

Appeal Statement – Statement of Case

Site Address:
Walden Acres,
Wokingham Road,
Hurst,
RG10 0RU

LPA Reference:
230201

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1 INTRODUCTION

1.1 This report sets out the Statement of Case relating to this Appeal by Churchgate Premier Homes on behalf of Mr T Drake and Mr R Drake against the decision of Wokingham Borough Council to refuse planning permission. The refusal relates to a full planning application for a proposed development comprising the erection of 3no two-storey dwellings with associated car port parking, bicycle storage and amenity space on land at Walden Acres located along Wokingham Road within the village of Hurst.

1.2 The planning application (Local Planning Authority reference: 230201) was refused under delegated powers on 23rd March 2023. The Planning Officer did not seek actively engage during the planning application and no dialogue was offered prior to the refusal being issued.

1.3 The application was validated on 26th January 2023 and comprised the following drawings and documentation:

- Completed application forms and Certificates;
- Planning Statement (including Design & Access)
- Community Statement
- Completed CIL forms;
- Phase 1 Ecology Appraisal
- Arboricultural Impact Assessment (prepared by Trevor Heaps)
- Architectural Drawings:
 - Location Plan – 22.030.01 B
 - Existing Site Plan - 22.030.02 A
 - Proposed Site Plan in Context - 22.030.03 A
 - Proposed Visibility Splays - 22.030.04 A
 - Proposed Site Plan in Colour - 22.030.05 A

- Proposed Landscaping - 22.030.06 A
- Construction Management Plan - 22.030.07 A
- Proposed Materials- 22.030.08 A
- Proposed Plans and Elevations - Plot 1 & 2 22.030.10 A
- Proposed Plans and Elevations - Plot 3 22.030.11 A
- Proposed Streetscene - 22.030.12 A
- Proposed Figure Ground - 22.030.13 A
- Settlement Context Plan - 22.030.14 A

2 SITE LOCATION AND DESCRIPTION

- 2.1 The submitted Planning Statement, which formed part of the planning application, provides a detailed description of the site and the location with associated photographs and aerial imagery. In a bid to avoid substantial repetition, this section provides a very summarised description outlining the main points of consideration.
- 2.2 The Appeal site within the village of Hurst, located along Wokingham Road, but slightly outside of the defined settlement limit. The site forms part of the continuous built-up area of the village which extends to the south-east along Wokingham Road.
- 2.3 The site comprises an area of garden land to the side (west) of 'Walden Acres', a detached dwellinghouse benefitting from a very large plot. The Appeal site is formed by the subdivision of the extensive garden to form three new plots.
- 2.4 The site is considered to be very sustainable, effectively within the settlement of Hurst in geographic, physical and functional terms. The village provides a range of facilities with local day-to-day shopping and services. The site is within walking distances of bus stops with direct services to the town centre and railway station. More information with respect to the sustainable attributes of the location is provided within Appendix A which is an email to the Planning Officer responding to comments from objecting members of the public.

3 LPA CONSIDERATION OF THE APPLICATION

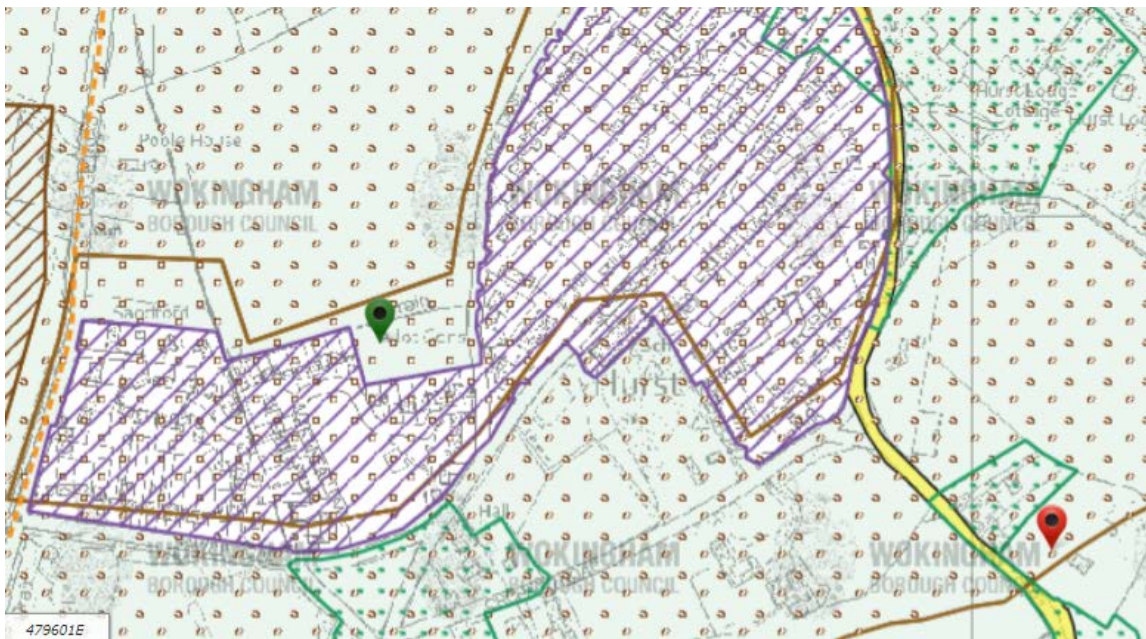
- 3.1 This Appeal relates to a planning application submitted to Wokingham Borough Council, validated on 26th January 2023 (Local Planning Authority reference: 230201). The description of development given by the Council is written as follows; *“Full application for the proposed erection of three 2 storey dwellings with associated car port parking, bicycle storage and amenity space”*.
- 3.2 The planning application was refused by the Planning Officer somewhat abruptly, without any substantive dialogue. Typically, the Council will attempt to explain any concerns and / or offer the opportunity to withdraw a planning application, but no such dialogue was offered. It is considered that the decision was likely to have a good deal of political motivation / pressure.
- 3.3 For context, it is known that Hurst village is very well organised in terms of both the Parish Council and the Protect Hurst Action Group (PHAG), the latter being a local group that rallies residents against all net new housing schemes. The Appeal proposal was no exception, with PHAG circulating a letter to residents strongly lobbying for residents to object, resulting in the numerous public comments submitted to the Council. It is anticipated that these groups would have been particularly active in lobbying relevant Councillors during the application.
- 3.4 The reasons for refusal as listed on the decision notice are as follows:
- 1. The location of the proposed residential dwellings is contrary to spatial strategy of the adopted development plan by reason of being located in an unsustainable location outside of, and unconnected to, any settlement boundary and being within the countryside, contrary policy CP1, CP2, CP3, CP6, CP9, CP11 and CP17 of the Core Strategy, Policy CC01, CC02, CC03, TB06 and TB21 of the MDD Local Plan, the Borough Design Guide SPD and sections 2, 4, 8, 12 and 15 of the NPPF.*
 - 2. By reason of the proposed dwellings, new vehicular access, shared driveway, extended hard surfacing and loss of vegetation & greenery, the proposal would have an urbanising impact and result in the loss of the unspoilt, verdant and rural qualities of the site. This*

would result in a high magnitude of adverse change to the character and appearance of the site and the rural setting of Hurst which would be contrary to policy CP1, CP3 and CP11 of the Core Strategy, Policy CC03, TB06 and TB21 of the MDD Local Plan, section 2 and 4 of the Borough Design Guide SPD and section 12 and 15 of the NPPF.

- 3. It has not been demonstrated that the new access will have an acceptable impact on highway safety because the applicant is not in control of large sections of the land required to be kept clear of obstructions for the minimum acceptable visibility splays. The proposal is therefore contrary to policy CP1, CP3 and CP6 of the Core Strategy, CC01 of the MDD Local Plan the Borough Design Guide and Sections 8, 9 and 12 of the NPPF.*
- 4. The application site is within a poorly accessible location outside of, and unconnected to, settlement limits and future residents would be reliant on private motor vehicles to access basic facilities and services. The development is contrary to policies CP1, CP2, CP3, CP6 and CP11 of the Core Strategy, CC01 and CC02 of the MDD Local Plan, the Borough Design Guide SPD and section 8 & 9 of the NPPF.*

4 PLANNING POLICY

- 4.1 For the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the development plan, against which the Appeal should be determined, comprises the Wokingham Borough Core Strategy (CS) (January 2010) and the Wokingham Borough Managing Development Delivery Local Plan (MDD) (February 2014).
- 4.2 The application site falls (indicated by the red pin drop on the extract below) outside of the defined settlement limits (purple hatched area) as defined by the adopted proposals maps (see extract below). The site falls close to, but outside of, an Area of Special Character (green boundary lines) which is an unusual local designation applied somewhat arbitrarily to outer parts of the village. The brown speckled area is of no relevance to the Appeal proposal and relates to a presumption against the extraction of sand and gravel.



- 4.3 A more detailed overview of the relevant policies is contained within the submitted Planning Statement which supported the planning application.

4.4 The Council accept that they are unable to demonstrate a 5 year housing land supply position and as such the policies with relation to housing are out-of-date and the tilted balance in favour of the presumption in favour of sustainable development and housing provision is engaged.

4.5 In considering the relevance and weight of the development plan policies for the determination of the appeal (NPPF, paragraph 11), it is necessary to identify the most important policies for determining the appeal and to assess their consistency with the NPPF and their datedness as required by paragraph 219. This is set out in the table below:

	Most important policies for the determination³	Consistent with NPPF	Weight to be afforded	Scheme accords with policy
CP1 – Sustainable Development		✓	Full	✓
CP2 – Inclusive Communities		✓	Full	✓
CP3 – General principles for development		x	Limited	✓
CP4 – Infrastructure requirements		✓	Full	✓
CP5 – Housing mix, density and affordability		x	Limited	✓
CP6 – Managing travel demand		x	Limited	✓
CP7-Biodiversity		✓	Full	✓
CP9 – Scale and location of development proposals	✓	x	Limited	x
CP11 – Proposals outside Development Limits (including countryside)	✓	x	Limited	x
CP17 – Housing delivery		x	Limited	✓
CC01 - Presumption in favour of sustainable development		✓	Full	✓

CC01 - Presumption in favour of sustainable development		✓	Full	✓
CC02 - Development limits	✓	x	Limited	x
CC03 - Green Infrastructure, trees and landscaping		✓	Full	✓
CC04 - Design and construction		x	Limited	x
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	✓
TB26 – Buildings of Traditional Local Character and Areas of Special Character	✓	x	Limited	x

4.6 The Core Strategy predates the NPPF and therefore is out of date. A lack of consistency of several of the policies of Core Strategy, particularly those relating to the housing requirement and the subsequent definition of development limits/countryside having regard to the non-NPPF compliant assessment of housing needs means that numerous policies of this Plan must hold limited weight for the purposes of the Appeal.

4.7 It is noted that the MDD was examined for consistency with the NPPF (2012) and this was acknowledged in the Gladman Developments v Wokingham Borough Council judgement¹ the MDD did not re-appraise the Borough's housing requirements. This is confirmed in paragraph 77 of the Judgement which states:

¹ [2014] EWHC 2320 (Admin)

*'The inspector approached the examination on the basis that he was considering that the MDD was dealing with the allocation of sites for the amount of housing proposed in the Core Strategy, that is the figure of at least 13,230 dwellings over the 20 years of the development plan period. **He did not determine that that figure represented the objectively assessed need for housing in Wokingham in the development plan period. That was a lawful approach as the inspector was not required when examining a development plan document dealing with the allocation of sites to consider whether an objective assessment of housing need would disclose a need for additional housing.** The inspector did decide that the MDD identified sufficient supply of housing land in the appropriate locations and gave adequate, intelligible reasons for that conclusion. The MDD was, therefore, lawfully adopted. This application is dismissed'. (our emphasis)*

- 4.8 Accordingly, at the time of the Council's adoption of the MDD, the plan was evidently not based on addressing an objectively assessed need for housing. The resultant inconsistency of the Development Plan with the NPPF (pursuant to paragraph 219) means that relevant policies to this Appeal are out of date.

National Planning Policy Framework

- 4.9 Given the Council's 5-year housing land supply position, the presumption in favour of sustainable development (pursuant to paragraph 11 (d) of the NPPF) and the associated titled balance applies. :

"d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁸, 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 proposed⁷; 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".

- 4.10 The exemption in footnote 7 of the NPPF does not apply to the Appeal Site. Accordingly, the Appeal should therefore be allowed on the basis that adverse impacts would not significantly

and demonstrably outweigh the benefits of the proposal, when assessed against the policies in the NPPF.

- 4.11 Paragraph 12 of the NPPF confirms that the approach applies even where there is an up-to-date Development Plan but does not directly seek to address what happens where the Development Plan, or the policies most relevant, are out-of-date.
- 4.12 Accordingly, it must be concluded that the relevant policies are out-of-date and the tilted balance is engaged pursuant to the MDD Policy CC01 (Presumption in Favour of Sustainable Development).
- 4.13 It is the case that all of the key policies for determining the Appeal are out of date and therefore the presumption in favour of sustainable development applies and prevails.
- 4.14 Paragraph 174 of the NPPF does not place any blanket protection of the countryside, instead recognises the intrinsic character and beauty of the countryside. The Appellant contends that both the terms 'recognition' and 'protection' are not the same as a wholesale restrictive approach to development within the countryside, a characteristic of the Policies in the Councils MDD and Core Strategy documents. They are clearly distinguishable terms and accordingly the MDD and Core Strategy countryside policies are inconsistent with the NPPF and cannot therefore be 'up to date'.
- 4.15 Paragraphs 78 and 79 support growth in rural areas where it can support the viability of existing services. Furthermore, paragraph 105 emphasises that access to public transport and other services will vary between urban and rural areas. Both of these points are important factors which support development in Hurst, a location which the Core Strategy and MDD accepts is suitable for additional housing.

Other Material Considerations

- 4.16 Material considerations relevant to housing supply issues for the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004 include planning appeals on schemes within

Wokingham Borough and elsewhere in England with similar issues regarding the application and determination of policy issues together with relevant case law.

- 4.17 This statement explores the out-of-date nature of the development plan policies, the weight to be attached to the policies, and how they should therefore be applied in the determination of the Appeal.

Supplementary Planning Documents

- 4.18 The following SPD's are relevant:

- Wokingham Borough Design Guide SPD
 - Appendix - Design for Hurst (Village Design Statement)

5 THE NPPF (2021) AND THE ENGAGEMENT OF THE PRESUMPTION IN FAVOUR OF SUSTAINABLE DEVELOPMENT

5.1 It is considered that the NPPF is an important material consideration which carries very substantial weight particularly with respect to the presumption in favour of sustainable development.

5.2 This section considers the principles relevant to the presumption in favour of sustainable development as a precursor to the Main Issues within Section 6 (notably Reason for Refusal 1) and the overall Planning Balance.

NPPF Paragraph 219

5.3 The NPPF confirms at paragraph 219 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)”.

NPPF Paragraph 11d

5.4 NPPF 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-date⁸, 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”.

- 5.5 The Appellant considers that the Council are unable to robustly demonstrate a five years supply and as a consequence the presumption in favour of sustainable development is engaged.
- 5.6 It is noted that a 5 year supply can never be treated as a ceiling² which would otherwise be inconsistent with the NPPF objective to significantly boost the supply of housing as confirmed by paragraph 60. Accordingly, the existence of a mathematical housing land supply meeting or exceeding the 5 year supply requirement does not necessarily prevent key Development Plan policies from being out-of-date.
- 5.7 The nearby Appeal Decision on land at ‘Land at Junction of Sawpit Road and School Road, Hurst’, LPA ref: 211532 and PINS ref: APP/X0360/W/21/3280255 (herein referred to as ‘the Sawpit Road Appeal’) is highly relevant to this Appeal, as detailed within the Planning Statement which accompanied the original planning application (the subject of this Appeal Statement).
- 5.8 The Sawpit Road Appeal is an important material consideration given the similarities of the main considerations and the proximity to the Appeal site. A copy of the Appeal Decision is provided within Appendix B. A copy of the relevant drawings (including the Location Plan) and a copy of the Council’s Case Officer Report and Decision Notice is included within Appendix D.

² Appeal Decision ref: 3181823 - Land south side of Kettering Road, Stamford and Appeal Decision ref: 3192255 - Land at Deerlands Road Wingerworth (See Appendix C).

6 MAIN ISSUES

The first and fourth reason for refusal:

1. The location of the proposed residential dwellings is contrary to spatial strategy of the adopted development plan by reason of being located in an unsustainable location outside of, and unconnected to, any settlement boundary and being within the countryside, contrary policy CP1, CP2, CP3, CP6, CP9, CP11 and CP17 of the Core Strategy, Policy CC01, CC02, CC03, TB06 and TB21 of the MDD Local Plan, the Borough Design Guide SPD and sections 2, 4, 8, 12 and 15 of the NPPF.

4. The application site is within a poorly accessible location outside of, and unconnected to, settlement limits and future residents would be reliant on private motor vehicles to access basic facilities and services. The development is contrary to policies CP1, CP2, CP3, CP6 and CP11 of the Core Strategy, CC01 and CC02 of the MDD Local Plan, the Borough Design Guide SPD and section 8 & 9 of the NPPF.

6.1 As explained in Section 5, the Core Strategy Policies CP1, CP2, CP3, CP6, CP9, CP11 and CP17 and MDD plan Policies CC01, CC02, CC03, TB06 and TB21, with respect to their relevance regarding development in the countryside, are out-of-date thereby engaging the NPPF (paragraph 11 (d)). The Appeal Site is not subject to any specific policy of the of the NPPF which might otherwise afford specific protection, the scheme should be allowed. Furthermore, the provision of additional housing in Wokingham Borough is a clear benefit, irrespective of current housing supply as provision of new housing is still a benefit, even if for example, the Council were able to demonstrate even a 9-year supply³.

6.2 The Appellant contends therefore that the Appeal proposal must be considered in terms of NPPF paragraph 11d, given the most important policies for determining the Appeal are out-of-date. Indeed, the Appellant refers to the Sawpit Road Appeal wherein the Inspector concluded that; *“Notwithstanding the fact that there may be conflict with the locational policies of the*

³ Crondall Parish Council v SOSHCLG [2019] CO/3900/2018)) EWHC1211(Admin) (paragraph108)

development plan, paragraph 11(d) of the Framework advises that where the policies which are most important for determining the application are out-of-date planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or 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” (paragraph 24).

6.3 With respect to being within the ‘countryside’ the Appellant highlights that the settlement limits, as drawn on the Council’s adopted Proposals Map, is somewhat arbitrary and does not truly define the extent of the village. In reality, the extent of the village is more accurately defined by the extent of the build form, particularly the residential area. In this respect, the application site clearly forms part of the village, forming part of a clearly developed area which extends well beyond the Appeal site, to the south-east of the policy boundary.

6.4 Figure 1 (below) shows the developed area of the village with the buildings shaded dark grey and the plots, garden and associated land shown in light grey.

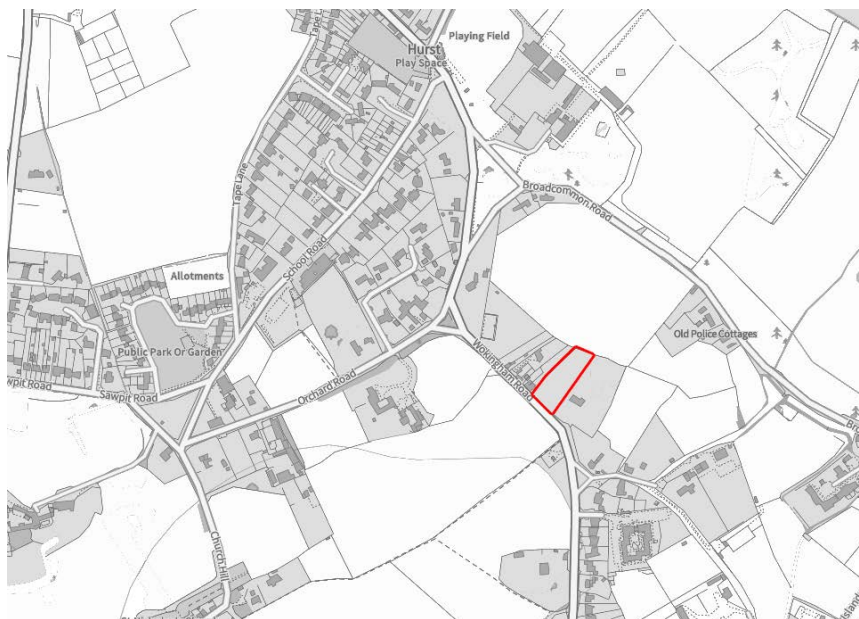


Fig.1 – OS Map showing developed area of settlement

- 6.5 The Appellant contends that, for all intents and purposes, the Appeal site should be considered within the context of the settlement policy boundary, wherein small scale residential developments are supported in principle and there is no harm to the countryside.
- 6.6 Notwithstanding this, noting that the Council's motivation with this reason for refusal concerns the principle of development, the Appellant highlights that the settlement boundaries are derived from an out-of-date assessment of housing need. This means that section 2 of MDD Policy CC01 is 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 in detail within the subsequent pages of this statement.
- 6.7 The Appeal site does not lie in an area of landscape/countryside which is designated as having any particularly great value, neither with any statutory nor non-statutory designations. The site is not Green Belt, AONB nor a Conservation Area. The Appellant considers therefore that the site does not fall within land that is of any particular landscape value. In fact, the site is similar part of an oversized residential garden, enclosed by mature boundary trees and hedgerow planting.
- 6.8 Whilst the Appeal site is close to the "Area of Special Character" (ASC) it does not fall within it, nor would the proposed development cause any material impact on this area given the mature screening that both exists and is proposed. It is highlighted that the ASC is a non-designated and non-statutory designation and therefore not within the categories covered by footnote 7 of the NPPF.
- 6.9 Whilst the site does not fall within the ASC, Policy TB26 is clear that there is no blanket exclusion of development in such areas. Instead, development can be acceptable where it would not be harmful to the specific characteristics of the designation.
- 6.10 A secondary point highlighted by the Appellant is that; given the site is technically within the countryside, outside of any settlement limits, in accordance with the NPPF definition of

previously developed land, the garden land outside of the built-up area can be considered brownfield (previously developed) land⁴. Accordingly, the emphasis should be given to the more effective use of previously developed land in accordance with chapter 11 of the NPPF.

- 6.11 Notwithstanding this, site is already enclosed by existing dwellings on both sides along Wokingham Road, with a more dense cluster of housing to the south-east, which is even further from the settlement policy boundary. This area is already residential in character, albeit suburban / semi-rural. Given the proposal would effectively infill a gap between dwellings, it would not represent harmful encroachment of development beyond the existing built form of the settlement.
- 6.12 The Appellant highlights Appeal Decisions for a sites in both St Albans City & District and Welwyn & Hatfield Borough⁵. The Inspector concluded that the site was influenced by its settlement edge and consequently it was not part of the wider countryside and would instead be seen with the back drop of existing buildings (paragraphs 14 & 26). Given the enclosure of the Appeal site by built-form, being effectively infill, in contrast to the land south of The Lodge and the Old School House, the Appellant contends that development of the Appeal Site would be viewed in that context.
- 6.13 More directly relevant to this Appeal, given the proximity to the site, the Appellant again refers to the Sawpit Road Appeal. The Inspector considered that the site did make an important contribution to that part of the countryside (paragraph 29) and the development would therefore have a “moderately detrimental effect on the landscape character of the local area” (paragraph 30) but against the conclusion that *“the proposal would cause limited and localised effects on the appearance of the countryside because of the relatively contained nature of the site and its surroundings, and the retention of trees and hedgerows along its peripheral boundaries. In my view, as a consequence of the retention of the majority of the peripheral trees and hedgerow, the visual effects of the proposed development would be very localised and minor adverse”* (paragraph 29).

⁴ Dartford BC v SSCLG [2017] EWCA Civ 141 ('the Dartford case')

⁵ Appeals for land off Bullens Green Lane, Colney Heath allowed on 14/06/2021 (PINS ref/ APP/B1930/W/20/3265925 & APP/C1950/W/20/3265926) (Appendix C)

6.15 The Appellant highlights that the Sawpit Road Appeal site was an undeveloped parcel of land which did not directly adjoin any existing buildings and fell within the ASC, entirely more sensitive, therefore, than the Appeal site. The Inspector concluded, however, that *“In applying the significant weight to the provision of housing in this circumstance where the Council cannot demonstrate a 5-year supply of housing, I consider that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole”* (paragraph 90).

6.16 Turning to sustainability, the Appellant refers to Appendix A which is an email sent to the Planning Officer (dated 23/02/2023) during the planning application which responded to local letters of objection. This email sets out the credentials of the site in terms of sustainability including public transport and local amenities. The Appellant contends that the Appeal site is not materially less sustainable than any other part of the village, noting the adopted policy would typically support small scale housing within the settlement policy boundary.

6.17 Furthermore, the Appeal site is not materially further from the village centre than the Sawpit Road Appeal site, both being within close walking distance. Paragraphs 40-53 of the Sawpit Road Appeal Decision are particularly relevant. Paragraphs 52 and 53 conclude; that *“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.*

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.”

6.18 The Appellant contends that, whilst the Sawpit Road Appeal site is slightly closer to the village centre, the difference is marginal and arguably immaterial by comparison.

6.19 Having regard to the pavement adjacent to the Appeal Site which links to the primary school, shop and the other facilities nearby, the Appellant contends that the site is clearly sustainably located within the context of the village of Hurst. This is particularly the case when taking account the recognition in the NPPF paragraph 105 of the differences between urban and rural locations. The site is therefore sustainably located with facilities within walking and/or cycling distance and can be considered as a sustainable location within the context of the NPPF meaning.

The second reason for refusal:

2. By reason of the proposed dwellings, new vehicular access, shared driveway, extended hard surfacing and loss of vegetation & greenery, the proposal would have an urbanising impact and result in the loss of the unspoilt, verdant and rural qualities of the site. This would result in a high magnitude of adverse change to the character and appearance of the site and the rural setting of Hurst which would be contrary to policy CP1, CP3 and CP11 of the Core Strategy, Policy CC03, TB06 and TB21 of the MDD Local Plan, section 2 and 4 of the Borough Design Guide SPD and section 12 and 15 of the NPPF.

6.20 Firstly, with respect to the perceived harm on the character of the and appearance of the area, this has been largely covered by the previous paragraphs contained within this section (above). Whilst the Appellant acknowledges that there would be a change in the character of the site, given the context of the surroundings, the boundary treatments, the seclusion of the site and the infill nature of the proposed development, it is clear that the impact would not be 'high magnitude'.

6.21 In reality, the proposed development would be harmonious to the character of the residential development along this side of Wokingham Road, in design, appearance, scale, density and amount. The retention of the mature boundary screening would substantially minimise any impact upon the wider landscape and setting of the village given that the proposed development would not be readily visible from any public vantage points.

6.22 Notwithstanding the above, as established more acutely on the Sawpit Road Appeal, which was effectively a small woodland within the ASC, the harm to the character of the landscape would be entirely outweighed by the benefits of the development.

6.23 By comparison, the Appeal site falls close to, but is not within, the ASC. The Appellant contends therefore that the proposal would not have a substantially urbanising effective and certainly not to a level that would materially alter the character of this part of Hurst.

The third reason for refusal:

3. It has not been demonstrated that the new access will have an acceptable impact on highway safety because the applicant is not in control of large sections of the land required to be kept clear of obstructions for the minimum acceptable visibility splays. The proposal is therefore contrary to policy CP1, CP3 and CP6 of the Core Strategy, CC01 of the MDD Local Plan the Borough Design Guide and Sections 8, 9 and 12 of the NPPF.

6.24 The Appellant contends that this reason for refusal is completely unfounded. Requisite visibility splays are provided in both directions in accordance with the Council's adopted standards.

6.25 The Case Officer's delegated report states: *"The highway land verge to the front of the site is approximately 2 metres deep and the development would also require this land outside of the applicant's ownership to be cut back and maintained free of obstruction. Whilst the council are in control of the verges, the vegetation along the highway is a positive characteristic of the countryside and removing this would negatively impact the natural environment and landscape."* The Council therefore object on the basis that the visibility splay crosses the highway verge. It is noted that this commentary appears to be from the Planning Officer rather than the Highways Authority who control the verges.

- 6.26 The Appellant contends that one of the primary reasons why highway verges exist is to ensure requisite visibility splays for points of access and junctions. It is therefore entirely routine and expected that visibility splays should rely upon sight lines across highway verges.
- 6.27 Furthermore, the Appellant considers that the comment that the removal of vegetation along the verges would be harmful to the character of the area is without substance. Again, one of the very functions of highway verges is for highways safety and therefore regular maintenance is expected and routine. Maintained verges remain verdant and therefore typical upkeep would not cause any detriment to the natural environment and landscape. Notwithstanding this, it is noted that obstructions of up to 0.6m high do not impact on visibility. Typically, verges do not tend to be overgrown to a level whereby an obstruction beyond 0.6m would occur as this would likely mean that the vegetation would be impacting upon the functional highway.
- 6.28 The Appellant also highlights that the access point is an existing entrance onto the highway and therefore already benefits from lawful use. Whilst the intensity of the use would increase, given that requisite visibility splays can be achieved and any purposeful attempt to block these splays by the Council would affect the safety of an existing access point at present, the Council's position is unreasonable.
- 6.29 The Council contend that the visibility splay to the north-west would require 22m of the neighbouring houses front driveways and that this could be obstructed by car parking. In reality, that area of land is highways verge, but is maintained by the owners of Keyers Bridge Cottages with a gravel surface. It is entirely unreasonable to suggest that the occupiers of those neighbouring dwellings would park their vehicles closer than 0.5m to the highway. Firstly, given their existing parking arrangements, this would not be logical and secondly, this would create a substantial visibility issue for the existing occupiers. The Appellant feels that this is self-evident and the Inspector is encouraged to view the neighbouring properties from the pavement opposite.
- 6.30 Finally, the Appellant highlights that the hedgerow adjacent to the highway falls within their ownerships and, therefore, they can cut this back to achieve and maintain requisite visibility

splays without the consent of the Council. The vast majority of this hedgerow is formed by diseased *Leylandii*. In a cynical bid to resist development on the site, the Council placed an Emergency Tree Preservation Order on the hedgerow despite the species and its obviously poor condition (LPA ref: CR/TPO/1901/2022). Following a formal objection to this order the Council subsequently removed the hedgerow from the TPO which now only applies to the large Ash tree adjacent to the access to the existing house, to the south-east of the Appeal site.

- 6.31 For these reasons, the Appellant contends that requisite visibility splays are achieved and therefore the proposed development would have safe and sufficient access which would not lead to any severe nor minor highways safety implications.

7. CONCLUSION

7.1 For the reasons set out above, it is considered that the, owing to the relevant Development Plan policies being out-of-date, the Appeal proposal must be considered in relation to the presumption in favour of sustainable development as set out in NPPF and MDD Policy CC01. In these circumstances, the "tilted balance" is engaged where any harm arising against any benefits of the proposals in relation to the three dimensions of sustainable development set out in the NPPF must significantly and demonstrably outweigh those benefits.

7.2 The benefits of the proposed development include:

1) Economic growth – it is common knowledge within UK economics that house building in areas of demand drives economic growth further and faster than any industry. In this regard, the proposals would contribute towards the objectives of creating 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 appeal scheme is immediately available and can deliver much needed housing now without any uncertainty with regard to deliverability and housing numbers (unlike promoted or allocated sites).

3) Contributing towards significantly boosting the supply of housing. consistent with the Government's objective, and particularly given the shortfall in Wokingham and therefore the local and Borough wide need.

4) Creating both direct and indirect jobs during construction and enhancing the viability and vitality of local shops and services once occupied.

5) a New Homes Bonus economic benefits for the Council.

6) Local community benefits through CIL to be spent on local infrastructure.

7.3 In accordance with the provisions at paragraph 8 of the NPPF, some of the more permanent economic benefits should attract substantial weight in the planning balance whilst other more temporary benefits attract some weight. The headline benefit is clearly the provision of much-needed housing such that significant weight should be attached to this and the associated benefits. As indicated, the degree of harm by reason of either conflict with countryside policies or harm to the character of the wider landscape is limited owing to the well contained nature of the Appeal site and the absence of a high quality or valued landscape within which the site lies. Moreover, the proposal is within a well-established residential location effectively forming an infill within the existing row of development along this section of Wokingham Road. Furthermore, the weight to be afforded to loss of countryside and development beyond settlement limits (policies CC02, CP9 and CCP11) must be limited given the out-of-date nature of the policies.

7.4 The Appeal proposal satisfies the social objective by helping to support strong, vibrant and healthy communities, including by providing the supply of high-quality housing required to meet identified needs.

Additionally providing additional market housing is a substantial social benefit. Future residents will be in close proximity to a range of other uses including the shops and services in Hurst and the wider area helping to keep services viable. The Council would also be securing high quality residential accommodation consistent with Development Plan and SPG design criteria.

7.5 In light of the above, the social benefits of the scheme attract significant weight in the overall planning balance.

7.6 In terms of the environmental objective, the site is not designated in terms of landscape / character, ecology or anything else of relevance. The scheme would not result in any significant harm to the character of the landscape, is visually well contained and would not cause any material harm to the environment.

- 7.7 The retention of existing boundary trees and hedges and the supplementation with additional soft landscaping and tree planting would preserve the secluded character of the site and avoid any substantial visibility from public vantage points.
- 7.8 The proposals would not result in any ecological harm but invites improvements as part of a scheme of ecological enhancements, such as tree planting, bat boxes, bird boxes (etc) which can form a planning condition which would be welcomed by the Appellant/
- 7.9 The sustainable location of the site offers scope to minimise pollution and resource use by encouraging walking and public transport use.
- 7.10 The proposals would deliver sustainable homes which contributes towards the important objective whilst also moving to a low carbon economy and securing an environmentally sustainable form of new residential development.
- 7.11 On the basis of the above, there are environmental benefits which would arise from the proposals, to which some weight should be attached in the overall planning balance.
- 7.12 Whilst the proposals breach countryside policies in a technical sense concerned with the site being within the countryside, only limited weight should be attached to those policies owing to their out-of-date nature and the limited visual impact of the scheme itself. The Appellant also contends that both visually and geographically speaking, the site is within the village in any case.
- 7.13 The benefits are considered to considerably outweigh any adverse impacts. As far as adverse impacts are concerned, this statement explains why the impact upon the countryside and landscape character are acceptable. In applying the overall planning balance, therefore, it is the Appellants case that the benefits significantly and demonstrably outweigh any impacts
- 7.14 Finally, the Appellant has explained why the proposal would not give rise to any significant adverse impacts in terms of highways safety and would not rely on any third party land which does not form part of the highway verge or is not already free of obstacles that otherwise are within the Appellants control.

7.15 On this basis, and for the reasons explained, the Inspector is politely requested to allow the Appeal.

APPENDIX A – SITE SUSTAINABILITY – EMAIL TO CASE OFFICER (REBUTTAL TO OBJECTIONS) DATED 23/02/2023

From: Matt Taylor

Sent: 23 February 2023 15:54

To: Tariq Bailey-Biggs <Tariq.Bailey-Biggs@wokingham.gov.uk>

Subject: 223677 - Walden Acres, Wokingham Road, Hurst, READING, RG10 0RU

Dear Tariq,

Now that the consultation window has closed, we have reviewed the comments received from members of the public.

Firstly, is it disappointing that the Protect Hurst Action Group (PHAG) has rallied a small portion of the village against the proposal. Most of the objections are repeating the same points and we understand that a letter was circulated by PHAG giving their members the a list of points upon which to object which perhaps explains this matter.

Incidentally, we reached out to PHAG before the planning application was registered, however, no response was every received. Unfortunately, this is indicative of a group which is vehemently against any new housing, unwilling to consider the merits of any such proposals regardless of the actual impacts. Whilst it is appreciated that some of the Groups concerns are founded with genuine fears, especially given the major planning applications that are currently pending and the Appeal at Shute End, the Group does somewhat undermine their position by failing to be open to any new windfall housing whatsoever.

We do acknowledge that a number of the objectors have not simply copied the PHAG guidelines for objecting and have instead concentrated their comments on genuine concerns - these are typically in relation to infrastructure / local services (schools, doctors, etc) and traffic rather than anything else. We understand these concerns and appreciate that these are somewhat linked to the cumulative impact of proposals, rather than the proposal itself (given the impact of only 3 homes would clearly be very limited).

Notwithstanding the above, our responses to the main concerns raised are provided as follows to aid you with your review of the comments:

Principle

Many of the objections fail to acknowledge the housing crisis and the substantial weight that must be given to 5 year housing land supply. The Appeal Decision on Sawpit Road is also dismissed by some objectors, despite the fact the decision was made by the Planning Inspectorate, perhaps the foremost expert body in the county regarding planning policy and development. Whilst we agree that, by comparison, the proposal at Walden Acres is a far more sensitive and appropriate development, the Appeal Decision on Sawpit Lane was clearly correct for the reasons as set out by the Inspector.

With this in mind, housing need is indeed an exceptional circumstance for the development of the site. This is a matter covered at length in the submitted Planning Statement. Furthermore, given the spirit and intention of Policy CP11, the site is clearly within the village wherein the principle of such development would typically be supported, albeit outside of the somewhat arbitrary limit boundary applied by the Proposals Maps. Given the housing supply position, however, this policy is out of date and so carries more limited weight. The point still applies, however, in that this is a very sensible site which does not undermine the core intention of Policy CP11 and sustainable development more generally.

Infrastructure

The concerns raised by residents in this regard primarily relates to doctors, dentist and schools. The context of these concerns must be considered with respect to the number of dwellings proposed. This is a minor application for only 3 modest family houses. The actual implication in terms of pressure on infrastructure is therefore undeniably limited.

With respect to doctors surgeries, accordingly to NHS online resources, there are 5 practices within catchment of Hurst, of these, 3 are currently accepting new patients. There are a further 9 practices within 3 miles of Hurst which do accept out of catchment patients and, of these, only 1 is not currently accepting new patients. There are a further 15 within 5 miles, all accepting new patients. Respectfully, therefore, Hurst is very well served with respect to doctors' practices and, moreover, it is without doubt that the proposal can be accommodated.

With regard to dentists, accordingly to NHS online resources, there are 25 dentist practices within a 5 mile catchment, of these only 6 are currently not accepting new patients. There are a further 22 within 6.5 miles. Clearly, therefore, there is capacity for three new family homes.

Finally, with respect to schools, according to Wokingham Council's records, the application site falls within the catchment of 5 primary schools and 6 secondary schools. A review of each has revealed that almost all have capacity.

In summary, the concerns raised with respect to infrastructure are grossly exaggerated and, moreover, incorrect. Coupled with the very marginal impact on these services (given the proposal is only for 3 modest family houses) it is evidenced that the proposal can be accommodated.

Other Local Services and Amenities

Some of the complaints raise the fact that the village has limited shops and services. Many shops and services in smaller towns and villages have been lost over the last 20 years due to lack of viability. This has coincided with a lack of growth in these areas and the aging population which has an unavoidable demographical impact. Lack of organic growth through modest population increases force younger people out of the area which, coupled with changes in buying and communication trends, leads to a decline in the use of local shops, services and public transport. A natural way to enhance the levels of these facilities is to increase demand. Given the ageing population and buying trends, this can

only be done through growth so that the village once again reaches a size whereby it can sustain more local shops and facilities to the wider benefit of the community.

Notwithstanding this, a repeated objection is car dependence. Given the village location, which is served by local amenities but does not fulfil weekly shopping needs, greater car dependence is unavoidable (compared to a town or city). Changing buying habits, however, have greatly mitigated such considerations over the past 10 years. The shift towards flexible working from home and the fact almost all shopping requirements are fulfilled by home deliveries in present day (including grocery shopping) greatly reduces car dependence and the need for shops and facilities within walking distance. Furthermore, the site benefits from good public transport connections, further reducing car dependence.

The primary motivation behind previous Government push to reduce car dependence due to Global Warming and was at a time before the commonplace arrival of electric cars. The UK government has banned the manufacture of mass produced fossil fuel vehicles as of 2030. Accordingly, current and future car ownership does not pose the same environmental considerations as in the past and so the push for less car dependence is no longer as emphasised. Whilst traffic generation is also a reason for less car dependency, the primary issue is air quality rather than traffic itself, and the electric vehicle solves this issue, whilst traffic of course something that should be resolved where possible anyway. Notwithstanding this, it is unequivocal that three family homes would not materially add any noticeable traffic to the local area. Furthermore, the proposal would attract significant CIL contributions which the Council can use to spend on highway improvements.

Notwithstanding the above, the site is only a short distance from many shops and services:

- <0.4miles (less than 10 minute walk) - Hurst Village Post Office and Convenience Store - provides day to day food shopping needs and post office services
- 2.1 miles (5 minute drive) - Twyford shops including Nisa Local, Londis, Tesco Express and Waitrose - provides for full grocery shopping needs
- 2.1 miles (5 minute drive) - Twyford shops and services including; range of restaurants, cafes and takeaways, solicitors, estate agents, clothing, florist, bathrooms, travel agent, post office, pharmacy, beautician, etc.
- 3.5miles (10 minute drive) - Woodley Town Centre which contains a very wide range of shops, services and facilities.

With respect to public houses / restaurants:

- <0.4 miles (less than 8 minutes walk) - The Castle Inn
- <1 mile (18 minutes walk) - The Jolly Farmer
- 1.6 miles (5 minutes drive) - The Wheelwrights Arms

Within a 2.5 mile (circa 7-8 minutes drive) radius of the site, there are a further 20+ pubs and restaurants.

The site is therefore very well served.

Public Transport

Despite the village location, the site has excellent links to public transport.

The nearest bus stops, located near the junction of Wokingham Road with School Lane, are less than 5 minutes walk from the application site. These stops are served by the 128 and 129 bus routes providing connections to Wokingham, Reading, Twyford and Maidenhead. This includes stops at Twyford Railway Station. There are dedicated pedestrian footpaths to the bus stops from the application site and a footway all the way from the site to Twyford.

Twyford Railway Station is less than 1.8 miles from the application site, a 35 minute walk, a 10 minute cycle or a 5 minute bus ride. The railway station is on the junction station for the Henley-on-Thames branch, and is served by local services operated by Great Western Railway and Elizabeth line, this includes direct links to Paddington.

Accordingly, the site is clearly highly sustainable with public transport links within easy reach allowing for extremely reduced car dependency, particularly for commuting purposes.

Highways Safety

A good number of the comments object because new occupants would need to cross the road to get to various parts of the village (e.g. shops and bus stops). This is, respectfully, not a reason for objection. Crossing roads is a fact of day-to-day life in all our villages, towns and cities in the country. The local roads are not so busy that it is unsafe to cross the road. It certainly does not compare to a town or city. The section of Wokingham Road adjacent to the site is 30mph for the very reason that this is a residential location wherein people cross the road and walk the pavements. Regardless, the CIL contributions can be used to provide dedicated crossing points if the Parish Council deems these to be necessary. A good number of the objections incorrectly state that there is no footpath outside of the site which is incorrect. The footpath runs along the west side of Wokingham Road from the village, passing well beyond the application site.

Policy TB06 - Garden Land

Many of the objections incorrectly state that the proposal is contrary to ADD Policy TB06. This policy states that the Council will resist "inappropriate development" of residential gardens. It does not state that development of gardens is, by definition, inappropriate development. Using a residential land such as gardens, for residential purposes, such as new homes, is not typically inappropriate. The use of residential garden land for a different use, for example an industrial use, would typically be inappropriate.

This is evidenced by criterion 2 of the policy which confirms that proposals for new residential development on garden land will be granted planning permissions subject to compliance with sub-criteria (a) - (e). The application proposals would comply in all respects and so, in accordance with Policy TB06, planning permission should be granted.

Parking

Several of the objections suggest that there is not enough parking. Respectfully this is incorrect. Not only do the new homes meet the Council's parking requirements, the driveway area allows for additional ad-hoc additional parking including for visitors, exceeding these standards.

Precedent

The fear of precedent is one of the core underlying reasons for the objections, noting the backdrop that a good deal, if not all of the objections are motivated by PHAG. It is completely understandable, of course, given the Shute End Appeal for 200 dwellings and the major application for 33 new houses on Broadcommon Road, that residents have this fear. The proposal, however, is for only 3 well designed and sensitive family homes which effectively infill an existing gap, on residential land, within the established residential area. The proposal in no way sets any kind of precedent for the larger scale development of open fields. Planning Law is clear, however, that each planning application must be considered on its own merits and precedent is not therefore a material consideration.

Wildlife

There are only a few objections that raise wildlife as a concern, most likely because the submitted Environmental Statement covers this in some detail. In summary, the site is a well manicured area of lawn which therefore serves limited ecological benefits. The proposals, however, will result in considerable species rich native hedge planting, trees, bird boxes and bat boxes. The proposal therefore results in significant biodiversity net gains which would enhance the wildlife potential, particularly for vulnerable species such as bats, dormice and birds.

Drainage

One objection, from Mr Andrew Butler of Cranford Drive, which is not within affected distance of the application site, provides a good deal of commentary regarding site drainage and is generally objecting due to the fact that, at this stage, the application is not supported by a Drainage Report.

As defined by the Government Flood Maps, the application site falls within the **Very Low Risk** area for River Flooding (i.e. Flood Zone 1). Given the proposal is for minor development, given the flood risk is very low, no Flood Risk Assessment is required. With regard to surface water flooding, the Government Flood Maps also define that the site has **Very Low Risk** from surface water flooding. Accordingly, there can be no doubt that the site does not suffer from any surface water problems.

As is entirely normal with all such planning applications, it is anticipated that requisite drainage details will be secured by the Council through a planning condition, however, there are no reasons for the Council to require this information up front given the low risk designations. Whilst Mr Butler suggests that the adjacent neighbour (Keyers Bridge Cottages) has a medium risk, the Government Maps reveal this this is actually isolated to a very small section of the back garden and in fact 95% of the plot at Keyers Bridge

Cottage also have very low risk. When considering that the direction of surface water run-off is actually from behind Keyers Bridge Cottages, it is clear that logically, the proposal would not have any impact in this regard.

Notwithstanding this, we are happy to reassure that the proposal will be required to meet full LPA and Building Regulations requirements with respect to surface water management. This will include taking the sequential approach to mitigate surface water through on site infiltration using permeable hard surfacing throughout and soakaways.

Hurst Village Society

It is appropriate to respond to the village society's (HVS) comments directly given they are an important local body. The HVS consider that the public consultation was inadequate, albeit acknowledge that this was not helped by the Parish Council's resources. I must highlight that we were also given a very limited timeframe in which to present and so, given the importance to the community, it is disappointing that the Parish Council did not allow more time or perhaps arrange an extraordinary meeting. The Parish Council are the representative body of the local community and so it may have been appropriate for them to accommodate.

We did, however, present all of the plans and explained the proposals as fully as possible in the circumstances. Fundamentally, this is a sensitive scheme for 3 family homes and, given the relatively limited implications for the village, there is only a finite amount of information that can be relayed. Aside from the Parish Meeting, we only reached out directly to the adjacent neighbours because, in reality, this proposal only directly affects those existing residents. It is pertinent to note that Keyers Bridge Cottages, the nearest neighbour, does not object. This is somewhat revealing as to the actual impact of the proposal and the fact that the wider public objection is part of a greater push by PHAG to perhaps resist all new housing rather than considering each application on its own merits and recognising proposals that have taken the time to consult and consider the views of the neighbours who are actually affected.

With respect to precedent, the HVS correctly consider that each application should be considered on its own merits and states:

"In this respect the following comments made by the applicant; If planning permission is not obtained, the brothers will have to consider their options which, most likely, will be to sell Walden Acres in its entirety. Naturally, the house and land would therefore be on the open market for anyone who is interested. This could include speculative house builders and the landowners to the north." is at best not helpful and at worst is a veiled threat aimed at influencing your professional consideration and judgement of this application which is abhorred by the Society."

We apologise for any misunderstanding, this is certainly not a veiled threat, but it is a matter of fact which should be highlighted in the circumstances. The previous application was incorrectly labelled by PHAG as a means to allow for access into the Broadcommon Rd field which was a complete fabrication but clearly aided in getting residents to object. The Community Statement submitted clarifies this point but explains a very real truth in that the applicants have no desire to see any development in the field and the proposal actually prevents future access from this site. If permission is not granted, at some point

in time Walden Acres will change hands (as most property eventually does) and at that point nobody will be able to prevent a future owner from potentially exploring an access into the field. This application therefore presents a very real opportunity for this potential access point to be closed permanently.

With respect to the principle of development, this has been addressed above, however, it is important to point out that the HVS rightly point out that "*Village envelopes (or equivalent) were classically put in place to prevent neighbouring localities and settlements merging or coalescing*". We entirely agree, however, in some circumstances, clearly built-up parts of the village are arbitrarily excluded, such as the collective residential area on this part of Wokingham Road. It is beyond doubt that the application proposal, which is infilling a small gap between existing residential build form, would not cause any merging of settlements or dilution of separation. This is evidenced by the submitted Figure Ground drawing.

HVS rightly point out that the proposal does not contravene policy TB06 but do make a point regarding garden land being previously developed land. This is a matter well defined by Case Law and so the LPA are well placed to make a decision on this, however, the Planning Statement provides clear explanation.

HVS conclude that "*Notwithstanding our previous comments, in all other respects **HVS is content that the application is in accordance with other relevant planning policies, sympathetic design of the new houses, and the potential biodiversity gain as a result of the provision and replanting of a more native species of hedge and other trees** and shrubs which will be planted as part of a relandscaping plan in mitigation for the removal of existing diseased and sparse vegetation.*" *Hurst Village Society therefore having taken a pragmatic view in this case as to the fact that the development proposals are undeniably outside the village envelope, **finds it hard, when applying the planning balance principle, to sustain any objection to this application.** We hope that our comments are helpful to you when considering your decision.* (our emphasis).

Understandably, the applicants feel that the application has unfairly been targeted by PHAG due to the fear created in the village as a result of recent planning applications for major developments, including the Shute End Appeal. The applicants do acknowledge why tensions are high and so it is genuinely appreciated that the HVS have taken the time to properly consider this application. It gives substantial credibility to their comments, experience and knowledge, not only on this planning application, but all other planning applications.

Summary

As evident from the comments received, a relatively small proportion of the village have objected to this planning application which are undoubtedly primarily those who are in communication with PHAG. Whilst we are entirely understanding to the core concerns of PHAG, we feel that this very sensitive proposal for only 3 family homes which has unfairly been swept up in the wave of anger by the group due to the various larger

speculative planning applications around the village and in particular the Shute End Appeal which is for some 200 new dwellings.

We did reach out to PHAG and it is regrettable that they chose not to respond. We remain of the view that a narrow stance against all new homes in the village completely undermines the argument. The opening for new housing on the truly greenfield sites of the village, such as Shute End and Broadcommon Road, is the result of the lack of housing supply. The logical way to resist those sites is to ensure housing is delivered elsewhere, in more sensitive locations, rather than simply opposing all housing in principle. When given pragmatic reasoning, such as that given by Hurst Village Society, we feel that this is a proposal that should be encouraged as an example of development that the village does support. This can be used as justification to resist other less welcome planning applications by demonstrating that the village is reacting to the housing shortage by supporting smaller scale housing in sensitive locations, rather than major development in open greenfield land.

I am hopeful that this response is useful for your purposes and assists you with your review of the comments received to date.

Kind regards

Matt Taylor
BA (Hons) PG-Dip MRTPI

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APPENDIX B – APPEAL DECISION - LAND AT JUNCTION OF SAWPIT ROAD AND SCHOOL ROAD, HURST'- LPA REF: 211532 - PINS REF: 3280255



Appeal Decision

Site visit made on 5 July 2022

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State

Decision date: 4 August 2022

Appeal Ref: APP/X0360/W/21/3280255

Land at Junction of Sawpit Road and School Road, Hurst, Berkshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by JPP Land Ltd and Redcar Investment Company Ltd against the decision of Wokingham Borough Council.
 - The application Ref 211532, dated 30 April 2021, was refused by notice dated 2 July 2021.
 - The development proposed is the erection of 2 detached four-bedroom dwellings and 2 semi-detached three-bedroom dwellings, together with associated site access, car parking, home offices and landscape.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 no. detached four-bedroom dwellings and 2 no. semi-detached three-bedroom dwellings, together with associated site access, car parking, home offices and landscape on land at Junction of Sawpit Road and School Road, Hurst, Berkshire in accordance with the terms of application Ref 211532, dated 30 April 2021, subject to the attached schedule of conditions.

Procedural matters

2. Following the determination of the planning application by the Council the appellants submitted a revised Site Plan (DWG 10A) that provided revisions to the plot boundary and position of a detached garage to serve Plot 1. This was submitted to address the reasons for the refusal of planning permission with regard to the location of development in the proximity of a 'Veteran Tree'. In all other respects, the original submitted Site Plan (DWG 10) remains unchanged.
3. My decision as to whether to accept the amended plan rests on whether the 'Wheatcroft Principles'¹ have been met. The main, but not the only criterion on which that judgement should be exercised, is whether the development is so changed that to grant it would deprive those who should have been consulted on the changed development of the opportunity of such consultation.
4. From my careful consideration of the two sets of proposals, I do not consider that the changes are of a nature that would be likely to prejudice the interests of interested parties, including nearby occupiers of properties. The changes were a direct response to the proximity of part of the development to an

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982P37]

alleged 'Veteran Tree' that was identified as a reason for refusal of planning permission.

5. The Council has not raised any objections to the consideration of the revised plan in the determination of this appeal. In my view, the changes shown thereon are minor in nature. I have therefore taken the revised Site Plan (DWG 10A) into account in the determination of this appeal.
6. A Unilateral Undertaking (UU) pursuant to S106 of the Town and Country Planning Act 1990 was submitted, dated 22 March 2022. Amongst other things, this provides for a financial contribution towards the provision of affordable housing. I consider the UU later in this decision.
7. The Council has commenced work on the review of the development plan through the preparation of a new Local Plan which will provide a strategic planning policy framework for development in the Borough. The Local Development Scheme (July 2021) suggests that the new Local Plan would not be submitted for examination until late 2022 with the examination in public occurring during 2023 and adoption towards the end of 2023.
8. No substantive reference has been made to the policies contained within the emerging new Local Plan by the main parties and I have no evidence to suggest the extent to which there are unresolved objections to policies contained therein. Consequently, in accordance with paragraph 48 of the National Planning Policy Framework (the Framework), I have attached little weight to the policies contained within the emerging plan.
9. A Hurst Neighbourhood Plan Working Group is in the process of producing a Neighbourhood Plan. I have no evidence to suggest that consultation on this Plan, pursuant to Regulation 16 of the Neighbourhood Planning (General) Regulations 2012, has commenced and there is no evidence before me as to when this Plan may be subject to formal examination. Consequently, the emerging Neighbourhood Plan is currently not made and I have afforded the policies contained therein no weight in the determination of this appeal.

Main Issues

10. The main issues are:

- Whether the proposal is in a suitable location for housing having regard to national planning policies, the Council's spatial strategy for new housing and housing land supply.
- The effect of the proposed development on the character and appearance of the area.
- Whether the proposal is in a suitable location for housing having regard to the accessibility of services, facilities and to the reliance on motor vehicles.
- The effect of the proposed development on trees.
- The effect of the proposed development on biodiversity.
- Whether the proposed development makes sufficient provision for affordable housing.

- Whether there are any material considerations which mean that the decision should be made otherwise than in accordance with the development plan (Planning Balance).

Reasons

Spatial strategy and housing land supply

11. The appeal site comprises a relatively flat triangular grassed field lying between Sawpit Road, School Road and Church Hill and located immediately to the south of Hurst. The site boundaries are contained by substantial mature trees and hedging. Residential development is located to the north and sporadically to the south with a cluster of community buildings to the east.
12. The Development Plan comprises: the Wokingham Borough Local Development Framework adopted Core Strategy Development Plan Document, January 2010 (CS); the Wokingham Borough Managing Development Delivery Local Plan, February 2014 (MDD).
13. There is no dispute between the parties that the site is located outside of the settlement boundary of Hurst with the carriageway of Sawpit Road delineating the edge of the settlement boundary. It also lies within the Old School House Area of Special Character (ASC).
14. Section 1 of MDD Policy CC02 confirms that development limits for each settlement are defined on the Policies Map and that proposals at the edge of settlements will only be granted where the development, including boundary treatments, is within development limits. In this regard, the location of the proposed development would conflict with MDD Policy CC02.
15. CS Policy CP11 indicates that in order to protect the separate identity of settlements and maintain the quality of the environment, proposals outside of development limits will not normally be permitted, subject to certain identified exceptions. The appeal scheme does not fall within the scope of those exceptions and it follows that the proposal would also conflict with CS Policy CP11. Furthermore, it would not comply with CS policy CP9, which only supports development outside development limits in the case of affordable housing on rural exception sites to address a demonstrable local need.
16. In considering the location of the proposal in the context of the development plan, I conclude that the proposal would conflict with MDD Policy CC02 as well as CS Policies CP11 and CP9.
17. Considerable evidence has been presented in this appeal by both main parties regarding the extent to which the Council can demonstrate a 5-year housing land supply (HLS). At the time the Council produced its statement (January 2022) it suggested that there was a 5.1-year HLS against the Local Housing Need (LHN) of 768 dwellings plus 5% buffer as at 31 March 2021.
18. The Planning Practice Guidance (PPG) sets out the standard method that can be used to calculate a minimum annual LHN figure. The calculation methodology requires an adjustment to the average annual projected household growth figure based on the affordability of the area and that the most recent median workplace-based affordability ratios, published by the Office for National Statistics (ONS) at a local authority level, should be used. Paragraph 61 of the Framework identifies that 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 the PPG.

19. The appellants provided further evidence on 25 March 2022 regarding the 'most recent' affordability ratio for 2021 provided by the ONS on 23 March 2023. This identified that for Wokingham Borough the most recent median workplace affordability ratio is 11.84. Using the most recent ratio revises the Borough's LHN figure to 796. This means that that instead of 4,032 dwellings (including 5% buffer) being required it is now 4,179 dwellings. The appellants identify that the Council's contended supply of 4,115 dwellings is now insufficient to show a 5-year HLS as it is below the required 4,179 dwellings requirement derived from the most recent median workplace affordability ratio. Consequently, the appellants contend that the HLS equates to 4.92 years.
20. On 13 July 2022 the Council confirmed that it had no comment to make on the further evidence provided by the appellants. In the circumstances I have no other contrary evidence that may suggest that the appellants' calculation of the 5-year HLS position may be incorrect.
21. Both parties have provided considerable evidence regarding the extent to which the relevant policies for the supply of housing may be considered out of date, irrespective of the 5-year HLS position. However, taking into account the evidence now provided regarding the fact that a 5-year HLS cannot be demonstrated, it is not necessary for me to consider the views of both parties regarding which policies may or may not be out of date.
22. As a consequence of the above, footnote 8 of paragraph 11 of the Framework is applicable. Therefore, the relevant policies for the supply of housing should be considered as out-of-date according to paragraph 11(d) of the Framework. The so called 'tilted balance' is therefore not only triggered as a consequence of the 5-year housing land position but also because the most important policies for determining this appeal are out of date.
23. The MDD identifies that its objective is to take forward objectives laid down in the CS, including making provision for the housing requirements set out in the CS and setting boundaries for development limits. As a consequence of the above position regarding HLS, I consider that it would be reasonable to reduce the weight afforded to the identified conflict with MDD Policy CC02 and CS Policies CP11 and CP9 as the development boundaries to which they relate are derived from out-of-date housing requirements. Consequently, I consider that the conflict with these policies should be afforded moderate weight.
24. Notwithstanding the fact that there may be conflict with the locational policies of the development plan, paragraph 11(d) of the Framework advises that where the policies which are most important for determining the application are out-of-date planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed or 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.

25. In light of the above, it is necessary for me to consider the extent to which there may be any adverse impacts arising from the proposed development, and the weight to be given to these in the planning balance.

Character and appearance

26. The Wokingham District Landscape Character Assessment (LCA) shows that the site lies within the C2 'Hurst River Terrace' area but adjoins area I4 'Hurst Farmed Clay Lowland'. I accept that the site contributes to some of the key qualities of both character areas, particular being within a setting of narrow rural lanes, with rough hedgerow and trees and an intimate character of small-scale pasture fields that provide a distinctive sense of place.
27. The LCA sets out the relevant landscape strategy which, amongst other things, seeks to conserve and enhance the quiet, rural and agricultural landscape with its scattered rural farmsteads and small red brick villages connected by narrow rural lanes. In terms of development, the aim is to conserve the low-density pattern of settlement centred around Hurst and Whistley Green.
28. In my view, the existing hedgerow and trees on the periphery of the site provide a significant degree of containment which considerably screen views of the site from the adjoining roads. The proposed development would retain and strengthen most of the peripheral landscaping. Although there would be some degree of tree and hedgerow loss in the vicinity of the proposed access off Sawpit Road, the character of the peripheral narrow rural lanes with rough hedgerow and trees would remain largely intact.
29. In my view, the site does make an important local contribution to the character of this part of the countryside but is heavily influenced by the urban fringe of Hurst. Whilst I consider that the rural nature of the roads around the appeal site would predominantly retain their character, the proposal would represent the extension of development into the rural countryside with a consequent erosion of its rural character and appearance. However, the development would be largely screened in views from the surrounding roads. Although it would nonetheless result in a permanent and obvious loss of an undeveloped part of the countryside, such landscape harm would be localised and limited.
30. The appeal site also represents the transition between the more linear and urbanised form of development to the north off Martineau Lane and the more sporadic and less dense nature of the dwellings to the south. Overall, Hurst has a fairly varied character and form, scale and design of development.
31. In visual terms, I consider that the proposal would cause limited and localised effects on the appearance of the countryside because of the relatively contained nature of the site and its surroundings, and the retention of trees and hedgerows along its peripheral boundaries. In my view, as a consequence of the retention of the majority of the peripheral trees and hedgerow, the visual effects of the proposed development would be very localised and minor adverse.
32. In landscape terms, the proposal would undoubtedly have a moderate detrimental effect on the landscape character of the local area. Consequently, there would be conflict with the broad thrust of the countryside and character protection aims of Policies CP1 and CP3 of the CS, in so far as the proposal

would fail to maintain or enhance the high quality of the environment, and Policies CC03 and TB21 of the MDD.

33. Policy TB26 of the MDD sets out that planning permission will only be granted for proposals to or affecting ASCs where they demonstrate that they retain and enhance the traditional, historical, local and special character of the area. Paragraph 3.126 of the supporting text to the policy identifies that an ASC comprises areas or groups of buildings where there is a consistent period or character reflecting the areas past but where a Conservation Area designation may not be justified.
34. The Council identify that the site is an important element in the area's balance of spatial arrangements with the existing group of mostly former public buildings and reflects the character of tree/hedgerow lanes. The ASC is defined as being predominantly Victorian in character with red brick and tiles. In my view, the spatial arrangement with the old School House, the Lodge and the Village Hall are the most relevant components of the spatial arrangement of the site with the existing buildings.
35. As set out above, I do not consider that the proposals would cause any significant harm to the character of the roads surrounding the site in terms of their appearance as tree/hedgerow lanes.
36. I have carefully considered the appellants' analysis of the ASC and I agree that there are a variety of design styles, materials and forms of buildings within the area. The front elevation of Plots 1 and 2 include the diamond motif in the brickwork that reflects that within the Lodge. Other minor elements of the design are reflective of components of other nearby buildings. Although Plots 3 and 4 are proposed to be clad in black weatherboard the use of this material is not alien within the ASC. Similarly, the proposed cul-de-sac layout is included in other layouts in Hurst.
37. In summary, I do not consider that the cul-de-sac form of the relatively low density proposed development would unacceptably contrast with the pattern and form of development in the village. In addition, I consider that the form, scale, mass and design of the proposed dwellings would be compatible with nearby buildings and would be sensitive to the character of the area.
38. The relatively low density of the proposed development would be appropriate to its transitional role between the more linear, dense and urbanised form of development to the north off Martineau Lane and the more sporadic and less dense nature of the dwellings to the south. In considering the balanced judgement of applications that affect non-designated heritage assets, as set out in paragraph 203 of the Framework, I do not consider that the proposed scale of the development would cause the proposal to be visually detrimental to the ASC as a consequence of the mitigation provided by the retention of the peripheral trees and hedgerows.
39. I accept, as a matter of principle, that there would be localised harm to the spatial character of the ASC as a consequence of the change in the spatial arrangements around the existing buildings that would be caused by the development of the current open site in the countryside. However, as a consequence of the above, the visual elements of such harm would be minimised and localised. Overall, I consider that moderate weight is

attributable to the likely adverse effect of the scheme on the ASC and the conflict with Policy TB26.

Location of Development

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.
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.
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.
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).
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.
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.
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.
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.

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.
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.
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.
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.
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.
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.

Effect on trees

54. The Council's third reason for the refusal of planning permission refers to the fact that the proposals do not adequately address a veteran tree and do not provide an appropriate buffer zone. There is some dispute between the main parties whether the oak tree (identified as Tree T2 in the submitted Arboricultural Impact Assessment and Method Statement and Tree Protection Plan ref: JPP23213-03) located in the north-east corner of the site is a veteran

- tree. Notwithstanding this, the council indicate that the tree is protected by a woodland tree preservation order (TPO-1790-2021).
55. Paragraph 180(c) of the Framework advises that development resulting in the loss or deterioration of irreplaceable habitats (such as veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists. Supporting guidance to the PPG provided by Natural England and the Forestry Commission identifies that veteran trees should have a buffer zone of at least 15 times larger than the diameter of the tree to avoid root damage. The buffer zone should be 5 metres from the edge of the tree's canopy if that area is larger than 15 times the tree's diameter to create a minimum root protection area.
56. The proposed development does not result in the removal of Tree T2. The Revised Site Plan (DWG 10A) provides for an amendment to the proposed north eastern boundary of Plot 1 and an amendment to the position of the external garage. This shows the northern garden boundary of Plot 1 angled to provide a 19m depth buffer zone included within an area of meadow space to the perimeter of the plot boundary. Irrespective of the status of Tree T2, in my view this provides an appropriate root protection buffer zone. Consequently, I am satisfied that the proposed development accords with the forementioned guidance and I have no other contrary technical evidence to suggest that the proposed development would result in deterioration of Tree T2.
57. The Arboricultural Impact Assessment and Method Statement identifies that six trees are to be removed to facilitate the site access and the proposed development (T9, T10, T11, T12, T13 and T14). These are defined as Category 'C' grade and are of low quality and Category 'U' trees which are not suitable for retention. The submitted Revised Site Plan identifies that a number of heavy standard native trees would be planted which would exceed the number of trees proposed to be lost. Notwithstanding the contribution that the trees on the periphery of the site make to the character and appearance of the area, I have no contrary technical evidence to suggest that the health of any other trees may be significantly harmed as a consequence of the construction of the development.
58. I have considered the Council's concern that the proposed development may result in future pressure for tree pruning to mitigate shading and overhang. However, I have no demonstrable evidence to conclusively confirm that this would be the case. In any event, the Council would have a degree of control over such matters as a consequence of statutory protection and/or the requirements of suggested planning condition No. 14, which is considered later in this decision.
59. Other than the trees identified for removal, I do not consider that the proposed development would cause a significant detrimental impact on the health of existing trees on the site. Consequently, there would be no conflict with Policy CP3 of the CS or Policies CC03 and TB21 of the MDD. These policies, amongst other things, require development proposals to maintain fauna and flora, protect and retain trees, hedgerows and landscape features and incorporate native planting as an integral part of a scheme.

Biodiversity

60. The Council's fourth reason for the refusal of planning permission identifies that insufficient information has been provided to demonstrate that the proposed development would not have a harmful impact on protected species and that it would result in a net biodiversity loss.
61. The Council's Statement of Case, January 2022 (paragraph 6.80), identifies that the additional information provided by the appellants in respect of bats (Section 5 of the Ecology Statement by Aspect Ecology, July 2021) indicates that a high-status roost is unlikely to be present in the trees identified as having bat roost potential. Consequently, the additional information overcomes the protected species element of the reason for refusal subject to the imposition of a planning condition requiring the submission of a Construction Environment Management Plan (CEMP). I have considered such condition later in this decision.
62. The submitted Ecology Statement identifies that the proposal would deliver a biodiversity net gain of 49.72% net gain for habitats and a 21.52% net gain for linear habitats. However, this is contested by the Council who suggest that the proposal would result in a net loss of 0.71 units of hedgerow habitat. The Council's concerns predominantly relate to a lack of supporting evidence to show the results of quadrant surveys undertaken on the site, the security of delivery of biodiversity measures, the assignment of the baseline grassland and hedgerow classification and the proposed grassland condition and future hedgerow management.
63. Paragraphs 174(d) and 179(b) of the Framework seek to ensure that development delivers a net gain in biodiversity, although no specific percentage of gain is identified. The Environment Act 2021 sets out that biodiversity net gain should be 10% of the baseline. However, although the Environment Act 2021 has now passed, secondary legislation is required for it to be implemented. Therefore, the 10% biodiversity net gain requirement set out in the Act is not yet law and is not applicable to this appeal. In this regard, I accept the appellants' views that a 1% biodiversity net gain would meet the requirements of the Framework.
64. In order to address the concerns identified by the Council, an Ecology Rebuttal Statement, dated February 2022, was submitted by the appellants. This concludes that *"the information presented within the Ecology Statement is accurate. Accordingly, the reported biodiversity net gains of +52% for habitats and +16% for hedgerows remain relevant and greatly exceed the minimum 1% net gain requirement currently in place. Moreover, the management of these habitats will be secured beyond the 30-year net gain requirement and for the life of the development, such that a long-term biodiversity benefit is assured which is a significant benefit of the appeal proposals"*.
65. I recognise that a part of the disagreement between the appellants and the Council regarding this matter is a consequence of the interpretation of surveys and their classification and application within the 'Defra metric'. However, I have no contrary information to suggest that the evidence provided in the Ecology Rebuttal Statement may be incorrect. Consequently, I have no compelling evidence to suggest that a biodiversity net gain would not be achieved.

66. Furthermore, the Council has suggested a planning condition (No. 7) requiring the submission of a Landscape Environmental Management Plan (LEMP), which would, amongst other things, include long term design objectives, management responsibilities, timescales, and maintenance schedules for all landscape areas, other than privately owned domestic gardens, which delivers and demonstrates a habitat and hedgerow biodiversity net gain. I have no contrary evidence to suggest that the requirements of this condition would not endure for the lifetime of the development.
67. Taking the above factors into account, I have no conclusive evidence to suggest that the proposed development would result in a net loss in biodiversity units. Whilst the extent of biodiversity net gain may be disputed, I am nonetheless satisfied that there would be biodiversity net gain consistent with the requirements of paragraphs 174(d) and 179(b) of the Framework. Consequently, there would be no conflict with Policies CP7 of the CS or Policy TB23 of the MDD. These policies, amongst other things, require development proposals to provide opportunities, including through design, layout and landscaping to incorporate new biodiversity features or enhance existing.
68. Although there would be proposed enhancements to biodiversity, these would primarily ensure there is no net loss. However, biodiversity net gain would be required to meet the policy requirements of the Framework to mitigate the environmental impact of the development. Consequently, I consider that such enhancements should be afforded limited weight.

Affordable Housing

69. The Council's approach to the provision of affordable housing is set out in Policy CP5 of the CS. This requires all residential proposals of at least 5 dwellings or a net site area of at least 0.16 ha outside development locations to provide a minimum of 40% affordable housing. The Council identify that an off-site commuted sum of £175,342.48 (indexed linked) would be acceptable in-lieu of on-site provision.
70. However, Policy CP5 pre-dates the latest version of the Framework. In particular, paragraph 64 of the Framework states that the provision of affordable housing should not be sought for residential developments that are not major developments (10 or more dwellings), other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer).
71. As Policy CP5 conflicts with the more recent policy in the Framework, I consider its requirements are outweighed by the later policy in paragraph 64 of the Framework and there is therefore no need for the proposed development to provide an element of affordable housing.
72. However, as set out earlier, the appellant has provided a completed Unilateral Undertaking pursuant to Section 106 of the Town and Country Planning Act 1990 which I am obliged to take into account. Amongst other things, this provides for an affordable housing contribution of £175,342.48 (indexed linked) towards off-site provision or regeneration of affordable housing within the Council's administrative area in-lieu of any on-site provision.
73. Notwithstanding the fact that I have found that there is no requirement for the scheme to provide affordable housing in the context of Policy CP5, the Unilateral Undertaking provides that the scheme would make an important

contribution to such provision. I consider this benefit should carry significant weight.

Other matters

74. Both main parties have drawn my attention to numerous previous appeal decisions. Although some of these also relate to development outside of the settlement limits of Hurst, for example the appeal decision Ref APP/X0360/W/19/3226711, most were considered at a time when the Council could demonstrate a 5-year HLS. In addition, the locational circumstances are materially different from those in the case before me. Furthermore, I do not have the full details of the relevant evidence in those cases, not least that which may relate to walking and cycling distances to local facilities and services.
75. As regards the other appeals referred to that are located outside of the Borough, the planning policies and landscape characteristics relevant to the proposals under consideration were not the same as those in the case before me, which I have considered on its own merits.
76. A number of interested parties have provided representations that support the reasons for the refusal of the application by the Council. In addition, concerns have been raised regarding highway safety and surface water flooding. However, no evidence has been provided by the Council, in its capacity as highway authority to suggest that the proposed development would result in highway safety concerns. In the absence of any substantive evidence to the contrary, I am satisfied that the proposal would not be materially harmful to highway safety.
77. I note that the appeal site is within Flood Zone 1 and the Council, in its capacity as Lead Local Flood Authority (LLFA), has considered the submitted Flood Risk Strategy and Drainage Strategy. It has stated that it does not have any objections to the principle of the development subject to the imposition of a planning condition requiring the submission of details of the proposed surface water drainage system. Such condition is set out in No. 13 of the attached Condition Schedule. I have seen no other technical evidence which would lead me to take a contradictory view to that of the LLFA.
78. In conclusion, the matters raised by interested parties have been carefully considered but they do not alter the main issues which have been identified as the basis for the determination of this appeal, particularly in circumstances where the Council has not objected to the appeal scheme for these other reasons.

Planning Obligation

79. As set out above, the submitted UU provides an off-site commuted sum of £175,342.48 (indexed linked) towards the provision of affordable housing in-lieu of on-site provision. A 'My Journey Contribution' of £2080 (index linked) is also provided towards the 'My Journey Wokingham Travel Plan Services' to make provision for travel information packs, dedicated travel webpages, contact pages and information on travel options.
80. The UU also provides for the occupants of the proposed development to be issued with a 'Welcome Pack' which includes a travel voucher towards the purchase of a bicycle, bicycle equipment or bus pass, provision of walking and

cycling maps to demonstrate how key facilities can be reached, provision of bus timetable information and linked trips to destinations wider afield and the promotion of car sharing schemes.

81. It also provides for the submission of a Sustainable Transport Strategy and the provision of pedestrian improvements along School Lane and Broadwater Lane to improve access to local facilities on foot which also include a pedestrian crossing and dropped kerbs.
82. I am satisfied that all of the provisions set out in the UU are necessary to make the development acceptable in planning terms and are fairly and reasonably related to the development. I have therefore taken the provisions of the UU into account in reaching my decision.

Planning Balance

83. I have found that the Council is currently unable to demonstrate a 5-year supply of deliverable housing sites. Consequently, the relevant policies for the supply of housing should be considered as out-of-date according to paragraph 11(d) of the Framework. The so called 'tilted balance' is therefore triggered, and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
84. The proposal would deliver a number of benefits. The Framework emphasises the importance of the delivery of housing. The provision of 4 new homes on a site which is visually and functionally well related to the existing village will contribute to meeting the current shortfall. Although this contribution is modest it nonetheless represents a quantifiable addition to the overall supply of housing. I am required to attach significant weight to the provision of this market housing.
85. The proposal would also deliver a contribution to the provision of affordable housing in the Borough for which there is an undisputed local need. These are significant benefits to be weighed in the planning balance. The delivery of market and affordable housing would contribute towards the social dimension of sustainability through the provision of dwellings to meet the needs of present and future generations.
86. Economically, the development would bring short-term advantages in respect of construction jobs and expenditure on materials. In the longer term it would increase household spending within the locality.
87. On the other hand, the proposal would also result in harm. There would undoubtedly be a change to the character and appearance of the appeal site with the proposed housing in place and causing a change in the land use from an agricultural one to a predominantly residential one. However, I have found that the effect on the character and appearance of the area would be localised and limited and that the development, given its location, would be reasonably accessible.
88. There is a requirement that matters relating to the impact on character and appearance are material and should weigh in the balance. However, in this case, the relevant policies seek to protect the countryside and landscape in the Borough and would further constrain housing and would potentially frustrate housing development in circumstances where a 5-year HLS cannot be

demonstrated. Consequently, whilst there would be conflict with the broad thrust of the countryside and character protection aims of Policies CP1 and CP3 of the CS, in so far as the proposal would fail to maintain or enhance the high quality of the environment, and Policies CC03, TB21 and TB26 of the MDD the overall weight afforded to the conflict with these policies is moderate.

89. Drawing all of these threads together I find that being outside the settlement boundary and within the countryside, the appeal 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.
90. In applying the significant weight to the provision of housing in this circumstance where the Council cannot demonstrate a 5-year supply of housing, I consider that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Overall, I conclude that the benefits of the proposal significantly outweigh the conflict with the settlement boundaries and the limited harm in terms of landscape character and visual impact. On this basis a decision, other than in accordance with the development plan is justified and therefore the appeal should be allowed.

Conditions

91. I have considered the proposed planning conditions, including a number of pre-commencement conditions, that have been provided by the Council. I have considered these against the advice given in paragraph 56 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the PPG. Where necessary I have amended them in the interests of clarity, precision, conciseness or enforceability.
92. In addition to the standard time limit, I have imposed a condition (No. 2) relating to the approved plans in the interests of certainty. In the interests of protecting the character and appearance of the area, conditions are necessary requiring the submission of details of external materials, boundary walls and fences, hard and soft landscaping, management of landscaping and measures to retain trees and shrubs (condition Nos. 3, 4, 6, 7 and 14).
93. In order to ensure the protection of trees identified for retention on the site, a condition requiring the implementation of tree protection works as required by the Arboricultural Impact Assessment and Method Statement Report dated 30 April 2021 and drawing JPP23213-03 is necessary (condition No. 5).
94. To promote sustainable modes of transport and reduce the need for travel by car, a condition is necessary requiring the provision of secure and covered parking for cycles (condition No. 9). In the interests of highway and pedestrian safety, conditions are necessary requiring the provision of parking and turning spaces, provision and surfacing of the site access and the submission and implementation of footway crossings and improvement works (conditions Nos 10, 11, 12 and 17).

95. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national Permitted Development rights unless there is clear justification to do so. However, in the interests of highway safety and the free flow of traffic on roads in the proximity of the site I consider that the suggested condition (No. 8) which seeks to ensure that the garage accommodation on the site identified on the approved plans shall be kept available for the parking of vehicles ancillary to the residential use of the site is reasonable and necessary.
96. In order to ensure that the surface water arising from the proposed development can be appropriately drained and does not either cause off-site or on-site flood risk, a condition is necessary requiring the submission of details of the proposed drainage scheme (condition No. 13).
97. In order to minimise the effect of the development on nesting birds, a condition is necessary to ensure that all areas of hedges, scrub or similar vegetation where birds may nest which are to be removed as part of the development are removed outside of the bird nesting season or that it has been demonstrated that nesting birds are not present (condition No. 15).
98. To ensure that adequate provision is made for refuse and recyclable materials storage, a condition is necessary requiring the submission and implementation of bin storage and collection details (condition No.16).
99. The Statement of the Council's Ecology Officer identified that the additional information in respect of the protected species element of the Council's fourth reason for the refusal of planning permission was acceptable subject to the imposition of a planning condition requiring the submission of a CEMP. However, the Council's suggested planning conditions do not include a condition requiring the submission and implementation of a CEMP. I have therefore imposed an additional condition (No.18) which is necessary in the interests of the protection and enhancement of ecology and the environment and to protect the living conditions of the occupants of nearby dwellings.

Conclusion

100. I have found that the proposal would undermine the Council's spatial development strategy and would harm the character and appearance of the local area. However, the adverse impacts would not significantly and demonstrably outweigh the benefits. I conclude on balance, that the proposal would comply with the policies in the Framework taken as a whole and it would amount to sustainable development. Consequently, for the above reasons, based on the evidence before me and all other matters raised, I conclude that the appeal should be allowed.

Stephen Normington

INSPECTOR

CONDITIONS SCHEDULE

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 150 DWG. 10A – Site Plan
 - 150 DWG. 11B – Plots 1 and 2 Plans and Elevations
 - 150 DWG. 12A – Plot 3 Plans and Elevations
 - 150 DWG. 13B – Plot 4 Plans and Elevations
 - 150 DWG. 14 – Context Plan
 - 150 DGG. 15 – Location Plan
 - 1078A/01B and 1078A/02B – Site Survey
 - JPP23213-01 – Tree Survey Plan
 - JPP23213-03 – Tree Protection Plan
- 3) Before the development hereby permitted is commenced, samples and details of the materials to be used in the construction of the external surfaces of the buildings shall have first been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Before the development hereby permitted is commenced details of all boundary treatments shall first be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the first occupation of the development or phased as agreed in writing by the local planning authority. The scheme shall be maintained in the approved form for so long as the development remains on the site.
- 5) No operations shall commence on site in connection with development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening or any other operation involving use of motorised vehicles or construction machinery) until the tree protection works required by the Arboricultural Impact Assessment and Method Statement Report dated 30/04/2021 and drawing JPP23213-03 (hereafter the Approved Scheme) are in place on site. No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within an area designated as being fenced off or otherwise protected in the Approved Scheme. The fencing or other works which are part of the Approved Scheme shall not be moved or removed, temporarily or otherwise, until all works including external works have been completed and all equipment, machinery and surplus materials removed from the site, unless the prior approval in writing of the local planning authority has first been sought and obtained.
- 6) Prior to the commencement of the development, full details of both hard and soft landscape proposals shall be submitted to and approved in

writing by the local planning authority. These details shall include car parking layouts, other vehicle and pedestrian access and circulation areas, hard surfacing materials and minor artefacts and structure (e.g. furniture, play equipment, refuse or other storage units, signs, lighting, external services, etc). Soft landscaping details shall include planting plan, specification (including cultivation and other operations associated with plant and grass establishment), schedules of plants, noting species, planting sizes and proposed numbers/densities where appropriate, and implementation timetable. All hard and soft landscape works shall be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a timetable approved in writing by the local planning authority. Any trees or plants which, within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced in the next planting season with others of species, size and number as originally approved and permanently retained.

- 7) Prior to the commencement of the development a Landscape Environmental Management Plan (LEMP), including long term design objectives, management responsibilities, timescales, and maintenance schedules for all landscape areas, other than privately owned domestic gardens, which delivers and demonstrates a habitat and hedgerow biodiversity net gain shall be submitted to and approved in writing by the local planning authority. The development shall carried out in accordance with the approved LEMP.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the garage accommodation on the site identified on the approved plans shall be kept available for the parking of vehicles ancillary to the residential use of the site at all times. It shall not be used for any business nor as habitable space.
- 9) Prior to the commencement of development details of secure and covered parking for cycles shall be submitted to and approved in writing by the local planning authority. No building shall be occupied until secure and covered parking for cycles has been provided in accordance with the approved drawing(s)/details. The cycle parking/ storage shall be permanently retained for the parking of cycles and used for no other purpose.
- 10) No part of any building(s) hereby permitted shall be occupied or used until the vehicle parking and turning space has been provided in accordance with the approved plans. The vehicle parking and turning space shall be retained and maintained in accordance with the approved details and the parking space shall remain available for the parking of vehicles at all times and the turning space shall not be used for any other purpose other than vehicle turning.
- 11) No building shall be occupied until the vehicular access has been surfaced with a permeable and bonded material across the entire width of the access for a distance of 10 metres measured from the carriageway edge.

- 12) No other development of the site as hereby approved shall take place until the site access has been constructed in accordance with the approved plans.
- 13) No development shall take place until details of the surface water drainage system have been submitted to and approved in writing by the local planning authority including information on:
 - a. Description of how surface water runoff will be collected and dealt with across from the proposed development, and the site by proposing SuDS techniques including strategy plan indicating the location and sizing of SuDS features, what volumes are to be stored where with related drawings/sketch.
 - b. A surface water drainage layout showing all proposed pipe connections.
 - c. Full calculations with no risk of flooding demonstrating the chosen surface water strategy performance and infiltration justifications.
 - d. BRE 365 test results (or similar) demonstrating whether infiltration is achievable or not.
 - e. Rain-water storages calculations to control the disposal surface water-run off from the site if there are such.

The approved scheme shall be implemented prior to the first occupation of the development and shall be maintained in the approved form for as long as the development remains on the site.

- 14) No trees, shrubs or hedges within the site which are shown as being retained in the Arboricultural Survey and Impact Assessment Report (dated November 2019) shall be felled, uprooted wilfully damaged or destroyed, cut back in any way or removed without previous written consent of the local planning authority; any trees, shrubs or hedges removed without consent or dying or being severely damaged or becoming seriously diseased within 5 years from the completion of the development hereby permitted shall be replaced with trees, shrubs or hedge plants of similar size and species unless the local planning authority gives written consent to any variation.
- 15) All areas of hedges, scrub or similar vegetation where birds may nest which are to be removed as part of the development, are to be cleared outside the bird-nesting season (March - August inclusive) or if clearance during the bird-nesting season cannot reasonably be avoided, a suitably qualified ecologist will check the areas to be removed immediately prior to clearance and advise whether nesting birds are present. If active nests are recorded, no vegetation clearance or other works that may disturb active nests shall proceed until all young have fledged the nest.
- 16) No building shall be occupied until details of on-site collection area(s) for refuse and recyclable materials have been constructed in accordance with details to be submitted to and approved in writing by the local planning authority. The collection areas/ facilities shall be permanently retained as

approved and used for no purpose other than the temporary storage of refuse and recyclable materials (on collection days only).

- 17) Prior to occupation of any of the dwellings, full details of the construction including levels, widths, construction materials, depths of construction, and surface water drainage of the footway shall be submitted to and approved in writing by the local planning authority. The footway crossings and improvement works shall be constructed in accordance with the approved details prior to occupation unless otherwise agreed in writing by the local planning authority.
- 18) No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The Plan shall provide details of the necessary further survey work and mitigation measures as set out in the Preliminary Ecological Appraisal dated April 2019 and the Ecology Statement dated July 2021 and shall also include details of:
- i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) measures to ensure that vehicles leaving the site do not deposit mud, dirt and other materials on the public highway;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from construction works;
 - viii) delivery, demolition and construction working hours;
 - ix) details of pre commencement surveys to ascertain presence/absence of reptiles, bats and amphibians and protected species and measures to ensure that any habitat is not prejudiced during construction work;
 - x) details of external lighting and measures to ensure that light over-spill is minimised to reduce potential impacts on light sensitive bats and other nocturnal fauna;
 - xi) details of mammal construction safeguards;
 - xii) details of Ecological Enhancements including details of habitat creation, provision of bat boxes, bird boxes hedgehog nest domes and fence cut outs, provision of hibernaculum and log piles, provision of bee bricks and habitat piles.

The development shall be undertaken in accordance with the approved CEMP.

APPENDIX C - APPEAL DECISIONS:–

PINS ref: 3181823 - Land south side of Kettering Road, Stamford

PINS ref: 3192255 - Land at Deerlands Road Wingerworth

PINS ref: 3265925 - Land off Bullens Green Lane, Colney



Appeal Decision

Site visit made on 7 February 2018

by **Zoe Raygen Dip URP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9th March 2018

Appeal Ref: APP/E2530/W/17/3181823

Land off south side of Kettering Road, Stamford, Lincs PE9 2JS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Kier Homes against the decision of South Kesteven District Council.
 - The application Ref S14/3078, dated 31 October 2014, was refused by notice dated 9 February 2017.
 - The development proposed is described as residential development comprising 39 houses and associated parking spaces and garages together with access road and turning areas, open space and landscaping, foul water pumping station, surface water balancing pond and open space.
-

Decision

1. The appeal is allowed and planning permission is granted for residential development comprising 29 houses and associated parking spaces and garages together with access road and turning areas, open space and landscaping, foul water pumping station, surface water balancing pond and open space at land off south side of Kettering Road, Stamford, Lincs PE9 2JS in accordance with the terms of the application, Ref S14/3078, dated 31 October 2014 subject to the conditions set out in the schedule to this decision notice.

Procedural Matter

2. A planning obligation under section 106 of the Town and Country Planning Act 1990 (as amended), in the form of a Unilateral Undertaking (UU) has been submitted as part of the appeal. The UU is a material consideration and I return later to consider its specific provisions in more detail. At my request the Council submitted a Planning Obligations and Community Infrastructure Levy (CIL) Compliance Statement. I have had regard to this document in my consideration of the appeal.
3. During the course of the planning application the subject of this appeal the number of houses was reduced from 39 to 29. I have therefore dealt with the appeal on that basis.

Background and Main Issue

4. A proposal for the erection of 48 houses at the appeal site was dismissed at appeal in 2015 (APP/E2530/A/14/2229265 – referred to as the previous appeal decision). The Inspector considered that the benefits of the proposal did not outweigh the harm that she found to designated and non-designated heritage

assets caused by the proposal. The appeal decision is a material consideration in the determination of this appeal.

5. Within that context, the main issue is the effect of the proposal on the character and appearance of the area, having particular regard to the setting of designated and non-designated heritage assets.

Reasons

6. The National Planning Policy Framework (the Framework) clearly defines the setting of a heritage asset as the surroundings in which such an asset is experienced. 'Significance' has a particular meaning in heritage policy terms and is defined as the value of a heritage asset because of its heritage interest which may be archaeological, architectural, artistic or historic. The glossary confirms that significance can be derived from a setting as well as the asset's physical presence.
7. Both parties refer to case law regarding the setting of heritage assets¹. I have had regard to these, advice in the Framework, advice from Historic England, the previous appeal decision, the evidence before me and observations from my site visit in my assessment of the setting of the various designated and non-designated heritage assets in this case.
8. The appeal site lies to the south of the main built up area of Stamford. Stamford Conservation Area (CA) covers a large part of the town, with the appeal site being close to the defined St Martin's area within the Stamford Conservation Appraisal (the SCA). From the evidence before me and my observations on site, the significance of the CA is largely derived from the number of high quality listed buildings, together with the use of traditional materials, and the siting of the buildings and their relationship to each other. The SCA lists the key characteristics of the St Martins area of the CA as its medieval street pattern; the high concentration of listed buildings; the building materials; and the use of features such as chimneys, dormer windows and boundary walls.
9. The setting of this part of Stamford plays a part in the significance of the CA. The almost instant change from the rural approach of the Old Great North Road to the townscape of Stamford, with historic buildings set on the back edge of the pavement, provides a dramatic point of entry to the CA. Here a sense of enclosure takes over from the open, rural character of the approach to the town.
10. The mainly developed northern side of Kettering Road provides a stark contrast to the mostly open, undeveloped nature of the southern side where the appeal site is located. There are some houses on Pinfold Lane on the south side of Kettering Road. However, these are few in number, and are large detached houses set in significant plots which are well landscaped. As a consequence, they are not particularly obtrusive within the open countryside. Furthermore, the presence of playing fields and a small pavilion on the south side of Kettering Road do not substantially detract from its overall rural appearance.
11. In views from the south across to Stamford, including from First Drift and Wothorpe Park, the abrupt change from open countryside to the elevated built up area of Stamford with its closely packed roofscape punctuated by church steeples, can be clearly seen.

¹ Regina (Williams) v Powys County Council [2017] EWCA Civ 427
Steer v Secretary of State for Communities and Local Government and Others: Admn 22 Jun 20

12. From the evidence before me, the significance of the key listed buildings² near to the appeal site is largely derived from their historic form and particular architectural features. Fryers' Callis is a terrace of almshouses with gardens to the front enclosed by a brick wall sited on the corner of Kettering Road and Wothorpe Road. Its setting has been improved by the redevelopment of the adjacent football ground, which has allowed the removal of unsightly structures near to the buildings. These will be replaced by an area of open space, which will allow the almshouses to be separated from surrounding development by gardens and open space.
13. As a result, appreciation of the architectural importance of Fryers' Callis would be apparent from views along both directions of Kettering Road. I saw at my site visit that the open land on the opposite side of the road to Fryers' Callis allows views from the south towards the almshouses. I do not doubt that such views are enjoyed by local residents and walkers in the area. Nevertheless, I observed that in distant views the architectural importance and function of the building is barely discernible. Although the building marks the edge of the urban development on the north side of Kettering Road, I have seen no substantive evidence to suggest that the houses were meant to be appreciated in such extensive views from the surrounding countryside, to an extent that would contribute substantially to their heritage significance. As a result, the long distance views, in my opinion, add little to the significance of the terrace itself.
14. However, the rural approach to Stamford in this area does emphasise the significance of Burghley House, a grade I listed building, and its Bottle Lodges set within a grade II* registered park and garden, and its relationship to Stamford, reinforcing its status as an important country house. While the presence of the Old Great North Road and the traffic and consequent noise does have some impact on the rural setting of the buildings, I found at my site visit that such intrusion is largely subservient to the predominant rural open countryside setting. Furthermore, although there are hedges and trees along Old Great North Road, there are clear views of the southern part of the site from the road, including from the Bottle Lodges.
15. To the south of the site is Wothorpe, and my attention has been drawn both to its designation as a Special Character Area, and the presence of a listed building grade II known as The Elms. Wothorpe forms a small grouping of buildings of a variety of ages and designs. They are set in an elevated position with respect to Stamford, mostly in large plots with a high level of planting giving an open verdant character to the area. As a consequence, I regard Wothorpe Special Character Area (WSCA) as a non-designated heritage asset. The Elms is sited close to Wothorpe Park and has a main outlook over the countryside towards Stamford. Its significance is mainly derived from its architectural importance. Nonetheless, the open rural setting contributes to the significance of the Elms as well as to that of the WSCA.

² Fryers' Callis almshouses- Grade II, Burghley Park Bottle Lodges, gateway arches, gates and flanking walls - Grade II (referred to collectively as the Bottle Lodges)

16. Bearing all the above in mind, the open countryside setting of some of the heritage assets contributes to their significance. Pursuant to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, special regard is to be had to the desirability of preserving, among other things, the setting of listed buildings. No statutory protection is afforded to the setting of Conservation Areas. However, paragraph 132 of the Framework sets out that the significance of a heritage asset can be harmed or lost through development within its setting. Paragraph 135 of the Framework confirms that the effect of a proposal on the significance of a non-designated heritage asset should also be taken into account in determining any application.
17. The appeal site is located to the south of Kettering Road. It is open and undeveloped with hedgerows and some trees. Although set back from the Old Great North Road behind hedgerows, it is visible from the road as Stamford is approached from the south. Furthermore, the appeal site is visible from views from Old Drift and Wothorpe. Public footpaths extend from Wothorpe through the appeal site into Stamford and the surrounding countryside. Hence the appeal site is particularly visible in views towards Stamford from the south and in views from within the site to surrounding heritage assets. Although itself it has no special designation, the open, undeveloped nature of the appeal site, together with its location close to the urban area of Stamford means it makes a significant, positive contribution to the rural character of the area, and the setting of the nearby heritage assets and the town.
18. The appeal site is allocated for an indicative number of 50 dwellings within Policy STM1 of the Local Plan for South Kesteven Site Allocation and Policies Development Plan Document 2014 (DPD) (Site reference STMa1). I note that the Council is in the early stages of preparing a new Local Plan, within which, I am advised by various parties, the site is under consideration to be de-allocated. However, the plan is at a very early stage of preparation, and has not yet been the subject of examination. Therefore, I give its contents very limited weight.
19. Accordingly, although it is now some time since the adoption of the DPD, I have seen no substantive evidence to suggest that the principal of housing is not acceptable on this site. However, given the nature of the site, it is inevitable that development would result in a change to the character of the area. As I have found that the appeal site is within the setting of a number of heritage assets, then both local and national policy require that any change is carried out in a sensitive manner. An explanatory note within Policy STM1 states that the development of this site should preserve and enhance the setting of Stamford and nearby heritage assets. The quantum of houses built on the site must be supported by a heritage impact assessment which demonstrates the layout and design of a proposal will not adversely affect the approach to the town and nearby heritage assets and preserves local distinctiveness.
20. In the previous appeal decision the Inspector highlighted a number of areas where the proposed scheme did not accord with the submitted Heritage Impact Assessment, or the Landscape and Visual Appraisal. These were that the development would not be set back from the southern boundary of the site and the design of the proposal would not result in a landscape dominated street scene or take account of its impact from London Road (Old Great North Road) on the Burghley Lodges and west gate, where new development on the site should appear as rooftops within groups of trees.

21. A new Heritage Statement 2017 (HS) and updated Landscape and Visual Assessment 2016 (LVA) have been submitted with this appeal. The LVA outlines a landscape strategy for development of the site which it considers would allow the development to appear as roof tops within groups of trees to protect the surrounding cultural and historic assets. If this were to be achieved, the HS concludes that the proposal would not be materially harmful to the setting and significance of the heritage assets.
22. The number of houses has been significantly reduced from that considered under the previous appeal proposal. There is dispute between the parties as to whether the reduction in houses numbers has led to a substantial reduction in a commensurate amount of floorspace and therefore built development on the site. The Council consider that due to a limited reduction in actual floorspace, together with the presence of parking areas, the layout has the appearance of a suburban estate with little reference to Stamford. Irrespective of the amount of floorspace proposed, the houses have been laid out in a form which according to Historic England represents the character of a back lane sometimes historically found on the approach roads into Stamford. As a result the layout has some historical integrity.
23. Nevertheless, the layout consists of houses sited with minimal gaps between them, creating almost solid lines of development within the site. Furthermore, although I note that it is agreed that the amount of surface parking is reduced, within the appeal proposal from that proposed in the previous appeal scheme, it still exists. This, together with the proximity of the buildings to each other and the amount of built development, would leave only limited space for planting within the site itself as recommended within the LVA. Furthermore, the development as a whole would still need to satisfactorily integrate into the rural character of the southern side of the road.
24. Most of the planting along Kettering Road would be retained, and I saw that even in winter, due to the amount of planting and its density, this provides an effective screen. As a result, the proposed houses along the part of the site fronting the road would be set back creating an open frontage. I note that this follows the approach suggested in the LVA. Consequently, the open setting of Fryers' Callis would be maintained. Furthermore, the rural setting of the CA on the south side of the approach into Stamford along Kettering Road would be preserved. While the Council points to the loss of the views of Fryers' Callis from First Drift, I am not convinced that the heritage significance of these relative small domestic structures would be materially harmed through the loss of that view.
25. The houses would extend no further back in the site than those on Pinfold Lane to the east. As a result a large area between the back of the houses and the southern boundary of the site would be retained and would be extensively landscaped and planted. This would introduce an area of planting which would supplement the existing trees and hedgerows on the southern edge of the appeal site. Furthermore, the dwellings located along much of the southern extent of the built development would be arranged with rear gardens to the south. The layout would, therefore, be fairly loose and responsive to the site's location at the edge of the settlement. As a result, I would concur with Historic England that the open area would have much of the character of the existing rural setting of the designated heritage assets affected, and of key approaches to them.

26. The LVA indicates that planting would be in the form of native species. It is likely therefore that there would be a high proportion of deciduous species which would lose their leaf during the autumn and winter months. Nevertheless, I saw at my site visit that even in winter, established planting, if in the correct location and of an appropriate density, is still capable of not only giving a rural appearance to an area, but also softening views of buildings.
27. Tree planting within the developed area of the site would be largely confined to narrow landscaping strips, often close to houses and car park spaces, and it would be unlikely to achieve the green corridors as envisaged within the LVA. Nevertheless, combined with the significant landscaping to reinforce the existing planting around the site, together with the set back of the dwellings from the southern boundary, the planting within the site would allow the development to achieve a softer, more gradual transition between the built up area and the rural landscape. The deeper planting would also reinforce the visual screening of the development in views from the south and go some way to ensuring that the buildings, although presenting a solid form of development, particularly between plots 10-16, would be effectively blended into the countryside in views from the south as envisaged by the Inspector at the time of the examination of the DPD.
28. The Council raises concerns about the extent of the tree planting itself obscuring views towards Stamford. However, given the topography of the area I am satisfied that this would be an unlikely occurrence, and certainly not evident from the mature trees in the landscape as exists.
29. Turning to the houses themselves, the Council refers to the height of a number of the proposed houses particularly in the north eastern corner of the site, and the consequent impact this may have on views across to the CA, Fryers' Callis and the churches of St Marys and St Martins, both listed buildings. I note that paragraph 4.3 of the South Kesteven Landscape Character Assessment states that the views of the town centre and church towers and spires should be protected. However, I have seen no substantive evidence that the proposed two, and two and a half storey houses would be of a height that would significantly interfere with the view of the CA and listed buildings to such an extent to harm their significance.
30. At my site visit I saw that the church spires rise above the main roofscape of Stamford which, due to its elevated nature, was also very apparent. Indeed this is evident in photographs supplied by the Council in its statement. The dip in land levels where the appeal site is located should ensure that views across to Stamford and its roofscape, including the churches are maintained. While the appeal site has undulating levels, I am also mindful that the Inspector at the time of the DPD examination considered that because it is on lower ground, the views towards historic Stamford would not be obscured in any way.
31. The design of the houses proposed includes many of the typical architectural features found within Stamford as identified within the SCA including chimneys and dormer windows. As a result, while a number of different "house types" would be used within the development I do not find the individual appearance of the houses to be offensive or unacceptable. The SCA identifies that the predominant building material within the St Martins part of the CA is stone with either coursed rubble masonry or ashlar for the higher status buildings. Given the proximity of the appeal site to the CA then careful consideration needs to be given to the materials to be used in the development, and I share

- the concerns raised by various parties regarding the quality of the materials proposed by the appellant. Nevertheless, I also concur with the view of the Inspector on the previous appeal that this is a matter that could adequately be dealt with by the imposition of a condition seeking the submission and agreement of samples of materials to be used, if the appeal were to be allowed.
32. The footpaths within the site would be diverted for a short distance within the appeal site, and therefore would be protected in accordance with paragraph 75 of the Framework, inasmuch as they would not be extinguished. While the experience of users of the footpath would be altered, particularly within the built up area of the site, this would only be for a short distance at the north of the site, where long distance views of Stamford are not as readily appreciated as from the southern part of the appeal site.
33. Bringing all of the above together, I find that the contribution the site currently makes to the rural setting of the CA, the Bottle Lodges, Burghley Park, The Elms and the WSCA would be diminished to some degree. Furthermore, the layout and siting of the houses, although having some historical integrity, would nevertheless present a mass of built suburban development which would result in some harm to the character and appearance of the area. However, in the context of this being an allocated site at the present time, the combination of the location of the housing away from the southern boundary, their design and appearance, together with the proposed and existing planting means the effect would be visually contained and would limit the harm both to the character and appearance of the area generally and to the significance of the designated and non-designated heritage assets.
34. I have considered the computer generated images (CGI) supplied. These show the appeal site from a point likely to be to the south of the site and from Kettering Road. I viewed the appeal site from these locations and from First Drift, and a number of other locations as suggested by the Council and other interested parties during my visit. The CGI shows the development within the summer months when the trees are in full leaf. The Council suggest that the CGI has not been updated from the previous proposals, and this has not been disputed by the appellant. However, even if this is the case, the CGI from a southern viewpoint still demonstrate that the development would be viewed as a roofscape within clusters of trees. While the CGI images have not therefore been definitive in themselves, they reinforce my view that the harm to the significance of the heritage assets would be limited, but not absent.
35. I am aware that the Council granted planning permission for the comprehensive redevelopment of the former football club for housing (S11/2300/MJRO) and construction of the dwellings was underway at the time of my site visit. In approving this application the Council considered that the development would not adversely affect the setting of the adjacent listed buildings or the conservation area. However, this site is on the northern side of Kettering Road within the established built up area of Stamford. Furthermore, it was a brownfield site. Consequently, its characteristics and relationship to surrounding heritage assets is different from the site before me now. In any case, I have determined the appeal based on its own merits.
36. For the reasons above therefore, notwithstanding the conclusions of the HS, I conclude that the proposal would cause some harm to the character and appearance of the area having particular regard to the setting of designated and

non-designated heritage assets. It would therefore be contrary to Policy STM1 of the DPD and Policy EN1 of the Local Development Framework for South Kesteven Core Strategy 2010 and paragraph 17 of the Framework which require that development must be appropriate to the character and significant natural, historic and cultural attributes and features of the landscape within which it is situated, and contribute to its conservation, enhancement or restoration and take account of the different roles and character of different areas.

Unilateral Undertaking

37. Policy H3 of the Core Strategy 2010 requires a target provision of 35% affordable housing on all developments comprising 5 or more dwellings. For a scheme of 29 dwellings, this would equate to a provision of up to 10 affordable units. However, the UU provides for a total of 13 affordable units, four of which would be on site and nine within an existing development in Bourne which already has planning permission.
38. While the majority of the affordable homes would be located off-site, the Council raises no objections to this provision which it states has been supported to help with the viability of the appeal scheme. I have seen no substantive evidence which would lead me to a different conclusion. While objectors refer to a draft neighbourhood plan, prepared by Stamford First, which states that affordable housing should be provided on-site, I understand the plan is at a very early stage of preparation having only gone through a first round of public consultation, and therefore carries very limited weight.
39. Policy SAP10 of the DPD provides standards for the provision of open space within new developments. The Council confirms that in order to comply with this Policy as well as the open space that would be provided on the appeal site a contribution of £22,292.10 would be required towards an equipped area of open space. The UU secures such a contribution towards the provision or upgrading of open space and/or a play area at The Meadows in Stamford.
40. I am therefore satisfied that the proposed contributions and requirements contained within the UU would be necessary to make the development acceptable, are directly related to the development and fairly and reasonably related in scale and kind to the development. Furthermore, the Council has confirmed in its CIL Compliance Statement that there are no more than five completed obligations which would contribute to the play area at The Meadows or other play areas if required. Therefore the UU would comply with both the contents of Regulation 122(2) and 123 of the Community Infrastructure Levy Regulations 2010 and paragraph 204 of the Framework.

Other matters

41. I have been referred to two appeal decisions regarding the erection of housing close to The Elms within the WSCA (APP/J0540/W/17/3181276 and APP/J0540/A/12/2186590). However, these proposals were for only two and one dwellings respectively, sited close to the Elms. I am of the opinion that the appeal before me now, for significantly more houses located on a site a much further distance from the Elms raises different issues, and the cases are not directly comparable.
42. The closest existing residential properties to the proposed housing would be those on Pinfold Lane. I saw on site though that there would be a generous

distance between the proposed and existing dwellings, which would ensure that levels of privacy would be maintained, and residents' outlook would not be materially harmed.

43. Considerable objection has been raised to the level of traffic that would be generated by the proposed houses. The appellant has submitted a Transport Statement and a Green Travel Plan which demonstrates that the proposed site access and the junction of Kettering Road and High Street St Martin's would have capacity at peak times if the development were to take place. I note that the Highway Authority has not raised any objection to the proposal. Furthermore, I saw that the appeal site is in walking distance of a number of local facilities and services, and therefore would be in an accessible location by means other than the private car. In the absence of any substantive evidence to the contrary therefore I am satisfied that the proposal would not be materially harmful to highway safety.
44. Concerns have also been raised regarding drainage and the potential for flood risk. However, I note that the appeal site is within Flood Zone 1 and the Environment Agency, Lead Flood Authority, Anglian Water and the Internal Drainage Board have all raised no objections to the proposals, subject to relevant conditions. I have seen nothing which would lead me to take a contradictory view to these acknowledged experts.
45. I was unable to access Wolthorpe Park and the Elms at the time of my site visit. Nevertheless, I am satisfied that from the many vantage points from which I viewed the proposals, I was able to have a good appreciation of the two heritage assets, their open countryside setting and the contribution that makes to their significance, along with the impact the appeal proposals would have on that setting and significance.

Conclusion

46. In as much as there would not be any loss of a listed building or direct impact on the character or appearance of the CA, and given that the setting of the CA as seen from the south is but one component of its overall significance, I am satisfied that the harm I have identified to the significance of the heritage assets can, in the language of paragraph 134 of the Framework be considered as less than substantial.
47. The Inspector on the previous appeal also found that the proposals caused less than substantial harm, but she did not seek to assess the level of harm within that categorisation. I note that the adjacent planning authority did not object to the current appeal proposal as it considered that it would have a low impact on the WSCA and it would not result in harm to the heritage significance of the Elms. Furthermore, Historic England describes the "reduced impact" of the scheme in its letter to the Council regarding the proposal dated 29 November 2016. After careful consideration, having found that the harm to the character and appearance of the area and hence the setting and significance of the heritage assets would be limited, then I am satisfied that the level of harm would be towards the lower end of less than substantial harm.
48. However, as raised by the Stamford! Protect Our Green Space group, the courts have confirmed that less than substantial harm does not equate to a less than substantial planning objection and that any such harm is to be given considerable

- weight³. Paragraph 134 of the Framework requires that less than substantial harm be weighed against the public benefits of the respective proposals.
49. The proposal would deliver social and economic benefits by providing 29 new homes in an accessible location on the edge of Stamford. In this respect, the development would make a modest contribution to meeting housing requirements and choice in the district on an allocated site whilst supporting local services and businesses. There would also be temporary economic benefits arising from the construction activity required to deliver the development.
50. The appellants identify that the Council is able to demonstrate a 5.3 year housing land supply. Many of the objectors have stated that the site is not required for housing as enough has both been allocated to the north of the town and is currently under construction. Nevertheless, the allocation within the DPD weighs in favour of the proposal, as it forms an integral part of the Council's housing supply. Although the indicative allocation was for 50 dwellings, the previous appeal decision was clear that the proposal for 48 dwellings made a significant unacceptable impact on the significance of heritage assets. It is unlikely therefore, that notwithstanding the comments of the Inspector at the time of the examination of the DPD, that the indicative number of dwellings could be achieved on site in such a way as to provide sufficient protection to the significance of the various heritage assets. While I have seen no substantive evidence to suggest that the inability to achieve 50 dwellings on the site would lead to the Council being unable to demonstrate a five year housing land supply, the reduction to 29 dwellings only would clearly have some impact on the supply figure.
51. In addition, Policy H1 of the Local Development Framework for South Kesteven Core Strategy 2010 states that housing figures are minimum levels of growth rather than maximum. Moreover, even if this site were not to be developed and the Council still had a five year housing land supply there is nothing in the Framework to suggest that the existence of a five year supply should be regarded as a restraint on further development. In this context, I attach considerable weight to the social and economic benefits identified based on the scale of development proposed.
52. Furthermore, the provision of much needed affordable housing would help to meet the needs arising in the south of the district and therefore I attach substantial weight to the benefit of the scheme in this particular regard. The scheme would also provide a large area of open space, over and above the amount required by policy within the development plan providing a modest benefit inasmuch as it could be used by nearby residents as well as future residents of the appeal scheme.

³ *R. (on the application of The Forge Field Society) and others v Sevenoaks District Council and others* [2014] EWHC 1895 (Admin)
Barnwell Manor Wind Energy Ltd v East Northants DC and others [2014] EWCA Civ 137
R (on the application of Gillian Hughes) v South Lakeland DC & Interested Parties [2014] EWHC 3979 (Admin)
Jane Mordue v Secretary of State for Communities and Local Government and others [2015] EWHC 539 (Admin)
Irving v Mid Sussex District Council : [2016] EWHC 1529 (Admin)
Steer v Secretary of State for Communities and Local Government and Others: Admn 22 Jun 20

53. In terms of the balance required by paragraph 134 of the Framework, I am satisfied that the public benefits of the proposal outweigh the less than substantial harm to the significance of the heritage assets referred to. With regard to the balance required within paragraph 135 of the Framework, I am firmly of the view that the benefits I have outline above outweigh the limited harm I have found to the setting and significance of WSCA, a non-designated heritage asset.
54. Moving on to the overall planning balance, I have identified that there would be conflict with the development plan, inasmuch as there would be some limited harm to the character and appearance of the area, related mainly to the less than substantial harm to the significance of the heritage assets. In such circumstances permission should be refused unless material considerations indicate otherwise. In this case the benefits that I have outlined above combined with the fact that this is an allocated housing site which Policy STM1 of the DPD anticipates as delivering up to 50 dwellings on the site are material considerations, the totality of which lead me to the view that they are sufficient, in this instance, to outweigh the limited harm that I have identified.
55. Therefore, for the reasons above and having regard to all other matters raised, I conclude on balance, that the appeal should be allowed.

Conditions

56. I have had regard to the various planning conditions that have been suggested by the Council and considered them against the tests in the Framework and the advice in the Planning Practice Guidance and have made such amendments as necessary to comply with those documents. In the interests of certainty it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.
57. Conditions 3-7, 15, 17 and 18 are necessary to protect the character and appearance of the area and the ecology of the area. Condition 3 requires details to be approved prior to the commencement of the development to ensure that existing trees and hedgerows on the appeal site are adequately protected prior to any development occurring.
58. Conditions 8-11 are necessary to protect highway safety. Condition 12 is required to ensure safe access to the site and that it is adequately linked to the surrounding area.
59. Conditions 13 and 14 have been imposed to ensure that the site is adequately drained and does not pose a flood risk to surrounding areas. Condition 16 is required to protect residents' living conditions. Condition 19 is required to reduce the reliance of future occupiers on the private car.

Zoe Raygen

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.

Plans

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1255-03 Rev K, 1255-31 Rev E, 1255-46 Rev B, 1255-47 Rev B, 1255-48 Rev A, 1255-49 Rev B, 1225-33 Rev A, 1225-35, 1225-36, 225-37, 1255-38 Rev A, 1225-50 Rev B, 1255-51 Rev A, 1255-42, 1255-41, 17117/2002 Rev A, 17117/2003 Rev C, 17117/05 202, 17117/05 201 Rev J, JBA 13/147-TS02 Rev D, JBA 13/147-01 Rev B.

Ecology/trees

- 3) Before the development hereby permitted is commenced, details of a site specific tree protection method statement and plan shall be submitted to and agreed in writing by the local planning authority. The details to be submitted shall ensure that all existing trees or hedgerows shown on the approved plan as being retained are fenced off to the limit of their root protection area or branch spread, whichever is the greater, in accordance with BS 5837. No works including:
 - i. removal of earth,
 - ii. storage of materials,
 - iii. vehicular movements or
 - iv. siting of temporary buildings

shall be permitted within these protected areas. Once agreed in writing the development shall be implemented in strict accordance with the tree protection method statement and plan. .

- 4) Before any construction work above ground is commenced, details of any soft landscaping works shall have been submitted to and approved in writing by the Local Planning Authority. Details shall include:
 - i) planting plans;
 - ii) written specifications (including cultivation and other operations associated with plant and grass establishment);
 - iii) schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate;
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) Before any part of the development hereby permitted is occupied, a landscape management plan shall have been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- i) long term design objectives,
- ii) management responsibilities and
- iii) maintenance schedules for all landscape areas, other than privately owned, domestic gardens.

For a period of not less than 5 years following the first occupation of the final dwelling/unit hereby permitted, the approved Landscape Management Plan shall be adhered to in full.

- 7) The development shall be carried out in strict accordance with the recommendations and conclusions of the Phase 1 Habitat Survey dated November 2013 and the Updated Ecological Assessment undertaken by James Blake Associates Ltd dated 26th July 2016.

Highways

- 8) Other than site clearance and preparation works no works shall commence on the construction of the hereby permitted dwellings until full engineering, drainage, street lighting and constructional details of the streets proposed for adoption have been submitted to and approved in writing by the Local Planning Authority. The development shall, thereafter, be constructed in accordance with the approved details.
- 9) Other than site clearance and preparation works no works shall commence on the construction of the hereby permitted dwellings before the first 50m metres of estate road from its junction with the public highway, including visibility splays, as shown on drawing number 1255-03 Rev K has been completed.
- 10) Notwithstanding the road surface details shown on drawing 1255-03 Rev K, details of an alternative means of surfacing the area of road in front of plots 9 and 10 shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of the houses on the plots. The road shall then be surfaced in accordance with the agreed details prior to the occupation of the houses.
- 11) No dwelling shall be occupied until the estate streets affording access to those dwellings has been completed in accordance with the Estate Street Development Plan
- 12) Other than site clearance and preparation works no works shall commence on the construction of the hereby permitted dwellings until a scheme has been submitted to and agreed in writing by the local planning authority for the construction of a 1.5 metre wide footway, together with arrangements for the disposal of surface water run-off from the highway at the frontage of the site. The agreed works shall be fully implemented before any of the dwellings are occupied, or in accordance with a phasing arrangement to be agreed in writing with the local planning authority.

Flooding and drainage

- 13) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface

water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 14) No hard-standing areas shall be constructed until the works have been carried out in accordance with the surface water strategy so approved.

Hard landscaping

- 15) Other than site clearance and preparation works no works shall commence on the construction of the hereby permitted dwellings until details of hard landscaping works shall have been submitted to and approved in writing by the Local Planning Authority. Details shall include:
- i) proposed finished levels and contours;
 - ii) means of enclosure (boundary treatments);
 - iii) car parking layouts;
 - iv) other vehicle and pedestrian access and circulation areas;
 - v) hard surfacing materials;
 - vi) minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc.);
 - vii) .proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.);
 - viii) retained historic landscape features and proposals for restoration, where relevant.

The approved hard landscape works shall have been implemented prior to the occupation of all the houses.

Windows

- 16) All first floor bathroom and ensuite windows shall be obscure glazed.

Materials

- 17) Before any of the works on the external elevations for the buildings hereby permitted are begun, samples of the materials (including colour of any render, paintwork or colourwash) to be used in the construction of the external surfaces shall have been submitted to and approved in writing by the Local Planning Authority. The development shall then only be completed in accordance with the approved details

Pumping station

- 18) Prior to the pumping station hereby approved being installed precise details of its external appearance and means of enclosure shall be submitted to an agreed in writing by the Local Planning Authority. The pumping station shall only be installed in accordance with the approved details.

Green Travel Plan

- 19) The approved Green Travel Plan dated October 2016 shall be adhered to as long as any part of the development is occupied and implemented in accordance with the timetable contained therein.

-----END OF CONDITIONS SCHEDULE-----



Appeal Decision

Inquiry held on 14-17 and 21-24 August 2018

Site visit made on 24 August 2018

by Phillip J G Ware BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th November 2018

Appeal Ref: APP/R1038/W/17/3192255

Land at Deerlands Road, Wingerworth

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Ripon Homes Ltd against the decision of North East Derbyshire District Council.
 - The application Ref 17/00268/OL, dated 3 March 2017, was refused by notice dated 14 December 2017.
 - The development proposed is a residential development of up to 180 dwellings, public open space, landscaping, highway and drainage works and associated infrastructure.
-

Procedural matters

1. The application was submitted in outline, with only access and scale to be decided along with the principle of the development. I have dealt with the appeal in this manner.
2. A Planning Obligation (31 July 2018) was submitted before the Inquiry opened, and I have considered its content below.
3. As anticipated at the Inquiry, amendments to Planning Practice Guidance (PPG) and updated household projection figures were published after the Inquiry. The views of the main parties were sought on these matters and the responses have been considered in this decision.
4. In October 2018 a consultation paper was issued regarding possible updates to national planning policy and guidance, including the standard method of assessing local housing need. This paper was raised by the Council on 31 October. The appellant was given the opportunity to comment on this matter, which they did on 7 November. This correspondence has been taken into account.

Application for costs

5. At the Inquiry an application for costs was made by Ripon Homes Ltd against North East Derbyshire District Council. This application will be the subject of a separate Decision.

Decision

6. The appeal is allowed and planning permission is granted for a residential development of up to 180 dwellings, public open space, landscaping, highway

and drainage works and associated infrastructure on land at Deerlands Road, Wingerworth in accordance with the terms of the application, Ref 17/00268/OL, dated 3 March 2017, subject to the conditions appended to this decision.

Main issues

7. The application was recommended for approval by officers but was refused by the Council on 14 December 2017. There were five reasons for refusal, three of which are no longer being defended by the authority. These related to the adequacy of the sewerage system, the need for social infrastructure and the effect on highway safety.
8. There are two main issues in this case, which reflect the Council's two remaining reasons for refusal:
 - The effect of the proposal on the character and appearance of the area
 - Whether the proposed development would be accessibly related to the settlement of Wingerworth

Reasons

The site and the proposal

9. The appeal site is an area of rough grazing land around 7 hectares in extent located northeast of Deerlands Road and east of Hockley Lane. There are trees and hedgerows along many of the site boundaries. The land rises up to the north from Redleadmill Brook at the south of the site towards Hockley Farm and other properties, including Wingerworth Hall Gardens. To the east of the site are further fields and large areas of woodlands.
10. To the south of the site, beyond the brook, is a recent housing development which was allowed on appeal (51 units) in August 2013¹. The planning history of this site (along with the previous history of the appeal site) is summarised in the Statement of Common Ground². This development is known as Spindle Drive.
11. The main built up area of Wingerworth lies to the west of the site, and in this area is typified by predominantly 1960's houses and bungalows. Wingerworth is a very large village (with a population of over 6,000) and is the largest second tier settlement in the District.
12. The proposal, as set out in the bullet points at the top of this decision, is in outline along with scale and access. The entrance would be taken from Deerlands Road by way of Spindle Drive and over Redleadmill Brook on a new bridge. The proposal, as judged by the submitted plans and the illustrative material, would include up to 180 homes with 40% affordable units (secured by the Planning Obligation), open space, and on-site storm water attenuation.

Planning policy background and weight

13. The development plan includes the North East Derbyshire Local Plan (LP) (2005) which was intended to operate until 2011. The site is outside the Settlement Development Limit (SDL) of Wingerworth, which is on the opposite

¹ APP/RR1038/A/13/2192646

² Section 2

- side of Deerlands Road. For planning purposes the site is therefore agreed to be classified as open countryside.
14. Leaving aside the matters which are no longer being pursued by the Council, the remaining policies in the reasons for refusal are:
 - LP policies GS1, GS6 and H3. These deal with SDLs and development in the countryside.
 - LP policies GS1, H12 and T2. These deal with accessibility to local facilities.
 15. The Wingerworth Neighbourhood Plan (NP) was made in June 2018, and is part of the development plan. This plan does not allocate any housing sites, and I will return to the role of the NP below.
 16. The draft Local Plan (DLP) has been submitted for examination, and has attracted representations on a wide range of issues, including policies related to housing requirement and supply, settlement development limits and the overall development strategy. The Council did not place any reliance on the DLP at the Inquiry³ and, given the stage which it has reached and the existence of numerous representations, only limited weight could have been placed on it in any event.
 17. Returning to the development plan, the parties are agreed that the proposal does not conform to the relevant spatial policies of the LP, most particularly in that the appeal site is outside the Wingerworth SDL and is open countryside in policy terms. In the context of the age of the LP, it is unsurprising that the question of whether the LP is out of date was raised in evidence and debated at length at the Inquiry.
 18. The simple fact that the LP period was until 2011 does not mean that, as it is time expired, it should be disregarded. Nor does the fact that progress on the replacement DLP has been slow, emphasised by the Secretary of State's correspondence with the Council regarding possible local plan intervention⁴, mean that the LP is out of date. The important question is the extent to which the policies in the LP are consistent with the National Planning Policy Framework (the Framework).
 19. The Wingerworth SDL, as set out in the LP, was stated in the officers' report to be out of date as it did not address the District's housing needs. This is clearly the case, and is unrelated to whether the Council can demonstrate a five year housing land supply – a matter to which I return below – as what matters in this instance is whether the saved policies still have a function in relation to housing need.
 20. 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.

³ Other than to note that the SDL for Wingerworth is not proposed to be changed

⁴ CD E38

21. In the Council's written evidence it was stated that the LP as a whole was up to date, but this position appeared to change at the Inquiry and it was accepted by the Council's witness that the plan was out of date. The Council's position in the closing submission was that the relevant policies were "mainly consistent" or have "some consistency" with the Framework. This confusing position is not helpful, but I prefer the clear evidence given by the Council's witness.
22. In addition, it was accepted by the Council that the authority has allowed developments which are inconsistent with the LP. Furthermore, the approach of my fellow Inspector in the Spindle Drive decision was that policy should be accorded limited weight as it was more restrictive than the (then) Framework. Although this decision was some time ago, nothing in the intervening period suggests that more weight should be given to the same policies.
23. In any event, as accepted by the Council at the Inquiry, the wording of LP policy GS1 is incompatible with the Framework as it includes an "overriding exceptional circumstances" test for development in the countryside. This is not, and has never been, part of national policy outside Green Belts or Areas of Outstanding Natural Beauty. Additionally LP policy GS6 gives the countryside a level of blanket protection which is inconsistent with national policy. All these additional matters clearly point to the LP being out of date.
24. I appreciate the Council's argument that the DLP does not propose a change to the Wingerworth SDL. However the emerging plan is of limited weight and there are apparently numerous representations to the spatial and housing policies. The emerging position regarding SDLs is therefore of very limited assistance.
25. Before concluding on the weight to be accorded to the LP, mention needs to be made of the recently-made NP. This plan makes no allocations and is therefore silent on housing needs. As was explained to me at the Inquiry, the original intention was for the NP to update the existing SDL. But, following discussions with the District Council, it was decided that the SDL should not be revised through the NP and this was left to the DLP. Overall, the NP does not address housing development needs, as this is reserved to the DLP. The Council accepted at the Inquiry that, if the NP were seen to be restrictive in its own right, then the NP itself would be out of date. I do not consider that to be the case and, in view of the perfectly proper relationship between the NP and the LP/DLP, I do not consider the NP to add anything of substance to the relevant policy base.
26. Overall the proposal does not conform to the relevant spatial policies of the LP, as the site is outside the SDL and is in the open countryside in policy terms. However, for reasons given above, the LP policies which are most important in determining the appeal are out-of-date. This does not mean that they can be ignored, but they have significantly reduced weight.

The character and appearance of the area

27. Part of the Council's composite first reason for refusal alleged negative environmental impacts in relation to visual prominence and the wider landscape/local topography.
28. In considering this matter, I am conscious that the Council did not call any landscape or design evidence to defend this aspect of the reason for refusal,

although it was briefly addressed by the planning witness. This is in contrast to the appellant, who produced a full Landscape and Visual Impact Assessment (LVIA) and who called landscape evidence.

29. The site falls within National Character Area 38 – the Nottinghamshire, Derbyshire and Yorkshire Coalfield. Regionally it is with the Wooded Slopes and Valleys Landscape Character Type. At the most detailed level it is within the Wooded Farmlands Landscape Character Type, which is typified by scattered ancient woodlands and hedgerow trees, dense tree cover along streams, small to medium irregular fields enclosed by mixed species hedgerows, curving lanes with irregular verges, scattered sandstone farmsteads and occasional hamlets.
30. Even allowing for the presence of Wingerworth, the last categorisation is a good description of elements of the appeal site, which is generally well enclosed by hedgerows and trees. There is no reason to doubt the appellant's statement that the majority of these would be retained in the detailed scheme design.
31. The Council suggested that the site is prominent, but this was persuasively contradicted by the appellant's detailed landscape evidence and by what I saw from the agreed viewpoints on my site visit. Although the site is visible at close range, when I visited the more distant locations, it was difficult in many cases to pick out the appeal site – so any future development thereon would have comparatively little effect. Subject to a height limitation applying to development on the upper part of the site, the proposal would not be unduly prominent or out of place.
32. The appellant's LVIA assessed the landscape and visual impact of the proposal and there is no dispute as to the methodology employed. In terms of the effects on landscape character, obviously the proposed replacement of fields by housing would introduce built form onto currently undeveloped land. However so would any built development on a greenfield site, and this would be set in the context of existing development to the south and west and, to a lesser extent, to the north. This limits the sensitivity, remoteness and tranquillity of the site.
33. The site is not in a valued landscape in terms of the Framework. The introduction of built form into the countryside beyond the settlement edge would have a minor adverse change to the landscape – but this would be appreciated only in localised views. The extent of this change is agreed between the main parties.
34. The parties debated the meaning of the appeal decision at Spindle Drive in relation to any consideration of the current appeal site. However this is not a particularly worthwhile exercise as, quite naturally, that Inspector was considering the site before him at that time, and it is not clear what evidence was presented to him in relation to the current appeal site.
35. For the above reasons the proposal would cause limited harm to the character and appearance of the area, and would thereby conflict with the relevant development plan policies (to which I attach significantly reduced weight) summarised above.

Relationship with Wingerworth

36. Wingerworth is a large village with a number of local amenities, including primary schools, public houses, places of worship, convenience stores and a number of other shops. There are several formal and informal public open spaces. The extent of the facilities is agreed between the main parties⁵.
37. Whilst I accept that, due to the proximity of Chesterfield and the good transport links to that town, Wingerworth functions to an extent as a dormitory for Chesterfield and beyond. Nevertheless it has a reasonable range of services and facilities.
38. The issue therefore revolves around how the appeal site relates to Wingerworth and the facilities beyond.
39. Dealing first with bus transport, there are bus stops around one minute's walk from the entrance to the site. I appreciate that it would take some while to walk from the furthest part of the site to the bus stop, but the distance is not such as would be likely to put many people off using the bus. Once at the stop, there are two services, providing around three services an hour, to Wingerworth, Chesterfield and Clay Cross. Interchange facilities to other destinations and other modes of transport are present especially in Chesterfield.
40. Turning to walking and cycling, I note that only three amenities fall within a 1 km walk, but the great majority of the remainder are within 2 kms. I agree with the Council's argument that accessibility must be considered against the situation on the ground, including gradient, as opposed to two dimensional plan form. From what I saw on site some of the routes are sufficiently steep or poorly surfaced as to put some people off walking or cycling. In particular the route north up Hockley Lane is potentially unattractive in inclement weather, or for those with children, or the infirm. However alternative routes exist the shortest of which is only around 150m longer, and offer easier walking or cycling routes.
41. In dealing with this issue, I am mindful of the conclusion of my fellow Inspector dealing with the Spindle Road appeal. The access point to that development and the current appeal site are all intents and purposes the same – although I accept that the distance across the current appeal site is greater than which he was considering. I have no reason to disagree with his conclusion which was that, having regard to the location of the site and the accessibility to local facilities and services, the development was satisfactorily related to the settlement of Wingerworth. Nothing has been put before me to suggest that matters have significantly changed on the ground since that time.
42. Development should be focussed on locations which are sustainable and which offer genuine choices of transport modes. I find that the proposed development would offer a choice of transport modes – including walking, cycling and public transport. It would comply with the LP policies summarised above.

Other matters – housing land supply

43. As accepted by the appellant, the presence or absence of a five year housing land supply is not the determinative factor in this appeal. However the

⁵ Statement of Common Ground Paragraph 3.6

absence of such a supply would be an important additional material consideration in favour of the proposal.

44. National policy, as set out in the Framework, is that the supply of homes should be significantly boosted and it is important that a sufficient amount and variety of land can come forward where it is needed. To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method – unless exceptional circumstances justify an alternative approach which also reflects current and future demographic trends and market signals. The use of the standard method is now enshrined in the Framework, and the PPG has been amended to explain its application.
45. The most important difference between the parties relates to whether the standard method should be employed. The Council's position is that it can demonstrate a five year supply of housing land, with an OAN based on the standard methodology. The Council is content to rely on 266 dpa, which is the minimum figure derived from the new methodology and the 2014 household projection figures. This approach captures any under-delivery⁶. On the basis of the Standard Method, on any view of the details of the supply and other matters⁷, it is agreed that a five year housing land supply exists.
46. However the appellant's approach is that the standard method should not be used. Their requirement position, using the approach which existed before the standard method emerged, leads to a shortfall in housing land supply, as clearly demonstrated in their evidence.
47. The parties agreed at the Inquiry that, when the new standard methodology for assessing housing need was introduced, it was for the purpose of simplifying the process and making it more transparent. A number of matters have been put forward as potential exceptional circumstances which, it is contended, lead to the conclusion that the standard method should not be used in this case.
48. The appellant has suggested that the new household projections cast doubt on the standard methodology. It is clear that the recently produced 2016 projections may have a potentially significant effect on the national picture. However for North East Derbyshire the impact appears to be less pronounced. The methodology and the data underpinning it may well be changed, as was flagged up when the Framework and the revised PPG were published and as is illustrated by the recent consultation on draft changes to planning policy and guidance (including the standard method of assessing local housing need). However the fact that the government intends to review the methodology in the light of the 2016 population data is not a good reason for departing from the standard approach at this time. This position was clearly appreciated when the new methodology was introduced. As matters stand the national policy position is clear.
49. The transitional provisions in the Framework allow for emerging plans submitted up to January 2019 to be examined in accordance with the approach set out in the former Framework. That is the case in North East Derbyshire, and the Council is relying on a different OAN (330 dpa) at that examination to

⁶ Based on the new projections the Council states that the figure would be 234 dpa.

⁷ Appellant's supplementary statement Table 3.1

that which was put forward in relation to this appeal. However the DLP figure using the methodology of the previous Framework is as yet untested.

50. The appellant's concern is that this could lead to a perverse position in that this appeal decision and the DLP examination will occur at around the same time, and the results could be founded on different approaches. However the Framework is clear that that the transitional provisions apply to local plan examinations and not to s78 appeals, where the new Framework is immediately applicable. Whilst appreciating the argument, this eventuality will doubtless have been foreseen when the new Framework and revisions to PPG were produced.
51. Overall, the standard methodology was introduced to provide clarity and consistency, and with this background circumstances to justify departing from the new methodology would have to be truly exceptional. It is highly unlikely that this is the only instance where the determination of an appeal will occur around the time of a local plan examination, which will be considering the wider picture on a different basis. This does not represent a circumstance so exceptional as to justify a departure from the standard methodology.
52. There remain other matters in dispute between the parties, including the use of blended Experian and OBR or solely OBR figures, affordable housing uplift, and details of the supply. However, given my conclusion on the applicability of the standard methodology, it is not necessary to pursue these matters further as it is agreed that a five year housing land supply exists using the standard method approach.
53. 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.
54. In addition, the need for affordable housing is agreed by the parties to be acute and significant. The Council criticised some of the details of the appellant's approach towards consideration of affordable housing at the Inquiry, but it is clear that there is a very significant need for affordable housing in the District, and that there is very considerable doubt as to delivery. Even if one accepts the Council's position that there is a pipeline of affordable housing coming forward in Wingerworth - which is far from clear - the provision of 40% affordable housing in the appeal scheme is a benefit. This is a very significant material consideration weighing in favour of the appeal scheme.

Other matters – traffic, flooding/sewage, ecology, ownership

55. Residents are very concerned at the impact of construction traffic on highway safety, based on experiences with the Spindle Road development. I fully understand these concerns but, given the possibility of a condition related to a Construction Method Statement, I am confident that these issues can be significantly ameliorated.
56. Residents graphically explained the problems experienced in the area in relation to sewage issues. Whilst I sympathise with the concerns of local people, there is no technical evidence to support their fear that the proposal would worsen the existing position. Surface water would eventually drain to

the watercourse and only foul water flows would enter the sewer – but this would be downstream of the location of the majority of issues reported by residents.

57. In terms of ecology, I have nothing which persuades me to depart from the agreement between the main parties that there would be no detrimental impact, and that the proposal could provide a net gain in biodiversity.
58. There was a specific concern raised related to the ownership of a dry stone wall to the north of the site. However this is a land ownership issue and is not a matter on which this appeal should turn.
59. All these matters and others are agreed between the main parties, as set out in the Statement of Common Ground⁸. I have no substantial evidence to depart from that position.

Conditions and planning obligation

60. I have considered the conditions put forward, without prejudice, by the parties in the light of PPG.
61. Along with the submission of reserved matters, a number of other details (surface and foul water, levels, planting, play area, climate change, coal mining and biodiversity) need to be submitted prior to the development commencing, to ensure a satisfactory standard of development (1, 2, 12, 20, 21, 22, 23, 24, 25, 32, 33, 35). For the avoidance of doubt, a condition specifying the approved plans is necessary, as is a condition limiting the number of dwellings (3 and 4).
62. For heritage reasons, a condition relating to archaeology is necessary (5).
63. In the interests of the health of future occupiers, a series of conditions addressing potential contamination is necessary (6 – 11).
64. For ecological reasons, external lighting and the timing of the development needs to be controlled. A Construction Environmental Management Plan and a Landscape and Ecological Mitigation and Management Plan need to be approved and implemented (26, 27, 28, 31).
65. To encourage local construction employment, a condition is needed to require a scheme for local recruitment (34).
66. Various highway matters need to be approved and implemented in the interests of highway safety (13, 14, 15, 17). For this reason and in relation to the amenity of nearby residents a Construction Method Statement needs to be prepared and implemented and the hours of construction controlled (28, 29, 30).
67. In the interests of encouraging sustainable modes of transport a Travel Plan needs to be submitted to and approved by the Council, and subsequently implemented (16).
68. As discussed above, a condition is necessary to limit the height of the development in the most prominent part of the site, in the interests of the appearance of the scheme (18).

⁸ Section 8

69. A condition was put forward which would require the provision of public art as part of the development (19). Although no specific justification was provided, there is some policy support for this matter and it is agreed that this should be the subject of a condition.
70. A suggested condition regarding Biodiversity Metric Calculations is unnecessary as this should form part of the application for approval of details.
71. As noted above a Planning Obligation has been submitted. This provides:
- 40% affordable housing in accordance with LP policy H6 and the guidance in the Affordable Housing SPD.
 - A public art contribution in line with LP policy BE5.
 - Public open space and a Locally Equipped Area of Play (LEAP) in accordance with LP policy R5 and the Council's Recreational and Open Space SPD. The Obligation deals with provision and future maintenance. The proposal includes around 1.76 hectares of public open space, as well as the LEAP.
 - An education contribution. Evidence to justify the contribution has been provided by the County Council, including detailed information on the ability of local schools to accommodate the additional children arising from the development. Confirmation has been given that the number of contributions has not exceeded the CIL Pooling Regulations
 - Highways contributions related to improvements along the A61 corridor. Evidence has been submitted regarding the need for the contribution and its relationship with the proposal, along with confirmation that the number of contributions has not exceeded the CIL Pooling Regulations.
 - Healthcare contributions. This would be directed to the Wingerworth Medical Centre, and evidence has been provided to explain the amount of the contribution.
 - Travel Plan. A monitored Travel Plan is required in relation to LP policy T4.
72. The CIL Compliance Statement and other evidence demonstrate that the provisions of the Obligation are directly related to the proposed development and are necessary to make the scheme acceptable in planning terms. Therefore the Obligation meets the policy in paragraph 56 of the Framework and the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010. Some of the provisions are designed to mitigate the impact of the proposal and these elements therefore do not provide benefits in favour of the appeal. However other matters, most notably the provision of affordable housing, weigh in favour of the appeal.

Planning balance and conclusion

73. In conclusion the proposal does not conform to the relevant spatial policies of the LP, as the site is outside the SDL and is in the open countryside in policy terms. It would cause limited harm to the character and appearance of the area, as would any built development on a greenfield site. However the LP policies which are most important in determining the appeal are out-of-date and are afforded significantly reduced weight.

74. The location is sustainable and the proposal offers genuine choices of transport modes and complies with the relevant policies.
75. Although I have concluded that there is a five year housing land supply in the District, based on the standard methodology, 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.
76. There would also be some limited benefits arising from construction employment, indirect economic benefits, and increased local spend.
77. 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.
78. For the reasons given above I conclude that the appeal should be allowed.

P. J. G. Ware
Inspector

CONDITIONS

- 1) Applications for approval of reserved matters are required before development can start and shall be made to the local planning authority before the expiration of three years from the date of this permission. The development hereby permitted shall be started within two years from the date of the approval of the last of the reserved matters to be approved.
- 2) Approval of the details of the layout, appearance of the buildings and landscaping of the site (called "the reserved matters") shall be obtained from the local planning authority in writing before any development is started.
- 3) The development hereby approved shall be carried out in accordance with the following plans: Location plan 2A; Draft general arrangement 02072-03F; Revised illustrative layout Rev B; Drawing 17.
- 4) The development hereby approved shall not exceed 180 dwellings.
- 5) No development shall take place until a Written Scheme of Investigation of archaeological work has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of the significance of the site, research questions and:
 - The programme and methodology of site investigation and recording
 - The programme for post investigation assessment
 - Provision for analysis of the site investigation and recording
 - Provision for publication and dissemination of the analysis and records of the site investigation
 - Provision for archive deposition of the analysis and records of the site investigation
 - Nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation

No development shall take place other than in accordance with the archaeological Written Scheme of Investigation.

The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological Written Scheme of Investigation and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

- 6) Before the commencement of the development hereby approved a Phase I contaminated land assessment shall be undertaken and approved in writing by the local planning authority. The contaminated land assessment shall include a desk-study with details of the history of the site's use including:
 - the likely presence of potentially hazardous materials and substances
 - their likely nature, extent and scale
 - whether or not they originated from the site

- a conceptual model of pollutant-receptor linkages
 - an assessment of the potential risks to human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments
 - details of a site investigation strategy (if potential contamination is identified) to effectively characterise the site based on the relevant information discovered by the desk study and justification for the use or not of appropriate guidance. The site investigation strategy shall, where necessary, include relevant soil, ground gas, surface and groundwater sampling/monitoring as identified by the desk-study strategy
- 7) The site investigation shall be carried out by a competent person in accordance with the current U.K. requirements for sampling and analysis. A report of the site investigation shall be submitted to the local planning authority for approval.
- 8) Before commencement of the development hereby approved, where the site investigation identifies unacceptable levels of contamination, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall have regard to CLR 11 and other relevant current guidance. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 9) None of the dwellings hereby approved shall be occupied until the approved remediation works have been carried out in full in compliance with the approved methodology and best practice.
- 10) If during the construction of the development hereby approved any suspected areas of contamination are discovered, which have not previously been identified, then all works shall be suspended until the nature and extent of the contamination is assessed and a report submitted and approved in writing by the local planning authority and the local planning authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated through the process described above.
- 11) Upon completion of the remediation works required by conditions above a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has achieved the approved

remediation standard, together with the necessary waste management documentation shall be included.

- 12) Before the commencement of any operations on site, a scheme for the disposal of highway surface water via a positive gravity-fed system, discharging to an outfall or public sewer, highway drain or watercourse, shall be submitted to and approved by the local planning authority. The development shall be implemented in accordance with these details.
- 13) Before the commencement of any operations on site, detailed designs shall be submitted to the local planning authority for written approval indicating the design and construction of the proposed access road bridge structure, the proposed works being completed in accordance with the approved scheme prior to the occupation of any dwelling hereby approved and maintained throughout the life of the development free from any impediment.
- 14) Before any other operations are commenced (excluding site clearance and the erection of the bridge to allow access), space shall be provided within the site curtilage for storage of plant and materials/site accommodation/loading and unloading of goods vehicles/parking and manoeuvring of site operatives and visitors vehicles, laid out and constructed in accordance with detailed designs to be submitted in advance to the local planning authority for written approval and retained throughout the contract period in accordance with the approved designs free from any impediment.
- 15) Before any other operations are commenced, (excluding condition numbers 11 - 13 above) a new estate street junction shall be formed to Spindle Drive located, designed, laid out, constructed and provided with 2.4m x 25m visibility splays in either direction, all as agreed in writing with the local planning authority, the area in advance of the sightlines being levelled, forming part of the new street constructed as footway and not forming part of any plot or other sub-division of the site.
- 16) No dwelling shall be occupied until a Travel Plan has been submitted to and approved by the local planning authority. The Travel Plan shall set out proposals (including a timetable), to promote travel by sustainable modes which are acceptable to the local planning authority, and shall be implemented in accordance with the timetable set out therein. Reports demonstrating progress in promoting sustainable transport measures shall be submitted annually, on each anniversary of the date of the planning permission, to the local planning authority for approval for a period of five years from first occupation of the development.
- 17) Throughout the entire period of construction, wheel washing facilities shall be provided within the site in a location and of a form that shall be submitted to and be approved in writing by the local planning authority before development commences.
- 18) The dwellings built within the area identified in purple on Drawing 17 shall be no taller than 1 and a half storeys in height.

- 19) Before the development hereby approved starts, a scheme for the provision of public art on the site, including a timetable for implementation of the scheme, shall be submitted to and approved in writing by the local planning authority. The public art shall thereafter be completed in full in accordance with the approved scheme and timetable and shall be retained as such thereafter.
- 20) Details of the existing ground levels, proposed finished floor levels of the dwellings and the proposed finished ground levels of the site, relative to a datum point which is to remain undisturbed during the development, shall be submitted to and approved in writing as part of the reserved matters approval. The development shall then be carried out in accordance with the approved details and the levels shall be retained as such thereafter.
- 21) All planting, seeding or turfing in the approved scheme of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 22) Before development starts, and as identified on the submitted indicative masterplan, a plan identifying a locally equipped area of play shall be submitted to and approved in writing by the local planning authority. As a minimum it shall include details of equipment to be erected, material used, including flooring and boundary treatments. The details as approved shall be built before more than half of the dwellings on site are occupied.
- 23) Before development starts a scheme for the provision of surface water drainage works, including details of any balancing and off-site works, shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full before the occupation of the first dwelling and shall be retained as such thereafter.
- 24) Before development starts, a scheme for the provision of foul drainage works shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in full before the occupation of the first dwelling and shall be maintained as such thereafter.
- 25) The site shall be developed with separate systems of drainage for foul and surface water on and off site.
- 26) No development shall commence until a detailed external lighting strategy has been submitted to and approved in writing by the local planning authority. Such approved measures shall be implemented in full and retained as such thereafter. No other lighting shall be constructed or implemented on the site.
- 27) No site clearance shall take place between 1st March and 31st August inclusive, unless a qualified ecologist has undertaken a detailed check of the site for active birds' nests immediately before work is commenced and provided written confirmation that no birds will be harmed and/or that there

are appropriate measures in place to protect nesting birds. Any such written confirmation should be submitted and approved by the local planning authority.

28) No development shall take place (including ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following incorporating the measures outlined within Section 4 of the ecological report:

- Risk assessment of potentially damaging construction activities
- Identification of biodiversity protection/buffer zones to include the Brook, hedgerows, woodland, trees other habitat as required
- Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts on habitats and species during construction
- The location and timing of sensitive works to avoid harm to habitats and species
- The times during construction when specialist ecologists need to be present on site to oversee works
- Responsible persons and lines of communication
- The role and responsibilities on site of an ecological clerk of works or similarly competent person
- Use of protective fences, exclusion barriers and warning signs

The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved details.

29) No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved by the local planning authority. The Statement shall provide for:

- Details of construction workers' accommodation
- The storage of plant and materials
- Parking and manoeuvring areas for vehicles
- Loading and unloading areas

The approved CMS shall be adhered to and implemented throughout the construction period in accordance with the approved details.

30) No construction work shall be carried out or deliveries made to the site outside of the hours of 0730 to 1800 hours Monday to Friday and 0730 to 1200 on Saturday. No construction work or deliveries shall be carried out/made at any time on Sundays or Public Holidays.

31) A Landscape and Ecological Mitigation and Management Plan (LEMMP) for all retained habitats within the development site shall be submitted to and be approved in writing by the local planning authority as part of any reserved matters application. The plan should incorporate the details provided in the ecological appraisals and the content of the plan should include the following:

- Description and evaluation of features to be managed/enhanced or created
- Ecological trends and constraints on site that might influence management
- Aims and objectives of management
- Appropriate management options and methods for achieving aims and objectives
- Timescales
- Prescriptions for management actions
- Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period)
- Details of the body or organization responsible for implementation of the plan
- Ongoing monitoring and remedial measures

The LEMMP shall be implemented in accordance with the approved details.

- 32) The details to be submitted to and approved in writing by the local planning authority as part of the reserved matters shall include a scheme for mitigating climate change through the sustainable design and construction of the dwellings including the provision of sources of renewable energy. Thereafter the approved climate change scheme shall be implemented in full and retained as such thereafter.
- 33) Prior to the commencement of development further investigation works with regard to the coal mining legacy shall be submitted to and approved in writing by the local planning authority. The works shall include the submission of a scheme of intrusive site investigation works. The works as approved shall be completed and a report of the findings submitted to the local planning authority for written approval. Any remedial works as agreed shall be implemented in full.
- 34) Before the development hereby approved starts a scheme for the recruitment of employees for the construction period of the development hereby approved shall be submitted to and approved in writing by the local planning authority. Thereafter the scheme shall be operated in accordance with the approved details.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:	
Mr J Mitchell of Counsel	Instructed by the Council's Planning Manager
He called	
Ms L Chapman MSP Cert PLAP	Principal Planning Officer, Policy
Mr N Ireland BA(Hons) MTP MRTPI	Director, Icen Projects
Mr G Bradford BSc(Hons) MRTPI PGDipURP MA	Director, Planning and Environment Studio

FOR THE APPELLANT:	
Mr C Young QC	Instructed by Mr P Hill
He called	
Mr R McWilliam DipLA CMLI	Director of Landscape, Barton Willmore
Mr A Moger BA(Hons) MA MRTPI	Tetlow King Planning
Mr M Nettleton BSc MCIHT	Joint Managing Director, Phil Jones Associates
Mr C Austin-Fell BA(Hons) MRTPI MTP	Associate RPS Planning and Development
Mr D Owen BA(Hons) MTPL MRTPI	EFM
Mr R Chalmers BSc ME MICE	Director of Engineering, RPS Group
Mr S Clyne LCP Dip SMS Cert Ed MAE	EFM
Mr P Hill BA(Hons) MA MRTPI	Director, RPS Planning and Development

INTERESTED PERSONS:	
Mrs L Carter	Local resident
Mrs Y Piggott	Local resident
Cllr D Ruff	Chair, Wingerworth Parish Council
Mr K Boulden	Local Resident
Mrs D Nash	Local resident

INQUIRY DOCUMENTS

1	List of persons present at the Inquiry
2	CIL Compliance Statement
3	Mrs Piggott's statement
4	Mrs Nash's statement
5	Mr Boulden's statement
6	Mrs Carter's statement
7	Cllr Ruff's statement
8	Appellant's table on 2018 OBR Economic Activity Rates
9	Mr Winter's photograph of 2014 flooding

10	County Council Affordable Housing Completions (run 8/18)
11	Requirement/Supply Options summary
12	Correspondence related to Former Avenue Site
13	Extract from PPG on availability
14	Pioneer House affordable completions
15	Appeal decision (3180400) at Watlington Road, Benson
16	Appeal decision (3164961) at Langford Road, Henlow (and related decisions)
17	EWCA Civ 1146 [2016] Gladman Developments Ltd & Daventry District Council and SSCLG
18	Mr Bradford's note on the Planning Balance
19	Note by Mrs Carter from 2013 Inquiry
20	Response to residents by Mr Clyne
21	Response to residents by Mr Chalmers
22	Mr Nettleton's plan of routes to amenities
23	Response to residents by Mr Nettleton
24	Affordable housing clarification
25	Email from Mr Owen regarding ownership of dry stone wall
26	Note related to Mrs Piggott's letter on ecology
27	DLP Inset plan
28	Response to Council's affordable housing clarification note
29	Note on housing provision at Nethermoor Road
30	Requirement/supply options table (amended)
31	Clarification of minor sites dispute
32	Closing submissions by the Council
33	Closing submissions by the appellant
34	Council's further submissions on revised PPG and Household projections
35	Appellant's further submissions on revised PPG and Household projections

CORE DOCUMENTS

A	PLANNING APPLICATION DOCUMENTS, COMMITTEE REPORTS AND DECISION NOTICE
A1	Not used
A2	Covering Letter (03.03.17)
A3	Notice Letter 03.03.17 (Artisan and Mr. Needham)
A4	Application Forms 03.03.17
A5	AAH4960_01_D_Illustrative Masterplan;
A6	AAH4960_02_A_Location Plan;
A7	AAH4960_04_D_Illustrative Street Scene;
A8	0272-03-F General Arrangement;
A9	2000_REV2 Topographical Survey;
A10	Design and Access Statement Rev A (RPS);
A11	Building for Life 12 Assessment Rev A (RPS);
A12	JBB7419.C5050 Planning Statement, including Statement of Community Involvement and draft S106 Heads of Terms (RPS) 03.03.17
A13	2072_A Transport Assessment (Phil Jones Associates);
A14	2072_A Framework Travel Plan (Phil Jones Associates);
A15	Landscape and Visual Impact Assessment Rev 1 (Barton

	Willmore);
A16	OXF90695 Ecological Appraisal V3 (RPS);
A17	AAC5338 Flood Risk Assessment (RPS);
A18	JKK9312 Arboricultural Impact Assessment (RPS);
A19	JAC23051 Desk-Based Baseline Heritage Assessment (RPS);
A20	JER6605 Coal Mining Risk Assessment (RPS).
A21	Wingerworth Drainage Response (19 June 2017)
A22	Addendum Design & Access Statement (RPS) (July 2017)
A23	AAH4960_09_RevA_Revised Illustrative Masterplan (RPS) (July 2017)
A24	AAH4960_10_RevA_Revised Illustrative Layout (RPS) (July 2017)
A25	Covering Letter, 26 July 2017
A26	02675-P-001-P3 - Proposed Re-Alignment Long Section (PJA Engineering) (23 March 2017)1
A27	AAH4960_09_RevB_Revised Illustrative Masterplan (RPS) (July 2017)2
A28	AAH4960_10_RevB_Revised Illustrative Layout (RPS) (July 2017)
A29	AAH4960_11_Rev- Illustrative Land Use Layout (RPS) (July 2017)
A30	OXF9065 Wingerworth Addendum Biodiversity Report V1 (RPS) (4 September 2017)
A31	NEDDC Planning Committee, 26 September 2017
A32	Geophysical Survey Report (SUMO Services Ltd) (April 2017)
A33	NEDDC Planning Committee, 26 September 2017 - Minutes
A34	NEDDC Planning Committee, 12 December 2017
A35	AAH4960_03_RevA_Illustrative Layout
A36	NEDDC Planning Committee, 12 December 2017 - Minutes
A37	NEDDC Decision Notice, 14 December 2017
B.	APPEAL DOCUMENTS
B1	Appeal Forms & Grounds of Appeal
B2	LPA Appeal Questionnaire
B3	LPA Statement of Case
B4	Appellant Statement of Case 22 December 2017
B5	Letter to NEDDC dated 7 March 2018 from RPS re clarification for Reason for Refusal 3
B6	Email from NEDDC withdrawing three of the reasons for refusal, 20 March 2018
B7	Letter dated 19 June 2018 from RPS to NEDDC relating to future Local Plan Examination
B8a	Letter dated 29 June 2018 from RPS to NEDDC regarding Condition 18
B8b	Drawing 17 Building heights and massing plan sent in conjunction as CD B8a letter regarding Condition 18
B9	Statement of Common Ground (July 2018)
B10	List of proposed planning conditions (July 2018) - To follow
B11	Section 106 Agreement (July 2018) - To follow
C.	GOVERNMENT GUIDANCE
C1	National Planning Policy Framework (2012)
C2	National Planning Policy Framework - Draft text for consultation (March 2018)
C3	(National) Planning Practice Guidance (Extracts)
C4	Draft Planning Practice Guidance - Draft updates to planning

	guidance which will form part of the Government's online Planning Practice Guidance (March 2018)
C5	Institution of Highways and Transportation – Guidelines for Providing for Journeys on Foot (2000)
C6	Housing White Paper 'Fixing Our Broken Housing Market', February 2017
C7	Guidelines for Providing for Journeys on Foot – Institution of Highways and Transportation (2000)
C8	Design Guidance - Active Travel (Wales) Act 2013.
C9	Manual for Streets
C10	Environment Agency (EA) Flood Risk and Drainage guidelines
C11	Environment Agency - Flood Zone Classification.
C12	Guidelines for Providing for Journeys on Foot (Institute for Highways and Transportation, 2000)
C13	Home to School Travel and Transport Guidance: Statutory Guidance for Local Authorities (Department for Education, 2014)
C14	Inclusive Mobility (Department for Transport, 2005)
C15	LTN 1/04 Policy, Planning and Design for Walking and Cycling (Department for Transport, N.D.)
C16	Local Cycling and Walking Infrastructure Plans Annex C (Department for Transport, 2017)
C17	Manual for Streets 2 (Chartered Institute of Highways and Transportation, 2010)
C18	Planning Policy Guidance 13: Transport (Communities and Local Government, 2011)
C19	PAS OAN & Housing Targets Technical Advice Note
C20	Neighborhood Planning Written Ministerial Statement December 2016
C21	Fixing the Foundations; Creating a More Prosperous Nation
D.	APPEAL DECISIONS AND COURT JUDGEMENTS
D1	Bishops Cleeve Secretary of State July decision, APP/G1630/A/11/2146206 & APP/G1630/A/11/2148635 (16 July 2012)
D2	The House of Lords Select Committee on Economic Affairs 'Building more homes' report, (July 2016)
D3	Horse and Jockey, Brackenfield Lane, Wessington. DE55 6DW, APP/R1038/W/17/3180085 (15 November 2017)
D4	Land at Gaydon Road, Bishop's Itchington, Southam, Warwickshire, APP/J3720/A/13/2202961 (29 January 2014)
D5	Land to the rear of 61-119 Nethermoor Road and opposite 15-21 Deerlands Road, Wingerworth (Phase 1), APP/R1038/A/13/2192646 (20 August 2013)
D6	Gladman vs Daventry District Council and Secretary of State for Communities and Local Government, [2016] EWCA Civ 1146 (23 November 2016)
D7	Marsh Green Estates Ltd. Land at the junction of Narrowleys Lane and Moor Road, Ashover, APP/R1038/W/15/3133527 (19 December 2016)
D8	APP EWHC827 Phides v Secretary of State for Communities and Local Government and Shepway District Council and David Plumstead (26 March 2015)
D9	APP/U4230/A/11/2157433, Burgess Hill Secretary of State

	Decision, (16 July 2012)
D10	Land north of Upper Chapel, Launceston, APP/D0840/A/13/2209757, (11 April 2014)
D11	Yate, Appeal Decision APP/P0119/A/12/2186546 (8 April 2013)
D12	Land adjacent to Cornerways, High Street, Twyning, Tewksbury APP/G1630/W/14/3001706 (13 July 2015)
D13	Appeal Decision: APP/R1038/W/15/3133527 – Narrowleys Lane, Ashover (19 December 2016)
D14	Appeal Decision: APP/R1038/W/17/3183949 – Egstow Street, Clay Cross (2 February 2018)
D15	Appeal Decision: APP/R1038/W/17/3189171 – Back Lane, Wessington (23 March 2018)
D16	Hunston Properties Ltd. vs. (1) Secretary of State for Communities and Local Government (2) St Albans City and District Council (5 September 2013)
D17	West Berkshire v (1) Secretary of State for Communities and Local Government (2) HDD Burghfield Common Ltd (16 February 2016)
D18	Oadby and Wigston Borough Council v (1) Secretary of State for Communities and Local Government (2) Bloor Homes Ltd (27 October 2016)
D19	Stratford on Avon District Council v Secretary of State for Communities and Local Government and (1) J S Bloor (Tewkesbury) Limited (2) Hallam Land Management Limited (3) Rase (Residents Against Shottery Expansion) (18 July 2013)
D20	City and District Council of St Albans v The Queen (on the application of) Hunston Properties Limited Secretary of State for Communities and Local Government and anr. (12 December 2013)
D21	(1) Gallagher Estates Limited (2) Lioncourt Homes Limited v. Solihull Metropolitan Borough Council (30 April 2014)
D22	Satnam Millennium Limited v Warrington Borough Council (19 February 2015)
D23	Kings Lynn West Norfolk v SSCLG (July 2015)
D24	Appeal Decision: APP/W0340/A/14/2228089- Land at Firlands Farm, Hollybush Lane. (6 July 2015)
D25	Appeal Decision: APP/V0728/W/15/3018546- Longbank Farm, Ormesby (9 March 2016)
D26	Appeal Decision: APP/C3105/A/14/2226552 Land at Sibford Road, Hook Norton (7 December 2015)
D27	Appeal 3171692, Land South of Marroway, Aylesbury, Bucks (30 November 2017)
D28	Secretary of State decision, Pulley Lane, Droitwich Spa (July 2014)
D29	Secretary of State decision, East Leake, Nottinghamshire (March 2008)
D30	Secretary of State decision, Sketchley House, Burbage (November 2014)
D31	Appeal decision, Campton Road, Shefford (2 September 2015)
D32	Appeal decision, Oving Road, Chichester (18 August 2017)
D33	Appeal Decision: APP/R1038/W/17/3188198 Land East of Fold House Farm (25 June 2018)

D34	Appeal Decision: APP/C3430/A/12/2189442 Land off Elmwood Avenue, Essington, WV11 2DH (11 April 2013)
D35	Appeal Decision: APP/D2320/A/12/2172693 Land to the north and west of Lucas Lane, Whittle-le-Woods, Chorley, PR6 7GY (19 September 2012)
D36	Appeal Decision: APP/D0840/A/13/2209757 Land north of Upper Chapel, Launceston PL15 7DW (11 April 2014)
D37	Appeal Decision: APP/A0665/A/14/2226994 Land at Fountain Lane, Davenham, Cheshire (3 September 2015)
D38	14/00766/OL Appellants Proof of Evidence- Statement of Common Ground for APP/R1038/W/15/3133527 – Narrowleys Lane, Ashover (19 December 2016)
D39	Dartford BC v SoS DLG 2014: EWHC 2636 (24 June 2014)
D40	Appeal Decision: APP/T2405/A/13/2193758 Land east of Springwell Lane, Whetstone, Leicestershire LE8 6LT (01 August 2013)
E.	LOCAL PLAN; EMERGING LOCAL PLAN; EMERGING NEIGHBOURHOOD PLAN; SUPPLEMENTARY PLANNING DOCUMENTS AND EVIDENCE BASE
E1	North East Derbyshire Local Plan Inspector's Report (2005)
E2	North East Derbyshire Local Plan 2001-2011 (November 2005)
E3	North East Derbyshire Local Plan Proposals Map Inset F (November 2005)
E4	Developer Contributions SPD (September 2007)
E5	Recreation and Open Space SPD (October 2007)
E6	Direction from the Secretary of State Letter of Karin Staples/Direction under Paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004/Schedule of saved Policies (November 2008)
E7	Access for All SPD (July 2008)
E8	Affordable Housing SPD (January 2008)
E9	Sustainable Buildings SPD (November 2011)
E10	North East Derbyshire Interim Sustainable Buildings Policy (May 2009)
E11	Successful Places SPD, A Guide to Sustainable Housing Layout and Design (December 2013)
E12	NEDDC Cabinet – Proposed Interim Housing Policy for New Housing Development in North East Derbyshire & Minutes (17 March 2010)
E13	Interim Planning Policy for New Housing Development in North East Derbyshire (March 2010)
E14	North East Derbyshire Core Strategy (Local Plan Part 1: Strategic Policies) (August 2012)
E15	North East Derbyshire Core Strategy: Spatial Portrait, Vision and Strategic Objectives (August 2012)
E16	North East Derbyshire Core Strategy: Green Belt Review (August 2012)
E17	Derbyshire County Council Developer Contributions Protocol (September 2012)
E18	North East Derbyshire Local Plan (2011-2031) Part 1 Initial Draft (Site allocations not included) (February 2015)
E19	Local Plan Position Statement (November 2016)

E20	North East Derbyshire Local Plan (2011-2033) Consultation Draft (February 2017)
E21	North East Derbyshire Local Plan (2011-2033) Consultation Draft Wingerworth Policies Map (February 2017)
E22	North East Derbyshire Local Plan (2014-2034) Consultation Publication Draft (February 2018)
E23	North East Derbyshire Settlement Development Limits Review (January 2018)
E24	Wingerworth Parish Draft Submission Neighbourhood Plan (July 2017)
E25	Wingerworth Neighbourhood Plan 2016 – 2033 – Referendum Version (April 2018)
E26	Cabinet Report and Examiner’s Report re Wingerworth Neighbourhood Plan (11 April 2018)
E27	NEDDC Wingerworth Neighbourhood Plan: Decision Statement (2018)
E28	Wingerworth Neighbourhood Planning Referendum: Declaration of Result (14 June 2018)
E29	North East Derbyshire District Council, Settlement Hierarchy (December 2016)
E30	Settlement Hierarchy Study Update (December 2017)
E31	Not used
E32	Not used
E33	North East Derbyshire Local Development Scheme (LDS8) (18 January 2018)
E34	Derbyshire County Council Developer Contributions Protocol (2018)
E35	North East Derbyshire “Successful Places” Guidance (2013)
E36	North East Derbyshire 2011 HNMA Final Report 2012
E37	North East Derbyshire District Council Record of Decision Taken by the Chief Executive Officer 09 July 2018
E38	Letter from Secretary of State to NEDDC re Local Plan Intervention (23 March 2018)
E39	Wingerworth Neighbourhood Plan, Final Version (July 2018)
E40	Extract of Cabinet Report – North East Derbyshire Local Plan: Publication Draft and Proposals for Public Consultation followed by Submission to the Secretary of State (14 February 2018)
F	REGIONAL DOCUMENTS
F1	East Midlands Regional Plan (March 2009), Extract
F2	Derby and Derbyshire Joint Structure Plan (1991 – 2011)
F3	Strategic Housing Market Assessment, Objectively Assessed Need (November 2013)
F4	North Derbyshire and Bassetlaw Housing Market Assessment, Objectively Assessed Need Update (October 2017)
F5	Considering North East Derbyshire’s OAN (GL Hearn) (February 2018)
F6	Derbyshire County Council Local Flood Risk Management Strategy (July 2015)
F7	Derbyshire County Council Preliminary Flood Risk Assessment (May 2011)
F8	Housing Need in the North Derbyshire and Bassetlaw HMA - Sensitivity Testing Analysis (March 2014)

G	HOUSING LAND SUPPLY INFORMATION
G1	Lichfields document Start to Finish How Quickly do Large-Scale Housing Sites Deliver? (November 2016)
G2	Housing Land Supply Completions (Major Sites)
G3	North East Derbyshire District Council, Five Year Land Supply (2017)
G4	NEDDC Housing Topic Paper (January 2018)
G5	NEDDC Housing Completions 2017-2018 and Housing Commitments at 31/03/2018 paper
G6	NEDDC, Five Year Housing Land Supply Statement (May 2018)
G7	Not used
G8	RTPI Research Report No. 1 - Planning for housing in England 2014
G9	OBR Fiscal Sustainability Report 2017
G10	SWDP Inspectors Report Interim Findings 2016
G11	Report on the Examination into the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy (26 October 2017)
H	OTHER SUPPORTING INFORMATION
H1	Local Plan: Written Statement – HCWS254 (Local Plans) made by Savid Javid. 16 November 2017
H2	Guidelines for Landscape & Visual Impact Assessment 3rd Edition (April 2013)
H3	Sustainable Community Strategy for Chesterfield and North East Derbyshire 2009-2026
H4	NEDDC Housing and Economic Development Strategy 2015-2020
H5	NEDDC Corporate Plan 2015-2019
H6	NEDDC Growth Strategy 2014-2024 (2014)
H7	North Derbyshire Homeless Strategy and Homeless Review 2016-2021
H8	Census for Wingerworth Parish 20113
H9	HBF Housing Calculator4
H10	Council Tax Bands for NE Derbyshire for 2017-18
H11	Annual Monitoring Report (AMR13) (1 April 2016 – 31 March 2017) (February 2018)
H12	OPUN Design Review (19 June 2016)
H13	NEDDC's Green Belt Paper Topic Paper (Jan 2018)
H14	NEDDC's Settlement Role Update (December 2017)
H15	NEDDC' Local Development Scheme (November 2015)
H16	Local Plan Timetable (Updated June 2016)
H17	NEDDC website wording about stalled progress on the emerging NEDDC Local Plan (2011-2033) (22 November 2017)
H18	Not used
H19	North East Derbyshire Committee Report 20.03.18 concerning reasons 1 and 5 of the decision notice and minutes.
H20	CIRIA C753, Sustainable Urban Drainage Systems (SuDS Manual)
H21	3rd Party Representations to the Appeal
H22	BRE:365 soakaways infiltration rates testing (2007)
H23	Consultation responses to Outline Application
H24	Active Travel Wales Act 2013 Design Guidance Appendix B Walking Route Audit Tool (Welsh Government, 2013)
H25	The Avenue Area Strategic Framework (North East Derbyshire)

	District Council, 2013)
H26	Not used
H27	North East Derbyshire Employment Land Review Update (2017) - Lichfields
H28	Employment Land Review Update - Economic Growth Analysis 2018 - Lichfields
H29	The Sheffield City Region Integrated Infrastructure Plan – Sectoral and Local Authority Distribution of SCR 70,000 Jobs Target, Assumptions Report FINAL REPORT (2015) - Ekosgen.
H30	North East Derbyshire Whole Plan Viability Assessment (2018) – Bailey Venning Associates Ltd.
H31	The Role of Land Pipelines in the UK Housebuilding Process (2017) - ChamberlainWalker and Barratt Developments PLC
H32	Duty to Cooperate Statement of Compliance

Appeal Decisions

Inquiry held between 26 April – 6 May 2021

Site visits made on 1 April 2021 and 4 May 2021

by C Masters MA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 14 June 2021

Appeal A: APP/B1930/W/20/3265925

Roundhouse Farm, Land Off Bullens Green Lane, Colney Heath

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Canton Ltd against St Albans City & District Council.
 - The application Ref 5/2020/1992/LSM was dated 28 August 2020.
 - The development proposed is outline application for the erection of up to 100 dwellings, including 45% affordable and 10% self build, together with all ancillary works (All matters reserved except access) at Land off Bullens Green Lane, Colney Heath.
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Appeal B: APP/C1950/W/20/3265926

Roundhouse Farm, Land Off Bullens Green Lane, Colney Heath

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Canton Ltd against the decision of Welwyn Hatfield Borough Council.
 - The application Ref 6/2020/2248/OUTLINE, dated 28 August 2020, was refused by notice dated 2 December 2020.
 - The development proposed is outline application for the erection of up to 100 dwellings, including 45% affordable and 10% self build, together with all ancillary works (All matters reserved except access) at Land off Bullens Green Lane, Colney Heath.
-

Decision

1. The appeals are allowed and planning permission is granted for the erection of up to 100 dwellings, including 45% affordable and 10% self build, together with all ancillary works (All matters reserved except access) at Land off Bullens Green Lane, Colney Heath, in accordance with the terms of the applications: 5/2020/1992 /LSM dated 28 August 2020 and 6/2020/2248/OUTLINE dated 28 August 2020, subject to the conditions set out on the attached schedule.

Preliminary Matters

2. The boundary between St Albans City & District Council (SADC) and Welwyn Hatfield Borough Council (WHBC) transects the appeal site with the proposed access falling within WHBC off Bullens Green Lane and the western part of the site abutting Roestock Park and the Pumping Station falling within SADC. The planning applications, subject to these appeals, were essentially the same and were submitted to each of the planning authorities and considered collectively at the same public inquiry. For this reason, I have considered the proposed scheme in its entirety rather than as two separate and divisible schemes. I have thus determined the appeals on that basis.
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3. In the context of appeal APP/B1930/W/20/3265925, this scheme was presented to planning committee on 18 January 2021 to request that members confirm how they would have determined the application had it not been subject to an appeal against non determination. At this committee meeting, it was resolved that the Council would have refused planning permission.
4. The reasons for refusal given by WHBC and putative reasons by SADC were similar, in respect to objections related to the suitability of the location, character and appearance, highways, ecology, archaeology, impacts on local infrastructure and services, Green Belt and heritage matters.
5. It was common ground that the Councils could not demonstrate a 5 year supply of housing sites. However, the parties disagreed on the extent of this shortfall. It was agreed that the variation between the two parties was not a matter which was material to the decision on these appeals. I will return to this matter below.
6. Since the appeals were submitted, the appellant has submitted an updated Ecological Impact Assessment. An agreed statement of common ground (SoCG) was submitted prior to the start of the inquiry which set out, amongst other things, principal matters of agreement and disagreement. This confirmed that objections relating to archaeology, ecology and impacts on local infrastructure and services could be addressed by suitably worded conditions/the completion of a Section 106 Agreement. Where necessary, I return to these matters within my report. In addition, appendix A to the SoCG included an agreed facilities plan illustrating the location and average distances to a number of services and facilities within Colney Heath and beyond. I return to this matter below.
7. At the start of the inquiry, a further SoCG was submitted in relation to highways matters. The Councils, Hertfordshire County Council (HCC) as highways authority and the appellant agreed that the appeals would have an acceptable impact on highways safety and therefore reason for refusal (RfR) number 3 on the WHBC decision and putative RfR number 4 of SADC were therefore withdrawn. Notwithstanding this position and in light of third party representations in relation to this issue, this topic was still subject to a round table discussion as part of the inquiry.
8. A replacement access drawing was submitted prior to the inquiry. It was subject to a separate consultation. Neither WHBC or SADC objected to the plan being substituted and all parties had an opportunity to comment on the drawing. Accordingly, I do not consider anybody would be prejudice by my taking this drawing into account and have considered the appeals on this basis.
9. The appellants submitted an unsigned Section 106 (S106) to the inquiry. This was discussed at a round table session and I allowed a short amount of time after the inquiry for the document to be signed. The signed version was received on 24 May 2021. The agreement made included a number of obligations and provision for payments to be made to WHBC, SADC and HCC. I return to this matter below.

Main Issues

10. The appeal site is located within an area of Green Belt. It was agreed between the appellant and the Councils that in the context of the Framework, the

proposals would present inappropriate development within the Green Belt, a matter that must attract substantial weight against the proposals. I concur with this view. As a result and against the background I have set out above, the main issues are:

- the effect of the proposal on the character and appearance of the area;
- the effect of the proposal on the openness of the Green Belt and the purposes of including land within it;
- the effect of the proposed development on the setting of the nearby listed building 68 Roestock Lane;
- whether the site is in an accessible location with regards to local services and facilities;
- whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Effect on Character and Appearance

11. The appeal site comprises a parcel of land of approximately 5 hectares on the eastern edge of Colney Heath. It is bounded by residential development to the northern boundary. There is a short terrace of cottages to the eastern corner along Bullens Green Lane before the boundary opens out into open countryside and beyond. To the south, the site is contained by Fellowes Lane where again residential dwellings are present on the south western corner. The western boundary comprises Roestock Park and the Pumping Station.
12. The parties agree that the site is not a valued landscape under the Framework paragraph 170 definition and that no other landscape designations are applicable to the appeal site. The Hertfordshire Landscape Strategy, 2005 notes the site is located within the Mimms Hall Valley, where the landscape character is described, amongst other things, as being strongly influenced by the major transport routes and the surrounding settlement which give it an urban-edge rather than rural character.
13. The A1 and railway line do not have any visual impact on the appeal site. From what I saw on the site visits, the character of the area is a mix of edge of settlement and countryside. Walking along the footpaths which traverse the site, the experience is one of being on the edge of a settlement rather than a wholly rural context. Whilst the open countryside to the south and east is clearly visible, the surrounding residential properties either facing the site or their rear gardens and associated boundary treatment is also clearly visible. These range in scale and form from bungalows fronting Fellowes Lane, glimpsed views of the 3 storey dwellings within Admiral Close and Hall Gardens and the rear elevations and gardens of properties along Roestock Gardens. Bullens Green Lane and Fellowes Lane serve to enclose the appeal site and provide a degree of containment from the wider countryside and beyond. My judgement leads me to conclude that the site strongly resonates with this urban edge definition provided by the 2005 Landscape Strategy.

14. Turning to consider the area beyond the appeal site itself, the sense of countryside prevails via the public footpath network and road network. These public footpaths continue within Bullens Green Wood and further beyond the appeal site at Tollgate Farm. Contrary to the views expressed by the Council, my experience of the views to the appeal site within Bullens Green Wood are of glimpse views of the appeal site. From the south and in the wider landscape context, the appeal site appears against the backdrop of the existing dwellings as a relatively self contained parcel of land on the edge of the settlement. These longer distance views of the appeal site reinforce the urban edge definition.
15. The Councils contend that the appeal site provides a positive element of the countryside that frames Colney Heath. I do not agree. The very clear sense of countryside is only evident when you travel beyond the appeal site south along Tollgate Road. Here the landscape character changes from mixed residential and open field to predominantly open fields with dotted farm buildings and isolated residential dwellings set within this open landscape. This is entirely different to my experience of the appeal site which I have outlined above.
16. The Councils raised specific concerns regarding alleged harm which would arise as a result of the new vehicular access off Bullens Green Lane and also the new pedestrian footpath and access point along Fellowes Lane. The new access road would be located towards the northern end of Bullens Green Lane, where the character of the existing area is already influenced by cars parked on the public highway, and the visibility of the residential properties beyond, all contributing to the edge of settlement character. Along Fellowes Lane, a new pedestrian access to the site would be introduced along with a public footpath. These characteristics are entirely compatible with the urban edge environment which currently exists.
17. The changes brought about by the built development and changes to the surrounding roads would result in visual changes to the area, which in my view would be localised in impact. Landscaping of the site which would be the subject of any reserved matters submission would mean that in the context of the existing immediate locality, the impacts of the development would be significantly reduced over time. Nevertheless, the proposed development would introduce built development here where currently no development exists which would cause some harm to the character and appearance of the area.
18. Taking into account all of the above factors, I conclude that the proposals would cause limited harm to the character and appearance of the area. I attach moderate weight to this factor. There would be conflict with policy D2 of the Welwyn Hatfield District Plan, 2005. Policy D2 requires all new development to respect and relate to the character and context of the areas. Proposals should as a minimum maintain and where possible should enhance or improve the character of the existing area.
19. The Council have also referred to policies D1, RA10 and RA11 in their reasons for refusal. Policy D1 requires a high standard of design in all new developments. Policy RA10 relates specifically to the Landscape Character Assessment outlined above, requiring proposals to contribute, where appropriate to the maintenance and enhancement of the local landscape character. Policy RA11 refers to the location of the site within the Watling Chase Community Forest boundary. The policy requires, amongst other things,

that proposals seek to include planting, leisure and landscape improvements, where this accords with Green Belt policies. I shall return to the matter of Green Belt below. However, in broad terms I see no reason why these policy objectives could not be readily achieved at reserved matters stage through an appropriately designed scheme and landscape strategy for the site.

20. For the same reasons, the proposals would conflict with policy 2 of the St Albans Local Plan, 1994. Policy 2 of the St Albans Local Plan 1994 identifies, amongst other things, Colney Heath as a Green Belt settlement whereby development will not normally be permitted except for the local housing needs, local services and facilities needs of the settlement and development must not detract from the character and setting of the settlement.
21. The Council have also referred me to policies 69, 70 and 74 of the St Albans Local Plan, 1994. There would be some conflict with policy 69. In relation to the requirements regarding scale and character in terms of plot ratios, height, size and scale, as well as the requirements in relation to materials, I can see no reason why these matters could not be satisfactorily addressed at the reserved matters stage. However the policy also cross references to the requirements of policy 2 outlined above which I have already identified a conflict with. Policy 70 goes onto set out a number of design criteria and layout criteria including but not limited to the dwelling mix, privacy between dwellings, parking and materials. Policy 74 relates specifically to landscaping and tree preservation. Again noting this is an outline scheme, and subject to the reserved matters submission, I can see no reason why the matters raised by policies 70 and 74 could not be appropriately addressed at the reserved matters stage.

Purposes of including land within the Green Belt

22. The Framework and in particular paragraph 133 makes it clear that the Government attaches great importance to the Green Belt and the protection of its essential characteristics. It was common ground between the parties that the proposals represent inappropriate development as identified by the Framework. In terms of the five purposes of the Green Belt identified at paragraph 134 of the Framework, it was also common ground that the key tests in the context of these appeals are the effect on openness, encroachment and urban regeneration. I deal with each of these matters in turn.

Openness of the Green Belt

23. The appeal site comprises an open agricultural field with a number of public footpaths which traverse the site. It is entirely free from built development. The appeal proposals would introduce built development to the site in the form of 100 dwellings with associated access roads and pavements, residential gardens, open space and driveways. The precise layout and form of the development would be determined at reserved matters stage. Even taking into account the potential for boundary treatment and landscaping which could include open green space and play space and could be integral to the layout of the residential development proposed, this would have the effect of a considerable reduction in the openness of the site. The proposals would lead to conflict with policy 1 of the St Albans District Council Local Plan, 1994. This policy identifies the extent of Green Belt within the Borough, and outlines the developments which would be permitted which broadly align with the

development identified by the Framework. This, harm, in addition to the harm by inappropriateness, carries substantial weight against the proposals.

Safeguarding the countryside from encroachment

24. It was generally agreed that the impact of the appeal proposal would be limited in terms of the impact on the wider integrity of the Green Belt. This is a view that I share. In terms of the impact of the development on the purpose of safeguarding the countryside from encroachment, my attention has been drawn to a number of background evidence documents including Green Belt studies. These include a report prepared by SKM Consultants in 2013 which included an assessment of Green Belt in both WHBC, SADC and Dacorum Borough Council. Here, the appeal site is assessed as part of parcel 34, a 419ha parcel of land. Reflective of the size and scale of the parcel of land, the report sets out a number of key characteristics of the land. With reference to the gap between Hatfield and London Colney, preventing the merger of St Albans and Hatfield, and preserving the setting of London Colney, Sleafshyde and Tyttenhanger Park, the report states that the parcel makes a significant contribution towards safeguarding the countryside and settlement pattern and gaps between settlements. These characteristics bear little or no relationship to the appeal site, and given the sheer size and scale of the land identified within the report when compared to the appeal site, I place only very limited correlation between the conclusions drawn here in relation to the function of the land or assessment of its function relative to the purposes of the Green Belt when compared to the appeal site.
25. The most recent Green Belt Assessment which was prepared in relation to the WHBC Local Plan review is noted as a Stage 3 review and was prepared by LUC in March 2019. Only the part of the appeal site which falls within Welwyn Hatfield forms part of the assessment, and is included within the much wider site area known as parcel 54. The report notes that whilst residential development is visible across much of the parcel, the parcel *as a whole* makes a significant contribution to the safeguarding of the countryside from encroachment. The report notes that the impact of the release of the parcel *as a whole* from the Green Belt would be moderate-high, however the impact on the integrity of the wider Green Belt would be limited. Again, I place only limited weight on the findings of this report relative to the appeal site as the assessment and conclusions drawn relate specifically to parcel 54 *as a whole* which includes a much wider area and excludes part of the appeal site in any event.
26. I have already set out in my assessment of character and appearance above that the appeal site has an urban edge/ edge of settlement character. I have made a clear distinction between the appeal site and its separation from the countryside beyond to the south and east of the appeal site. In this way, the appeal site is influenced by the surrounding residential development. As a result of these locational characteristics and influences, the consequences of the development at the appeal site would mean that the proposals would have only a localised effect on the Green Belt. The broad thrust of, function and purpose of the Green Belt in this location would remain and there would be no significant encroachment into the countryside. I therefore conclude that the appeal proposal would not result in harm in term of the encroachment of the Green Belt in this location. This is a neutral factor which weighs neither in favour nor against the appeal proposals.

To assist in urban regeneration, by encouraging the recycling of derelict and other urban land

27. The harm alleged here is limited to WHBC where the Council contend that the proposal would not assist in respect of this fifth purpose of the Green Belt. I am aware that the emerging plan proposes a number of urban regeneration sites, some of which already have planning permission. However, I have no substantive evidence to suggest that the development at this site would disincentivise the urban regeneration of sites elsewhere. Given the scale of development proposed to be located within the WHBC boundary I do not consider that the proposals would be likely to adversely impact on the regeneration of urban redevelopment sites elsewhere. There would as a result be no conflict with this purpose. Again, this is a neutral factor which weighs neither in favour nor against the appeal proposals.

The effect of the proposed development on the setting of the nearby listed building 68 Roestock Lane

28. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard shall be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest that it possesses. It is therefore necessary to consider the effect of the appeal proposals on the setting of the listed building itself.

29. The heritage asset concerned is a grade II listed residential dwelling. It is located adjacent to the northern boundary of the site. The house which was formerly two cottages, dates from the late C17 and has been subject to a number of modifications and extensions over the years. The dwelling is accessed from Roestock Lane. In this context, it is seen within its garden enclosure set back from the road adjacent to the Pumping Station and within the build fabric of residential development along Roestock Lane extending into Roestock Gardens.

30. From what I saw on my site visits, the significance of the heritage asset is in the main, locked into its built form and fabric. Given the mature vegetation which borders the rear garden, the extent of its setting that contributes to its significance is limited to the rear garden, and the way the front of the house addresses the main road. From Roestock Lane, the aesthetic value of the dwelling is evident through architectural detailing to the front elevation which is clearly visible.

31. The appeal proposals would see residential development introduced to the existing open agricultural field which abuts the rear boundary of the heritage asset. There would be no change to the built form or fabric of the dwelling, or the relationship of the heritage asset with its immediate garden. To my mind, these are the factors which provide the greatest contribution to the significance of the heritage asset.

32. The Council's heritage witness stated that the listed building has an historical association with the surrounding agricultural land and that the appeal site allows the listed building to have uninterrupted longer range views towards the south east. I do not agree. There is no evidence which confirms that the occupiers of the heritage asset were engaged directly with the appeal site. Neither does this serve to demonstrate any functional relationship between the appeal site and the heritage asset concerned. There is no evidence of an

existing or former access that existed between the appeal site and the heritage asset. Whilst the property may well have been at times occupied by agricultural workers, I have no doubt that this would be common to many residential dwellings in the area at that time and would indeed be reflective of the historical associations with farming in years gone past in the immediate area and beyond.

33. Turning to consider the issue of views, I am unable to agree with the Council's contention that uninterrupted longer-range views across the appeal site from the property contribute to the significance of the listed building. The extensive and mature boundary vegetation to the property provides significant screening to the boundary of the property, such that these views would at best be described as limited. In any event, given my conclusions above regarding the linkage between the appeal site and the heritage asset, I am not convinced that longer-range views from the property make any contribution to the historical significance of the dwelling. As I have already set out, the main front of the dwelling addresses Roestock Lane. That situation would not be changed. Neither, given the existing screening, that could be augmented through reserved matters, would the significance the listed building derives from its garden setting be undermined by the proposals.
34. Looking at the issue of views of the dwelling from the appeal site, the appreciation of the architectural interest of the building is limited. The rear elevation has been subject to extensions over time. The property is seen in the context of the other immediate surrounding residential dwellings which lie adjacent to the appeal site, their rear gardens and extensive and mature vegetation to these boundaries, not as an isolated heritage asset with any functional or historical link to the appeal site. The reserved matters submission will afford the Council the opportunity for enhancements to the landscape setting in the vicinity of the site boundary.
35. It is common ground between the parties that the harm to the significance of the designated heritage asset would be less than substantial. It is also common ground that the public benefits of the scheme outweigh the less than substantial harm. For the reasons I have outlined above, even the appellants' assessment at the very lowest end of the broad spectrum of less than substantial harm overstates the scheme's likely effect in this context. As I have already set out, the main aspect of the dwelling is from Roestock Lane. In such views, the appeal proposals would have a very limited effect on the current position.
36. I conclude that the proposals would not result in any harm to the setting or significance of the heritage asset concerned. As such, s.66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is not engaged, and there would be no conflict with policy 86 of the St Albans District Local Plan (1994) which states, amongst other things, that where proposals affect the setting of a building of historic interest, the Council will have due regard to the desirability of preserving the building, its setting, or any features of architectural or historic interest which it possesses. Policy D1 is also referred to from the Welwyn Hatfield District Plan (2005). However, this policy concerns the provision of high quality design and is not of relevance to the heritage matters before me.

Whether the site is in an accessible location with regards to local services and facilities

37. The Councils contend that the appeal site is in an unsuitable and isolated location and as a result, it would fail to provide satisfactory access to services and facilities by means other than the private motor car. The appeal site is located on the eastern edge of Colney Heath. The parties agreed a facilities plan which clearly demonstrates the location of the appeal site relative to services, facilities and public transport and included walking and cycling distances from the appeal site. I will firstly assess the availability of and access to services and facilities outside of Colney Heath by means other than the private car, before turning to consider the facilities and services available within Colney Heath itself and how accessible these maybe to potential future occupiers at the appeal site.
38. In terms of public transport and travel outside of Colney Heath, there are a number of bus stops available most notably on Roestock Lane, Fellowes Lane and Hall Gardens. These are all within an 800m walking distance of the site, a flat comfortable walk. These stops provide services to both Potters Bar, Welwyn Garden City, St Albans and Hatfield Tesco Extra where more extensive shopping, medical, education, employment and leisure facilities are located. Whilst I accept that the buses serving these stops are limited in number and frequency and could by no means support regular commuting, they nevertheless provide an alternative mode of transport to the private car and could provide an important alternative to those sectors of the community who do not have access to a private car. Although the reliability of the services was questioned, I have no robust evidence to suggest that the service is so severely unreliable that it would lead me to reach a different conclusion on this issue.
39. For travel further afield, the nearest train services are provided at Welham Green, approximately 3.5km away with direct and frequent services to London. Turning to consider cycling, the Council's witness raised a number of concerns in relation to the nature of the roads and suitability for cycling. HCC as highways authority advised that cycling facilities are adequate with safe routes and access to the national cycle route network. These include National Cycle Route 61 approximately 3km from the appeal site providing access to St Albans and cycle route 12 approximately 2km to the south east providing access to both Welham Green and Hatfield. The agreed facilities plan indicates that taking into account average cycling times, a number of services and facilities would be available between 6 and 12 minutes away. I saw evidence on my site visits of both Bullens Green Lane and Fellowes Lane being well used for recreational purposes, including walkers and cyclists. Taking into account the average cycle times and distances to facilities outside of Colney Heath as set out within the facilities plan, I concur with HCC that cycling provides a reasonable alternative in this location to the private car.
40. Turning to consider journeys possible on foot, Colney Heath itself has a number of facilities and services which one would expect in a settlement of this size. These include but are not limited to a public house, primary school which has some albeit limited capacity and pre school, church, takeaway, village hall, hairdressers, scout hut, post office and mini mart. The availability of the public rights of way (PROW) within the site mean that these facilities and services could be accessible through a choice of routes, utilising the connections to

either Roestock Lane or Fellowes Lane and then onwards to the High Street. This choice of routes adds to the quality of the walking experience in this location however I acknowledge the concerns expressed regarding the use of the underpass under the A1 and the quality of the pedestrian environment provided here. In common with other lower order settlements in both SADC and WHBC, residents are expected to travel to larger settlements highlighted above for medical facilities, larger scale supermarkets, employment and secondary education and beyond. To my mind, the facilities and services available within Colney Heath and the accessibility of these facilities both on foot and by cycle mean that a number of day to day needs could be met without reliance on the private car. As a result, the location of the appeal site cannot be described as isolated. These factors weigh in favour of the appeal proposals.

41. Overall and to conclude, taking into account the essence of the Framework test as to whether a genuine choice of transport modes is on offer, the appeal proposals would in my view represent a sustainable location for new residential development.
42. My attention has been drawn to policy 2 of the St Albans Local Plan 1994 which identifies, amongst other things, Colney Heath as Green Belt settlement whereby development will not normally be permitted except for the local housing needs, local services and facilities needs of the settlement and development must not detract from the character and setting of the settlement. Given the policy wording, there would be a conflict with this policy. In relation to WHDC, I also conclude that the proposals would accord with policies SD1 and H2 of the Welwyn Hatfield District Plan, 2005. Policy SD1 confirms that development will be permitted where it can be demonstrated that the principles of sustainable development are satisfied. Policy H2 applies a criteria based approach to windfall residential development, which includes, amongst other things, the location and accessibility of the site to services and facilities by transport modes other than the car.
43. Policy GBSP2 is also referred to however this is a policy relating to towns and specified settlements where development will be located and the settlement of Colney Heath is not identified by the policy however the supporting text to the policy identifies Bullen's Green and refers to development to support services and facilities. Overall, the proposals would not accord with this policy.
44. Policy R1 requires development to take place on land which has been previously used or development. It goes onto state that development will only be permitted on 'greenfield' land where it can be demonstrated that no suitable opportunities exist on previously used or developed land. The proposals would conflict with this policy.

Whether very special circumstances exist

45. Substantial weight is attached to any harm to the Green Belt by reason of inappropriateness. Very special circumstances will not exist unless the potential harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. It is widely acknowledged that the definition of very special circumstances do not in themselves have to be rare or

uncommon¹. I now turn to consider the factors which I have taken into account in making this assessment.

Provision of Market Housing

46. Paragraph 59 of the Framework seeks to support the Governments objective of significantly boosting the supply of homes. In order to achieve this, the Framework notes that it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
47. I am aware of the Written Ministerial Statement of December 2015 which indicates that unmet need is unlikely to clearly outweigh harm to Green Belt and any other harm so as to establish very special circumstances. However, in common with the appeal decision² referred to, I note that this provision has not been incorporated within the Framework which has subsequently been updated and similar guidance within the Planning Practice Guidance has been removed. I can therefore see no reason to give this anything other than little weight as a material consideration.
48. It is common ground that neither SADC or WHBC can demonstrate a five year supply of deliverable homes. Whilst there is disagreement between the parties regarding the extent of this shortfall, the parties also agreed that this is not a matter upon which the appeals would turn. I agree with this position. Even taking the Councils supply positions of WHBC 2.58 years and SADC at 2.4 years, the position is a bleak one and the shortfall in both local authorities is considerable and significant.
49. There is therefore no dispute that given the existing position in both local authority areas, the delivery of housing represents a benefit. Even if the site is not developed within the timeframe envisaged by the appellant, and I can see no compelling reason this would not be achieved, it would nevertheless, when delivered, positively boost the supply within both local authority areas. From the evidence presented in relation to the emerging planning policy position for both authorities, this is not a position on which I would envisage there would be any marked improvement on in the short to medium term. I afford very substantial weight to the provision of market housing which would make a positive contribution to the supply of market housing in both local authority areas.

Provision of Self Build

50. Turning to consider the issue of Self Build, as part of the overall dwelling numbers, the proposal would deliver up to 10 self build or custom build dwellings. The Government attaches great importance to the provision of this element of the supply. Notably, paragraph 61 of the Framework identifies that planning policies should reflect the housing needs of different sectors of the community including, but not limited to people wishing to commission or build their own homes. Footnote 26 gives further explanation with reference to the requirements of the Self Build and Custom Housebuilding Act 2015 (as amended). The Planning Practice Guidance advises that local authorities

¹ Wychavon DC v Secretary of State for Communities and Local Government and Butler [2008] EWCA Civ 692.

² APP/C2741/W/19/3227359

should use the demand data from registers, supported by additional data from secondary sources, to understand and consider future need for this type of housing in their area. Furthermore, it goes onto note that the registers are likely to be a material consideration in decisions involving proposals for self and custom housebuilding.

51. In the case of these appeals, there are no development plan policies which relate specifically to the provision or delivery of self building housing in either authority. Emerging policy SP7 at WHBC identifies four allocations which would contribute towards self build plot provision although the allocations do not specify how many plots. Furthermore, neither authority has an up to date assessment of likely future demand for this type of housing in line with the Planning Practice Guidance. The appellant provided detailed evidence in relation to the Custom Build Register, none of which was disputed. Evidence also presented demonstrated that the statutory duty to provide for base period plot provision has also not been met in either authority, in some periods by a significant margin. Taking into account other secondary data sources, these shortfalls may well be on the conservative side.
52. In common with both market housing and affordable housing, the situation in the context of provision of sites and past completions is a particularly poor one. To conclude, I am of the view that the provision of 10 self build service plots at the appeal site will make a positive contribution to the supply of self build plots in both local planning authority areas. I am attaching substantial weight to this element of housing supply.

Provision of affordable housing

53. The uncontested evidence presented by the appellant on affordable housing for both local authorities illustrates some serious shortcomings in terms of past delivery trends. In relation to WHBC, the affordable housing delivery which has taken place since 2015/16 is equivalent to a rate of 23 homes per annum. The appellant calculates that the shortfall stands in the region of 4000 net affordable homes since the 2017 SHMA Update, a 97% shortfall in affordable housing delivery. If the shortfall is to be addressed within the next 5 years, it would require the delivery of 1397 affordable homes per annum. In SADC, the position is equally as serious. Since the period 2012/13, a total of 244 net affordable homes have been delivered at an average of 35 net dwellings per annum. Again, this equates to a shortfall also in the region of 4000 dwellings (94%) which, if to be addressed in the next 5 years, would require the delivery of 1185 affordable dwellings per annum.
54. The persistent under delivery of affordable housing in both local authority areas presents a critical situation. Taking into account the extremely acute affordable housing position in both SADC and WHBC, I attach very substantial weight to the delivery of up to 45 affordable homes in this location in favour of the proposals.

Other Matters

Other Appeal Decisions

55. I have been referred to no fewer than 21 other appeal decisions³ in addition to 9 Secretary of State decisions⁴ as part of the evidence before me in relation to these appeals. Both the appellant and the Councils have sought to draw comparisons and similarities between this extensive array of decisions before me for a variety of reasons. Two historical decisions at the appeal site, as acknowledged by the Councils, were determined under a different planning policy framework and accordingly I attach very limited weight to these. In relation to the appeal decision at the neighbouring site⁵, I do not have the full details of the evidence which was before that Inspector, the main issues were different to these appeals and the decision predates the current Framework.
56. Rarely will any other appeal decision provide an exact comparison to another situation. In some of the cases referred to, there are similarities in the size and scale of the proposal, in other cases there are entirely different planning policy positions, housing supply considerations, land use considerations, locational characteristics, main issues and other factors which have been weighed in the balance. Furthermore, it remained common ground that each appeal should be considered on its own merits as is the case here. It is for the decision maker in each case to undertake the planning balancing exercise and as a result, the weight I have attached to these other appeal cases is limited.

Other Matters

57. I have considered the effect of the proposals on the occupiers of the neighbouring dwellings in terms of effect on living conditions, highways impacts, flooding and loss of agricultural land. There are no objections from either SADC, WHBC or HCC in relation to these matters. I acknowledge concerns expressed by local residents in relation to existing flooding which takes place on Bullens Green Lane, however I am satisfied that appropriately worded conditions in relation to surface water and drainage can satisfactorily address any impacts of the appeal proposals in this regard. Similarly, I have no evidence before me which would lead me to reach a different conclusion to the Councils in relation to the effect of the development on the living conditions of neighbouring properties.
58. In terms of highways impacts, I acknowledge that a number of local residents have expressed concerns regarding localised congestion and parking and overall highways impacts. I am also mindful of the concerns expressed by Colney Heath Parish Council in connection with the data used to support the appeal proposals. However, taking into account the likely vehicular traffic to be generated by the development and the conclusions reached by the supporting

³ Two historical appeal decisions at the appeal site E6/1973/3202 & E6/1954/0860, APP/B1930/W/19/3235642, APP/Y0435/W/20/3251121, APP/C2714/W/19/3227359, APP/D2320/W/20/3247136, APP/P0119/W/17/3191477, APP/P1615/W/18/3213122, APP/G2435/W/18/3214451 & 3214498, APP/W0530/W/19/3230103, APP/C1570/W/19/3234530 & 3234532, APP/X0360/W/19/3238048, APP/H1840/W/20/3255350, APP/P3040/W/17/3185493, APP/L3815/W/16/3165228, APP/D0840/A/13/2209757, APP/G1630/W/14/3001706, APP/G5180/W/16/3144248, APP/G5180/W/18/3206569, APP/E2001/W/20/3250240,

⁴ APP/W4705/V/18/3208020, APP/Q3115/W/19/3230827, APP/C4235/W/18/3205559, APP/P1615/A/14/2218921, APP/A0665/W/14/2212671, APP/H1840/A/13/2199085 & 2199426, APP/P4605/W/18/3192918, APP/Q3630/A/05/119826, APP/W1850/W/20/3244410

⁵ APP/B1930/W/15/3137409

transport assessments, I concur with the view that this will not have a severe impact on the operation of the wider highways network.

59. The site access would be located off Bullens Green Lane where it is currently subject to the national speed limit. The Highways Authority consider that the introduction of a transitional speed limit restriction may be necessary to the south of the site. As a result, two Grampian conditions are proposed to address this issue. I conclude that the development would not cause harmful levels of congestion or increase risk to highway safety.
60. I note the conclusions the Councils have drawn in relation to the loss of agricultural land and the inconsistencies between the development plan policies and the Framework in this regard and can see no reason to disagree with the conclusions drawn by the Councils in relation to this matter.
61. The Councils argued that the site is not a suitable location for housing as it does not form part of the emerging policy context for either SADC or WHBC. Whilst I acknowledge this to be the case, this in itself is not a reason that the appeals should fail. In neither SADC nor WHBC is there an emerging policy position to which any significant weight can be attached. The SADC Local Plan Review was adopted in 1994, some 27 years ago. The most recent replacement plan was withdrawn. As a result, there is currently no up to date strategic housing land requirement assessment which has been subject to any rigorous soundness assessment through the local plan examination process.
62. Turning to consider the position at WHBC, the adopted plan dates from 2005, some 16 years ago. The emerging plan was submitted for examination some 4 years ago. As was outlined during the inquiry, Interim Findings issued by the Inspector in October 2020 and subsequent round up notes issued by the Inspector in March 2021 set out that findings in relation to the FOAHN, windfall allowance and green belt boundaries at proposed development sites are yet to be issued. As a result, I am unable to conclude with any certainty when the WHBC Plan will be found sound and as such attach very limited weight to this emerging plan.

Biodiversity

63. Policy R11 of the WHBC Local Plan requires, amongst other things, that all new development should demonstrate how it would contribute positively to the biodiversity of the site by meeting a number of identified criteria. In the case of these appeals, the criteria most relevant are (i) the retention and enhancement of natural features of the site and (ii) the promotion of natural areas and wildlife corridors where appropriate as part of the design. For SADC, my attention has been drawn to policy 106 of the SADC Local Plan 1994 however this policy deals specifically with the effect of planning applications on identified SSSIs, Nature Reserves, other sites of wildlife, geographical or geomorphological importance which is not applicable to the appeal site. This is a position confirmed by the Councils in their proof of evidence.
64. The appeals are supported by an amended Ecological Impact Assessment. Hertfordshire Ecology, as ecological advisors to both WHBC and SADC confirmed that subject to a suitably worded condition and obligations within the Section 106 agreement, both of which I set out later within this report, the appeal proposals adequately address the ecological impacts of the development

at the appeal site. I therefore conclude that the proposals would accord with policy R11 of the WHBC Local Plan in this regard.

Planning Obligation

65. I have taken into account the various obligations identified within the executed Section 106 Agreement with regards to the statutory requirements in Regulation 122 of the Community Infrastructure Levy (CIL) as well as the tests identified at paragraph 56 of the Framework. The obligation would secure a number of provisions relating to HCC, SADC and WHBC. I deal with each of these individual matters in turn.
66. A number of clauses in relation to biodiversity measures are proposed. A biodiversity offsetting contribution is included within the obligation, which would contribute towards the creation of new habitats. This would be calculated by using the Biodiversity Net Gain Matrix which provides for a financial contribution based on the formula identified by the matrix which measures and takes into account biodiversity losses and gains resulting from the development. In support of this approach, the Councils have identified that adopting the use of this matrix approach allows for landscaping and open space proposals as well as on site mitigation to be taken into account at reserved matters stage. In addition, the parties have also referred me to an alternative appeal decision⁶ to endorse the use of the Biodiversity Net Gain Matrix approach. Once calculated, a scheme would be submitted for approval to both Councils referred to as the biodiversity offsetting scheme. In addition to this offsetting, biodiversity onsite compensation would also be provided through the identification of biodiversity measures to be implemented within the site as part of an identified onsite compensation scheme. In both instances, the Councils would be approving the onsite and offsetting schemes with reference to the biodiversity metric formula approach.
67. A green space contribution, to be calculated based on the precise number of dwellings and mix, will deliver the creation of a wildflower meadow at Angerland public open space off Bishops Rise, South Hatfield. Officers confirmed that this was the closest facility to the appeal site to which improvement requirements have been identified.
68. I note the Councils expressed concerns that the appellant could rely on the green space contribution as part of the biodiversity offsetting scheme and biodiversity offsetting contribution. However the biodiversity offsetting scheme, by definition, requires a scheme to be approved by both Councils to include but not limited the identification of an appropriate receptor site(s). As a result, I consider that this matter is adequately addressed by the obligation and the concerns are unfounded.
69. Taking into account the information and evidence presented, I am content that the obligations in relation to biodiversity, including the offsetting contribution, offsetting scheme and onsite compensation are necessary, directly related to the development and fairly and reasonably related in scale and kind. I draw the same conclusion in relation to the green space contribution. These obligations therefore comply with Regulation 122 of the CIL Regulations and can be taken into account in the grant of planning permission.

⁶ APP/Y0435/W/20/3251121

70. In addition to the above, the obligation would secure the provision of affordable housing, apportioned equally between WHBC and SADC. The affordable housing scheme would also secure the mix of units and tenures. In a similar way, the obligation would secure the plots and associated provision for the self build and custom housebuilding plots on the site. A district community facilities contribution is sought, to provide improvements towards the Roestock Park Scout Hut. Obligations relating to the highways works necessary to implement the scheme, waste and recycling, bus stop improvements at Hall Gardens, travel plan, libraries contribution towards improvements to the Creator Space at Hatfield Library, education contribution for both primary and secondary school provision, youth contribution towards increased provision at Hatfield Youth Centre, indoor sports facilities contribution towards the University of Hertfordshire and/or Hatfield Swimming Pools, and medical facilities in the form of community healthcare, general medical services specified at Northdown Road and/or Burvill House Surgery and mental health contribution specified at Queensway Health Centre and Roseanne House are also included. Finally, a monitoring fee, not to exceed £5000 would be payable to WHBC to cover the reasonable and proper administrative costs of monitoring compliance with the obligations.
71. The delivery of up to 100 dwellings in this location will result in an increase in the local population, with subsequent impacts on schools, social infrastructure such as medical facilities, libraries, sports and transport. A number of the other obligations, for example the provision of self or custom build housing as well as the provision for affordable housing weigh in favour of the appeal proposals.
72. I conclude that all of the aspects of the obligations outlined above are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. As a result, the obligations therefore comply with Regulation 122 of the CIL Regulations and can be taken into account in the grant of planning permission.
73. The obligation also includes a contribution towards outdoor sports facilities, specifically improving drainage at grass pitches at Welham Green recreation ground and/or towards repairs to the bowls ground in the same location. Welham Green is approximately 3.5km from the appeal site. There is an existing recreational facility next to the appeal site, as well as outdoor sports facilities, albeit within SADC, located locally within Colney Heath. I am not convinced that this contribution would be necessary to make the development acceptable in planning terms or directly related to the development. Accordingly, I do not find this part of the obligation would satisfy the necessary tests.

Conditions

74. A round table session was held at the inquiry to discuss a list of agreed planning conditions. I have considered this list of conditions with reference to the tests as set out at paragraph 55 of the Framework. Where necessary, I have amended the wording of the conditions in the interests of precision and clarity.

75. In the interests of certainty and highways safety, conditions outlining the approved plans, including the access arrangements and their implementation, as well as the visibility splays, are necessary. I have however not included the suggested condition relating to the parameter plan as I do not consider a condition relating to this is necessary or reasonable in this instance. As the proposals are in outline form only, it is however necessary to specify the reserved matters to be submitted for approval and associated time limits for their submission and subsequent implementation. Two highways related conditions are attached. The first relate to submission, approval and implementation of any necessary Traffic Regulations Order (TRO). The second relates to the provision of a safe and suitable pedestrian crossing and footway on Fellowes Lane. Both of these conditions are necessary in the interests of highways safety.
76. A condition requiring an archaeological written scheme of investigation is both necessary and reasonable in order to establish the presence or absence of archaeological remains. Conditions requiring the submission of a scheme relating to surface water drainage and also relating to the arrangements for surface water to be disposed of are necessary and reasonable to ensure the satisfactory storage and disposal of surface water from the site. To address any risk of flooding, a further condition is attached requiring the development to be completed in accordance with the Flood Risk Assessment and Drainage Strategy. In addition, to prevent contamination, conditions have been attached which require full details of any substance containers to be submitted and approved in writing and also specific details of works involving excavation. A condition relating to indoor and outdoor noise levels is both necessary and reasonable to protect the living conditions of future residents. Furthermore, a condition relating to accessible housing is justified in order to ensure the needs of accessible or wheelchair housing are met.
77. The submission of a construction management plan is required by condition 11. This is necessary in the interests of highways safety and also the living conditions of nearby residents. In order to promote sustainable transport a condition relating to the provision of electric vehicle charging points has been included. Conditions covering landscaping details, a landscaping and ecological management plan and requiring a tree protection plan and method statement are necessary to ensure that the appearance of the development is satisfactory, biodiversity impacts of the development are suitably addressed and that where necessary, to ensure that retained trees and hedgerows are protected during the course of construction.

Conclusions

78. The proposals would cause harm by reason of inappropriateness and harm to openness. Both of these attract substantial weight. I have also attached moderate weight to harm to the character and appearance of the area. However, these appeals involves two local authority areas, both of which have acute housing delivery shortages and acute affordable housing need. The proposals would make a contribution towards addressing these needs in the form of market, self build and affordable housing in both WHBC and SADC. I have attached very substantial weight to the provision of both market housing and affordable housing. I have attached substantial weight to the provision of self build housing. These factors, when considered collectively demonstrate that very special circumstances do exist.

79. I conclude that in the case of these appeals, I find that the other considerations in this case clearly outweigh the harm that I have identified. Looking at the case as a whole, very special circumstances do exist to justify inappropriate development in the Green Belt. My findings on the other matters before me do not lead me to a different conclusion. As a result, I therefore conclude that the proposals would comply with both the Framework and the development plans taken as a whole. For the reasons given above, and having considered all other matters raised, the appeals are allowed.

C Masters

INSPECTOR

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INTERESTED PERSONS:

Cllr Peter Cook Colney Heath Parish Council

DOCUMENTS SUBMITTED DURING INQUIRY

CD 10.13 Appeal Decision, land at Church Lane, Wittington
CD 7.07 Extracts from SADC SHLAA 2009

SCHEDULE OF CONDITIONS

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called, the reserved matters) shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
3. The development hereby permitted shall be carried out in accordance with the following approved plans: drawing no. 17981 1002 (Site Location Plan), drawing no. 18770-FELL-5-500 Rev B (Revised Site Access) and drawing no. 18770-FELL-5-501 Rev A (Proposed Footpath Connection).
4. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
5. No development of the site shall commence until:
 - a) A scheme to reduce speeds (to support the access proposals designed to 30mph) on Bullens Green Lane, Colney Heath, is provided to and approved in writing by the Local Planning Authority. Any scheme is required to be designed in line with the requirements of Hertfordshire County Council's (HCC) Speed Management Strategy (SMS); and
 - b) Any necessary Traffic Regulation Order (TRO) is made in respect of part a) to this condition. 'Made' means that the TRO has been approved and can be implemented.

No occupancy of the site can occur until the Traffic Regulation Order referred to above is implemented and brought into force. Evidence of the implemented scheme, in the form of a Certificate of Completion of the Section 278 of the Highways Act 1980, must be submitted to and approved in writing by the local planning authority.
6. No development of the site shall commence until a scheme for the provision of a safe and suitable pedestrian crossing and footway on Fellowes Lane, Colney Heath, in line with drawing number 18770-FELL-5-501 Rev A in principle, is provided and approved in writing by the Local Planning Authority and is designed in line with the requirements as set out in Hertfordshire County Council's Roads in Hertfordshire: Highway Design Guide (3rd edition). No occupation of any part of the development may occur before implementation of the approved scheme referred to in Part 1 of the condition.
7. No works involving excavations (e.g. piling or the implementation of a geothermal open/closed loop system) shall be carried until the following has been submitted to and approved in writing by the Local Planning Authority.
 - a) An Intrusive Ground Investigation to identify the current state of the site and appropriate techniques to avoid displacing any shallow contamination to a greater depth
 - b) A Risk Assessment identifying both the aquifer and the abstraction point(s) as potential receptor(s) of contamination including turbidity.

c) A Method Statement detailing the depth and type of excavations (e.g. piling) to be undertaken including mitigation measures (e.g. turbidity monitoring, appropriate piling design, off site monitoring boreholes etc.) to prevent and/or minimise any potential migration of pollutants including turbidity or existing contaminants such as hydrocarbons to public water supply. Any excavations must be undertaken in accordance with the terms of the approved method statement.

All works shall be carried out in accordance with approved reports listed above.

The applicant or developer shall notify Affinity Water of excavation works 15 days before commencement in order to implement enhanced monitoring at the public water supply abstraction and to plan for potential interruption of service with regards to water supply.

8. Development must not commence until an Archaeological Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of archaeological significance and research questions; and:
- a) The programme and methodology of site investigation and recording;
 - b) The programme and methodology of site investigation and recording as required by the evaluation;
 - c) The programme for post investigation assessment
 - d) Provision to be made for analysis of the site investigation and recording;
 - e) Provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - f) Provision to be made for archive deposition of the analysis and records of the site investigation;
 - g) Nomination of a competent person or persons/organisation to undertake the works set out within the Archaeological Written Scheme of Investigation.
- The development must not take place other than in accordance with the approved programme of archaeological works set out in the Written Scheme of Investigation.

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority.

An investigation and risk assessment and, where remediation is necessary, a remediation scheme must then be submitted to and approved in writing by the Local Planning Authority and implemented as approved. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

The investigation and risk assessment must assess the nature and extent of any contamination on the site, whether or not it originates on the site and must be undertaken by competent persons. A written report of the findings must be produced and the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) (ii) an assessment of the potential risks to:
 - human health;
 - property (existing or proposed) including buildings;
 - crops;
 - livestock;
 - pets;

- woodland and service lines and pipes;
- adjoining land;
- groundwaters and surface waters;
- ecological systems;
- archaeological sites and ancient monuments.

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

The investigation and risk assessment must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Remediation Scheme

Following completion of measures identified in the approved remediation scheme, a verification report which demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the local planning authority.

9. Development must not commence until the final design of the drainage scheme is completed and sent to the local planning authority for approval. The surface water drainage system should be based on the submitted the Flood Risk Assessment and Drainage Strategy (prepared by Woods Hardwick, ref: 18770/FRA and DS, dated August 2020). The scheme must also include:
- a) Detailed, updated post-development calculations/modelling in relation to surface water for all rainfall events up to and including the 1 in 100 year return period, this must also include a +40% allowance for climate change;
 - b) A detailed drainage plan including the location and provided volume of all SuDS features, pipe runs and discharge points. If areas are to be designated for informal flooding these should also be shown on a detailed site plan;
 - c) Exceedance flow paths for surface water for events greater than the 1 in 100 year including climate change allowance;
 - d) Detailed engineered drawings of the proposed SuDS features including cross section drawings, their size, volume, depth and any inlet and outlet features including any connecting pipe runs. This should include details regarding the connection into the existing Thames Water surface water sewer;
 - e) The drainage scheme shall also confirm use of an oil/water interceptor; and
 - f) Final detailed management plan to include arrangements for adoption and any other arrangements to secure the operation of the scheme throughout its lifetime.

The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed, in writing, by the local planning authority.

10. Development must not commence until details of all substance containers are submitted to and approved in writing by the local planning authority. These details must include:
- a) Confirmation of bunding of 110% capacity; and
 - b) Confirmation of the presence of a leak detection system and methodology that includes immediate notification to Affinity Water

11. Development must not commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development must only be carried out in accordance with the approved Plan. The Construction Management Plan must include details of:
- a) Construction vehicle numbers, type, routing;
 - b) Access arrangements to the site;
 - c) Traffic management requirements including arrangements for the PROW across the site during construction;
 - d) Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);
 - e) Siting and details of wheel washing facilities;
 - f) Cleaning of site entrances, site tracks and the adjacent public highway;
 - g) Timing of construction activities (including delivery times and removal of waste) and to avoid school pick up/drop off times;
 - h) Provision of sufficient on-site parking prior to commencement of construction activities;
 - i) Post construction restoration/reinstatement of the working areas and temporary access to the public highway; and
 - j) Where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements.

12. No development above ground level shall take place until a scheme to protect the development from noise due to transport sources is submitted to and approved in writing by the local planning authority. The scheme must ensure that:

The indoor ambient noise levels in living rooms and bedrooms meet the standards within BS 8233:2014. Relaxed noise levels in BS 8233:2014 will not be accepted in living rooms and bedrooms unless it can be demonstrated that good acoustic design practices have been followed and the implementation of acoustic barriers/bunds to lower façade noise levels as much as reasonably practicable, have been implemented. Internal L_{max} levels should not exceed 45dB more than ten times a night in bedrooms; If opening windows raises the internal noise levels above those within BS8233, the mechanical ventilation will need to be installed, with ventilation rates required to meet those found within The Noise Insulation Regulations 1975. Alternative methods (such as passive systems) and rates can be considered, however, evidence that overheating will not occur will need to be provided in the form of a SAP assessment conducted with windows closed, curtains/blinds not being used, showing the required ventilation rates to ensure that the medium risk category is not exceeded. Details must be provided of the ventilation system to be installed and to demonstrate that it will provide the ventilation rates shown in the SAP Assessment; and Outdoor amenity areas must meet the 55dB WHO Community Noise Guideline Level

The approved scheme must be implemented prior to first occupation, unless the Local Planning Authority otherwise agrees in writing.

13. No development above ground level shall take place until a scheme setting out the arrangements for the delivery of accessible housing will be supplied to the council in accordance with the following requirements:
- a) A schedule of units, together with appropriate plans and drawings, must be submitted to and be approved by the local planning authority setting out details of the number, layout and location of all units that will comply with Part M4(2) of the Building Regulations 2010. At least 20% of all new dwellings must meet Building Regulations Part M4(2) standards for 'accessible and adaptable dwellings';
 - b) All units specified as M4(2) in the agreed schedule and plans must be implemented in accordance with that approval and in compliance with the corresponding part of the Building Regulations in that regard;
 - c) The person carrying out the building work must inform the Building Control body which requirements apply; and
 - d) Written verification of the completion of all dwellings in accord with part (a) above will be supplied to the local planning authority within 30 days of the practical completion [of the block it forms part of].
14. Prior to the first occupation of the development hereby permitted the vehicular access must be provided and thereafter retained at the position shown on drawing no. 18770-FELL-5-500 Rev B in accordance with the agreed highway specification. Arrangement shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.
15. Prior to the first occupation of the development hereby permitted a visibility splay must be provided in full accordance with the details indicated on drawing no. 18770-FELL-5-500 Rev B. The splay shall thereafter be maintained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.
16. Prior to first occupation of the development hereby permitted, a minimum provision of 20% of the car parking spaces must be designated for plug-in Electric Vehicles (EV) and served by EV ready [domestic and/or fast] charging points.
17. The development permitted by this planning permission must be carried out in accordance with the Flood Risk Assessment and Drainage Strategy (prepared by Woods Hardwick, ref: 18770/FRA and DS, dated August 2020) and the following mitigation measures:
- a) Limiting the surface water run-off generated by the critical storm events so that it will not exceed the surface water run-off rate of 9.3 l/s during the 1 in 100 year event plus 40% of climate change event;
 - b) Providing storage to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + climate change event providing a total storage volume in two attenuation basins;
 - c) Discharge of surface water from the private drainage network into the Thames Water surface water sewer system located in Bullens Green Lane. The mitigation measures shall be fully implemented prior to first occupation of the development hereby approved.

Surface water must not be disposed of via direct infiltration into the ground via a soakaway.

Notwithstanding the submitted 'Updated Arboricultural Assessment – Version 2 (by FPCR Environment and Design Ltd, July 2020), a detailed tree protection plan and method statement should be submitted as part of application(s) for reserved matters approval as required by Condition 1.

18. Full details of both soft and hard landscape works should be submitted as part of application(s) for reserved matters approval as required by Condition 1. The landscaping details to be submitted shall include:

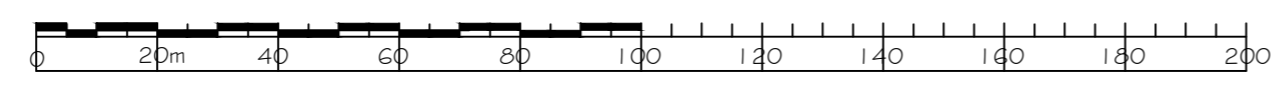
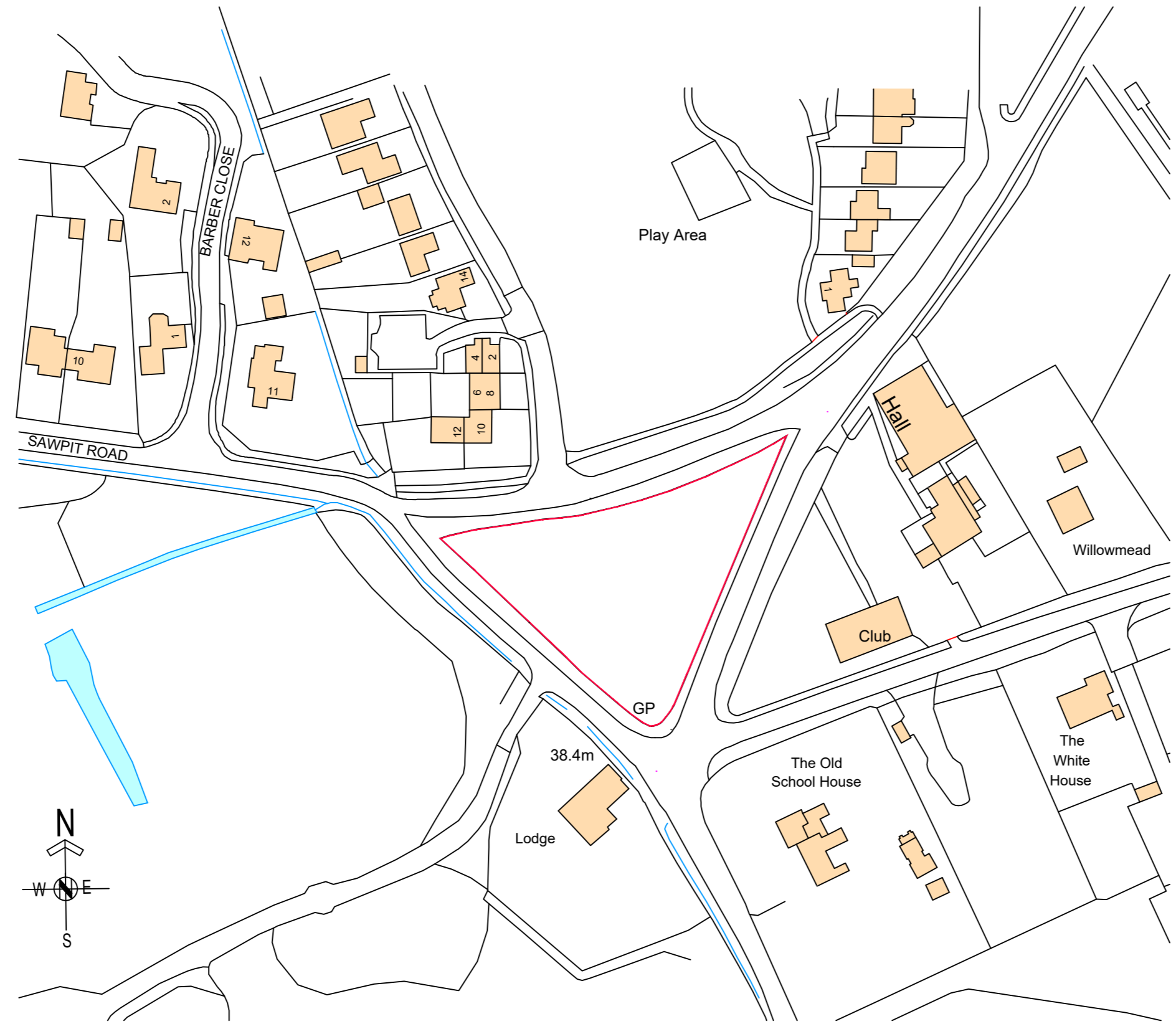
- a) existing and proposed finished levels and contours
- b) trees and hedgerow to be retained;
- c) planting plans, including specifications of species, sizes, planting centres, number and percentage mix, and details of seeding or turfing;
- d) hard surfacing;
- e) means of enclosure and boundary treatments;
- f) Details of toddler play area including play equipment; and
- g) Any other structures (such as furniture, refuse or other storage units, signs, lighting)

19. A landscape and ecological management plan (LEMP) should be submitted as part of application(s) for reserved matters approval as required by Condition 1 and include:

- a) A description of the objectives;
 - b) Habitat/feature creation measures proposed
 - c) Maintenance of habitat/feature creation measures in the long term and those responsible for delivery;
 - d) Lighting strategy (aim to ensure that illumination of the existing hedgerows does not exceed 0.5 lux); and
 - e) A monitoring programme and the measures required to adapt the LEMP should objectives fail to be met.
- The LEMP should cover all landscape areas within the site, other than small privately owned domestic gardens.

**APPENDIX D - LAND AT JUNCTION OF SAWPIT ROAD AND SCHOOL ROAD,
HURST'- LPA REF: 211532 – COPY OF PLANNING APPLICATION DRAWINGS,
CASE OFFICER REPORT AND COUNCIL DECISION NOTICE**

Notes.
All dimensions and levels on site are to be checked prior to commencement of work.
This drawing is the copyright of J I Architects RIBA.



1 : 1250
Ordnance Survey, (c) Crown Copyright 2021. All rights reserved. Licence number 100022432

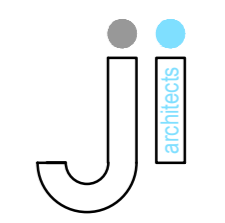
PLANNING ISSUE 28.04.21

LAND AT JUNCTION OF
SAWPIT ROAD AND
SCHOOL ROAD
HURST

JPP Land Ltd and Redcar Investment Co Ltd

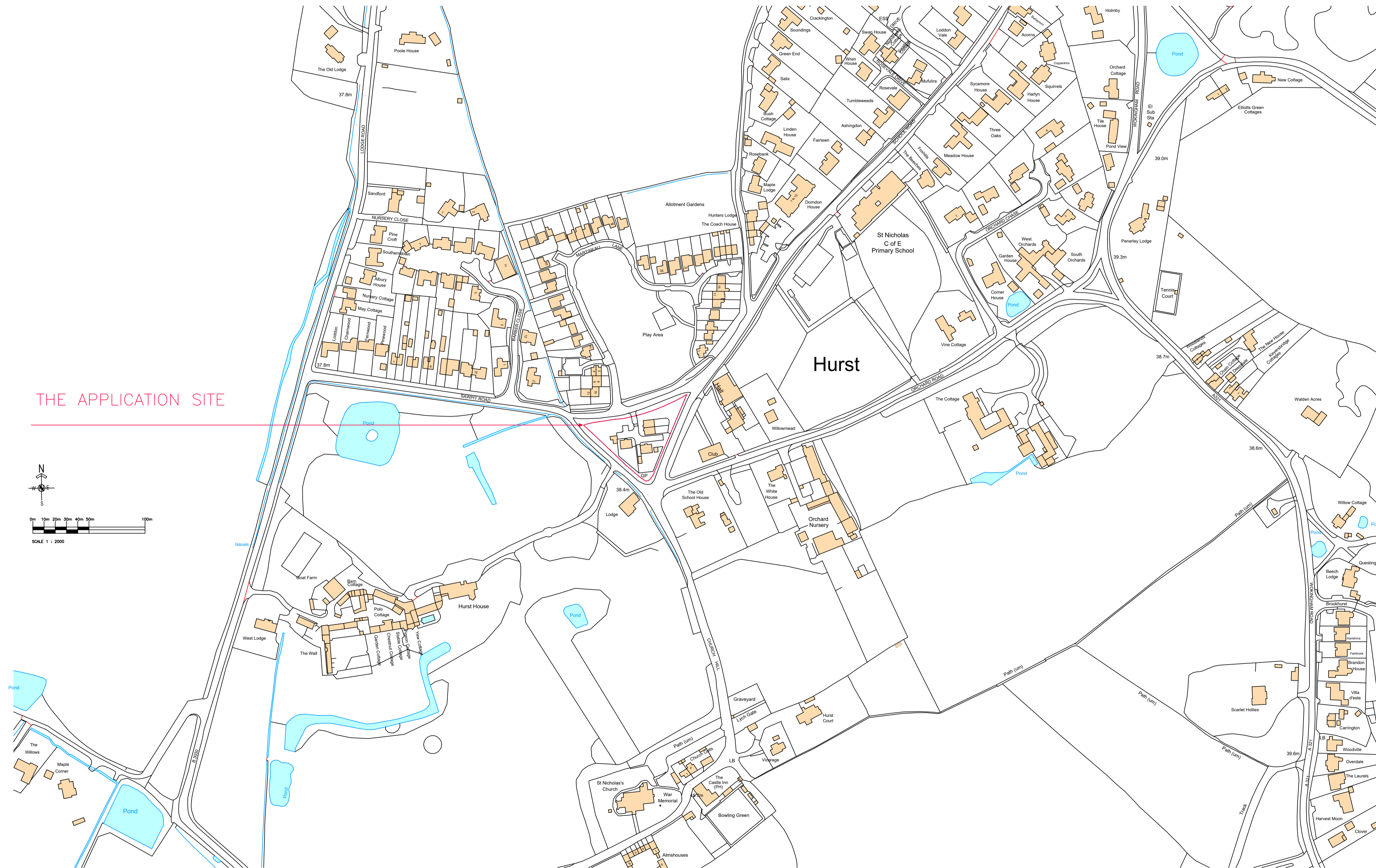
LOCATION PLAN

SCALE 1:1250 DATE 21.04.21



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Gloucestershire GL6 9JP
01453 451 457
john@jiaarchitects.co.uk

PROJECT 150 DWG. 15



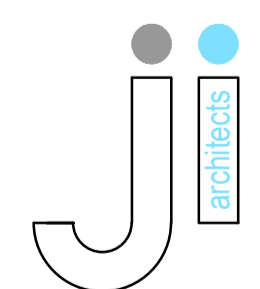
PLANNING ISSUE 28.04.21

**LAND AT JUNCTION OF
 SAWPIT ROAD AND
 SCHOOL ROAD
 HURST**

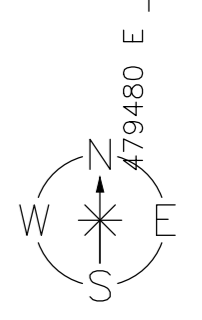
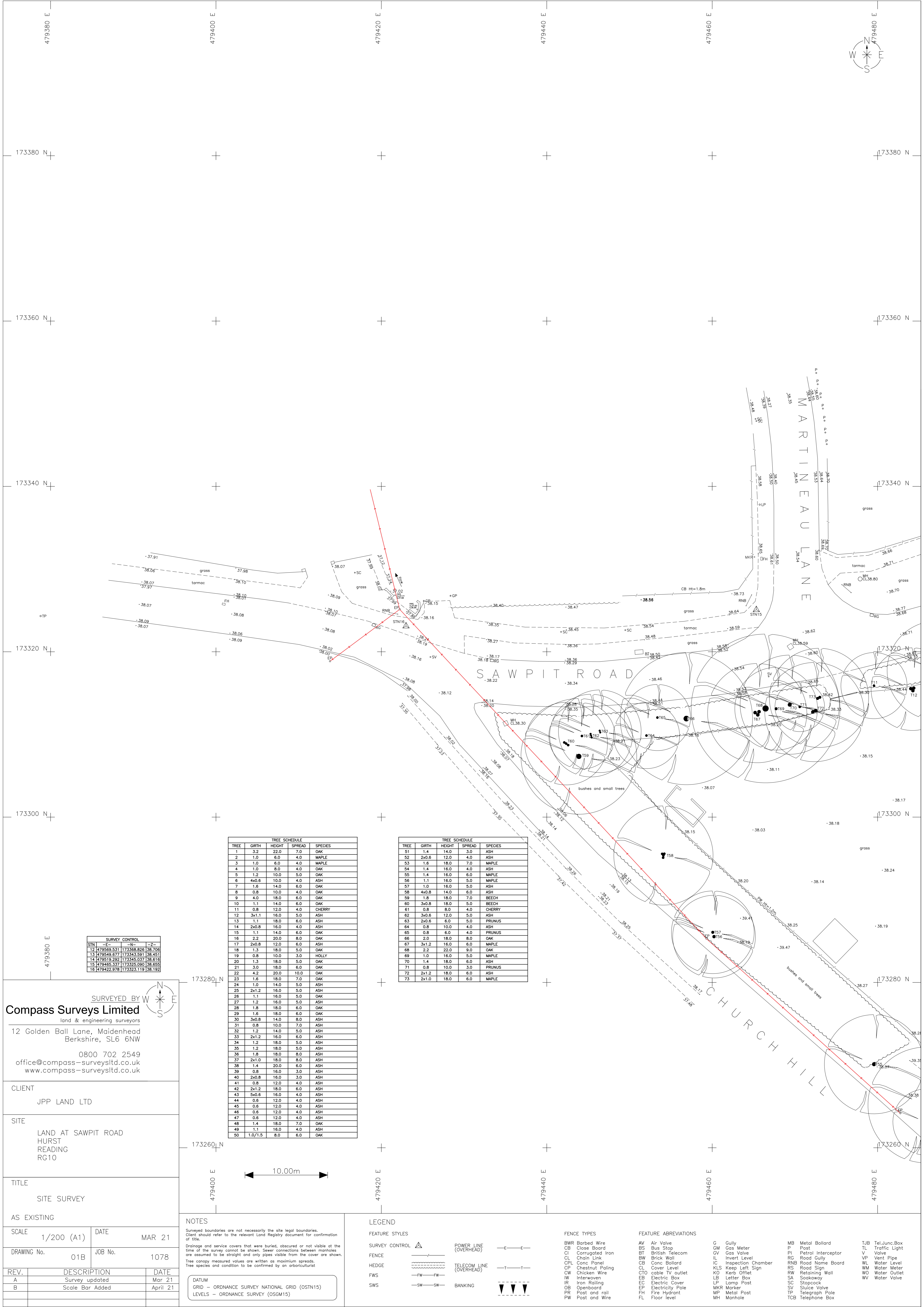
JPP Land Ltd and Redcar Investment Co Ltd

CONTEXT PLAN

SCALE 1:2000 DATE 15.04.21



J J Architects
 5 Butt Street
 Minchinhampton
 Gloucestershire GL6 9JP
 01453 451 457
 john@jjarchitects.co.uk



SURVEY CONTROL			
STN	—E—	—N—	—Z—
12	479569.531	173368.826	38.706
13	479549.677	173343.591	38.451
14	479519.292	173340.037	38.615
15	479465.337	173325.090	38.650
16	479422.978	173323.119	38.192

TREE SCHEDULE				
TREE	GIRTH	HEIGHT	SPREAD	SPECIES
1	3.2	22.0	7.0	OAK
2	1.0	6.0	4.0	MAPLE
3	1.0	6.0	4.0	MAPLE
4	1.0	8.0	4.0	OAK
5	1.2	10.0	5.0	OAK
6	4x0.6	10.0	4.0	ASH
7	1.6	14.0	6.0	OAK
8	0.8	10.0	4.0	OAK
9	4.0	18.0	6.0	OAK
10	1.1	14.0	6.0	OAK
11	0.8	12.0	4.0	CHERRY
12	3x1.1	16.0	5.0	ASH
13	1.1	18.0	6.0	ASH
14	2x0.8	16.0	4.0	ASH
15	1.1	14.0	6.0	OAK
16	2.2	20.0	8.0	OAK
17	2x0.8	12.0	6.0	ASH
18	1.3	18.0	5.0	OAK
19	0.8	10.0	3.0	HOLLY
20	1.3	18.0	5.0	OAK
21	3.0	18.0	6.0	OAK
22	4.2	20.0	10.0	OAK
23	1.6	18.0	7.0	OAK
24	1.0	14.0	5.0	ASH
25	2x1.2	16.0	5.0	ASH
26	1.1	16.0	5.0	OAK
27	1.2	16.0	5.0	ASH
28	1.8	18.0	6.0	OAK
29	1.8	18.0	6.0	OAK
30	3x0.8	14.0	6.0	ASH
31	0.8	10.0	7.0	ASH
32	1.2	14.0	5.0	ASH
33	2x1.2	16.0	6.0	ASH
34	1.2	18.0	5.0	ASH
35	1.2	18.0	5.0	ASH
36	1.8	18.0	8.0	ASH
37	2x1.0	18.0	8.0	ASH
38	1.4	20.0	6.0	ASH
39	0.8	16.0	3.0	ASH
40	2x0.8	16.0	3.0	ASH
41	0.8	12.0	4.0	ASH
42	2x1.2	18.0	6.0	ASH
43	5x0.6	16.0	4.0	ASH
44	0.6	12.0	4.0	ASH
45	0.6	12.0	4.0	ASH
46	0.6	12.0	4.0	ASH
47	0.6	12.0	4.0	ASH
48	1.4	18.0	7.0	OAK
49	1.1	16.0	4.0	ASH
50	1.0/1.5	8.0	6.0	OAK

TREE SCHEDULE				
TREE	GIRTH	HEIGHT	SPREAD	SPECIES
51	1.4	14.0	3.0	ASH
52	2x0.6	12.0	4.0	ASH
53	1.8	18.0	7.0	MAPLE
54	1.4	16.0	4.0	ASH
55	1.4	16.0	6.0	MAPLE
56	1.1	16.0	5.0	MAPLE
57	1.0	16.0	5.0	ASH
58	4x0.8	14.0	6.0	ASH
59	1.8	18.0	7.0	BEECH
60	3x0.8	18.0	5.0	BEECH
61	0.8	8.0	4.0	CHERRY
62	3x0.6	12.0	5.0	ASH
63	2x0.6	6.0	5.0	PRUNUS
64	0.8	10.0	4.0	ASH
65	0.8	6.0	4.0	PRUNUS
66	2.0	18.0	8.0	OAK
67	3x1.2	16.0	6.0	MAPLE
68	2.2	22.0	9.0	OAK
69	1.0	16.0	5.0	MAPLE
70	1.4	18.0	6.0	ASH
71	0.8	10.0	3.0	PRUNUS
72	2x1.2	18.0	6.0	ASH
73	2x1.0	18.0	6.0	MAPLE

SURVEYED BY **Compass Surveys Limited**
 land & engineering surveyors
 12 Golden Ball Lane, Maidenhead
 Berkshire, SL6 6NW
 0800 702 2549
 office@compass-surveysltd.co.uk
 www.compass-surveysltd.co.uk

CLIENT
JPP LAND LTD

SITE
 LAND AT SAWPIT ROAD
 HURST
 READING
 RG10

TITLE
SITE SURVEY

AS EXISTING

SCALE 1/200 (A1) DATE MAR 21

DRAWING No. 01B JOB No. 1078

REV.	DESCRIPTION	DATE
A	Survey updated	Mar 21
B	Scale Bar Added	April 21

NOTES
 Surveyed boundaries are not necessarily the site legal boundaries.
 Client should refer to the relevant Land Registry document for confirmation of title.
 Drainage and service covers that were buried, obscured or not visible at the time of the survey cannot be shown. Sewer connections between manholes are assumed to be straight and only pipes visible from the cover are shown.
 Tree canopy measured values are written as maximum spreads.
 Tree species and condition to be confirmed by an arboriculturist.

DATUM
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 LEVELS - ORDNANCE SURVEY (OSGM15)

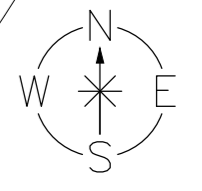
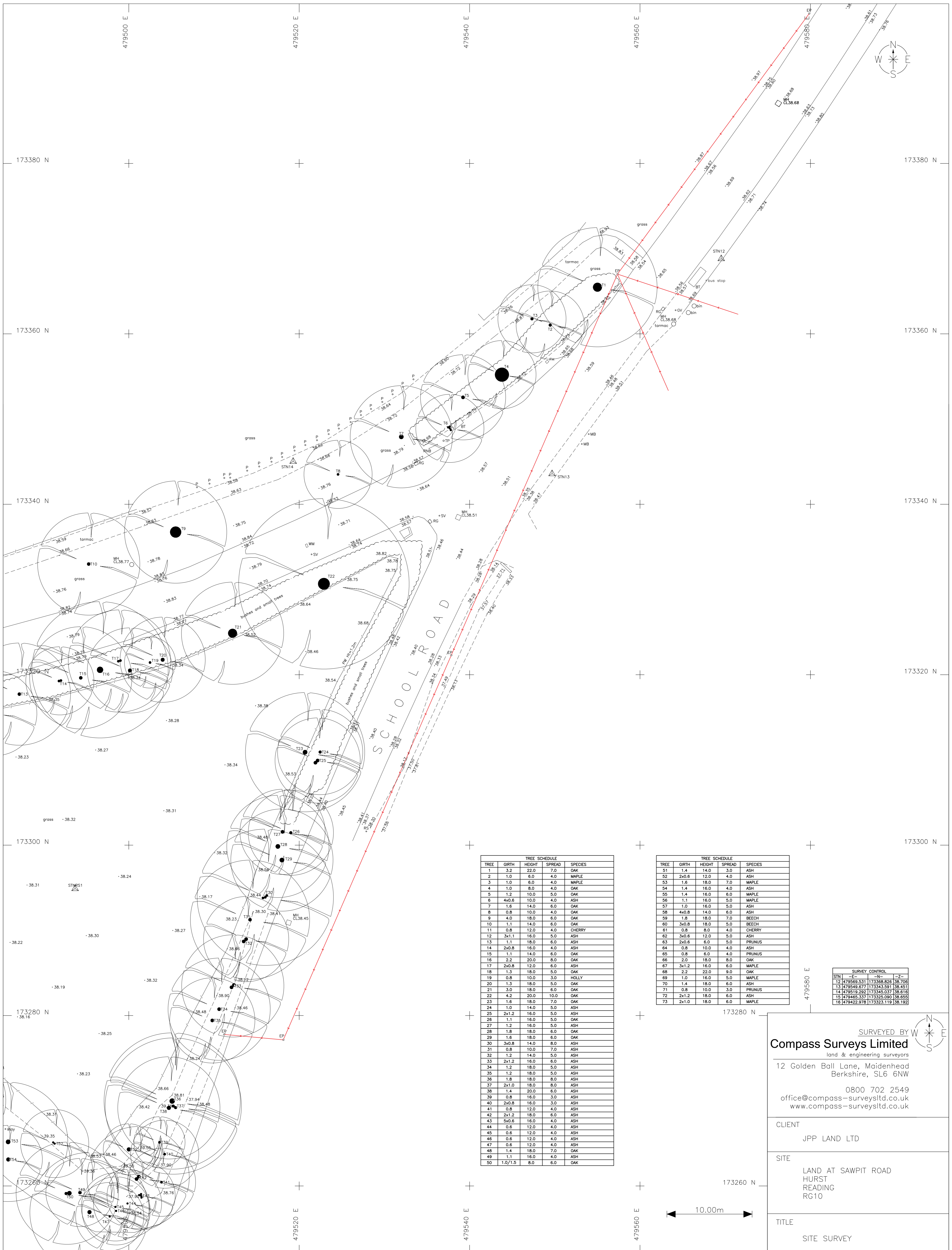
LEGEND

SURVEY STYLES
 SURVEY CONTROL POWER LINE (OVERHEAD)
 FENCE TELECOM LINE (OVERHEAD)
 HEDGE
 FWS BANKING

FENCE TYPES
 BWR Barbed Wire
 CB Close Board
 CL Corrugated Iron
 CL Chain Link
 BW Brick Wall
 CPL Conc Panel
 CP Cover Level
 CW Chicken Wire
 IW Interwoven
 IR Iron Railing
 OB Open Board
 PR Post and rail
 PW Post and Wire

FEATURE ABBREVIATIONS

AV Air Valve	GM Gully	MB Metal Bollard	TJB Tel.Junc.Box
BS Bus Stop	GM Gas Meter	P Post	TL Traffic Light
BT British Telecom	GV Gas Valve	FJ Petrol Interceptor	V Valve
CL Chain Link	IL Invert Level	RG Road Gully	VP Vent Pipe
CB Conc Bollard	IC Inspection Chamber	RNB Road Name Board	WL Water Level
CL Cover Level	KLS Keep Left Sign	RS Road Sign	WM Water Meter
CTO cable TV outlet	KO Kerb Offset	RW Retaining Wall	WO Water Outlet
EB Electric Box	LB Letter Box	SA Soakaway	WV Water Valve
EC Electric Cover	LP Lamp Post	SC Stopcock	
EP Electricity Pole	MKR Marker	SV Sluice Valve	
FH Fire Hydrant	MP Metal Post	TP Telegraph Pole	
FL Floor level	MH Manhole	TCB Telephone Box	



TREE	GIRTH	HEIGHT	SPREAD	SPECIES
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CLIENT
JPP LAND LTD

SITE
LAND AT SAWPIT ROAD
HURST
READING
RG10

TITLE
SITE SURVEY

AS EXISTING
SCALE 1/200 (A1) DATE MAR 21

DRAWING No. 02B JOB No. 1078

REV.	DESCRIPTION	DATE
A	Survey updated	Mar 21
B	Scale Bar Added	April 21

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LEGEND
SURVEY CONTROL
FENCE
HEDGE
FWS
SWS
POWER LINE (OVERHEAD)
TELECOM LINE (OVERHEAD)
BANKING

FENCE TYPES
BWR Barbed Wire
CB Close Board
CI Corrugated Iron
CL Chain Link
CPL Conc Panel
CP Chestnut Paving
CW Chicken Wire
IW Interwoven
IR Iron Railing
OB Openboard
PR Post and rail
PW Post and Wire

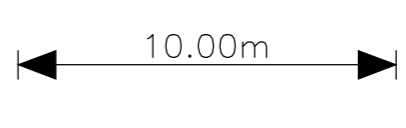
FEATURE ABBREVIATIONS
AV Air Valve
BS Bus Stop
BT British Telecom
BW Brick Wall
CB Conc Bollard
CL Cover Level
CTO cable TV outlet
EB Electric Box
EC Electric Cover
EP Electricity Pole
FH Fire Hydrant
FL Floor level

G Gully
GM Gas Meter
GV Gas Valve
IL Invert Level
IC Inspection Chamber
KLS Keep Left Sign
KO Kerb Offset
LB Letter Box
LP Lamp Post
MKR Marker
MP Metal Post
MH Manhole


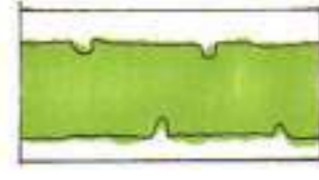


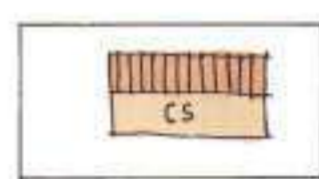
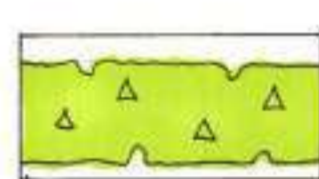
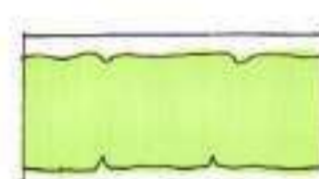



MB Metal Bollard
P Post
PI Patrol Interceptor
RG Road Gully
RNB Road Name Board
RS Road Sign
RW Retaining Wall
SA Sookaway
SC Stopcock
SV Sluice Valve
TP Telegraph Pole
TCB Telephone Box

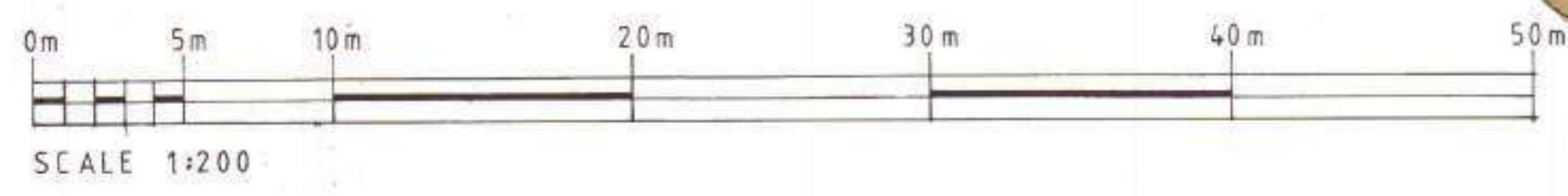
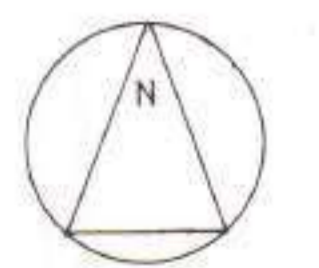
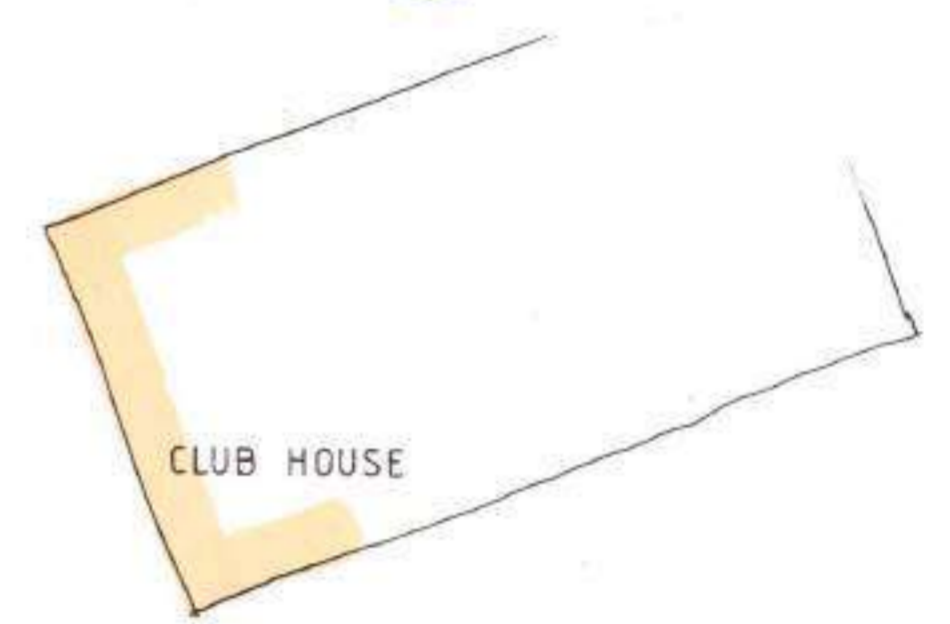
TJB Tel.Junc.Box
TL Traffic Light
VP Vent Pipe
WL Water Level
WM Water Meter
WO Water Outlet
WV Water Valve

DATUM
GRID - ORDNANCE SURVEY NATIONAL GRID (OSTN15)
LEVELS - ORDNANCE SURVEY (OSGM15)





-  WILD FLOWER MEADOW GRASS
-  PROPOSED NATIVE SPECIES HEDGE
-  EXISTING MIXED COPSE 6m high max UNDER PLANTING
-  AMENITY GRASS
-  SECURE CYCLE STORAGE
-  NATIVE SPECIES THICKET PLANTING
-  SHRUB PLANTING cottage garden species
-  RETAINED TREE
-  PROPOSED NATIVE TREE heavy standard
-  PROPOSED NATIVE SMALL TREE/MEDIUM SHRUB



LAND AT JUNCTION OF
SAWPIT ROAD AND
SCHOOL ROAD
HURST

JPP Land Ltd and Redcar Investment Co Ltd

SITE PLAN

SCALE 1:200 DATE 20.04.21



J Architects
5 Butt Street
Minchinhampton
Gloucestershire GL6 9UP
01453 451 457
john@jarchitects.co.uk

PROJECT 150 DWG. 10

Notes.
 All dimensions and levels on site are to be checked prior to commencement of work.
 This drawing is the copyright of J I Architects RBA.



FRONT ELEVATION
1:100

SIDE ELEVATION
1:100



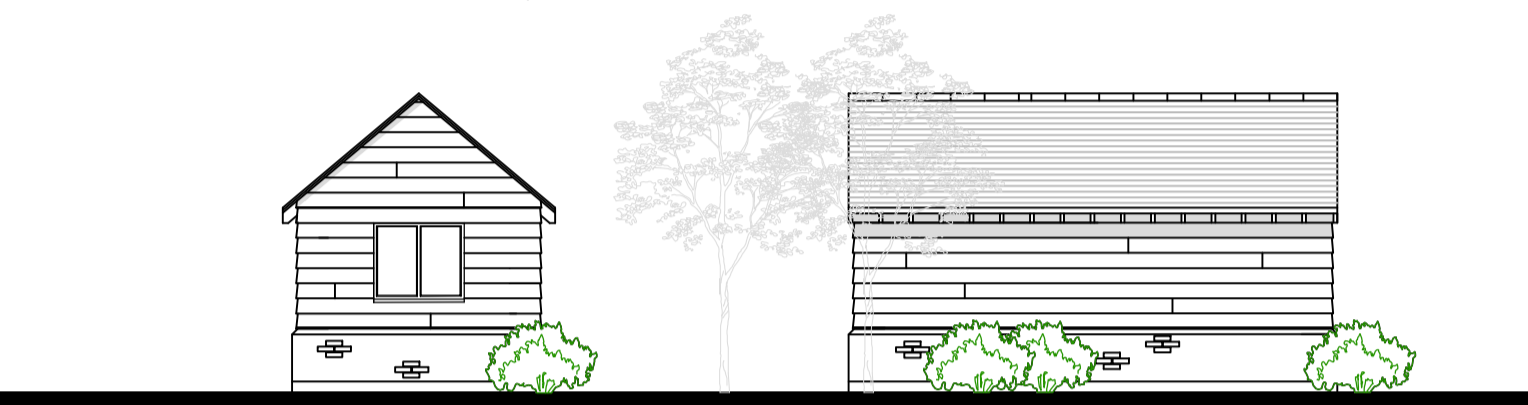
REAR ELEVATION
1:100

SIDE ELEVATION
1:100



FRONT ELEVATION
PLOT 3 GARAGE

SIDE ELEVATION



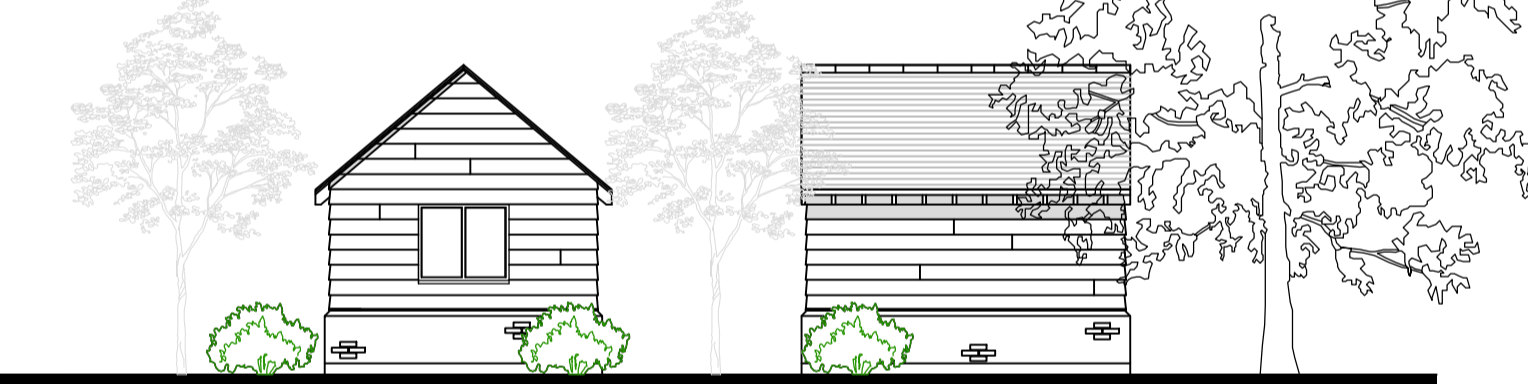
REAR ELEVATION

SIDE ELEVATION



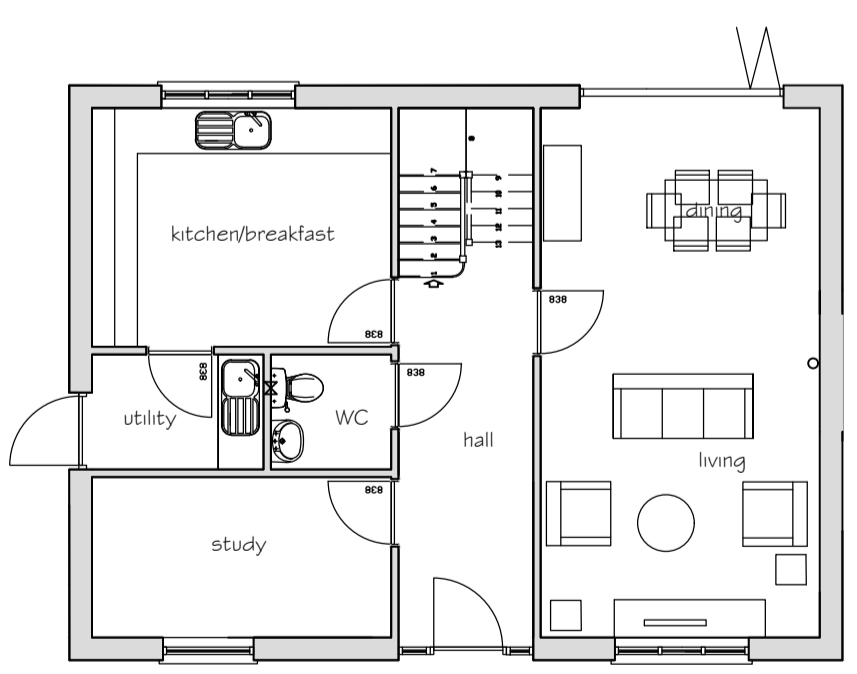
FRONT ELEVATION
PLOT 3 HOME OFFICE

SIDE ELEVATION



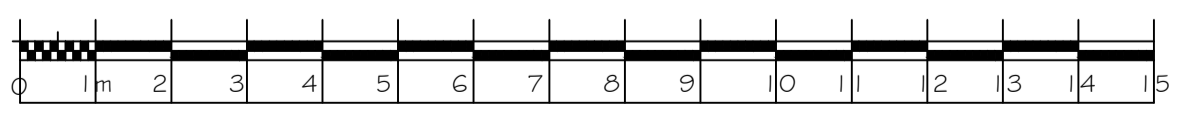
REAR ELEVATION

SIDE ELEVATION

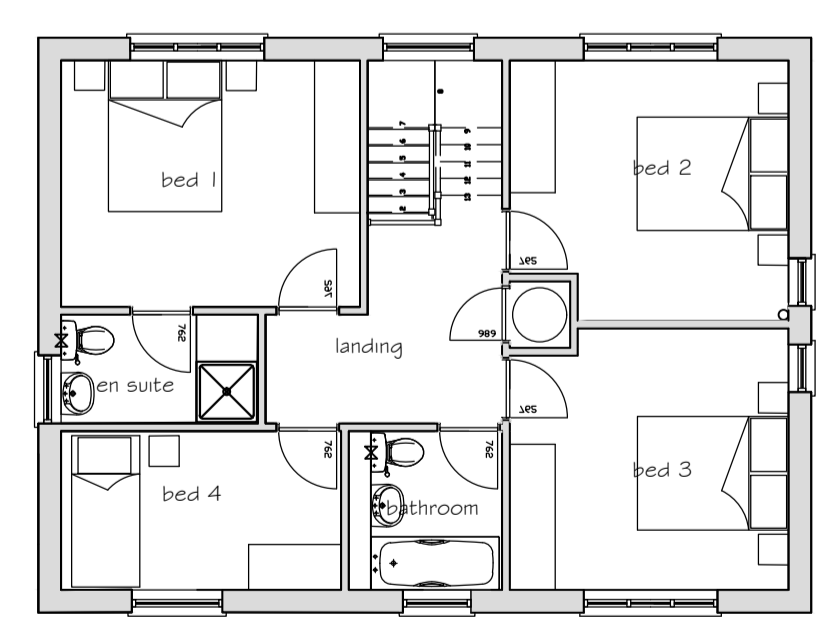


GROUND FLOOR PLAN PLOT 3

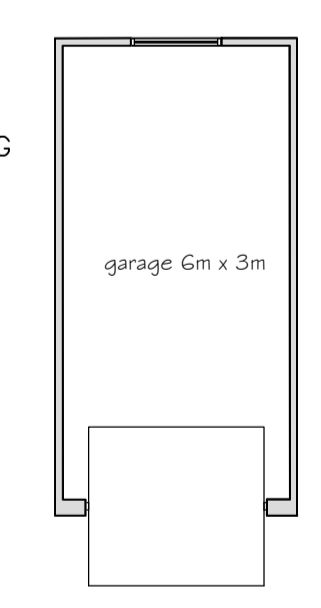
1450 sq.ft



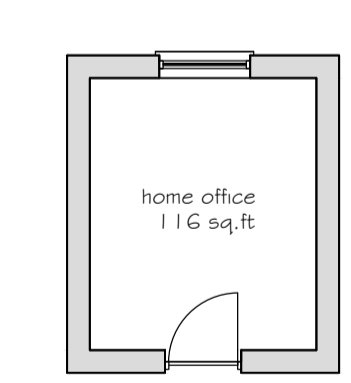
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EXTERNAL MATERIALS
 ROOF PLAIN CLAY TILES RED/BROWN
 WALLS BLACK STAINED FEATHER EDGE BOARDING
 WINDOWS SOFT RED BRICK PLINTH
 DOORS STAINED SOFT WOOD
 OAK



GARAGE Plot 3



HOME OFFICE Plot 3

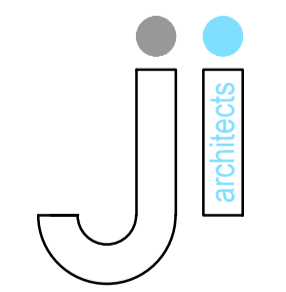
PLANNING ISSUE 28.04.21
 REV A Garage and Home work Unit added 12.04.21

LAND AT JUNCTION OF
 SAWPIT ROAD AND
 SCHOOL ROAD
 HURST

JPP Land Ltd and Redcar Investment Co Ltd

PLOT 3
 PLANS AND ELEVATIONS

SCALE 1:100 DATE 09.04.21



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 john@jiaarchitects.co.uk



FRONT ELEVATION
1:100

SIDE ELEVATION
1:100

FRONT ELEVATION
PLOT 4 GARAGE/HOME OFFICE

REAR ELEVATION

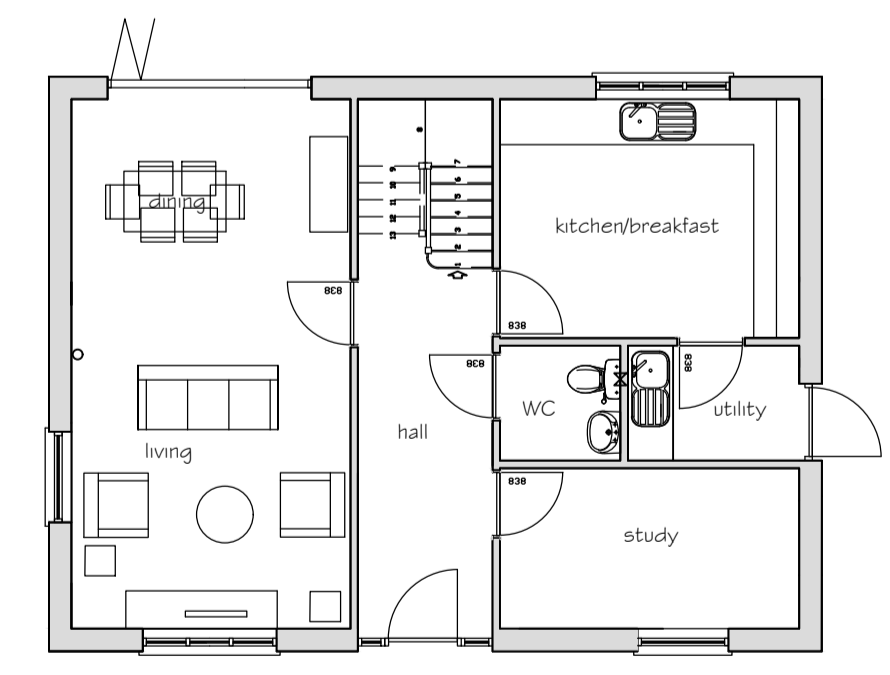


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SIDE ELEVATION
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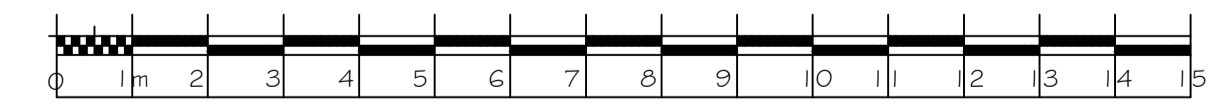
SIDE ELEVATION

SIDE ELEVATION

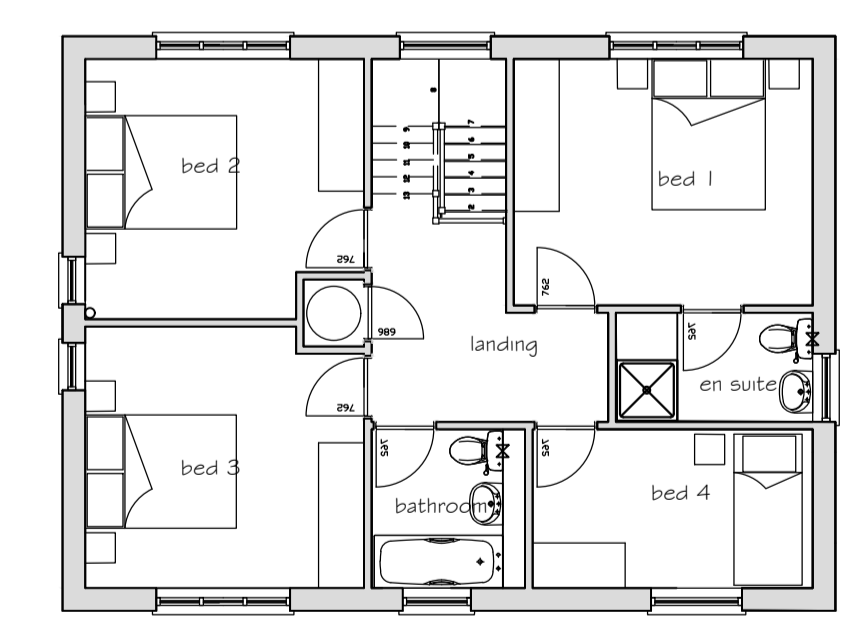


GROUND FLOOR PLAN PLOT 4

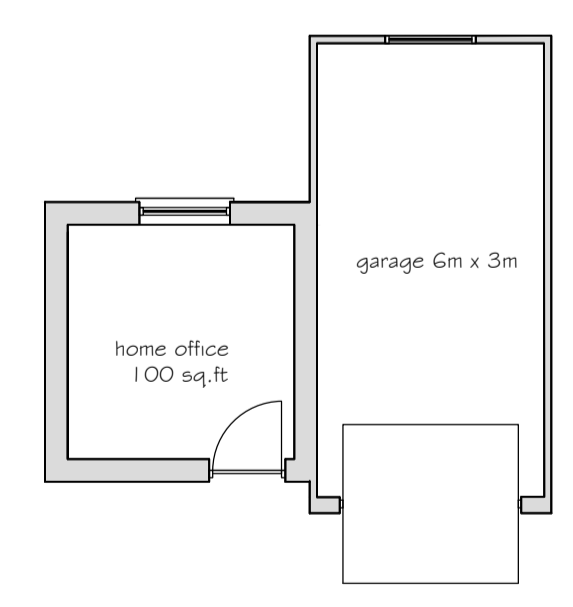
1450 sq.ft



1:100



- EXTERNAL MATERIALS**
- ROOF PLAIN CLAY TILES RED/BROWN
 - WALLS BLACK STAINED FEATHER EDGE BOARDING
 - WINDOWS SOFT RED BRICK PLINTH
 - DOORS STAINED SOFT WOOD
 - OAK



GARAGE/HOME OFFICE
Plot 4

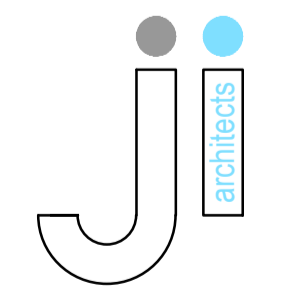
PLANNING ISSUE 28.04.21
 REV A Home office and garage added 12.04.21

LAND AT JUNCTION OF
 SAWPIT ROAD AND
 SCHOOL ROAD
 HURST

JPP Land Ltd and Redcar Investment Co Ltd

PLOT 4
 PLANS AND ELEVATIONS

SCALE 1:100 DATE 09.04.21



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FRONT ELEVATION
1:100

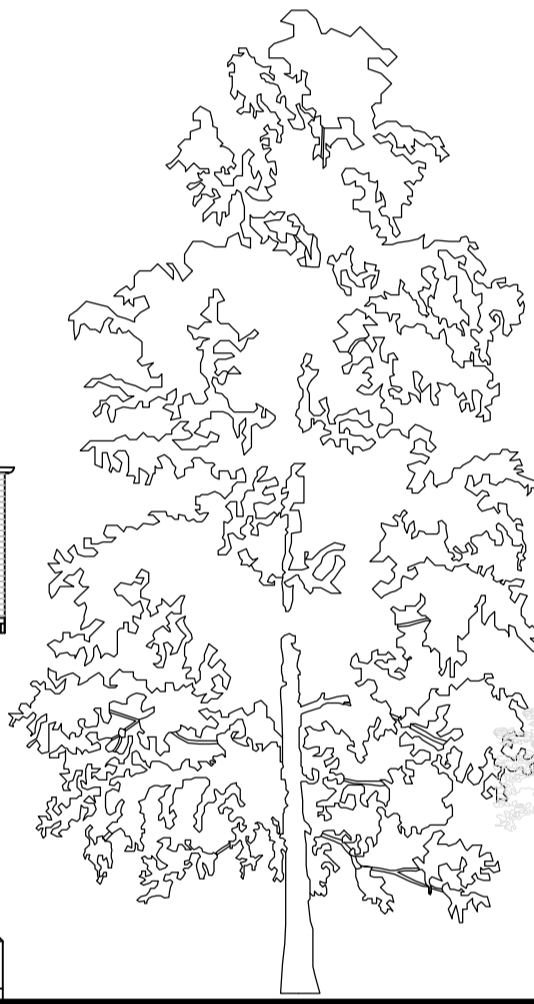
SIDE ELEVATION
1:100

FRONT ELEVATION
PLOT 4 GARAGE/HOME OFFICE

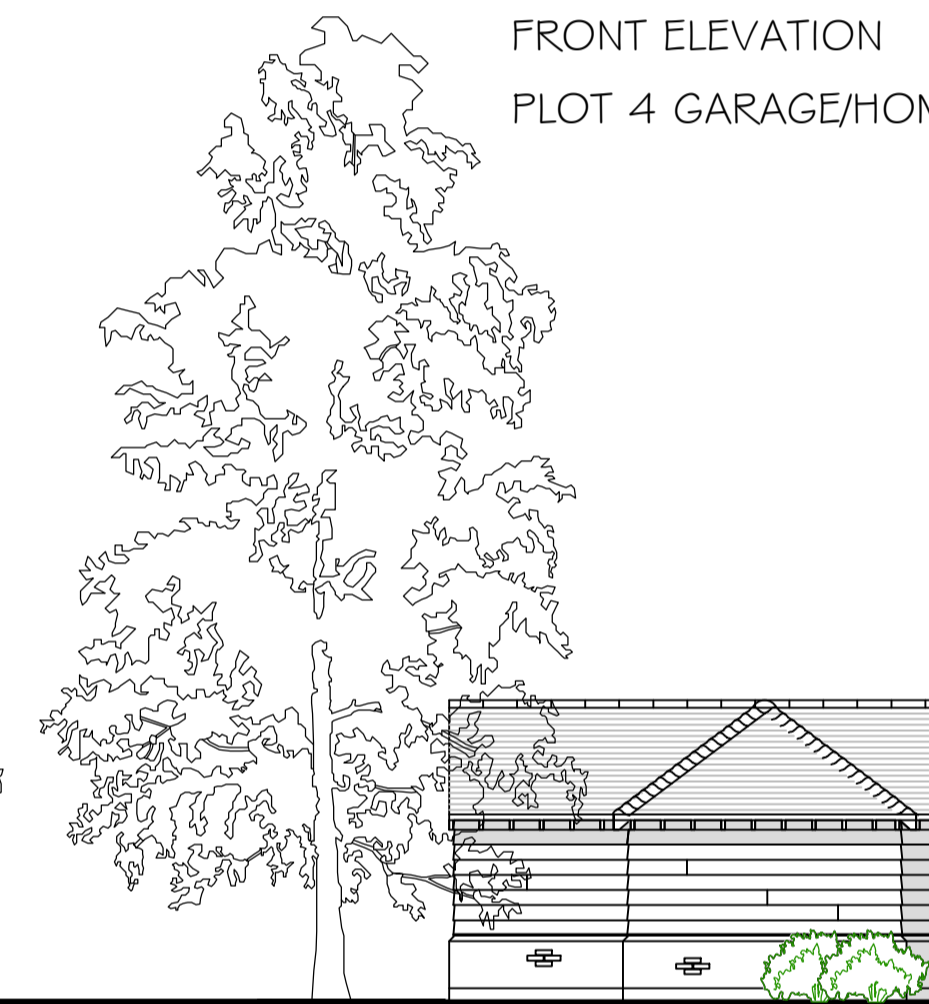
REAR ELEVATION



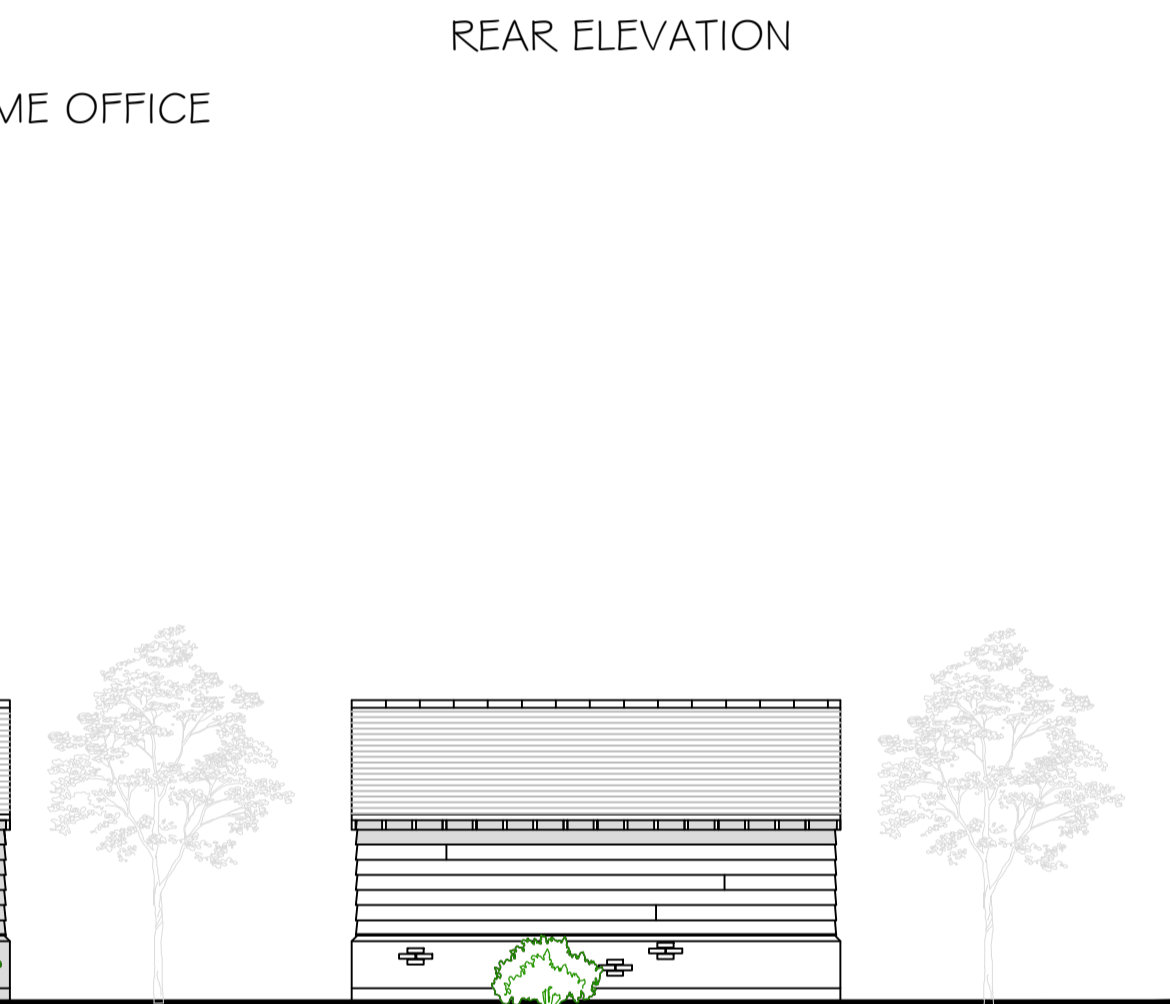
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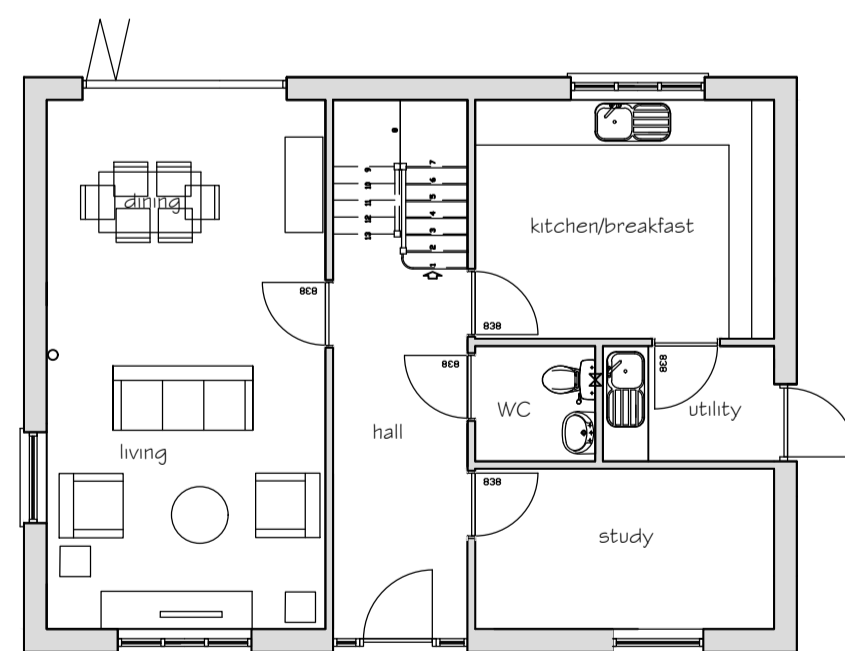
SIDE ELEVATION
1:100



SIDE ELEVATION

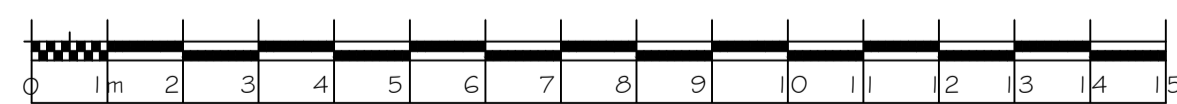


SIDE ELEVATION

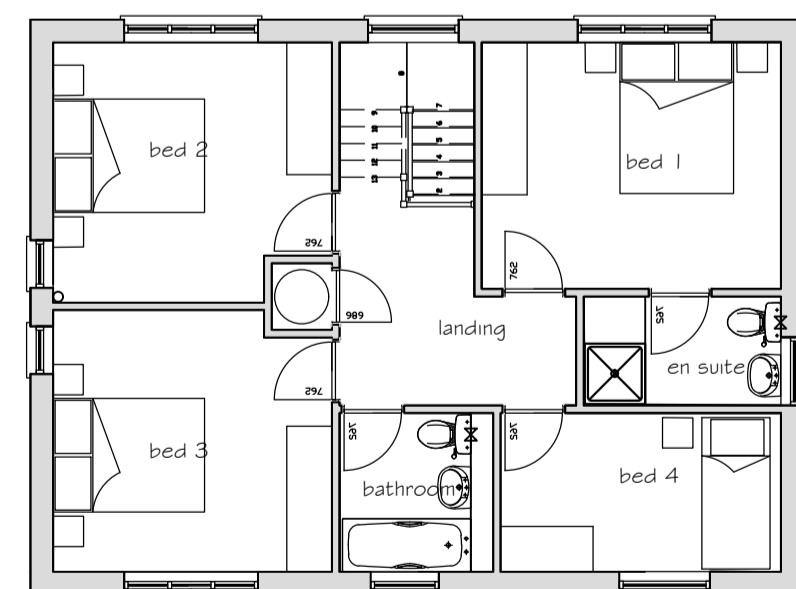


GROUND FLOOR PLAN PLOT 4

1450 sq.ft

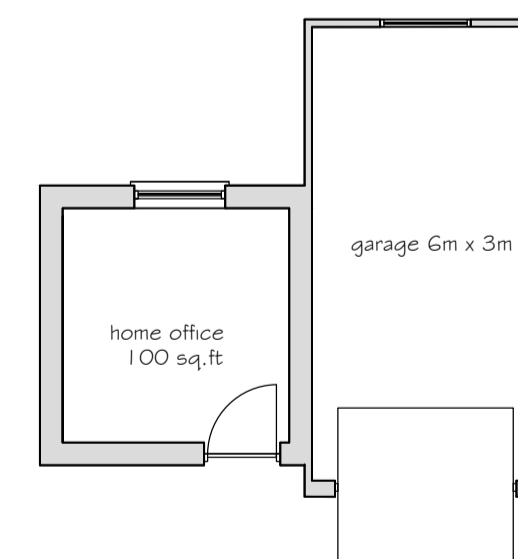


1:100



EXTERNAL MATERIALS

- ROOF PLAIN CLAY TILES RED/BROWN
- WALLS BLACK STAINED FEATHER EDGE BOARDING
- SOFT RED BRICK PLINTH
- WINDOWS STAINED SOFT WOOD
- DOORS OAK



GARAGE/HOME OFFICE
Plot 4

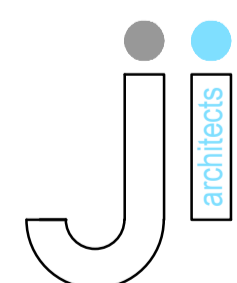
REV B Window to garage added 11.05.21
 PLANNING ISSUE 28.04.21
 REV A Home office and garage added 12.04.21

LAND AT JUNCTION OF
 SAWPIT ROAD AND
 SCHOOL ROAD
 HURST

JPP Land Ltd and Redcar Investment Co Ltd

PLOT 4
 PLANS AND ELEVATIONS

SCALE 1:100 DATE 09.04.21



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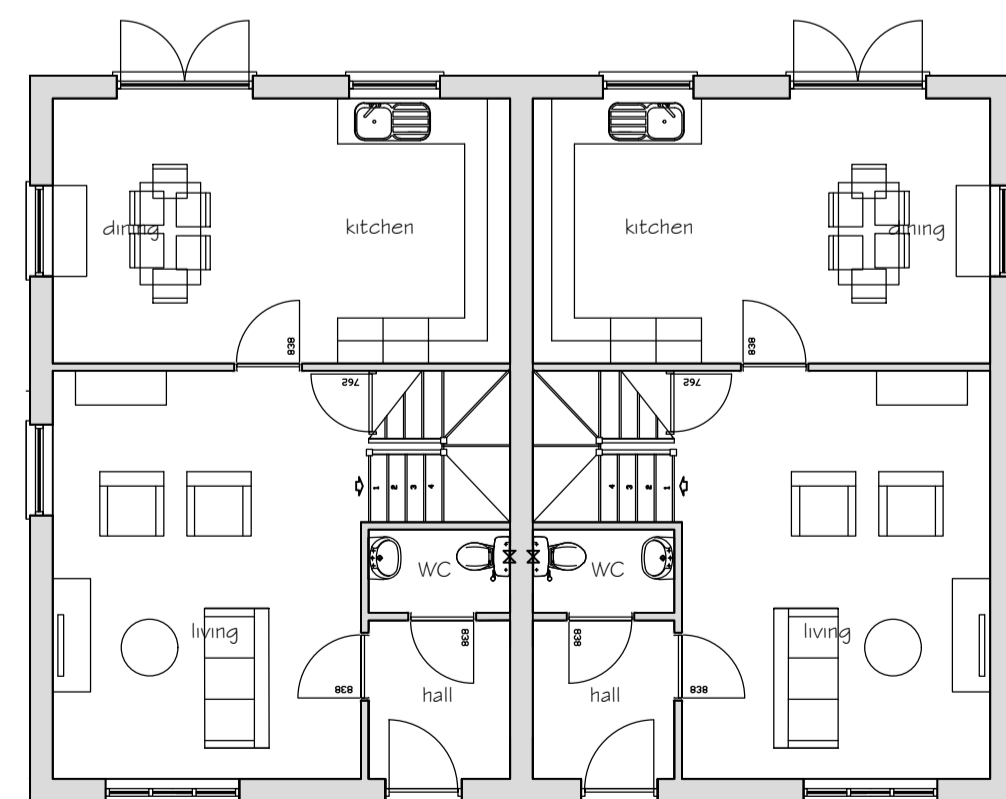
plot 1
 FRONT ELEVATION
 1:100

plot 1
 SIDE ELEVATION
 1:100



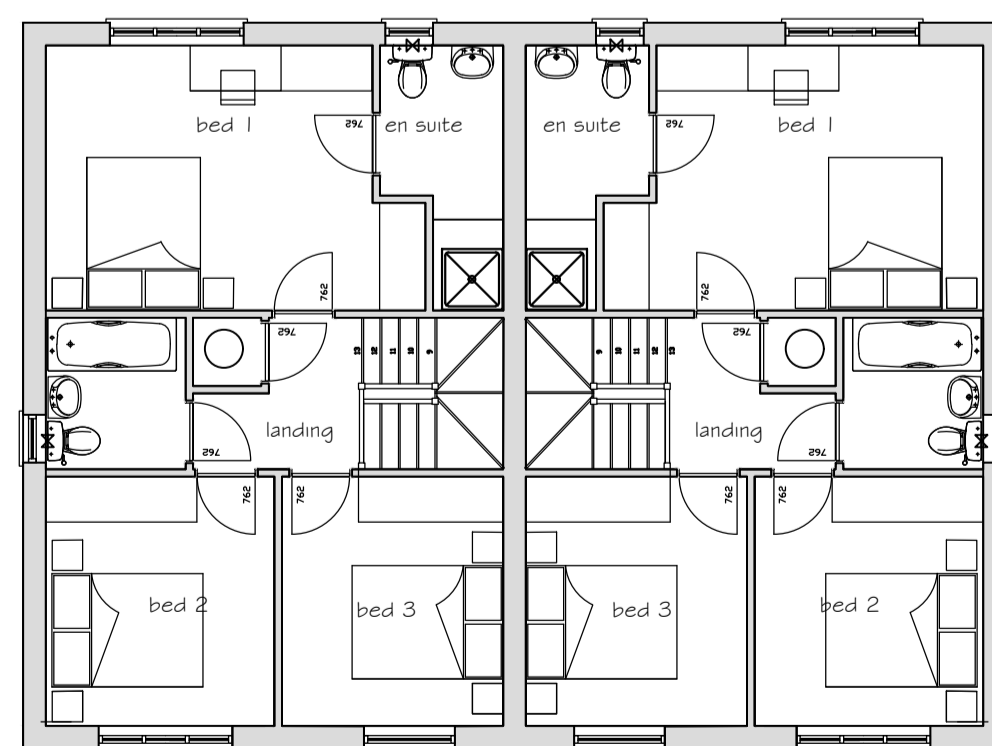
plot 2
 REAR ELEVATION
 1:100

plot 2
 SIDE ELEVATION
 1:100



GROUND FLOOR PLAN PLOTS 1 and 2

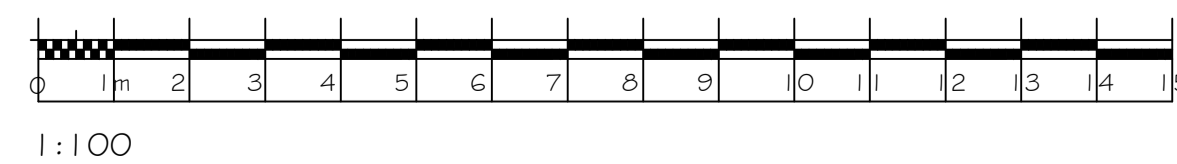
1150 sq.ft



FIRST FLOOR PLAN

EXTERNAL MATERIALS

ROOF PLAIN CLAY TILES RED/BROWN
 WALLS SOFT RED BRICK WITH BLUE BRICK HEADER DETAILS
 WINDOWS PAINTED SOFT WOOD
 DOORS OAK



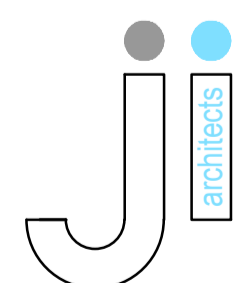
REV B Window to side elevation of plot 2 added
 11.05.21
 PLANNING ISSUE 28.04.21
 REV A Materials added 12.04.21

LAND AT JUNCTION OF
 SAWPIT ROAD AND
 SCHOOL ROAD
 HURST

JPP Land Ltd and Redcar Investment Co Ltd

PLOTS 1 AND 2
 PLANS AND ELEVATIONS

SCALE 1:100 DATE 09.04.21



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 john@jiarchitects.co.uk

PROJECT 150 DWG. 11B

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	211532
Site Address:	Land at Junction of Sawpit Road and School Road, Hurst, Berkshire
Expiry Date:	6 July 2021
Site Visit Date:	3 June 2021
Proposal: Full planning application for the proposed erection of 2 no. four bedroom detached dwellings and 2 no. three bedroom semi-detached dwellings, with associated site access, car parking, home offices and landscape.	

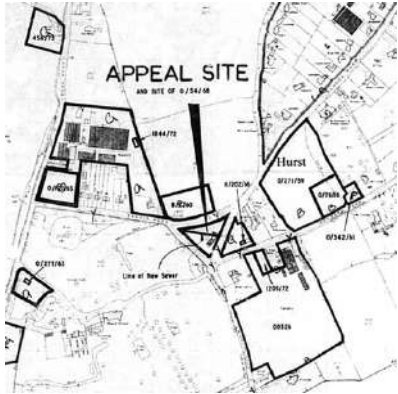

PLANNING CONSTRAINTS/STATUS

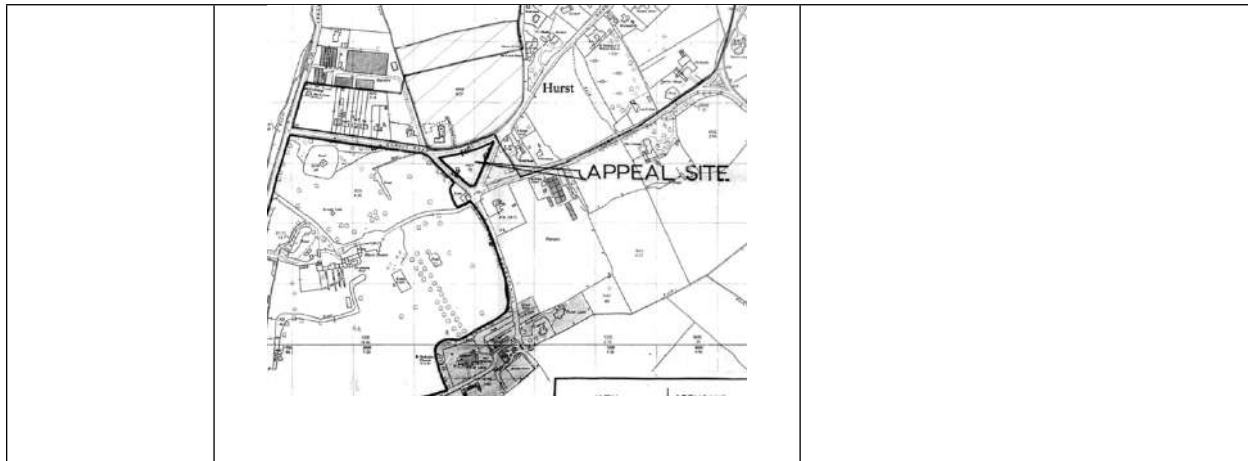
- Designated Countryside
- Contaminated Land Consultation Zone
- Heathrow Aerodrome Consultation Zone
- Areas of Special Character – The Old School House
- Bat Roost Habitat Suitability
- GC Newt Consultation Zone
- Ground Water Consultation Zones
- Flood Zone 1
- Minerals Site Consultation Area
- Replacement Mineral Local Plan
- Landscape Character Assessment Area C2: Hurst River Terrace
- Tree Preservation Order – TPO-1790-2021
- Local Plan Update Submitted Site – site was not included in the list of sites allocated for residential/ mixed use.
- SSSI Impact Risk Zones
- Historic Flooding Points Consultation Zone

PLANNING POLICY

National Policy	National Planning Policy Framework (NPPF) National Planning Policy Guidance (NPPG)
Core Strategy (CS)	CP1 – Sustainable Development CP2 – Inclusive Communities CP3 – General Principles for Development CP4 – Infrastructure Requirements CP5 – Housing Mix, Density and Affordability CP6 – Managing Travel Demand CP7 – Biodiversity CP9 – Scale and Location of Development Proposals CP11 – Proposals Outside Development Limits CP17 – Housing Delivery
MDD Local	CC01 – Presumption in Favour of Sustainable Development CC02 – Development Limits

Plan (MDD)	CC03 – Green Infrastructure, Trees and Landscaping CC04 – Sustainable Design and Construction CC06 – Noise CC07 – Parking CC09 – Development and Flood Risk CC10 – Sustainable Drainage TB05 – Housing Mix TB07 – Internal Space Standards TB21 – Landscape Character TB23 – Biodiversity and Development TB26 – Buildings of Traditional Local Character and Areas of Special Character
Other	Borough Design Guide Supplementary Planning Document CIL Guidance Affordable Housing Supplementary Planning Document A Design for Hurst

PLANNING HISTORY		
Application No.	Description	Decision & Date
O/54/68	Outline application for detached house	Refused 11/04/1968
00120	Outline application for detached house 	Refused 08/02/1974; Appeal dismissed 14/02/1975
14782	Outline application for a bungalow 	Refused 15/01/1981; Appeal dismissed 09/09/1981
21872	Outline application for 2 bungalows	Refused 26/07/1984; Appeal dismissed 13/02/1985



CONSULTATION RESPONSES

Internal

WBC Environmental Health – No comments received

WBC Drainage – No objections subject to condition

WBC Highways – Recommended refusal on unsustainable location grounds.

WBC Landscape and Trees – Recommended refusal since proposal is contrary to policies.

WBC Cleaner and Greener – No comments received.

WBC Ecology – Requested further information.

WBC Conservation Area Officer – Recommended refusal since proposal would have harmful impact on the Special Character of the Area.

External

Thames Water Utilities Ltd – No objections.

REPRESENTATIONS

Parish/Town Council	<p>Objected to the application for the following reasons:</p> <ul style="list-style-type: none"> • The site is outside of settlement limits and the proposal will be contrary to policy CP11. • The site forms central part of the Area of Special Character. • The site has a massive ecological value with rich flora and fauna including mature trees and hedging. • The site has poor access and visibility splays and enters onto a narrow lane which already has existing highway issues. <p><i>(Officer's notes: These comments were given due consideration while determining this application. Detailed assessment of the scheme against various factors identified by the Parish Council is included in the appraisal section below).</i></p>
Ward Member(s)	No comments received
Neighbours	66 letters were received of which 1 letter supported the application and 65 representations were made objecting the

scheme.

- **Support** was received from the occupants of Pigeon Cottage, West Drive on the following merits: The proposal is ideal for this site, as it is small scale with good design. The plans look delightful and will enhance the area and inject lifeblood into the village, which needs to evolve but on a minimal, sensitive scale rather than large scale development.
- **Objections** were received from residents of following addresses:

1 Elliotts Green Cottages, Broadcommon Road; 2 Elliotts Green Cottages, Broadcommon Road; 19 Broadcommon Rd; 1 Old Police Cottages, Broadcommon Road; 2 Old Police Cottages, Broadcommon Road; The Old Cottage, Broadcommon Road; New Cottage, Broadcommon Road; Meadow Cottage, Davis Street; Fishery Cottage, Davis Street; 2 Whywick Cottages, Davis Street; Meadow View, Dunt Lane; Donnington, Hinton Road; 1 Montrose Villas; Ballacloan, Tape Lane; Green End, Tape Lane; Salix, Tape Lane; Bush Cottage, Tape Lane; Soundings, Tape Lane; Crackington, Tape Lane; Carrington Cottage, Wokingham Road; 2 Nursery Close; Woodside Cottage, Maidenhead Road; St Merryn, Lodge Road; Castle Close, Lodge Road; 2 Laburnum Cottages, Lodge Road; Swallow Cottage, Rosevale Drive; 8 Almshouses, Church Hill; Hurst Village Society; Westhope, Wards Cross; The Cricketers, Wards Cross; 1 Wards Cross Cottages; Fernwood, Sawpit Road; Little Cottage, The Street; Tobago House, Hogmoor Lane; Thatch Cottage, Poplar Lane; Holly House, 3 Orchard Chase; Field Cottage, Whistley Green; Old Swan Cottage, Whistley Green; 5 Martineau Lane; 7 Martineau Lane; 28 Martineau Lane; 31 Martineau Lane; 32 Martineau Lane; 33 Martineau Lane; 34 Martineau Lane; 38 Martineau Lane; 44 Martineau Lane; and 4 letters without specific addresses.

Objections were made on following grounds:

Principle of development:

- The proposal would fall outside of the village boundary and would not fall into any of the exceptions listed in policy CP11.
- The proposal also conflicts with multiple development plan policies of Wokingham Council.
- The site is an unsustainable location. All trips by future residents will be by cars resulting in congestion and pollution.

- WBC can demonstrate 5 years housing land supply and as such the tilted balance, as advocated by the NPPF is not applicable. There is no need for additional housing within unsustainable countryside location.
- There is no need for additional 3 or 4 bedroom dwellings within Hurst as there is more than ample supply of this type of housing within the Parish.

Character of the area:

- The proposal would result in urbanisation that would be overbearing and intrusive to the existing street scene.
- The site is clearly visible when entering the village from Church Hill and acts as a screening for the Martineau Lane houses. The proposal would have a significant negative visual impact on this view, particularly in winter months when the vegetation cover will be lost. Residential paraphernalia will dominate the visual realm that will have a harmful impact to both the visual character and appearance of the rural aspect of the area.
- The site acts as a transition area and rural boundary between the countryside and the built up area of the village and the proposal would result in the loss of this transition area.
- The proposed development has inappropriate density that is too high for edge of settlement location.

Design:

- Plot 3 of the proposal would never receive direct sunlight due to the orientation and presence of mature vegetation that are proposed to be retained.
- Dwelling designs are not in keeping with the character of other nearby dwellings.
- The site is not large enough to accommodate 4 dwellings.

Ecology:

- The site is an important green space which contributes to the climate change goals.
- The site supports a great variety of flora and fauna, and the proposal would destroy this ecology.
- The proposal would result in fragmentation of habitat.
- Ecological mitigation strategies will not be sufficient to address the loss of habitat.
- The site is likely to have Great Crested Newts and Water Voles. The proposal would have negative impact on these

protected species.

Heritage:

- The site is located within an Area of Special Character and the proposal would fail to enhance the character of the area.
- The proposed design and use (home office) are out of character within the ASC.
- The black stained feather edged weatherboarding does not reflect the architecture in the ASC and the over massing of the site by 'squeezing in' 4 dwellings (plus home offices, garages and bike stores) is insensitive to the character and landscape of the ASC being neither reflective nor sympathetic.
- Hurst is fortunate in having several triangular enclaves at the outskirts of the village. They are not vacant sites awaiting development but a legacy of past ways which make a significant contribution to its distinctive character.

Neighbour amenity:

- The proposal would have overlooking impact on some of the properties along Martineau Lane and there will be increased noise, light and general activity from the site which currently acts as a noise barrier, particularly from traffic passing through the village.

Infrastructure:

- Hurst has limited infrastructure and the proposal would result in increased pressure on these.
- There is only a small local shop with limited provisions.
- The primary school only has an intake of 20 pupils per year and there is no room for expansion.
- There is no public transport to any of the secondary schools so pupils are either driven by parents (adding to congestion on the roads) or cycling on dangerous roads with no designated cycle lanes and in some instances on roads with a 60mph speed limit.
- Whilst the site is served by a bus route, the route does not meet the Wokingham Council's Local Plan definition of good public transport.
- There is no medical practice in Hurst and new residents would have to go as far as Binfield to register with a surgery.

Highways:

- The access into the site is hazardous as Sawpit Road is a narrow road with many walkers and cyclists as well as cars and tractors using it.
- It will be difficult for a fire engine to access the site.
- The site has inadequate visibility splays. Construction of new fencing / reinforcement of hedging / houses & garages will only exacerbate the dangers of poor visibility and inadequate turning circles.
- The proposal does not include any cycle tracks or pavements.
- Parking within the site will be limited and there will not be sufficient visitor parking.
- Parking provision around the site is already critical and additional traffic from the proposed development would make it worse.
- There are no footpaths and street lights on this section of the village. All future residents will not find walking an attractive option.
- The traffic survey report submitted to support the application does not provide a full picture. Traffic around this area are often hazardous to pedestrians as the cars do not follow the speed limits. Additional traffic from the proposed development would exacerbate the condition.
- The development will increase road safety concerns with additional on street parking and pedestrian crossing Sawpit Road which does not benefit from a footpath.

Landscape:

- All existing trees and hedgerows within the site are covered by a Tree Preservation Order and one of the Oak trees within the site is a Veteran Tree. The proposal would have harmful impact on this tree.
- The Tree Survey and Arboricultural Impact Assessment does not acknowledge that all the trees on this site are protected by a Tree Preservation Order.
- Whilst the submitted documents state only 4-5 trees will be removed, the intensity of the proposal would have a detrimental impact on the remaining trees and would irreparably damage them.

Drainage:

- Hurst already has problems with flooding and standing water that will be exacerbated by the proposed development.

	<ul style="list-style-type: none"> • This planning application affords no assurances against future flooding (surface water or sewage). • Hurst is widely renown for surface water flooding due its high water-table – a scenario that can only get worse with any increase in development. This planning application merely contributes to the risk of localised flooding. <p><u>Other:</u></p> <ul style="list-style-type: none"> • If approved, the proposal would set precedent for similar developments in future. • Due to the scale of the proposal, the scheme would not have any social benefits as it would not have to make any contributions towards affordable housing or infrastructure improvements etc. • The proposed houses themselves are not ‘affordable’ units. • The planning history of the site shows that an application for 1 dwelling on this site was made in 1974 which was refused and later dismissed on appeal in 1975. • There is no discernible benefit to be derived from the development of this site over the harm that it will cause to the wider infrastructure, environment and habitat. <p><i>(Officer’s note: The full planning history of the site is included in the relevant section above. All other issues identified by local residents including the Council’s assessment of the site as part of the Local Plan Update are dealt with in the appraisal section below).</i></p>
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APPRAISAL

1. Site Description:

The site is a Greenfield land located on the junction between Sawpit Road, School Road and Church Hill to the south of Hurst Village and within designated Countryside. It is a triangular plot of 0.29 hectares area and is bounded by roads on all three sides. An existing access gate is located on Sawpit Road. The topography of the site is generally flat, and it primarily contains grassland in the middle with mature trees, hedgerows and scrub mosaic delineating all three boundaries. One of the oak trees near the north-eastern corner is a veteran tree as per Wokingham District Veteran Tree Association (tree number 8636). The plot is free of any development except for a timber outbuilding and a metal trailer located near the boundary with Church Hill.

The site is located between residential development of Martineau Lane to the north, which also marks the edge of settlement boundary, and open countryside with sporadic residential development predominating other three sides. Due to the presence of Martineau Lane public open space on the north of the site, the application site forms part of the continuous open space structure of the village and

acts as a transition area between the built-up areas within settlement limits to the north and open countryside to the south and west. The site also forms part of The Old School House Area of Special Character and existing mature trees along its boundaries contribute to the area's special character.

2. Principle of Development:

The National Planning Policy Framework has an underlying presumption in favour of sustainable development which is carried through to the local Development Plan. The Managing Development Delivery Local Plan Policy CC01 states that planning applications that accord with the policies in the Development Plan for Wokingham Borough will be approved without delay unless material considerations indicate otherwise.

2.1. Housing land supply and tilted balance:

The Council can demonstrate a policy compliant 5 year housing land supply. On 31st March 2020, the Council has a housing land supply of 5.23 years against the Local Housing Need (LHN) of 789 dwellings plus 5% buffer and as such, the tilted balance of Paragraph 11 of the NPPF is not engaged in this instance.

In section 4 of the Design and Access Statement (DAS), the applicant has argued that the Council's most relevant policies applicable to the current proposal are out of date and for this reason the tilted balance of paragraph 11 of the NPPF will engage in this instance. The Council disputes this claim. Numerous recent appeal decisions have concluded that the Council's policies have all been up to date despite having few minor inconsistencies with the NPPF. The most relevant to the current application in this regard is the decision for appeal APP/X0360/W/18/3194044 (Land at Lodge Road, Hurst, Wokingham RG10 0SG, decision date 31 January 2020) where in paragraph 16 the inspector states that, "*taken as a whole I do not accept that the basket of most important policies is out of date. For this reason paragraph 11d) of the NPPF (the tilted balance) is not engaged*".

The DAS also argues that the Council's settlement boundaries are outdated since the minimum housing figure in CP17 does not match the Local Housing Need requirement and as such, policies CP9, CP11 and CC02 should attract limited weight. The Council disputes this claim. The Council is meeting the aims of the NPPF by providing policy compliant 5 years supply of land using 4 SDL sites. On this basis, Council's development plan policies are achieving the desired aims and are consistent with the NPPF in their intent. Conflicts with Policies CP9, CP11 and CC02 on the basis of the proposal being outside development limits should therefore be given significant weight.

The Wokingham Borough Council has a planned approach to the delivery of housing within the Borough using 4 major Strategic Development Location (SDL) sites which is successfully delivering the Council's future housing in addition to infill development within the settlement boundaries. The most up to date Five Year Housing Land Supply Statement demonstrates the Council has a five year housing land supply. The Council does not understand there to be any dispute on this aspect. As a result, all important policies of the Council are considered up to date and the presumption in

favour of sustainable development (or the tilted balance), as advocated by paragraph 11d of the NPPF is not engaged in this instance.

2.2. Accordance with the development plan:

The starting point for decision making is the development plan. Section 70[2] of the TCPA 1990 & 38[6] of the PCPA 2004 states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. A fundamental spatial objective of the development plan is to steer new development to the sustainable defined settlement limits and ensure that the scale of development reflects the size of the settlement and the services within it.

The application site is a Greenfield land that falls within designated countryside outside of settlement boundary and any residential development would have to be in accordance with local and national policies. Policy CP11 of the Core Strategy relates to proposals outside such development limits. It is a restrictive policy designed to protect the separate identity of settlements and maintain the quality of the environment. Policy CP11 states that proposals outside of development limits will not normally be permitted except (summarised):

1. Where it contributes to diverse and sustainable rural enterprises; and,
2. Where it does not lead to excessive encroachment or expansion of development away from original buildings; and,
3. Buildings appropriate for conversion or environmental improvements for replacement buildings; or,
4. Appropriate residential extensions;
5. Where replacement dwellings would bring about environmental improvements and not result in inappropriate increases in the scale, form or footprint or the original building;
6. Provision of community facilities, and
7. Affordable housing on rural exception sites.

For the current proposal, point 2 of policy CP11 is the most relevant as the proposal would not contribute to a rural enterprise, it would not be for a community facility and neither is the proposal for affordable housing¹. Moreover, the proposal is not for a replacement dwelling and neither for residential extensions. The proposal would result in a hitherto undeveloped rural Greenfield land being used as permanently residential with associated hardstanding and residential paraphernalia, thus introducing built form into the countryside. As such it would result in excessive encroachment and expansion of development away from original buildings and is contrary to the second point. None of the other points are considered applicable to the application and on this basis, the proposal does not comply with policy CP11 of the Core Strategy. The proposal is therefore contrary to the development plan being outside of development limits which would not accord with any exception criteria.

¹ The site area triggers for affordable housing contributions and the DAS suggests that the application would like to provide monetary contributions in lieu of the Council's Affordable Housing contributions. However, there is no provision of on-site affordable housing and as such, the proposal is not considered to comply with point 7 of CP11.

The National Planning Policy Framework indicates Local Authorities should seek to protect the intrinsic beauty of countryside locations. In regards to new dwellings in rural areas, paragraph 79 of the NPPF states Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances, which are set out in the NPPF as:

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;
- d) the development would involve the subdivision of an existing residential dwelling; or
- e) the design is of exceptional quality, in that it:
 - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
 - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

The proposal does not fall into any of the exceptions listed in the NPPF and would not comply with its requirements. The applicant has argued that the site is not isolated and as such, the proposal is in accordance with the national policies. Whilst it is acknowledged that the site is not isolated in the ordinary meaning of the word, the site is nonetheless detached from the settlement boundary and will not form a logical extension due to the presence of Sawpit Road which acts as a natural edge of the settlement limits. Due to the site's islandic nature, the proposal will result in 4 isolated dwellings that will not form part of the existing residential development of Martineau Lane neither would the proposal reflect the grain of development of rural settlement located to the south of the site. Additionally, the proposal would have a detrimental impact on the quality of the environment by introducing residential development with additional paraphernalia into hitherto undeveloped land resulting in encroachment into countryside and urbanisation contrary to policy CP11. In this regard, the proposal is contrary to the intent of development plan and is unacceptable in principle.

Other than paragraph 79, paragraphs 77 and 78 provide guidance for rural housing. Paragraph 77 of the NPPF states that in rural areas, housing developments that reflect local needs will be supported and that rural exception sites for affordable housing with some market housing should be encouraged. The current application has not been supported with a Housing Need Analysis to demonstrate a local need for the proposed development. Moreover, the proposal is not for any affordable housing development, though it is proposed to provide monetary contributions in-lieu of affordable housing provisions. As such, the proposal does not comply with paragraph 77 of the NPPF.

The proposal would not comply with the paragraph 78 since it has not been demonstrated that the proposal would enhance or maintain vitality of the rural communities. Additionally, the proposal will be located within an unsustainable

location and will be contrary to the requirements of the NPPF, see the discussion below.

2.3. Sustainable location:

Policy CP1 of the Core Strategy require that development is sustainable, in terms of enhancing the quality of the environment, protecting water quality and agricultural land and achieving zero carbon developments. This is reaffirmed in Policy CP6, which aims to reduce the need for travel and promotes sustainable transport. Policy CP9 of the Core Strategy states "*the scale of development proposals in Wokingham borough must reflect the existing or proposed levels of facilities and services at or in the location, together with their accessibility*". Expanding on this, paragraph 4.57 in the Core Strategy aims to prevent the proliferation of development in areas away from existing development limits as they are not generally well located for facilities and services and would lead to the increase in use of the private car.

The site is outside of the defined boundary of Hurst, which is classed as a limited development location due to the basic range of services and facilities in the village. A transport assessment is provided with the application which includes walking, cycling and public transport options available neat the application site. It is proposed to provide a pedestrian link and uncontrolled crossing point with dropped kerbs and tactile paving to the existing footway on the northern side of Sawpit Road from the application site. It is stated that the Village Hall, a primary school, village shop and post office, and recreational facilities are all available within walking distances. A bus stop is located within 150m of the application site with services to Twyford and Winnersh railway stations. Additionally, it has been argued that since the site is located adjacent to Hurst settlement boundary, it should be considered a sustainable site.

The Council disputes the claim that the site is within a sustainable location. Hurst has basic range of services which is typical of a small village. The services provided at the post office and bakery are limited and would not support day-to-day activities, thereby necessitating trips to Woodley, Winnersh, Twyford or elsewhere. The nearest pub is 500m away on Church Hill. Pedestrian or cycle access to Church Hill is generally inconvenient because of the lack of footpaths and appropriate cycle lane along 60mph speed limit which underlines the unsustainable and isolated nature of the site.

Most of the walking routes mentioned in the transport assessment report are unattractive and are mostly unlit. Additionally, the footway to the north of the site along Martineau Lane public open space lacks any form of passive surveillance from nearby residential properties and will not be an attractive route for pedestrians. For the same reasons, cycling is not likely to be a significant alternative mode of transport to be used by the occupants of the proposed development.

The nearest bus stop from the site is located on School Road some 150m from the centre of the application site. The bus stop is served by bus services 128/129 (Country Buses) which fall short of the requirements of Core Strategy Policy CP6, which states that good public transport services should meet the following requirements:

- a) At least a thirty minute service frequency during peak times (7:00 to 9:00 and 16:00 to 19:00 Monday to Saturday); and
- b) At least an hourly service frequency during off-peak hours (9:00 to 16:00 and 19:00 to 22:00 Monday to Saturday and between 7:00 and 22:00 on Sundays)".

Train stations at Twyford and Winnersh are located 2.9km and 3.2km from the site respectively. The site is more than 2km to the nearest secondary school, supermarket and medical facilities, which is more than recommended walking distances for these facilities. The occupants of the dwellings would be overly reliant on private motor vehicles to access basic amenities and services, contrary to policies CP1, CP2, CP3, CP6 and CP11 of the Core Strategy, CC01, CC02 and CC08 of the MDD Local Plan, the Borough Design Guide SPD and the core planning principles and sections 5, 9, 12 and 15 of the NPPF.

2.4. Heritage:

The site is located within The Old School House Area of Special Character – a locally designated heritage asset. Policy TB26 of MDD Local Plan states that *“Planning permission will only be granted for proposals to or affecting Areas of Special Character where they demonstrate that they retain and enhance the traditional, historical, local and special character of the building or area”*.

The site is located at the core of the Area of Special Character around the Old School House forming an important spatial break between the south edge of Hurst village and the group of listed buildings around St Nicholas Church (Grade I), Bakers Almshouses, Church Hill Cottages, and Castle Inn (all Grade II) located approximately 200m to the south on Church Hill. The proposal would introduce significant quantum of residential development on the rural land within the Area of Special Character, thus physically altering the spatial buffer. The proposal would diminish the definition of Area of Special Character and exert pressure on its boundary, thus negatively impacting its key features. Additionally, the detailed survey of The Old School House Area of Special Character document identifies the existing trees surrounding the site as ‘significant trees’ that contribute to the special character of the area (figure 1). The current proposal would result in the loss of some of these trees in order to accommodate the new access and would introduce 2 storey high residential properties that would have detrimental impact on the visual and physical quality of this area contrary to policy TB26 of the MDD Local Plan.

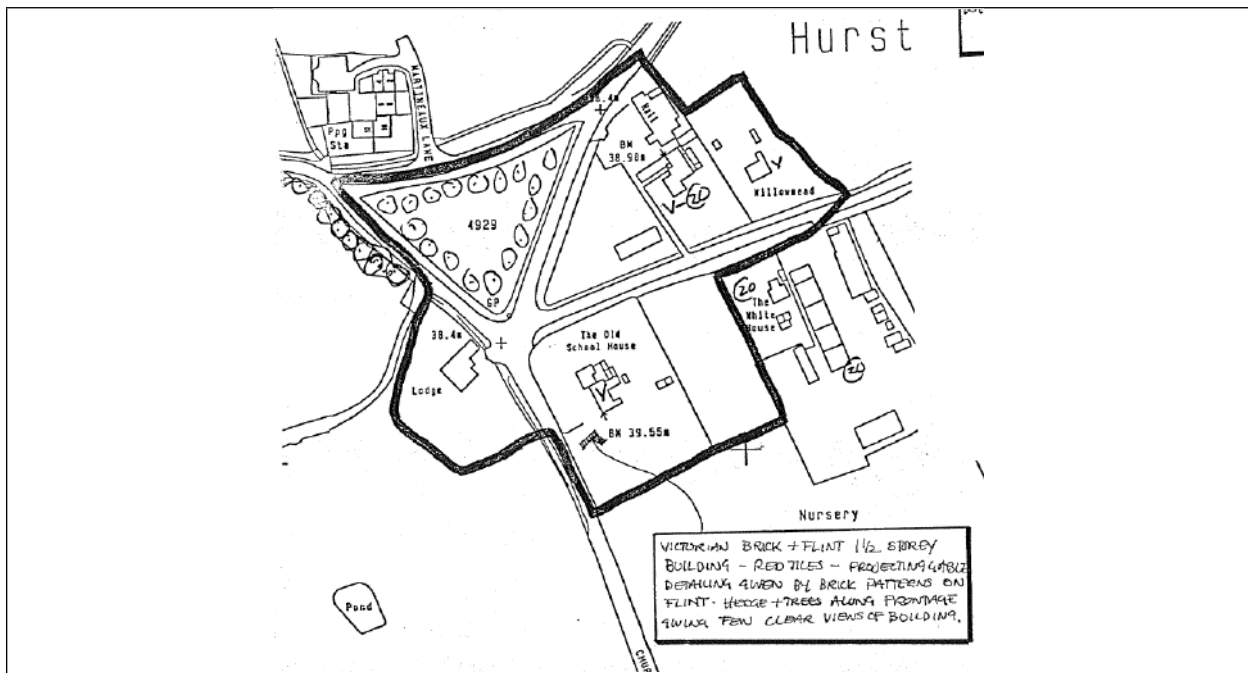


Fig. 1 Detailed Survey of Local Character: Hurst and Environs

2.5. Local Plan Update:

The application site was put forward by the landowner for residential development under the Local Plan Update call for sites process. The Local Plan Update is at a relatively early stage of preparation. Public consultation on the Draft Local Plan (Regulation 18) was conducted between 3 February and 3 April 2020. The Draft Local Plan sets out the proposed spatial strategy for development within the borough to 2036, including proposed site allocations and draft development management policies. The current application site was considered 'unsuitable' for development under the Housing and Economic Land Availability Assessment (HELAA) that was carried out as part of the site allocation process.

At the time of writing this report, the Draft Local Plan has limited weight in the decision-making process. Notwithstanding, HELAA concluded that, "*The site is **not** considered to be sustainable, with limited access to services and facilities. The scale of development would not allow for improvements to infrastructure and services*" and the site was considered "*not developable within next 15 years*". As such, it is highly unlikely that the site will be allocated for housing development in the updated Local Plan that would guide future developments within the Borough for next 15 years.

2.6. Conclusion:

By virtue of introducing residential development on hitherto undeveloped Greenfield land within designated Countryside, the proposal would result in excessive encroachment of countryside and expansion of development away from original buildings contrary to policy CP11 of the Core Strategy. The proposal would not fall into any of the exceptional categories, as identified by the NPPF and would be located on an unsustainable location. The future occupants of the dwellings would be

overly reliant on private motor vehicles to access basic amenities and services, contrary to policies CP1, CP3, CP6 and CP11 of the Core Strategy, CC01, CC02 and CC08 of the MDD Local Plan, the Borough Design Guide SPD and the core planning principles and sections 5, 9, 12 and 15 of the NPPF. By virtue of significant increase in the quantum of development, the proposal would have a negative impact on the character of the existing Area of Special Character contrary to policy TB26 of the MDD Local Plan and is unacceptable in principle.

3. Character of the Area:

3.1. General Character:

Policy CP3 of the Core Strategy states that development must be appropriate in terms of its scale, mass, layout, built form, height and character of the area and must be of high quality design. R1 of the Borough Design Guide SPD requires that development contribute positively towards and be compatible with the historic or underlying character and quality of the local area.

The site is a Greenfield within designated countryside currently occupied by grassland and scrub mosaic and bounded on all three sides by mature trees and hedgerows all of which are protected by TPO-1790-2021. The site is physically isolated from neighbouring areas by Sawpit Road, School Road and Church Hill which adjoin the site on all three sides. The site acts as a physical, visual and functional buffer between the residential developments within settlement limits located to the north of the site and open countryside with sporadic development to the south. It occupies a prominent position at the junction between 3 roads and contributes positively to the views from both directions while travelling on Sawpit Road, School Road and Church Hill. Particularly, the site offers a focal point at the entrance of the village travelling from Church Hill and helps in filtering the views of hard edges from Martineau Lane residential development. Additionally, existing mature vegetation on all three sides of the site along with the trees and hedges of Church Hill and School Road help in maintaining the green verge that also contribute to the verdant rural character of the area.

20m to the north of the site and across Sawpit Road is the residential development of Martineau Lane which comprises of linear residential development along the side road off Sawpit Road. Residential developments along Sawpit Road itself is located some 100m to the north-west of the site and is characterised by linear form of development. There is a mix of dwellings along Sawpit Road and Martineau Lane, but the scale is predominantly two storey with a relatively strong building line. Mature trees and front boundary vegetation are characteristic of the street and the sylvan character of the site extends beyond the junction between Church Hill and Orchard Road, where the secretive woody enclosures provide interesting visual feature.

The site is within designated countryside and is a green field with existing vegetation that contribute positively to the character of the area including the area's special character. The proposal would introduce 7 new buildings within the hitherto undeveloped Greenfield land in the form of 4 no. full height two storey dwellings, one detached garage, one detached home office and one building combining a garage and a home office. Existing access from Sawpit Road will be widened and driveways

will account for a large proportion of the site to allow for turning circles. It would also result in the removal of trees near the new access for visibility purposes, leading to a reduction in the value of the landscape character of the area. In paragraph 4.92 of the DAS, the applicant has stated that the proposal would result in logical extension of the settlement pattern. The Council contests this claim. The proposal does not form a logical extension of the settlement boundary since Sawpit Road acts as a natural edge to settlement limits and the proposal would extend it further south and within designated countryside. Three previous appeals dismissed on this site for residential developments have all noted the detached nature of the site from existing settlement boundary.

It is considered that the proposed scheme would have an urbanising and detrimental impact on the rural and verdant character of the area. Particularly, erection of new dwellings of an average 8m height would erode the sylvan character and tranquillity of the area by extending the built development within an undeveloped land which, due to its islandic position would dominate the views from all three roads surrounding the site on both directions. As noted above, the site is separated from the settlement boundary and isolated from neighbouring areas by roads. Introduction of a group of 4 new dwellings would result in residential developments spreading into the green buffer zone which would give rise to significant harm to the rural character of the area.

The proposed layout is of 4 large dwellings within a cul-de-sac formation. The layout and design of the proposal are considered to be at odds with the linear form of development along Sawpit Road and Martineau Lane that are set out along road frontages on single plots with a consistent building line. The cul-de-sac nature of the new layouts would contrast unfavourably with the road frontage settings of existing houses and would extend residential activities into the undeveloped land. The proposal will also be at odds with the sporadic development discernible on the south, east and western sides of the site which reflects typical rural developments of detached properties within large individual plots. As such, the proposed development would result in incongruous intervention, detrimentally impacting the grain of development of this area. The design of the dwellings would also add to the feeling of a sub-urban development, and this will be apparent from the appearance of the roofs and any views into the site revealing facades. Moreover, the proposal would result in 30% of Greenfield countryside land converted into building footprints and driveway/ parking hardstanding resulting in an intensification of development of the countryside location that would detrimentally impact its sylvan verdant character.

The proposal includes spacious rear gardens and most of the existing trees are proposed to be retained along with new landscaping. Whilst this would serve to retain some of the existing verdant character, the residential nature of these areas would be evident due to the proposed heights of the dwellings as well as from garden structures and domestic paraphernalia. The extent of this domestic presence would be evident from public viewpoints both from all three roads surrounding the site as well as from across the public open space of Martineau Lane. As such, the proposed development would have an urbanising effect at odds with the character of the site and much of its surrounding, threatening the green buffer at the edge of settlement boundary and damaging the countryside.

In terms of residential density, the proposal would result in 4 dwellings on 0.29 Ha land, equalling to 13.7 dwellings per hectare. The existing density of dwellings in the countryside to the south of the application site is 2.8 dph which is significantly lower than the proposed density. As such, the proposal would result in intensified development and extensive urbanisation, contrary to the general low density rural character of the area.

3.2. Landscape Character:

Paragraphs 4.93 to 4.117 of the DAS states that the proposal would have acceptable impact on the character of the area due to introvert and self-contained layout and appropriate landscaping including retention of existing trees and additional planting. This claim is contested for the following reasons.

The site does not exhibit the openness which may be found elsewhere due to the presence of relatively strong vegetated boundary features which offer a degree of enclosure. Notwithstanding, the site forms an important component of the area's landscape structure which separates the northern built-up area from open countryside to the south. When travelling along Sawpit Road, the clear character is that of a rural and largely undeveloped sylvan tract of land to the south of the road and residential development is contained within the northern side which has an entirely different visual character. In consequence, the effect of Sawpit Road is to delineate the built-up areas of settlement boundary and the undeveloped, more rural, areas beyond. It therefore provides a break between two areas of contrasting appearance and landscape character. The proposal will disturb this clear delineation of landscape character by introducing residential development to the south which will be clearly at odds with the general landscape structure.

The Wokingham District Landscape Character Assessment (LCA) shows that this site lies within the C2 'Hurst River Terrace' area but adjoins area I4 'Hurst Farmed Clay Lowland'. Whilst area C2 has a 'moderate' quality landscape, I4 has been identified to be in 'good' condition, especially the rural character of the landscape, the small watercourses, and general absence of development and the intimate small-scale of the landscape all contribute positively to this aspect. Being situated on the boundary, the site exhibits qualities of both C2 and I4 including rural settlement pattern; and a network of narrow rural lanes (C2) and rough hedgerows and hedgerow trees that create an enclosed landscape, as well as providing important ecological habitats; intimate character of the small-scale pasture fields providing a distinctive sense of place; and a rural tranquil landscape (I4).

The landscape strategy of C2 is to conserve and enhance the quiet, rural and agricultural landscape with its scattered rural farmsteads and small red brick villages connected by narrow rural lanes. Landscape strategy for I4 includes conservation and active management of wooded rural lanes. In terms of development, the aim is to conserve the low-density settlement patterns along rural lanes and the small villages of Hurst and Whistley Green for both C2 and I4.

The proposal would result in significant impact on the landscape character as the site currently acts as visual 'gateway' to the built-up area of the village, particularly when approaching from Church Hill. Notwithstanding the screening planting, the

development will be clearly visible from the road on all sides as well as from the public open spaces of Martineau Lane. The site currently acts as a physical and visual barrier between development at Martineau Lane and the open countryside further south. Additionally, Martineau Lane development has an open character due to the presence of the large playground along the road. The proposed development, read in context with the views of public open space would appear out of keeping with the landscape context. At night, and notwithstanding measures to reduce light pollution, there will be a lume from security lighting and from car movements, tradesmen and online shopping delivery vehicles into and out of the site, there will be noise from the normal use of the site. In winter some impacts will be lessened (e.g., noise from garden use etc.) and some impacts will be heightened (e.g., light pollution and visual impacts as screening planting drops its leaves etc.).

In terms of landscape visual impact, the maximum impacts will be at the entrance where trees will be removed to allow for the new access and creation of pedestrian crossing. This will result in an urbanising effect on the streetscene and on the site. The loss of trees, addition of lighting and engineering activities to install services, roads, driveway lighting, access for bin lorries, etc. will change the perceived character of the area to its detriment resulting in loss of rural landscape along the edge of settlement boundary.

In paragraph 4.105 of the DAS, the applicant argues that the proposal retains existing landscape features on the site, in particular the boundary tree belts thereby maintaining the character and appearance of the wider area and the setting of Hurst. It is to be noted that once residential development is introduces, most of the existing large trees would become overbearing to the residential use and would require crown reduction and raising in time. Particularly trees along the western boundary will be heavily impacted as they will excessively shade the garden.

Vegetative screening of whatever type cannot be relied on in the longer term as the impact of age, catastrophic weather, disease or malicious removal will gradually reduce the effectiveness of this type of screen. Man-made or artificial screening, such as walls or fences is usually not appropriate in rural settings even where natural materials (brick, flint, wood) are used. Moreover, the planting can itself appear intrusive and would negatively impact the character and appearance of the rural landscape.

As such, the proposal would appear as a dominant feature within the existing verdant and rural character of the area that would detrimentally impact the landscape visual character of the Area of Special Character and associated high quality landscape. The proposal would be contrary to policies CC03 and TB21 which require proposals to protect and enhance existing landscape character of the area.

3.3. Heritage and Area of Special Character:

The application site is located at the core of a small Area of Special Character around the Old School House. In paragraph 4.110 of DAS, it is argued that the designation *“relates to buildings of historical, local and special character that may not warrant protection under statutory listing or conservation area. The application site does not include any of the buildings within the designated area whilst the setting of these*

buildings are protected by the mature trees that lie either side of the surrounding roads. The development of the triangle shaped area will not impact upon the groups of buildings within the Area of Special Character such that the purposes and objectives of this designation will be preserved”.

The WBC Conservation Officer considers that the proposal would have a far greater impact than suggested by the DAS, since the proposal would directly impact the existing context of the Area of Special Character. The triangular field is evident in the 1st Edition OS mapping of 1872 -73 with Hurst House Lodge to its southwest corner. In the 2nd Edition OS Mapping 1899 the School House and Working Men’s Club have been added and by 1933 OS Map the Village Hall. It is this small group of buildings and their spatial arrangement within the context of the triangular field that provide the historical context and special spatial character.

Policy TB26 states that, *“Planning permission will only be granted for proposal to or affecting Areas of Special Character where they demonstrate that they retain and enhance the traditional historical, local and special character of the area and its setting”* and stresses that *“Special regard should be given to the historical context, outbuildings, scale, form, massing and materials together with retaining architectural features or detailing which contribute to the character of the area”*.

The site is an important open space that forms an essential element in the area’s balance of spatial arrangements with the character of tree/hedgerow lanes and an existing group of mostly public or formerly public buildings. The proposal would result in erosion of the rural gap, both visually and physically. Moreover, with the proposed design of the houses do not reflect the historic character of the area in terms of layout, density, and dwelling design. The Area of Special Character (ASC) is predominantly Victorian in character with red brick and tiles buildings with some flint details. The proposed dwellings would utilise black stained timber cladding which is not available within this area. Additionally, the cul-de-sac layout of dwellings within small plots do not reflect the existing grain of development of this ASC.

It is considered that the proposal is harmful to the Special Character of the Area due to the loss of open context and character of the existing field and the inappropriate design, massing, layout and density of development.

3.4. Conclusion:

By virtue of its introduction of unsympathetic design; scale; layout, density and quantum of residential development within hitherto undeveloped rural land, the proposal would be alien to the established grain of development that would have a detrimental urbanising impact on the verdant landscape and the character and visual appearance of the area. The proposal would result in high density suburban development of inappropriate design, massing and layout within an Area of Special Character that would negatively impact the character of the non-designated heritage asset and disrupt the transition from built-up areas of Hurst into the open Countryside. The proposal is contrary to policies CP1 and CP3 of the Core Strategy, policies CC03, TB21, and TB26 of the MDD Local Plan, core planning principle of the NPPF and recommendations contained within the Borough Design Guide SPD.

4. Landscape and Trees:

In addition to the negative impact on the landscape and visual character of the area, the proposal would have negative impact on existing trees within the site. The site has a veteran tree close to its north-east corner (WDVTA tree number 8636, ATI tree number 218107), an English Oak recorded as being of 4.2 m girth in 2020. The tree stands adjacent to the north-east corner of the site and whilst it appeared to be on the public land during site visit, the site plan submitted with the planning application shows the tree to be within the application site. The tree is protected by the woodland tree preservation order TPO-1790-2021. Where veteran trees are affected by development, and particularly where loss or deterioration of veteran trees would result, paragraph 175(c) of the NPPF applies. The PPG states that in relation to ancient and veteran trees, a buffer zone of 15 times the diameter of the tree or the canopy plus 5m (whichever is greater) must be provided to protect them from harm or deterioration.

The proposal has not allocated space for a natural buffer zone (residential gardens are not natural buffer zones) means that the proposals would need to be redesigned to allow for it. This would make that part of the development at the opposite (south-western) end of the site to the veteran tree becoming even more dense, suburban and intrusive in the area where it is most important that impacts are reduced since south-western side of the site is closest to non-designated heritage assets (The Old School House and The Lodge).

An additional area for concern is the impact of the development on trees with tree shading and canopy overhang being a likely cause for tree works applications in future to reduce and raise crowns of trees on all sides. This would further impact the visual character of the area by reducing the tree cover.

The proposals do not adequately address the veteran tree and do not provide a buffer zone which meets the requirement of the Planning Policy Guidance designed to prevent harm to the special characteristics of such trees contrary to NPPF paragraph 175(c), Core Strategy Policy CP3 and MDD Local Plan policies CC03 and TB21.

5. Neighbouring Amenity:

The application site is physically separated from residential development on all sides and due to its isolated location, the proposal would not have any loss of light, overlooking or overbearing impact on any neighbouring residential amenity. Objections were received from residential neighbours on Martineau Lane on potential overbearing and loss of privacy impacts. The proposal would maintain acceptable separation distances in accordance with recommendations contained in the Borough Design Guide. In consequence, the proposal is considered to not have any negative impact on existing residential properties in the neighbourhood.

The proposed new dwellings would maintain acceptable separation between them. For this reason, no mutual overshadowing and overbearing impacts are anticipated. It is proposed to include two habitable windows in the side elevation of plot 3 that would face the rear amenity space of plot 4 resulting in loss of privacy. However, these are secondary windows that can be conditioned to be fitted with obscure glazing to

minimise overlooking.

As such, there is no objection to the proposal on the neighbour impact grounds.

6. Residential Amenity:

6.1. Internal Amenity:

The internal space standards for new dwellings are set out in the Borough Design Guide and supported by Policy TB07 of the MDD. In accordance with the Technical Housing Standards – nationally described space standard, a minimum standard of 84 sq.m. applies for the 3 bed dwellings and 115 sq.m. for the 4 bed dwellings. The proposal satisfies this requirement.

Plot	Bedrooms	Occupancy	Area	Required	Complies
1	3	4	108.8 m ²	84 m ²	Yes
2	3	4	108.8 m ²	84 m ²	Yes
3	4	7	135 m ²	115 m ²	Yes
4	4	7	135 m ²	115 m ²	Yes

Additionally, the Technical Housing Standards require a dwelling with more than one bedroom should have a main bedroom, which is to have a minimum area of 11.5m². Secondary of single bedrooms should have a minimum area of 7.5m² (and minimum width of 2.15m) and living spaces should have a minimum area of 27-31m². There should also be provision for storage. The proposal complies with these requirements. All the habitable rooms would be served by appropriately sized windows and fenestration. Additionally, all dwellings will have adequate storage spaces. It is considered that the internal living environment is acceptable and accords with policy TB07 of the MDD Local Plan and the Nationally Described Space Standards.

6.2. External Amenity:

The Borough Design Guide specifies a minimum depth of 11 metres for rear gardens and a 1 metre set-back from the site boundary to allow access thereto. The proposed amenity spaces of all dwellings comply with the requirements of the Borough Design Guide. Proposed gardens would be located to the rear, would be private and would have a depth commensurate to the plot sizes as well to the proposed footprints of the new dwellings.

7. Highway Access and Parking Provision:

7.1. Access:

It is proposed to stop the existing access onto Sawpit Road and create a new access along with pedestrian crossing. Visibility splays are shown on the proposed site plan which are acceptable. It is unlikely that traffic from this development would have an adverse impact on the highway network.

7.2. Parking:

Whilst the proposal does not include a parking calculator to demonstrate the parking requirements for the proposed development, it is considered that there was enough space on site for parking to be in line with standards including visitor parking.

7.3. Cycle Parking:

Whilst cycle parking is shown for plots 1 and 2, there is no cycle parking provision for plots 3 and 4. Proposed garages for plots 3 and 4 are not large enough to be able to accommodate both car and cycle. However, cycle parking details can be secured using a condition should the proposal be recommended for an approval.

8. Flooding and Drainage:

The development will be in Flood Zone 1 as per Environment Agency mapping. Residential development is acceptable in principle in this location. The proposal would introduce significant amount of impermeable surfaces within the site resulting in considerable increase in surface water run-off.

A flood risk assessment has been submitted with the application and it has been reviewed by the Council's Flooding and Drainage officers. Whilst some calculations for the surface water system have been presented, many of them indicate future flood risk. Since one of the main disposal techniques is infiltration a test result showing if the soil is capable of the specific amount to manage would be necessary. Moreover, an overview of drainage plan is shown with some brief introduction of the drainage system but with no actual attenuations, storages, details, and capacities.

Since the site is within Flood Zone 1, there is no objections to the principle of the development. However, as some drainage details are not very clear at this stage, a condition is recommended to secure further details prior to the commencement of the development should the application be recommended for approval.

9. Ecology:

The application site comprises a plot of good quality, relatively species-rich, grassland and scrub mosaic, bounded on all three sides by mature trees. It is proposed to erect four new dwellings with associated access, car parking and landscaping.

9.1. Bats:

The submitted survey has been undertaken to an acceptable standard and concludes that bat roosts are unlikely to be present in the existing field structure.

Three trees on site were assessed as having some bat roost potential. These trees are proposed to be retained within the development and are not expected to require any work that might put potential roost features at risk. Beyond the ground level tree assessment, no follow-up survey work appears to have been undertaken for these potential tree roost features. Whilst the long-term retention of the potential roost features lessens the risk to bats, the potential impact of the construction phase of the

development has not been adequately considered. The construction phase will cause disturbance in close proximity to these roost features. Disturbance of a maternity roost in one of these trees at a crucial time of year would be something to factor-in to an avoidance or mitigation strategy during construction.

From paragraph 3.3.8 of the Protected Species Report it has been noted that the single bat activity survey undertaken so far (for building B1) recorded at least seven species of bat flying locally. For such limited survey effort that is a good species list. At least two of those species are tree roosting specialists and the Council also has, in the course of other developments, records of at least one maternity roost of a Pipistrelle species in a tree within Wokingham Borough. As such, further details would be required relating to these potential roost features to assess impact of the development on protected species.

9.2. Great Crested Newts:

The report states that access was not granted to survey the nearest ponds to the site that might support great crested newt. Consequently, it is considered that the local planning authority needs proceed on a precautionary basis and consider the risk to this protected species as if presence has been confirmed – especially given that presence of the species has been confirmed elsewhere in the village. As such, further details would be required relating to potential impact to assess impact of the development on protected species.

9.3. Reptiles:

The Protected Species Report identified one species of reptile as using the site during the reptile surveys this summer. The mitigation strategy as outlined in part 5.2.4, which can be secured using a condition is sufficient to minimise the risk of injuring or killing an animal from this protected species group. There is no objection to the proposal on impacts on reptiles grounds.

9.4. Invertebrates:

The Preliminary Ecological Appraisal considers the impact of the proposal in section 5.11. The data search returned 18 species of moth recorded within the 2km search radius that are species of principal importance. The assessment then states that no evidence of these were recorded within the site during survey work. There are ambiguities on two aspects:

- These species were not targeted by any survey work – so there is a high probability that the applicant's ecologist will have overlooked their presence during any visit; and
- A quick cross-reference of the larval foodplants of the moth species of principal importance listed and the plant species identified as being present on site shows that the site has the food resource to support every single species of moth – so there is good potential for these species to be present on site.

The development proposal will likely reduce the larval foodplant availability for these

moth species of principal importance. It is not demonstrated that the landscaping proposals provide a net enhancement of habitat suitable to support these species (or other species of principal importance).

Moreover, the habitat description and data search results indicate that there is a high probability of Stag Beetle being present on site. The Arboricultural Impact Assessment proposes to remove six trees and one tree group. It recommends grinding out remaining stumps. This will remove larval habitat for Stag Beetle, possibly destroying existing larval galleries. It is inconsistent with the ecological enhancement, EE10, given in the Preliminary Ecological Appraisal.

9.5. Biodiversity Net Gain:

Consideration of the changes in habitats that the development proposal, including soft landscaping, would bring into effect is given in Aspect Ecology's Technical Briefing Note. This applies the Defra metric 2.0 to give a unit assessment and screenshots of the spreadsheet have been included, allowing interrogation of the habitat types and condition scores applied. The Technical Briefing Note declares headline results that demonstrate above 10% habitat unit and hedgerow unit gains between the existing and proposed landscaping. The WBC Ecology Officer has reviewed the documents and considers that there are flaws in the way the Defra metric 2.0 has been used and there is a degree of doubt as to these headline figures and whether the site provides a net gain in itself at all.

The first concern is that habitat survey was based on the Phase 1 Habitat Survey methodology, but the Defra metric is based on the UK Habs categorisation of habitats. This means that a translation tool has had to be used. Sheet G-9 in the Defra metric presents several UK Habs categories that can be a translation output when semi-improved grassland from a Phase 1 survey is the input. It is considered that 'g4 – Modified grassland' in poor condition is not the correct habitat type for the baseline. Referencing the UK Habitat Classification: Habitat Definitions resource, there is considerable overlap in species lists between 'g4' and 'g3c – Other neutral grassland'. The defining characteristic between the two habitats is the number of species per m². The description given of the grassland in the Preliminary Ecological Appraisal indicates that it could well have enough species per m² to meet the category requirements of 'g3c'. Unfortunately, in not surveying using UK Habs from the beginning, the applicant's ecologists appear to have not made note or reference to number of species per m². Working on the basis that the baseline habitat type is actually 'Other neutral grassland' results would likely tip the metric to show a net loss of habitat units.

Overall, it is considered that the current biodiversity net gain assessment is flawed and it is less than likely to be possible that a viable mechanism for maintaining the proposed habitat for 30 years (the time period habitat enhancement is expected to be secured for in the Environment Bill) can be set out. There is a strong probability that this development will result in a net biodiversity loss that would be contrary to the NPPF and local policy CP7.

9.6. Conclusion:

By virtue of insufficient information provided the proposal fails to demonstrate no harmful impact of the development on protected species. The biodiversity net gain assessment fails to provide a viable mechanism for maintaining the proposed habitat for 30 years indicating the proposal would result in a net biodiversity loss that would be contrary to MDD Local Plan Policy TB23, Core Strategy Policy CP7, Section 15 of the NPPF and recommendations contained within the Borough Design Guide.

10. Infrastructure:

10.1. Community Infrastructure Levy:

As the proposal is for the construction of new dwellings, it would be a CIL liable development. The CIL charge for new residential development is set at £365 (index linked) per square metre for any net increase in residential floor space.

10.2. Affordable Housing:

Policy CP5 of the Core Strategy, Policy TB05 of the MDD Local Plan and the Affordable Housing SPD specify that affordable housing is required when the proposal is for 5+ dwellings or residential developments on a site area of more than 0.16 hectares. The proposal is for 4 new dwellings on a countryside Greenfield site of 0.29 hectares and as such, a minimum of 40% of the dwellings are to be made affordable. With a net increase of 4 dwellings, there is a requirement for 1.6 affordable units.

To meet the requirements of Policy CP5 of the Core Strategy, a minimum of 40% of the total number of units (net) should be provided as affordable housing. This equates to 1.6 units here. Based on the Viability Study undertaken by Levvel Ltd, the Council's approach to calculating commuted sums for affordable housing is based on the difference in the residual development value of a scheme without on-site affordable housing and the same scheme with on-site affordable housing. The calculation of the commuted sum has been conducted to accord more to that within the Affordable Housing SPD. The commuted sum sought in-lieu of 1.6 units is **£175,342.48** index-linked towards affordable housing in the borough. The DAS has suggested that the applicant would provide the affordable housing contribution in form of a commuted sum. This would have to be secured by a section 106 agreement prior to determination of the application.

Since the application has been recommended for a refusal for various other reasons, no legal agreement is sought to secure the affordable housing contributions. In the absence of any measures to secure the affordable housing, the proposal is considered to be in contrary to policies CP1 and CP5 of the Core Strategy 2010, Policy TB05 and Appendix 12 of the Managing Development Delivery Local Plan 2014 and the Affordable Housing Supplementary Planning Document 2013.

11. Other:

11.1. Environmental Health:

The proposal site is not known to have any contamination issues and there are no

sites nearby that may give rise to potential contamination.

11.2. Archaeology:

There are no concerns relating the proposal on archaeological grounds.

12. The Public Sector Equality Duty (Equality Act 2010):

In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief. There is no indication or evidence (including from consultation on the application) that persons with protected characteristics as identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular planning application and there would be no significant adverse impacts as a result of the development.

13. Planning Balance:

The most up-to-date Five Year Housing Land Supply Statement demonstrates the Council has a five year housing land supply. At 31 March 2020 the deliverable land supply was 5.23 years against the housing need of 789 additional homes per annum plus a 5% additional buffer. The Council does not understand there to be any dispute on this aspect. Paragraph 8 of the NPPF sets out that achieving sustainable development means that development should satisfy three overarching objectives in relation to economic, social and environmental benefits.

The proposal involves a net increase of four market dwellings. The construction of four dwelling would bring about some economic output in terms of direct and indirect job creation. There is limited social benefit with no on-site provision for affordable housing obligations with this proposal. The environmental benefits are limited, since the opportunities for landscaping is limited to only 70% of the site.

On the contrary, the proposal would result in unacceptable residential development within the designated countryside that will have a detrimental and urbanising impact on the landscape and the character and appearance of the area by reason of the design; scale; layout and quantum of development proposed. The development would introduce residential properties in unsustainable location in the countryside and outside of any settlement limits. Since local facilities would be a significant walk from the application site, the occupants of the dwellings would be overly reliant on private motor vehicles to access basic amenities and services. The proposal would have negative impact on the veteran tree and biodiversity of the area. Additionally, the proposal would have significant impact on the non-designated heritage assets.

There are multiple negative impacts of the proposed development that would not be outweighed by the benefits associated with the provision of market housing and monetary contributions, as proposed by the applicant, in lieu of affordable housing contributions. The proposal in contrary to development plan of Wokingham Borough and is recommended for a refusal.

RECOMMENDATION	
Conditions agreed:	Not required
Recommendation:	REFUSAL
Date:	02 July 2021
Earliest date for decision:	3 June 2021

Recommendation agreed by: (Authorised Officer)	
Date:	02/07/21



**WOKINGHAM
BOROUGH COUNCIL**

TOWN AND COUNTRY PLANNING ACTS

**TOWN AND COUNTRY
PLANNING (ENGLAND) 1990**

Mr John Irish
JI Architects
Weavers Cottage
5 Butt Street
Minchinhampton
GL6 9JP

NOTIFICATION OF REFUSAL OF PLANNING PERMISSION

Application Number: 211532
Applicant Name: JPP Land Ltd and Redcar Investment Comp
Site Address: Land at Junction of Sawpit Road and School Road,
Hurst, Berkshire
Proposal: Full planning application for the proposed erection of
2 no. four bedroom detached dwellings and 2 no.
three bedroom semi-detached dwellings, with
associated site access, car parking, home offices
and landscape.

Wokingham Borough Council in pursuance of its powers under the above Acts and Regulations hereby **refuses permission** for carrying out the above development as stated in the application and the accompanying plans submitted to the Council for the reason(s) specified hereunder.

Reasons

1. Principle of Development

By virtue of introducing residential development on hitherto undeveloped Greenfield land within designated Countryside, the proposal would result in excessive encroachment of countryside and expansion of development away from original buildings contrary to policy CP11 of the Core Strategy. The proposal would not fall into any of the exceptional categories, as identified by the NPPF and would be located on an unsustainable location. The future occupants of the dwellings would be overly reliant on private motor vehicles to access basic amenities and services, contrary to policies CP1, CP3, CP6 and CP11 of the Core Strategy, CC01, CC02 and CC08 of the MDD Local Plan, the Borough Design Guide SPD and the core planning principles and sections 5, 9, 12 and 15 of the NPPF. By virtue of significant increase in the quantum of development, the proposal would have a negative impact on the character of the existing Area of Special Character contrary to policy TB26 of the MDD Local Plan and is unacceptable in principle.

2. Impact on Character of the Area including Area of Special Character

By virtue of its introduction of unsympathetic design; scale; layout, density and quantum of residential development within hitherto undeveloped rural land, the proposal would be alien to the established grain of development that would have a detrimental urbanising impact on the verdant landscape and the character and visual appearance of the area. The proposal would result in high density suburban development of inappropriate design, massing and layout within an Area of Special Character that would negatively impact the character of the non-designated heritage asset and disrupt the transition from built-up areas of Hurst into the open Countryside. The proposal is contrary to policies CP1 and CP3 of the Core Strategy, policies CC03, TB21, and TB26 of the MDD Local Plan, core planning principle of the NPPF and recommendations contained within the Borough Design Guide SPD.

3. Impact on Trees including Veteran Tree

The proposals do not adequately address the veteran tree and do not provide a buffer zone which meets the requirement of the Planning Policy Guidance designed to prevent harm to the special characteristics of such trees contrary to NPPF paragraph 175(c), Core Strategy Policy CP3 and MDD Local Plan policies CC03 and TB21.

4. Impact on Biodiversity

By virtue of insufficient information provided the proposal fails to demonstrate no harmful impact of the development on protected species. The biodiversity net gain assessment fails to provide a viable mechanism for maintaining the proposed habitat for 30 years indicating the proposal would result in a net biodiversity loss that would be contrary to MDD Local Plan Policy TB23, Core Strategy Policy CP7, Section 15 of the NPPF and recommendations contained within the Borough Design Guide.

5. Lack of Affordable Housing Contributions

The proposal triggers for an affordable housing contribution of £175,342.48 (indexlinked) in-lieu of 1.6 units. In the absence of any measures to secure the affordable housing, the proposal is considered to be in contrary to policies CP1 and CP5 of the Core Strategy 2010, Policy TB05 and Appendix 12 of the Managing Development Delivery Local Plan 2014 and the Affordable Housing Supplementary Planning Document 2013.

Informatives

1. If you intend to submit an appeal to be considered as a Public Inquiry you must notify the Local Planning Authority (planning.appeals@wokingham.gov.uk) and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before you submit the appeal.

2. This decision is in respect of the drawings and plans numbered 10 (Site Plan); 11B (Plots 1 & 2 Plans and Elevations); 12A (Plot 3 Plans and Elevations); 13B (Plot 4 Plans and Elevations); 14 (Context Plan); and Design and Access Statement date April 2021 received by the Local Planning Authority on 04 May 2021.

3. The Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application, no pre-application advice was sought before the application was submitted. As the proposal was clearly contrary to the provisions of the Development Plan, it was considered that further discussions would be unnecessary and costly for all parties.

Signed

A handwritten signature in black ink, appearing to be 'MC', enclosed within a stylized, elongated oval shape.

Mark Cupit
Assistant Director - Delivery & Infrastructure
Date: 2 July 2021

PLEASE READ THE NOTES ISSUED WITH THIS DECISION NOTICE BELOW



WOKINGHAM BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACTS TOWN AND COUNTRY PLANNING (ENGLAND) 1990

Other statutory legislation: This decision notice relates to the above stated acts and regulations only and does not constitute approval under any other legislation.

The Town & Country Planning (Development Management Procedure) Order: This decision has been made in accordance with the requirements of the National Planning Policy Framework (NPPF) and in the requirement to work with the applicant in a positive and proactive manner.

Officer Report: An officer report explaining the decision will be available to view online.

Purchase notices: If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that the owner can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted. In these circumstances, the owner may serve a purchase notice on the Council which will require the Council to purchase the owner's interest in the land in accordance with the provisions of Chapter I of Part VI of the Town and Country Planning Act 1990.

Appeals to the Secretary of State: If your application has been **refused** by the Borough Council or **granted subject to conditions** that you are not happy with, you have the right to appeal to the Planning Inspectorate (under Section 78 of the Town and Country Planning Act 1990). This must be within the timeframes set out below. Please note an extension of time for lodging an appeal is unlikely to be granted except in special circumstances.

12 weeks from the decision date above in the case of a refusal of a 'householder' application:
Being the refusal of an application for planning permission to alter or extend a house, or for works within the curtilage of a house; or,
Being the refusal to approve details submitted as required by a condition imposed on a permission granted for a householder application

12 weeks from the decision date above in the case of a refusal of a 'minor commercial' application:
Being the refusal of an application for development of an existing building or part of a building currently in use for purposes in Use Classes A1, A2, A3, A4 and A5

where the proposal does not include a change of use, a change to the number of units, development that is not wholly at ground floor level and/or does not increase the gross internal area of the building.

6 months from the decision date above in the case of all other appeals made under s78(1) or s20 of the above Acts relating to a decision on a planning application or listed building/conservation area consent application.

6 months from the decision date above in the case of any appeal made under s78 (2) of the Act in respect of a failure to give a decision within the statutory period.

The Planning Inspectorate is an Executive Agency reporting to the Secretary of State for Communities and Local Government. The Inspectorate has an online appeals service as set out on the [.gov.uk](https://www.gov.uk) website which contains information and guides on the appeal process. Alternatively you can obtain a form from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN, 0303 444 5000 or through the [Planning Inspectorate website](https://www.planninginspectorate.gov.uk). Please note all documents will be published online by the Planning Inspectorate and therefore you should not include personal information you do not wish to be displayed in this way. This includes personal information of third parties.