore, not consistent with the more nuanced approach of the NPPF at paragraph 174.

1.20. Thus, on a proper analysis of the position, it is clear that Policies CP9, CP11 and CC02 are out of date. This analysis is supported by a number of cases.

1.21. Firstly, as noted by the Woolpit Inspector (paragraph 92):

“As the proposed development is in open countryside, it also offends the requirements of Policy CS2. Policy CS2 is a most important policy and it is out-of-date. The NPPF has never and still does not exhort a restrictive approach to development outside settlements in this manner. It does not protect the countryside for its own sake or prescribe the types of development that might be acceptable. The policy as worded obviates a balancing exercise and precludes otherwise sustainable development by default and thereby defeats the presumption in its favour.”

1.22. These conclusions are also supported in *Eastleigh Borough Council v Secretary of State for Housing, Communities and Local Government* [2019] EWHC 1862 (Admin) where the judgement (in paragraph 62) concluded:

“NPPF 2018 [170] adopts a much more nuanced approach. Instead of the blanket refusal of development subject to limited and specific exceptions, it requires that planning decisions should contribute to and enhance the natural and local environment by meeting a series of objectives. The Inspector rightly described the latter as a “flexible and balanced approach”. In my judgment, the Inspector was fully entitled to conclude that this led to reduced weight being attributed to the retained policies.”

1.23. An Inspector addressing the same situation in *South Oxfordshire at Shiplake* (in paragraph 77) stated:

“These policies engage with the Framework’s advice to contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. However, they were formulated at a time where the advice provided the greater degree of ‘protection’ rather than ‘recognition’ as now. In that regard whilst they seek to address a matter identified in the Framework there is a more onerous burden placed on the development. Whilst there is still a requirement that these matters are material and should weigh in the balance they seek to protect the countryside and landscape setting of settlements in the district. In this regard because of this inconsistency I reduce the weight afforded to these policies, a point emphasised by the fact that if applied in a strict reading they would further constrain housing and given the overall requirement on which the plan is predicated is out of date

would potentially frustrate much needed housing development. I therefore give these policies moderate weight.” (My underlining)

- 1.24. These same points apply to Policies CP9, CP11 and CC02. They are inconsistent with the NPPF and are therefore out of date. This was confirmed in response to identical points made in respect of similar policies in the Tilehurst Lane, Bracknell appeal decisions, at paragraph 30 where the Inspector found:

“The Framework recognises the intrinsic character and beauty of the countryside, it seeks to protect and enhance valued landscapes and distinguish between the hierarchy of international, national and locally designated sites, allocating land with the least environmental or amenity value where consistent with other policies in the Framework. Policies CS9, EN8 and H5 do not seek to differentiate between different landscapes within the countryside in the manner of the Framework. Therefore, irrespective of the current housing land supply position, there is a fundamental inconsistency between the Policies and the Framework. What is apparent is that, although the DLP can only be given limited weight, and the situation may change, currently a significant number of sites within the currently defined open countryside will need to be allocated in that plan to meet future housing needs”.

- 1.25. It is clear based on the approach in the Bloor Homes case (paragraphs 45 and 186) that the most important policies for determining the application have been overtaken by things that have happened since they were adopted in respect of change in national policy and the resulting change, increase in fact, in housing requirements, and the related issues that arise in respect of settlement limits and extent of countryside designations. Furthermore, the test in Bloor at paragraph 186 concerns the question of whether a particular policy of the relevant development plan is or is not consistent with the NPPF will depend on the specific terms of that policy and of the corresponding parts of the NPPF when both are read in their full context. It is evident that development plan Policies CP9, CP11 and CC02 are clearly not consistent with the corresponding parts of the NPPF when read in their full context.
- 1.26. The application of Wokingham’s Borough Council’s Local Plan countryside policies is therefore inconsistent with the more up-to-date approach in the

NPPF such that, consistent with NPPF paragraphs 218 to 219, less weight can be attached to these out-of-date policies in the determination of the application. As a result, the policies are deemed to be 'out-of-date' within the terms of paragraph 11(d) of the NPPF.

- 1.27. The importance of assessing consistency of development plan policies with the NPPF is an essential element of the determination process for applications as acknowledged in the *Gladman Developments v Secretary of State & Central Bedfordshire Council* [2019] EWHC 127 (Admin) judgement. In paragraph 34, the judge confirms:

“The acid test in relation to whether or not a policy is out of date is, it will be recalled, the extent to which it is consistent with the Framework. In paragraph 40 (following from earlier reasoning from paragraph 36) the Inspector accepts that there is “some discrepancy” between policy DM4 and paragraph 113 of the Framework. It will be recalled that the Inspector in the Meppershall appeal had noted this conflict, and also that the policy went beyond the policy of the Framework set out in the fifth bullet point of paragraph 17 of the Framework. The Inspector appears not to accept the decision of the Meppershall Inspector in this respect in paragraph 36 of the decision letter when he states, “the Framework also makes clear in paragraph 17 that the intrinsic character and beauty of the countryside should be recognised”. He does not deal with this aspect of inconsistency with the Framework when he deals with the discrepancy which he has found between the policy and the Framework in paragraph 40, as he limits his observations to paragraph 113. The inconsistency of policy DM4 with the fifth bullet point of paragraph 17 of the Framework is, again, a further and important aspect of the Meppershall appeal decision which the Inspector does not grapple with. If he is disagreeing with the conclusion that the policy DM4 goes beyond the Framework policy in the fifth bullet point of paragraph 17 that is not clear, and if that were the case he has failed to explain why he has formed a different view from the Meppershall Inspector. It is clear that this element of inconsistency with Government policy was a matter which formed part of the justification for the Meppershall Inspector concluding that policy DM4 was out of date. The Inspector's reasons are therefore, again, legally inadequate in respect of this departure from the decision reached by the Meppershall Inspector.” (my underlining)

1.28. This judgement then considered the refined approach of the NPPF compared to the Development Plan approach, which is similar to Wokingham's, where it is noted at paragraphs 36 to 38 that:

“Furthermore, Sales LJ was careful to express his conclusions in a contingent manner, since how the judgement on whether or not policies HS 22 and HS 24 were out of date was going to be resolved would depend upon the evidence available to the decision-taker at the redetermination. I will confine myself to the following observations in respect of those obiter remarks. Firstly, in so far as paragraph 42 of the judgement is concerned, and the reference to those policies being in place "to preserve the openness of the countryside" (in addition to encouraging residential development at appropriate centres) it is important to observe that in the case of Policy DM4 the Meppershall Inspector (and indeed earlier Inspectors) had concluded that the previous national policy of simply protecting the countryside for its own sake had given way to a more sophisticated policy reflected in the fifth bullet point of paragraph 17 and paragraph 113 of the Framework. This reinforces the need when arguments arise as to whether or not a policy is out of date to carefully apply paragraph 215, and examine the circumstances of the particular policy and the evidence pertaining to it to determine the extent to which it is consistent with the Framework. In a similar manner the conclusions of Sales LJ in paragraph 44 need to be put in the context that Sales LJ ultimately left the conclusion as to whether or not policies HS 22 and HS 24 were consistent with the policy of the Framework to an evaluation in the redetermination of that case. It appears to me that in paragraph 44 of his judgment all that Sales LJ was suggesting was that the fact that the council had granted planning permission for some of the sites in the five-year housing land supply on sites in breach of policy HS 24 would not in and of itself justify a conclusion that that policy was out of date. That was an issue which would require, again, careful evaluation against the background of the terms of the policy, the available evidence as to its performance and scrutiny of its consistency with the Framework. That will inevitably be a case-sensitive exercise. In the present case Ms Sheikh accepted, in my view correctly, that the decision which the Meppershall Inspector had reached in relation to whether or not policy DM4 was out of date was one which was rationally open to him, and which demonstrated the way in which a rational planning judgement can be formed on the facts of a particular case. It further demonstrates that Sales LJ was not laying down any

legal principle in what he observed in paragraph 44 of his judgement.

So far as Ms Sheikh relied upon the potential exercise of the courts discretion not to quash, in circumstances where an error of law had been found in the Inspector's decision, the argument can be dealt with shortly. The reason why the Claimants were contending that policy DM4 was out of date was so as to seek to trigger the tilted balance contained within paragraph 14 of the Framework. In my view it is not possible to conclude that the decision as to whether or not policy DM4 is out of date would be the same if the matter was returned for re-determination. It follows that it cannot be said to be beyond argument that the tilted balance might apply in the overall evaluation of the planning merits of this proposal. It therefore follows, again, that it cannot be properly contended that the decision would be the same if the matter were to be re-determined.” (My underlining)

- 1.29. There are clear parallels with Wokingham’s blanket restrictive/protectionist countryside policies. It is clear from the above analysis that the countryside policies are not consistent with the NPPF and are therefore out of date. These findings are all irrespective of the five-year housing land supply. For these reasons limited weight only should apply and if the benefits of the scheme outweigh any adverse effects planning permission can be granted consistent with NPPF paragraph 11d and the tilted planning balance is engaged.
- 1.30. The Monkhill Ltd and Secretary of State for Housing, Communities and Local Government v Waverley Borough Council [2019] EWHC 1993 (Admin) judgement set out a further structured approach to NPPF 11d at paragraphs 39 and 45:

“The interpretation of paragraph 11 of the NPPF

39 I am grateful for counsels' written and oral submissions, which I found to be of great assistance. It became clear during the course of the hearing that they were agreed on a number of points to do with the interpretation and effect of paragraphs 11 and 12 of the NPPF, forming part of the context for the arguments for and against the ground of challenge. Taking those agreed points into account, it would be helpful to summarise my understanding of the

meaning and effect of this part of the NPPF, before going on to consider the legal challenge in this case:

- 1) The presumption in favour of sustainable development in paragraph 11 does not displace s.38(6) of the 2004 Act. A planning application or appeal should be determined in accordance with the relevant policies of the development plan unless material considerations indicate otherwise;
- 2) Subject to s.38(6), where a proposal accords with an up-to-date development plan, taken as a whole, then, unless other material considerations indicate otherwise planning permission should be granted without delay (paragraph 11(c));
- 3) Where a proposal does not accord with an up-to-date development plan, taken as a whole, planning permission should be refused unless material considerations indicate otherwise (see also paragraph 12);
- 4) Where there are no relevant development plan policies, planning permission should be granted *unless either limb (i) or limb (ii) is satisfied*;
- 5) Where there are relevant development plan policies, but the most important for determining the application are out of date, planning permission should be granted (subject to section 38(6)) *unless either limb (i) or limb (ii) is satisfied*;
- 6) Because paragraph 11(d) states that planning permission should be granted *unless* the requirements of either alternative is met, it follows that if either limb (i) or limb (ii) is satisfied, the presumption in favour of sustainable development ceases to apply. The application of each limb is essentially a matter of planning judgment for the decision-maker;
- 7) Where more than one "Footnote 6" policy is engaged, limb (i) is satisfied, and the presumption in favour of sustainable development overcome, where the individual or cumulative application of those policies produces a clear reason for refusal;
- 8) The object of expressing limbs (i) and (ii) as two alternative means by which the presumption in favour of granting permission is overcome (or disapplied) is that the tilted balance in limb (ii) may not be relied upon to support the grant of permission where a proposal should be refused permission by the application of one or more "Footnote 6" policies. In this way paragraph 11(d) prioritises the application of "Footnote 6" policies for the protection of the relevant "areas or assets of particular importance";
- 9) It follows that where limb (i) is engaged, it should generally be applied first before going on to consider whether limb (ii) should be applied;

- 10) Under limb (i) the test is whether the *application* of one or more "Footnote 6 policies" provides a clear reason for refusing planning permission. The mere fact that such a policy is *engaged* is insufficient to satisfy limb (i). Whether or not limb (i) is met depends upon the outcome of *applying* the relevant "Footnote 6" policies (addressing the issue on paragraph 14 of NPPF 2012 which was left open in R (Watermead Parish Council) v Aylesbury District Council [2018] PTSR 43 at [45] and subsequently resolved in East Staffordshire at [22(2)]);
- 11) Limb (i) is applied by taking into account only those factors which fall within the ambit of the relevant "Footnote 6" policy. Development plan policies and other policies of the NPPF are not to be taken into account in the application of limb (i) (see Footnote 6). (I note that this is a narrower approach than under the corresponding limb in paragraph 14 of the NPPF 2012 - see eg. Lord Gill in Hopkins at [85]);
- 12) The application of some "Footnote 6" policies (e.g. Green Belt) requires *all* relevant planning considerations to be weighed in the balance. In those cases because the outcome of that assessment determines whether planning should be granted or refused, there is no justification for applying limb (ii) in addition to limb (i). The same applies where the application of a legal code for the protection of a particular area or asset determines the outcome of a planning application (see, for example, the Habitats Regulations in relation to European protected sites);
- 13) In other cases under limb (ii), the relevant "Footnote 6 policy" may not require all relevant considerations to be taken into account. For example, paragraph 196 of the NPPF requires the decision-maker to weigh only "the less than substantial harm" to a heritage asset against the "public benefits" of the proposal. Where the application of such a policy provides a clear reason for refusing planning permission, it is still necessary for the decision-maker to have regard to all other relevant considerations before determining the application or appeal (s. 70(2) of the 1990 Act and s. 38(6) of the 2004 Act). But that exercise must be carried out without applying the tilted balance in limb (ii), because the presumption in favour of granting permission has already been disapplied by the outcome of applying limb (i). That is the consequence of the decision-making structure laid down in paragraph 11(d) of the NPPF;
- 14) There remains the situation where the application of limb (i) to a policy of the kind referred to in (13) does *not* provide a clear reason for refusal. The presumption in favour of sustainable development will not so far have been disapplied under limb (i) and

it remains necessary to strike an overall planning balance (applying also s.38(6)). Because the presumption in favour of granting planning permission still remains in play, it is relevant, indeed necessary, to apply the alternative means of overcoming that presumption, namely limb (ii). This is one situation where the applicant for permission is entitled to rely upon the "tilted balance";

15) The other situation where the applicant has the benefit of the "tilted" balance is where no "Footnote 6" policies are engaged and therefore the decision-maker proceeds directly to limb (ii)".

1. "The following practical summary may assist practitioners in the field, so long as it is borne in mind that this does not detract from the more detailed analysis set out above: -

- It is, of course, necessary to apply s.38(6) in any event;
- If the proposal accords with the policies of an up-to-date development plan taken as a whole, then unless other considerations indicate otherwise, planning permission should be granted without delay (paragraph 11(c) of the NPPF);
- If the case does not fall within paragraph 11(c), the next step is to consider whether paragraph 11(d) applies. This requires examining whether there are no relevant development plan policies or whether the most important development plan policies for determining the application are out of date;
- If paragraph 11(d) does apply, then the next question is whether one or more "Footnote 6" policies are relevant to the determination of the application or appeal (limb (i));
- If there are no relevant "Footnote 6" policies so that limb (i) does not apply, the decision-taker should proceed to limb (ii) and determine the application by applying the tilted balance (and s.38(6));
- If limb (i) does apply, the decision-taker must consider whether the application of the relevant "Footnote 6" policy (or policies) provides a clear reason to refuse permission for the development;
- If it does, then permission should be refused (subject to applying s.38(6) as explained in paragraph 39 (11) to (12) above). Limb (ii) is irrelevant in this situation and must not be applied;
- If it does not, then the decision-taker should proceed to limb (ii) and determine the application by applying the tilted balance (and s.38(6))".

1.31. The Gladman Developments Ltd v Secretary of State for Housing, Communities and Local Government v Uttlesford District Council [2020] EWHC 518 (Admin) judgement addressed the application of NPPF paragraph 11(d) confirming at paragraph 94 of the judgement that it operates in three different scenarios:

“94. It is important to note that paragraph 11(d)(ii) may operate in three different scenarios: -

- (1) There are no relevant development plan policies:**
- (2) The policies which are most important for determining the application are assessed by the decision-maker as being out of date:**
- (3) A shortfall in the requirement for a 5 year supply of housing land triggers the application of paragraph 11(d)(ii) by deeming those policies important for the determination of the application to be out of date.”**

1.32. The tilted balance can therefore be engaged independent of whether there is a five-year housing land supply.

2) They are derived from an out-of-date housing requirement that significantly influences the extent of the countryside designation and the restrictive nature and scope of the spatial strategy

1.33. The Council accepts that the housing requirement is out-of-date. This means that the development limits deriving from it in Policies CP9, CP11 and CC02 are also out-of-date and those policies are therefore out-of-date too.

1.34. The development limits/settlement boundaries and consequently the extent of countryside is derived from an out-of-date housing requirement which does not address the obligations on the Council in the NPPF. Moreover, the countryside policies themselves are out-of-date and therefore attract less weight as highlighted in section 8 of this Statement. The implications of this are recognised in the Stanbury House, Basingstoke Road, Spencers Wood⁴⁵; land

⁴⁵ LPA ref O/2014/2101 or PINS ref APP/X0360/W/15/3097721

north of Nine Mile Ride, Finchampstead North⁴⁶ and land east of Finchampstead Road, Wokingham⁴⁷ appeal decisions.

1.35. In the Stanbury House Inspector (paragraphs 32 and 33) states.

“32. At the inquiry the appellant submitted that policies CP9, CP11 and CC02 were out of date since they rely on the settlement boundaries necessary to deliver the Core Strategy housing requirement, rather than the higher OAN figure. Although the standardised housing requirement figure is lower than the OAN agrees at the inquiry, it still substantially exceeds the Core Strategy requirement.

33. The Spatial Vision for Wokingham Borough includes the provision of a good transport system, concentrating developments in Strategic Development Locations (SDLs), and towns and villages with a significant range of infrastructure, whilst respecting the character and attractiveness of the area. Policies CP9 and CP11 contribute to this strategy through directing development towards accessible locations with a range of services and facilities (CP9) and seeking to maintain the separate identity of settlements and reduce dependency on the use of the private car (CP11). I consider both policies to be broadly consistent with the aims of the Framework. Nevertheless, the settlement boundaries on which they rely were predicated on a much lower housing requirement and therefore the weight to be afforded to these boundaries is limited, nonetheless, the proposal still falls to be considered against the aims of these policies.” (My underlining)

1.36. The land north of Nine Mile Ride, Finchampstead North appeal Inspector noted at paragraph 26:

“The scale and location of housing and the associated development limits were established to accommodate this lower housing requirement. However, as the Hurst Inspector observed, policy CP17 does not cap housing numbers and includes flexibility to bring land forward in

⁴⁶ LPA ref 181685 or PINS ref APP/X0360/W/19/3238048

⁴⁷ LPA ref 190286 or PINS ref APP/X0360/W/19/3235572

identifying future land supply. Housing land supply is considered later in the decision, but the evidence is clear that this depends on some sites that are outside the development limits. The delivery of a sufficient supply of homes is a fundamental objective of the Framework but cannot be achieved through adherence to policies CP9, CP11 and CC02, which are all dependent on the development limits. These policies are therefore out of date. (My underlining)

- 1.37. This reduced weight attributable to settlement boundaries is confirmed by the Stanbury House Inspector (paragraph 104), notwithstanding the Authority's ability to demonstrate a five-year supply of housing (paragraph 99). The Inspector consequently concluded that benefits significantly outweighed the harm (paragraph 105) before indicating that the Stanbury House appeal should be allowed. The Inspector did not apply the tilted balance as under the 2018 NPPF (paragraph 177), this was not feasible for sites such as Stanbury House where they lie within the zone of influence of a Special Protection Area. The application site is not caught by the Habitat Regulations.
- 1.38. The Inspector in the appeal at Parklands, Basingstoke Road, Spencers Wood⁴⁸ appeal also acknowledged that the development limits associated with policies CP11, CP9 and CC02 were out-of-date (paragraph 56). Although the Inspector concluded that the tilted balance in NPPF paragraph 11(d) did not apply (paragraph 56), he nevertheless considered that the benefits of the proposal outweighed the harm (paragraph 58). The Inspector in the Parklands appeal allowed the appeal, notwithstanding the provision of more than a five-year supply (paragraph 52).
- 1.39. As outlined, the out-of-date development limits mean that less weight should be applied to them in the application of all policies or in the tilted balance within NPPF when engaged such that even if it is deemed that the proposal would cause some limited harm to the landscape/countryside, because the site is outside the settlement of Hurst, that harm needs to be considered in terms of the benefits when assessed against the NPPF as a whole. The benefits of the scheme are set out later.

⁴⁸ LPA ref 171737 or PINS ref APP/X0360/W/18/3204133

1.40. The development limits being out-of-date (irrespective of the acknowledged housing supply shortfall⁴⁹) focuses on the restrictive content of the Council's policies in relation to development limits. It is quite clear that the Council sees Policies CP9, CP11, and CC02 as inter-connected, with a permissive regime for proposals within the development limits and a restrictive regime on all land beyond those limits.

1.41. This is established in Suffolk Coastal District Council v Hopkins Development Ltd [2017] Supreme Court judgement of Lord Carnwath where at paragraph 63 it confirmed:

“He was clearly entitled to conclude that the weight to be given to the restrictive policies was reduced to the extent that they derived from settlement boundaries that in turn reflect out of date housing requirements (para 94). He recognised that policy ND.4 had a more specific purpose in maintaining the gap between settlements, but he considered that the proposal would not cause significant harm in this context (paragraph 95). His conclusion (para 101) reflected the language of para 14 (the tilted balance). There is no reason to question the validity of the permission” (My underlining)

1.42. Within the same judgement, Lord Gill (paragraph 83) noted when assessment the impact of a five-year supply shortfall (as confirmed in Wokingham Borough⁵⁰).

“If a planning authority that was in default of the requirement of a five-years supply were to continue to apply its environmental and amenity policies with full rigour, the objective of the Framework could be frustrated. The purpose of paragraph 49 is to indicate a way in which the lack of a five-years supply of sites can be put right. It is reasonable for the guidance to suggest that in such cases the development plan policies for the supply of housing, however recent they may be, should not be considered as being up to date.”

⁴⁹ Wokingham's five-year Housing Land Supply Statement at 31 March 2022 dated 9th January 2023

⁵⁰ Wokingham's five-year Housing Land Supply Statement at 31 March 2022 dated 9th January 2023

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- 1.43. Consequently, the weight to be attached to restrictive environmental and amenity policies, such as countryside and landscape policies, can therefore be reduced where they are either derived from settlement boundaries that in turn reflect out-of-date housing requirements or because the rigid application of those policies is not delivering a sufficient supply of new houses.
- 1.44. It is clear that the weight to be attached to restrictive policies, such as countryside and landscape policies, can be reduced where they are derived from settlement boundaries that in turn reflect out of date housing requirements. This too was clearly established in the Secretary of State Oxford Brookes appeal decision as referred to earlier (SoS Letter paragraph 18 and Inspectors report paragraph 13.9).
- 1.45. Irrespective of the accepted deficit⁵¹, part of the Council's contended supply comprises sites beyond currently defined settlements in designated countryside, without which the Council's accepted shortfall would be greater. These sites are:
- 1) 151 dwellings at the Bellway scheme at Keephatch Beeches;
 - 2) 3 dwellings off Bell Foundry Lane in North Wokingham SDL;
 - 3) 25 dwellings at land west of Park Lane, Charvil;
 - 4) 55 dwellings at Parklands, Basingstoke Road, Three Mile Cross;
 - 5) 13 dwellings at Sonning Golf Club, Duffield Road, Sonning, and
 - 6) 20 dwellings west of Trowes Lane, Swallowfield.
- 1.46. These sites total 267 and without their contribution towards the supply, the extent of the deficit would have been greater than that now accepted by the authority.
- 1.47. Accordingly, even the Council deficit is reliant upon the inclusion of sites with planning permissions (at least 267) in breach of countryside policies beyond defined settlement edges. This too confirms the out-of-date status of the countryside policies and defined settlement areas where they have been unable to deliver and maintain a sufficient supply of housing land. Two recent

⁵¹ Through the appeals on land rear of 240 Nine Mile Ride, Finchampstead (paragraph 11) and on land west of St Anne's Drive, Wokingham (paragraph 42).

Wokingham Appeal decisions confirm this. The first, North of Nine Mile Ride decision (paragraphs 25 and 26) stated:

“For the reasons given above I do not consider that policy CP17 in the CS is a most important policy, but I do consider it to have relevance to the consideration of whether policies CP9 and CP11 in the CS and policy CC02 in the MDD LP are out of date. The housing requirement in policy CP17 was based on the now revoked South-East Plan and is clearly no longer fit for purpose. In any event, the Framework makes clear that as the strategic policies in the CS were adopted more than 5 years ago and have not been updated, local housing need should be calculated using the standard method set out in national planning guidance. There is no dispute that when applying the relevant 5% buffer the requirement is 844.4 dwellings per annum (dpa). This is significantly more than the 723 dpa in policy CP17.

The scale and location of housing and the associated development limits were established to accommodate this lower housing requirement. However, as the Hurst Inspector observed, policy CP17 does not cap housing numbers and includes flexibility to bring land forward in identifying future land supply. Housing land supply is considered later in the decision, but the evidence is clear that this depends on some sites that are outside the development limits. The delivery of a sufficient supply of homes is a fundamental objective of the Framework but cannot be achieved through adherence to policies CP9, CP11 and CC02, which are all dependent on the development limits. These policies are therefore out of date. In this respect I disagree with the Hurst Inspector, but I note that there was no dispute about housing land supply in that case and therefore the evidence on which his conclusions were based was materially different.”

- 1.48. The second Wokingham appeal decision, Land East of Finchampstead Road the Inspector at paragraph 29 concluded:

“I have found later in my decision that the Council can demonstrate a five-year housing land supply. However, despite the views of the Council, it does rely on supply that falls outside of the currently set settlement boundaries. It is therefore clear to me that delivering a sufficient supply of housing cannot be done, whilst also

meeting the requirements set out in Policies CP9, CP11 of the CS and CC02 of the MDD LP. They are therefore out of date”.

- 1.49. Put simply, the Council is reliant on sites granted planning permission outside of development limits within designated countryside to reduce the extent of its acknowledged shortfall.
- 1.50. The Council accepts that it is unable to show a five year supply of housing land⁵². This is however irrespective of the larger deficit which arises once the Borough’s requirement for the period April 2021 to March 2026 is derived consistent with the national advice, a larger shortfall arises⁵³.
- 1.51. The Council’s reliance on sites granted permission to reduce the extent of the acknowledge shortfall is a further illustration of the out-of-date status of the settlement boundaries and application of countryside policies within Wokingham Borough that goes to the datedness and weight to be applied to these policies⁵⁴.
- 1.52. Accordingly, the restrictive Core Strategy and Development Management Delivery countryside policies and settlement boundaries are not up-to-date, and therefore can be accorded only limited weight in the determination of the application.
- 1.53. For these additional reasons these policies are out-of-date.
- 3) Their inability to accommodate medium term housing needs (years 6 – 10)

⁵² Through the appeals on land rear of 240 Nine Mile Ride, Finchampstead (paragraph 11) and on land west of St Anne’s Drive, Wokingham (paragraph 42).

⁵³ As confirmed in the Sawpit Road appeal decision, paragraphs 18-22 as explained in section 5 of this statement

⁵⁴ See North of Nine Mile Ride decision (paragraphs 25 and 26); Land East of Finchampstead Road (appeal ref: 3238048 dated 9 April 2020 paragraph 29); APP/N1730/W/17/3167135: Land at Netherhouse Copse, Fleet paragraph 63 and Canterbury City Council v SSHCLG; Crondall Parish Council v SSHCLG [2019] EWHC 1211 (Admin) paragraph 105.

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- 1.54. In addition to demonstrating that a minimum five years supply is available, NPPF paragraph 67 requires Local Authorities to show “specific” developable sites for years 6-10.
- 1.55. The Core Strategy was not prepared in the context of the NPPF, since it neither accommodated the minimum objectively assessed development needs, nor does the plan and its policies allow for the development of land over the 6-10 year period that inevitably can only be accommodated on land beyond currently defined settlement boundaries⁵⁵. A consequence of the inconsistency of the Development Plan with the NPPF is that to accommodate the additional minimum of number of dwellings required to address the 15-year plan period and output of the local housing need figure derived from the Government’s standard methodology for assessing that need, greenfield sites beyond currently defined settlements will be required.
- 1.56. The inconsistency of the Development Plan to both address the minimum housing requirements for the area (including for a minimum 15 years post adoption) derived from the NPPF, alongside the absence of countryside policies that acknowledge the nuanced refined approach of this guidance, means that the existing policies of the Development Plan are out-of-date.

Why, when assessing the most important policies as a whole, are they out-of-date?

- 1.57. Assessing this basket of policies as a whole, which is the next stage in Wavendon, three of the four policies most important to the determination of the application are all interrelated in respect of the control of development on the outer edges of defined settlements. This means that these policies, as a whole, do not reflect the NPPF’s more nuanced approach to development in the countryside or the requirement to ensure that a sufficient amount and variety of land can come forward to boost the supply of land and ensure economic growth. They are therefore out-of-date to an extent that any conflict with them would attract only limited weight. The policies themselves in terms of application and therefore delivery of housing development is also inconsistent

⁵⁵ Especially as the current Core Strategy and MDD only provide guidance for growth in the borough until 31st March 2026, which is around 3½ years.

with the approach now advocated in the NPPF. Consequently the basket of the most important policies, considered as a collective whole, are out-of-date, thereby triggering the application of NPPF paragraph 11d.

- 1.58. In addition, in an appeal on land at Deerlands Road, Wingerworth, the Inspector confirmed that the interaction of policies should be considered as a whole, and if some are considered out-of-date, by inference, so are those that are inextricably linked to these out of date policies:

“The SDLs were intended to address development needs up to 2011 and have little to do with the present position. The housing targets set out in the LP are out of date and this was confirmed in the Statement of Common Ground. The SDL and the related policies are inextricably interlinked, in that policies relating to the location of development and the delivery of housing lose much of their meaning if their spatial location is not set out and, conversely, the SDL is meaningless unless there are policies related to it.” (paragraph 20)

- 1.59. This interpretation is corroborated by the Inspector’s appeal decision on land at Tilehurst Lane, Binfield, where the Inspector confirmed at paragraph 37 of her report that there was no need to consider the Council’s housing land supply position, given the out of date nature of the most important policies for determining the appeals:

“As I have found the most important policies to be out of date, and this is sufficient to trigger paragraph 11 d ii of the Framework, then I have not gone on to consider whether the Council is able to demonstrate a five year housing land supply or not. In any case the Council agree that the delivery of housing, including affordable housing is beneficial and weighs in favour of the grant of planning permission.”

Weight to be attached to restrictive (countryside) policies

- 1.60. Whilst the Council may be of the view that although it acknowledges that it cannot demonstrate a five year supply at 1st April 2021 and that this will not be

resolved in April 2022⁵⁶, that any benefits of the scheme should be tempered having regard to the Council's previous performance⁵⁷, this is not accepted by the applicant. This is due to both the accepted housing land supply deficit and the Council has no agreed mechanism to boost the supply of housing beyond the end date of the current Development Plan (31st March 2026). This end date also coincides with that within the most recent assessment of a five year supply⁵⁸ which is a further illustration that the weight to be afforded to Policies CP9, CP11 and CC02 that relate to the definition of the countryside, and development outside settlement boundaries, is reduced. The weight is also reduced due their inconsistency with the NPPF, again irrespective of the five-year housing land supply position.

- 1.61. Moreover, in *Eastleigh Borough Council v Secretary of State for Housing, Communities and Local Government* [2019] EWHC 1862 (Admin), the High Court confirmed (paragraph 50) that where a Local Planning Authority has a five-year housing land supply, this does not mean weight attributed to development plan policies protecting the countryside increases.
- 1.62. The existence of a five-year housing land supply was not relevant to the weight to be given to development plan policies protecting the countryside. The judgement accepted that, unlike where there is no five-year housing land supply where the NPPF specifically states plans are out of date, there is no policy requirement to give increased weight to development plan policies where a five-year housing land supply exists. The benefit of additional housing is a matter for the planning balance rather than weight to be given to the development plan policies.
- 1.63. Furthermore, as confirmed by the Secretary of State in the *Watery Lane, Lichfield* appeal decision (paragraph 53) and that in *Southminster Road, Burnham on Crouch*, the social and economic benefits of a scheme for housing

⁵⁶ Authority's Appeal evidence and Statement of Common Ground – LPA ref 203544 and PINS ref APP/X0360/W/22/3297645

⁵⁷ As indicated in paragraphs 3.4 and 3.14 of the Council's Proof of Evidence (including the appendix detailing its Housing Land Supply Position Statement) with respect to the appeal on land west of St Annes Drive south of London Road, Wokingham (LPA ref 203544 and PINS ref APP/X0360/W/22/3297645)

⁵⁸ For period 1st April 2021 to 31st March 2026

are not diminished owing to the existence of a 5-year supply of deliverable housing land, and therefore represent strong material considerations in the planning balance.

- 1.64. The finding that less weight should apply to restrictive policies, and they are out of date, thereby triggering the tilted balance, irrespective of a five-year housing land supply has also been accepted by the Secretary of State in an appeal relating to land at Edenthorpe, Doncaster (Secretary of State decision letter paragraphs 10, 11, 14, 18 and 19 and Inspector's Report paragraphs 263-266, 277, 279 and 323-325). Here the Secretary of State confirms that the restrictive countryside policies within the development plan are the most important for determining the application given the development plan presently places the application site within the defined countryside area (paragraph 10). Despite a five-year housing land supply (paragraph 14 refers to a supply in excess of 10 years) the Secretary of State agreed with the Inspector that the countryside policies (in this case ENV 2 and ENV4) were inconsistent with the NPPF and noted that the extent of the countryside policy areas were linked to the delivery objectives of the UDP based in the policy and evidential base of a plan adopted about 20 years ago: these are similar circumstances to Bracknell Forest. The Secretary of State found that these countryside policies were the most important policies for determining the application, were out of date (despite a healthy housing land supply) and that the tilted balance in favour of sustainable development as stated in paragraph 11 of the NPPF applied (paragraphs 11 and 19).
- 1.65. The Secretary of State in the Money Hill decision (Secretary of State decision letter paragraphs 12 and 14)⁵⁹ noted in this case that the housing policies only made provision to meet the need for new homes in the District until 2006 and are consequently out of date. Whilst very limited weight could be attached to an emerging Local Plan (Secretary of State decision letter paragraph 9) he further noted the Council's view that a new Local Plan will have to identify land outside existing limits to development to meet the present and future need for housing (a position that arises in Wokingham) and that Policy S3 (Countryside)

⁵⁹ Appeal allowed 15th February 2016 for Money Hill, land north of Wood Street, Ashby-de-la-Zouch (PINS ref APP/G2435/A/2228806)

is out of date such that “no weight” should be attached to conflict with this countryside policy. The Secretary of State noted at paragraph 12 under the heading Development Plan that:

“Development Plan

The Secretary of State notes that, for the reasons in IR14, the appeal proposal conflicts with LP policy S3; but that the LP’s housing policies only made provision to meet the need for new homes in the district until 2006 and are consequently are out of date (IR14). He notes the Council’s view that a new Local Plan will have to identify land outside the existing limits to development to meet the present and future need for housing, and that policy S3 is out of date (IR14). He agrees with the Council that, in the circumstances, no weight should be attached to the conflict with policy S3 (IR14)”. (My underlining)

- 1.66. This finding was despite the Council demonstrating a five-year supply of housing land (Secretary of State decision letter paragraph 14 and Inspector’s Report 87). Notwithstanding this, the Secretary of State attached significant weight to the current national imperative to boost the supply of housing and in recognition of this, the Council rightly did not cite their five-year housing land supply as a reason to withhold planning permission. Significant weight was attached to the proposed residential development including the affordable housing proposed.
- 1.67. The Secretary of State addressed housing need and supply at paragraph 14 stating:

“Housing need and supply

14. Paragraph 47 of the Framework requires local planning authorities to identify and update annually a supply of specific deliverable sites to provide five years of housing against their housing requirements. The Secretary of State notes that the appellant has not disputed the Council’s contention that it has a five year supply of housing land (IR87). He agrees with the Inspector that local planning authorities must also plan for housing supply beyond the five year period and, as set out in paragraph 47 of the Framework, identify a supply of sites for 6-10 years and, where possible, 11-15 years (IR87). He agrees with the Inspector that there is also a current national imperative to boost the supply of housing and, in recognition of this, the Council rightly does not cite their five year housing land supply as a

reason to withhold planning permission (IR87). The Secretary of State attaches significant weight to the fact that the proposed development would provide for 605 new homes of which up to 182 would be affordable”.

- 1.68. It is clear, despite the existence of a five-year supply of housing land, that Councils need to identify a supply of sites for 6–10 years and, where possible, 11–15 years. It is therefore clear that the obligation regarding housing land supply does not stop at five years. It is evident from the emerging Local Plan and its evidence base that these immediate housing needs are challenging but the Council has, from its objective analysis/evidence base, identified land outside currently defined settlement boundaries to meet these inescapable needs.
- 1.69. The Secretary of State confirms that in light of the current national imperative to boost the supply of homes, the identified needs beyond the current five-year land supply period is a material consideration in the weight to be attached to restrictive countryside policies and the benefits that arise from proposed residential development, all irrespective of a current five-year housing land supply.
- 1.70. Applying this to Wokingham’s context, its Core Strategy runs to 31st March 2026, less than 3 years from when this application will be determined. The extant settlement boundaries all reflect the housing requirement set out in Policy CP9 of the Core Strategy. That requirement is itself “out-of-date” and is materially lower than every other more recent requirement figure for the Borough – whether to 2026 or beyond. Equally importantly, in view of the obligation under the NPPF to identify land for needs up to 15 years in the future, these settlement boundaries are in the process of being fundamentally reviewed (through the draft Local Plan). This is the clearest evidence that the current settlement boundaries are out of date, and to be accorded limited weight in the determination of this application.
- 1.71. Significant weight can and should apply to the provision of housing even where a Council could demonstrate a five-year housing land supply. The Crondall (Hart District) appeal decision made this point very clearly at paragraph 43 where it was noted:

“However, although the appeal site falls outside the settlement boundary for Crondall, through the application of the assessment set out in paragraph 213 of the Framework negatively worded policies that seek to apply a considerably more restrictive approach by preventing development outside settlement boundaries can reasonably be considered out-of-date and I can only attach at best moderate weight to their application (in this case the first element of RUR2). I agree with the appellants that the first part of LP Policy RUR2 has ceased to serve a useful planning purpose for the determination of housing applications in the District, which is consistent with the findings of Inspector Gleeson in the Netherhouse Copse appeal. In any event, whilst the Council can demonstrate a 9 years supply of deliverable housing sites, paragraph 59 of the Framework maintains that it is the Government’s stated objective to significantly boost the supply of housing.”

1.72. The Inspector at paragraph 48 applied the tilted balance stating:

“Taking all of this into account, including all other material considerations, I find that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits of the proposed development when assessed against the policies in the Framework as a whole and that the proposal represents sustainable development. On this basis a decision, other than in accordance with the development plan is justified and therefore the appeal should be allowed.” (My underlining)

1.73. These points were subject to a High Court challenge *Crondall Parish Council v SOSHCLG [2019] EWHC 1211 (Admin)*. Whilst the judge quashed the appeal decision, this related to the absence of an Appropriate Assessment (paragraph 117). Consistent with *Davison v Elmbridge Borough Council (2019) EWHC 1409 (Admin)*, the remainder of the quashed appeal decision can still be a material consideration (paragraph 56 iii and iv). The judgement however substantiated the points in respect of out of date policies and the presumption in favour of sustainable development despite the existence of a five-year housing land supply, in that case a 9-year supply (paragraph 43 of the appeal decision).

1.74. The judgement noted at paragraph 103 that the Claimant (Crandall Parish Council) suggested that it was wholly unjustifiable to conclude that paragraph 11 of the Framework should apply in light of the existence of a housing land supply well in excess of five-years and measured at around nine years. The judgement confirmed in response to this at paragraph 105 that:

“So far as the existence of the nine year housing land supply is concerned again, in paragraph 43, the Inspector explains that whilst that level of housing supply exists, as the Inspector at the Netherhouse Copse appeal had observed in paragraph 63 of that decision the five year housing land supply demonstrated by the Interested Party was a reflection of housing permissions being granted in breach of the first limb of policy RUR2 (and outside settlement boundaries), leading to the conclusion that the policy “is not meeting current housing needs on the basis that the settlement boundaries in the development plan”. Furthermore, as the Inspector explained in paragraph 43 of his decision, whilst a nine year supply of deliverable housing sites was in existence, paragraph 55 of the 2018 Framework maintained as a stated objective boosting the supply of housing. Although the Inspector’s conclusions were undoubtedly disputed in the representations made by HPC, I am satisfied that in his reasons he adequately explained why, against the backdrop of earlier decisions and the extent of the identified housing land supply policy, RUR2 was nonetheless to be considered out of date and of moderate weight in determining the appeal.”
(My underlining)

1.75. In respect of the alleged misinterpretation of paragraph 59 of the Framework against the backdrop of a five-year housing land supply (9-year supply) the judgement also confirmed at paragraph 108 that:

“Ground 6 of the claim maintains that the Inspector had misinterpreted paragraph 59 of the 2018 Framework by “interpreting it as requiring him to reduce the weight to be given to development plans that identify sufficient specific, deliverable sites to meet the housing needs for the area based upon the general national objective of Government of boosting housing land supply” (CPC’s skeleton paragraph 81). I am unable to detect any error of this kind in paragraph 43 of the Inspector’s decision. He was entitled to conclude, as he did, that the policy objective of significantly boosting the supply of homes contained in paragraph 59 did not cease to apply when housing land supply in excess of five years could be

established. There was in his observation no misinterpretation of paragraph 59 of the Framework and ground 6 of the claim must be dismissed". (My underlining)

1.76. The issue of whether development plan policies are up-to-date was also debated at a recent appeal regarding land at Deerlands Road, Wingerworth. Against the context of a five-year supply, the Inspector at paragraph 20 confirms that where housing targets are out-of-date, the settlement development limits and related countryside policies are inextricably interlinked and that those policies relating to the location of development and delivery of housing lose much of their meaning if their spatial location is not set out and conversely the settlement boundary limits are meaningless unless there are policies related to them.

1.77. The Inspector in respect of the five-year housing land supply rightly notes at paragraph 53 that:

"Therefore, the housing land position does not trigger the 'tilted balance' arising from paragraph 11 of the Framework. However, it is important to note that the presence of a five year supply of housing land is not a ceiling and the provision of general needs housing is a significant material consideration in light of national policy to significantly boost the supply of homes".

1.78. This point is reiterated at paragraph 75 where the Inspector correctly notes that:

"Although I have concluded that there is a five-year housing land supply in the District, based on the standard method, this is not a ceiling and the provision of general needs housing is a significant material consideration in the light of national policy. In addition, the provision of 40% affordable housing is a very significant material consideration weighing in favour of the appeal scheme."

1.79. The Inspector concludes at paragraph 77 by stating:

"As explained above, the housing land supply position does not trigger the so-called 'tilted balance' in paragraph 11 of the Framework. However, as accepted by the Council, this is triggered by the fact that the spatial strategy and settlement boundaries are out of date.

Permission should therefore be granted unless the adverse impacts would significantly and demonstrably outweigh the benefits. In this case the adverse impacts do not come close to outweighing the benefits. (My underlining)

- 1.80. The Secretary of State and Inspectors confirm that where the most important policies for determining the application are out-of-date, the tilted balance in paragraph 11d of the NPPF is engaged. This is irrespective of the position on five-year housing land supply⁶⁰, although as noted the Council cannot demonstrate a five year supply at April 2021 and their initial assessment confirms that the position will not be addressed at April 2022.
- 1.81. On the basis of the foregoing, the weight to be given to the conflict between the application and Policies CP9, CP11 and CC02 is reduced in either the unweighted ordinary planning balance or on account of these most important policies for determining the application, when considered as a whole, being out of date and similarly attracting reduced weight in the application of the titled balance in NPPF paragraph 11d. It is clear this is irrespective of the position on the five-year housing land supply. Equally, significant weight can still be attached to the provision of housing even with the existence of a five-year supply.
- 1.82. However, with a confirmed housing supply shortfall, the tilted balance applies.
- 1.83. It is in this context that the application should be determined by the Council.

⁶⁰ For example, Bacton Appeal Decision 3209219 paragraphs 7, 21 and 52 and Deerlands Appeal Decision 3192255 paragraph 77