

**TOWN AND COUNTRY PLANNING ACT 1990
SECTION 78 APPEAL**

**BY
MACTAGGART & MICKEL HOMES ENGLAND LTD**

LAND EAST OF LODGE ROAD, HURST, WOKINGHAM

**OUTLINE PLANNING PERMISSION FOR THE DEVELOPMENT OF
APPROXIMATELY 200 HOMES, OPEN SPACE, PEDESTRIAN AND CYCLE
LINKS, RECREATIONAL FACILITIES (CLASS E) AND OTHER ASSOCIATED
INFRASTRUCTURE INCLUDING THE FORMATION OF A NEW HIGHWAY
ACCESS ROAD FROM LODGE ROAD LOCATED ADJACENT TO THE
EXISTING FIELD ACCESS TO BE CLOSED (ALL MATTERS RESERVED
EXCEPT FOR ACCESS)**

LPA REF: 220458

STATEMENT OF COMMON GROUND

LPA: WOKINGHAM BOROUGH COUNCIL

APPEAL REFERENCE: APP/X0360/W/22/3309202

DATE OF INQUIRY: 31 JANUARY-8 FEBRUARY 2023

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1. INTRODUCTION

- 1.1. This Statement of Common Ground (SoCG) relates to a planning Appeal (“the Appeal”) pursuant to Section 78 of the Town and Country Planning Act 1990 (as amended) lodged by Boyer on behalf of Mactaggart and Mickel Homes England Ltd (“the Appellant”) in relation to Land East of Lodge Road, Hurst (‘the Appeal Site’).
- 1.2. This SoCG has been prepared in light of guidelines issued by the Planning Inspectorate.
- 1.3. The Appeal related to an Outline planning application (ref. 220458) (“the Application”) for:

“Outline planning permission for the development of approximately 200 homes, open space, pedestrian and cycle links, recreational facilities (Class E) and other associated infrastructure and primary vehicular access via the existing Lodge Road gated access with required improvements (all matters reserved except for access).”
- 1.4. The Application was submitted to Wokingham Borough Council (WBC) on 16 February 2022 and validated on 24 February 2022.
- 1.5. The Application was refused under Officers’ delegated authority on 23 June 2022.
- 1.6. The reasons for refusal (RfR) are set out below.
 - 1) The proposal results in an unsustainable pattern of development by reason of the creation of a new unplanned large housing estate on a greenfield site in the countryside outside of settlement limits. It would be significantly out of scale with neighbouring small village of Hurst and the level of existing infrastructure within the village. The development is contrary to the spatial objectives of the development plan and policies CP1, CP2, CP3, CP6, CP9 and CP11 of the Core Strategy, CC01, CC02, CC03 and TB21 of the MDD Local Plan, the Borough Design Guide SPD and section 2, 4, 8, 12 and 15 of the NPPF.
 - 2) The application results in the development of an area of Best and Most Versatile agricultural land and no justification has been provided regarding the loss of the grade 3a land, contrary to Core Strategy policy CP1 and section 15 of the NPPF.
 - 3) The application results in the development of land with sand and gravel deposits and insufficient information has been submitted demonstrating the sterilisation of Public: Information that can be seen and used by everyone inside and outside the Council. mineral deposits are acceptable, contrary to Policy 2 Replacement Minerals Local Plan for Berkshire (incorporating the alterations adopted in December 1997 and May 2001) and section 17 of the NPPF.

- 4) The proposed development will have a detrimental impact on the landscape and the character & appearance of the area by reason of the quantum, scale, density, and location. It would erode of the separation between existing villages and their rural setting. The development is contrary to policies CP1, CP3, CP9 and CP11 of the Core Strategy, CC01, CC02, CC03 and TB21 of the MDD Local Plan, the Borough Design Guide SPD and section 12 & 15 of the NPPF.
- 5) The application site is within an unsustainable location that would not encourage a modal shift towards sustainable modes of transport, by reason of the countryside location outside of settlement limits, distances to facilities and services, limited public transport links and poor quality of the walking/cycling an environment, 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) Insufficient and contradictory information has been submitted that does not demonstrate and acceptable impact on existing trees and hedgerows which have contribute positively to the character and appearance of the area. The proposed development is contrary to Core Strategy policy CP1, CP3 and CP11, MDD Local Plan policy CC01, CC02, CC03 and TB21, The Borough Design Guide SPD, The British Standard 5837:2012, sections 12 and 15 of the NPPF and section 197 of the Town and Country Planning Act.
- 7) The application has failed to demonstrate the proposed development will have an acceptable impact on ecology and biodiversity by reason of the impact on protected species, wildlife, and habitats, contrary to policy CP1, CP3 and CP7 of the Core Strategy, CC01 and TB23 of the MDD Local Plan and section 15 of the NPPF.
- 8) The application fails to demonstrate that the proposed vehicle access, highway alterations and overall development would have an acceptable impact on highway safety, contrary to policies CP1, CP2, CP3 and CP6 of the Core Strategy 2010, Policy CC07 of the Managing Development Delivery Local Plan, Borough Design Guide Supplementary Planning Document 2012, and sections 9 & 12 of the NPPF.
- 9) In the absence of a completed legal agreement, the proposal fails to secure opportunities for training, apprenticeships, and other vocational initiatives to develop local employability skills contrary to MDD policy Local Plan TB12.
- 10) In the absence of a completed Legal Agreement, the scheme fails to make adequate provision for affordable housing, contrary to policy CP5 of the Core Strategy and section 6 of the NPPF.

- 1.7. The Appellants and WBC have identified a number of areas of common ground (Section 6). There are also matters that are in currently dispute (i.e., areas of uncommon ground) between the parties and they are set out in Section 7.
- 1.8. RfRs 1, 2, 4, 5 and 6 remain in disagreement. RfR 3 is discontinued following submission of further information from the appellant. RfRs 7 and 8 are agreed subject to conditions and legal obligations. It is anticipated that the entering into a satisfactory S.106 Agreement will resolve RfR9 and RfR10 (and aspects of RfR7 and RfR8) as part of a wider collection of obligations. The S.106 is currently in draft form but is anticipated to be finalised prior to the commencement of the Public Inquiry.

2. SITE LOCATION AND DESCRIPTION

- 2.1. Both parties agree on the Appeal Site and surrounding area description as set out below.

The Appeal Site

- 2.2. The Appeal Site covers an area of 10.68 hectares comprising of undeveloped greenfield land/fields mostly used for grazing horses located between Tape Lane and Lodge Road in between Hurst and Whistley Green, Berkshire. The Appeal Site is located approximately 4 miles north of Wokingham, 3 miles north west of Winnersh and 1.5 miles south of Twyford.
- 2.3. The Appeal Site is located within the administrative area of Wokingham Borough Council (WBC).
- 2.4. The Appeal Site is generally flat, varying between approximately 38.5m AOD to the south-east corner and 37.5m AOD to the northern edge along Lodge Road.
- 2.5. The Appeal Site is well defined and contained by a boundary of trees and hedgerows. There is also a short line of trees within the north western part of the Appeal Site (the triangular area of land off Lodge Road).
- 2.6. The Appeal Site lies beyond the Development Limits as defined on the Planning Policy Proposals Map and is within land designated as 'Countryside' under Policy CP11. The Appeal Site does however immediately abut the Development Limits of Hurst.
- 2.7. Twyford Station (with rail services to Reading and cross-rail services to London) and other facilities in Twyford town centre are within walking distance (though there remains disagreement on whether there are adequate footpaths and whether it is a safe and convenient walking distance), lighting and whether the distance is appropriate). Hurst is defined as a 'Limited Development Location' under Policy CP9 and has a number of services and facilities as set out below. It is not within the Green Belt.
- 2.8. Part of the Appeal Site is adjacent to the Hurst 'Area of Special Character' which comprises much of the centre of Hurst along the A321.
- 2.9. To the north of the Appeal Site is a site known as Valley Nurseries, Broadwater Lane, Hurst (site reference SA104). It was granted permission at appeal for 16 homes (ref. APP/X0360/W/17/3171083) on 30 August 2017.
- 2.10. There are two existing private access points to the Appeal Site; one from Lodge Road to the west and the other from Tape Lane.
- 2.11. Approximately 5.9 ha of the site is grade 3a agricultural land, which is best and most versatile agricultural land.
- 2.12. The entire Appeal Site is located within Flood Zone 1 and therefore in the 'very low' surface water flood risk category. However, there are some very small areas of 'low' surface water flood risk. The Appeal Site is at very low risk of flooding from groundwater.

- 2.13. The Appeal Site is covered by a recently imposed Tree Preservation Order ('TPO') (Ref: 1781/2021). A further TPO has been imposed on land on Lodge Road (Ref: 1869/2022).
- 2.14. The Appeal Site is not in a Conservation Area and does not include any heritage assets or Listed Buildings.
- 2.15. There are no Public Rights of Way across the Appeal Site.
- 2.16. The Appeal Site is currently private land and not accessible to the public.

The Surrounding Area

- 2.17. The southern boundary of the Appeal Site is bordered by allotments and existing rear gardens and houses on Martineau Lane and a property off Lodge Road. The northern boundary is more open, allowing short views to the settlement from the north. To the west of the Appeal Site is a wooded boundary and then open fields with a property situated to the west of Lodge Road, known as Old Lodge, south of the existing site access.
- 2.18. The Appeal Site directly abuts the existing residential area with the majority of the settlement of Hurst located to the south and east of the Appeal Site. To the north, the site directly abuts a property situated off Lodge Road with a small field between properties situated on Nursery Gardens and properties accessed off Broadwater Lane.
- 2.19. The amenities of Hurst include:
 - Primary school;
 - Dolphin School,
 - pre-school;
 - Community hall;
 - Sports facilities (cricket pitch, football pitch and bowling club);
 - Post office;
 - General store (Co-operative);
 - St Nicholas Church;
 - Hurst Gospel Church;
 - 1st Hurst Air Scouts (Beavers, Cubs, Scouts, and Explorers)
 - Three public houses in the immediate vicinity: The Elephant and Castle, The Green Man and The Castle. There are another three additional public houses in the parish of Hurst;
 - School Road Playpark;
 - Davis Street Playpark;
 - Martineau Green Playpark;
 - Allotments; and
 - Community Orchard.
- 2.20. The nearest bus stops are located along Sawpit Road and Broadwater Lane (see the Sustainability SoCG for locations). These stops provide access to routes 128 and 129 which serves Reading, Twyford, Hurst and Wokingham. Details are provided in the Sustainability SoCG.

- 2.21. The centre of Twyford is located 1.6 miles from the Appeal Site (as measured to the proposed entrance on Lodge Road) and services include a railway station, doctor's surgery, supermarkets (Tesco and Waitrose), post office, florist, cafes, seven restaurants, 4 public houses, library, two laundrettes, bowling, tennis, cricket, snooker and football clubs, two large recreational fields, two allotments, several dentists, hairdressers and barbers, beautician, travel agent, vets, petrol station, financial advisors, six estate agents, primary school provision, churches, Loddon Hall (community hall), Scout hut, a number of retail shops and children's nursery. There are bus routes to Wokingham, Reading and High Wycombe.
- 2.22. The Appeal Site is located between the B3030 (Lodge Road) linking Twyford and Winnersh and the A321 (Broadwater Lane/Wokingham Road) which connects Twyford and Wokingham. The M4 and the A329(M) lie south of Hurst accessed via Woodley.
- 2.23. Dinton Pastures Country Park is located approximately 1 mile south west of the Appeal Site. There is an existing Permissive Path on the west side of Lodge Road that connects with Footpath 34 to the south and then onto Dinton Pastures.
- 2.24. Dinton Pastures Country Park is a 350-hectare country park with a lake, children's play area, water sports activities, and natural parks.
- 2.25. There are four Grade II listed buildings in close proximity to the Appeal Site: Elder Cottage, Parkers Cottage, Bower Cottage, and Buttercups, all to the north of the site.

3. PLANNING HISTORY

- 3.1. Both parties agree that the relevant planning history for the Appeal is set out in Table 1. The Appellant has not had sight of any documentation prior to 1999. It is not available on the Council's website

Table 1: Planning History of the Appeal Site.

Application Reference	Description	Decision	Date of Decision
209/1973	Residential dwelling north of Pool House	Refused	11 January 1973
865/1973	29 dwellings and estate roads (outline)	Refused	13 December 1973
01154	31 dwellings and estate road (outline)	Refused	10 July 1974
05170	New dwelling north of Badgers Bottom (outline)	Refused	27 July 1976
A/76/9855	Appeal against refusal of 05170	Dismissed	8 March 1977
25924	177 dwellings, community centre, nursing home, shops, and recreational facilities (outline)	Refused	6 August 1986
A/86/56045	Appeal against refusal of 25924	Dismissed	18 August 1987
A/86/56045	Review of Inspector's Decision in A/86/56045	Inspector's Decision Upheld	10 November 1988
28111	Community facility for the elderly for no more than 30 homes (outline)	Refused	20 August 1987
F/1999/70600	Erection of farm shop and equipment store building and siting of mobile home	Refused	10 December 1999
A/00/1036482	Appeal against refusal of F/1999/70600	Dismissed	30 June 2000
F/2001/3149	Erection of farm shop building	Refused	21 March 2002
A/02/1091001	Appeal against refusal of F/2001/3149	Dismissed	23 September 2002
CLE/2004/1099	Use of field for keeping of horses (certificate of existing lawful development)	Approved	2 April 2004

F/2004/2278	Retention of field access	Refused	27 July 2004
A/04/1163957	Appeal against refusal of F/2004/2278	Dismissed	26 October 2005
F/2004/2733	Re-siting of field access	Refused	15 November 2004
A/04/1168740	Appeal against refusal of F/2004/2733	Dismissed	26 October 2005
F/2007/2154	Erection of stables and barn to form equine treatment centre with manage, access and horse walkers with storage building for tree nursery	Refused	31 October 2007
A/08/2074612	Appeal against refusal of F/2007/2154	Withdrawn	17 September 2008
F/2008/1017	Stables and barn to form equine treatment centre with manage, access and horse walkers	Refused	24 July 2008
A/08/2081892	Appeal against refusal of F/2008/1017	Dismissed	5 February 2009
F/2008/1748	Siting of a mobile home	Refused	24 September 2008
A/08/2081892	Appeal against refusal of F/2008/1748	Dismissed	5 February 2009
212986	Screening Opinion for an Environmental Impact Assessment for a proposed development of up to 300 homes, open space, pedestrian and cycle links and other associated infrastructure and primary vehicular access via the existing Lodge Road gated access with required improvements	Not EIA development	21 September 2021

4. APPEAL SCHEME

- 4.1. Both parties agree to the summary of the Appeal Scheme as set out below.
- 4.2. The description of development, when the Application was submitted, is as follows:

“Outline application for the proposed development of approximately 200 homes, open space, pedestrian and cycle links, recreational facilities (Use Class E) and other associated infrastructure and primary vehicular access via the existing Lodge Road gated access with required improvements (all matters reserved except for access).”

- 4.3. To ensure minor discrepancies to the Appeal Scheme are accurately reflected in the description of development when determined at Appeal, this is changed as follows:

“Outline planning permission for the development of approximately 200 homes, open space, pedestrian and cycle links, recreational facilities (Class E) and other associated infrastructure including the formation of a new highway access road from Lodge Road located adjacent to the existing field access to be closed (all matters reserved except for access).”

Appeal Plans and Documents

- 4.4. The following plans and documents, as set out in Table 3 below, are those to which were submitted with the original Application:

Table 3: Application Documents submitted

Document	Prepared By	Date
Application Form	Boyer	
CIL Form	Boyer	
Planning Statement	Boyer	February 2022
Design and Access Statement	Boyer	February 2022
Arboricultural Assessment & Method Statement	Mark Welby	December 2021
Landscape and Visual Impact Assessment	LVIA Ltd.	February 2022
Ecological Impact Assessment	AAE	December 2021
Historic Environmental Desk-Based Assessment	Orion	November 2021
Framework Travel Plan	Motion	May 2022

Document	Prepared By	Date
Transport Assessment (including Appendix A – M)	Motion	July 2022
Flood Risk Assessment and Drainage Strategy	Motion	February 2022
TN02 – Response to Consultee Comments on Drainage	Motion	April 2022
Desktop Subsurface Utility Report	Technics	November 2021
Statement of Community Involvement	SP Broadway	February 2022
Energy Strategy Statement	Briary Energy	December 2021

- 4.5. The following plans, as set out in Table 4 below, are those on which the Appeal should be determined (including updated Plans):

Table 4: Drawings submitted and subject to determination

Drawing	Prepared by	Date
For Approval		
Application Boundary Plan - Ref. PP01 Rev 1	Boyer	October 2022
Land Use and Access Plan for Approval – Ref. PP02 Rev 4	Boyer	October 2022
Green Infrastructure Plan for Approval – Ref. PP03 Rev 6	Boyer	October 2022
2101015-01-A4 Proposed ghosted right turn (point 1)	Motion	November 2022
2101015-06C Proposed emergency access (point 2)	Motion	November 2022
2101015-08B Proposed pedestrian connection, Tape Lane (point 3)	Motion	November 2022

Table 5: Other updated supporting documentation

Drawing / Document	Prepared by	Date
Supporting Information (not for approval)		
Illustrative Masterplan for Information Purposes Only – Ref. 171 Rev 4	Boyer	October 2022
Development Framework Plan for Illustrative Purposes – Ref. 402 Rev 7	Boyer	October 2022
Tree Survey (Arbtech TSR 02 (02))	Arbtech	October 2022
Arboricultural Method Statement (ArbTech AMS 02-10-10-22)	Arbtech	October 2022
Arboricultural Impact Assessment (AIA) Ref. Arbtech AIA 02 A 1of4	Arbtech	November 2022
Arboricultural Impact Assessment (AIA) Ref. Arbtech AIA 02 A 2of4	Arbtech	November 2022
Arboricultural Impact Assessment (AIA) Ref. Arbtech AIA 02 A 3of4	Arbtech	November 2022
Arboricultural Impact Assessment Ref. Arbtech AIA 02 A 4of4	Arbtech	November 2022
Arbtech Tree Protection Plan (TPP) Arbtech 02 A Sheet 1of1	Arbtech	November 2022
Arbtech Tree Protection Plan (TPP) Arbtech 02 A Sheet 2of1	Arbtech	November 2022
Arbtech Tree Protection Plan (TPP) Arbtech 02 A Sheet 3of1	Arbtech	November 2022
Arbtech Tree Protection Plan (TPP) Arbtech 02 A Sheet 4of1	Arbtech	November 2022
2101015-03C Tracking for emergency access (point 2)	Motion	September 2022
2101015 – 10 Wayfinding	Motion	September 2022
Walk catchment map	Motion	July 2021
Agricultural Land Considerations	Reading Agricultural Consultants	September 2022

Supporting Information (not for approval)		
Arboricultural Method Statement	Arbtech	October 2022
A Tree Survey Report Arbtech TSR 02(02)	Arbtech	October 2022
TN05: Updated Junction Modelling	Motion	September 2022
Updated Transport Assessment (RO3 – matape- TA200-11-15)	Motion	15 November 2022
Framework Travel Plan (RO2 – FTP – 2022-11-15)	Motion	15 November 2022
Updated Safety Audit and associated Designers Response (2207-14RSA1 v2.0+DR)	Motion	14 November 2022
Updated Ecological Assessment	Ecology Solutions	November 2022
Onsite Biodiversity Net Gain Assessment	Ecology Solutions	November 2022
Offsite Habitat Creation and Management Plan	Ecology Solutions	November 2022
Defra BNG Metric (V3.1)	Ecology Solutions	December 2022
Ecological Consultation Response	Ecology Solutions	November 2022
Supplementary Bat Report (2022)	Ecology Solutions	November 2022
Written Scheme of Investigation	Orion Heritage	November 2022
Gravel Extraction Buffer Zone Plan	Boyer	December 2022
Wardrop Minerals Management Letter	Wardrop Minerals Management	December 2022

4.6. It is agreed that there is sufficient information to make a properly informed determination of this Appeal. There are no outstanding requests for information from WBC.

4.7. It is agreed that the proposal does not comprise EIA development.

Appeal Scheme

4.8. The parties agree the description of the Appeal Scheme as set out below.

Residential

- 4.9. The Appeal Schemes includes approximately 200 homes of mixed types and tenure to include predominantly houses, plus a small quantum of apartments. The Appeal Scheme includes on-site provision of 40% affordable housing.
- 4.10. The Illustrative Masterplan provides an indication as to how approximately 200 homes and associated infrastructure could be accommodated within the Appeal Site.
- 4.11. The indicative number of affordable units, referencing the illustrative masterplan are as follows:

Table 4: proposed affordable housing mix

Unit Type	Number of Affordable Homes
1 Bed Apartment/ Maisonette	16
2 Bed Apartment/ Maisonette	20
2 Bed House	16
3 Bed House	19
4 Bed House	9
Total	80

- 4.12. All homes will be no higher than 2 storeys, in keeping with the surrounding area.

Open Space and Green Infrastructure

- 4.13. Parks and gardens, natural/semi-natural green space, amenity space, a tennis court and play areas, and a community orchard will be provided within the Appeal Scheme. The landscaped areas will also incorporate sustainable drainage in the form of SuDS.
- 4.14. No trees are to be removed to facilitate the proposal, although existing hedgerow along Lodge Road will need to be removed, relocated, or replaced to facilitate the proposed development. The existing access will be closed and replaced by new hedgerow.

Vehicular Access & Parking

- 4.15. This Appeal seeks detailed planning approval for an all-modes vehicular access from Lodge Road to the immediately north of the existing access which will be closed off and landscaped.

- 4.16. The proposed access was shown on the submitted access drawing titled 'Proposed Right Turn Lane' (ref. 2101015-01 rev. D) appended to the Transport Assessment as submitted with the original application but has been further refined and submitted following discussions with WBC Highways. The Appeal plan is '2101015-01-A4 Proposed ghosted right turn (point 1)'.
- 4.17. An emergency vehicle access will also be provided onto Tape Lane in the north-eastern corner of the Appeal Scheme, which is also an access for pedestrians and bicycles. The Appeal plan is '2101015-06C Proposed emergency access (point 2)'.
- 4.18. Pedestrian improvements have been agreed at the southern end of Tape Lane and at its junction with School Road to the south-east of the Appeal Scheme. The Appeal plan is '2101015-08B Proposed pedestrian connection, Tape Lane (point 3)'.
- 4.19. There are 346 allocated car parking spaces provided across the Appeal Site with 73 visitor spaces, as shown on the illustrative masterplan. Parking would be provided in accordance with WBC's Parking Standards.
- 4.20. Nine further parking spaces for the existing allotments are also proposed as part of the Appeal Scheme, to the south east of the Appeal Site so the current allotment parking can be used to extend the allotments area if the new or existing residents desire.
- 4.21. Cycle parking will be provided in line with WBC standards.
- 4.22. Electric vehicle (EV) charging provision will be in accordance with Appendix E of WBC's Living Streets document. Provision will be in line with the prevailing standards at the time of discharging the relevant condition

Pedestrian/ Cycle Access

- 4.23. A network of proposed formal and informal footpaths and cycle routes through the Appeal Site are proposed including a pedestrian/cycle access from Hurst allotments to the south of the Appeal Site.
- 4.24. A north east to south west pedestrian and cycle route is proposed through the site between Tape Lane and Lodge Road and to the permissive footpath on the opposite side of Lodge Road. There is also a north south route parallel to Tape Lane (within the Appeal Site boundary).

5. DEVELOPMENT PLAN

- 5.1. Both parties agree that the development plan, against which the Appeal is to be determined, comprises the following documents:
- Wokingham Borough Core Strategy 2010;
 - Managing Development Delivery Local Plan (2014);
 - Saved Policy NRM6 of the South East Plan (2013);
 - Wokingham Borough Policies Map; and
 - Replacement Minerals Local Plan for Berkshire (incorporating the alterations in 1997 and 2001).
- 5.2. Both parties agree that the National Planning Policy Framework (NPPF) (2021) and Planning Practice Guidance (PPG) are material considerations in determination of the Appeal.
- 5.3. Both parties agree that the following Supplementary Planning Documents (SPDs) are relevant to the Appeal and should be regarded as material considerations.
- Borough Design Guide SPD (2012);
 - A Design for Hurst (2005);
 - Affordable Housing SPD (2013);
 - Play Space Design Guide Technical Note SPD (2018);
 - Sustainable Design and Construction SPD (2010);
 - CIL Guidance; and
 - The British Standard 5837:2012

Local Policy

- 5.4. Both parties agree that the following policies of the Core Strategy and Managing Development Delivery, are relevant to the determination of this Appeal.

Core Strategy

- Policy CP1 – Sustainable Development
- Policy CP2 – Inclusive Communities
- Policy CP3 - General Principles for Development
- Policy CP4 – Infrastructure Requirements
- Policy CP5 – Housing Mix, Density and Affordability
- Policy CP6 – Managing Travel Demand
- Policy CP7 – Biodiversity
- Policy CP9 – Scale and Location of Development Proposals
- Policy CP11 – Proposals Outside Development Limits
- Policy CP17 – Housing Delivery

Managing Development Delivery

- Policy CC01 – Presumption in Favour of Sustainable Development
- Policy CC02 – Development Limits
- Policy CC03 – Green Infrastructure, Trees, and Landscaping
- Policy CC04 – Sustainable Design and Construction
- Policy CC05 – Renewable Energy and Decentralised Energy Networks
- Policy CC06 – Noise
- Policy CC07 – Parking
- Policy CC09 – Development and Flood Risk
- Policy CC10 – Sustainable Drainage

- Policy TB08 – Open Space, Sport, and Recreational Facilities Standards
- Policy TB12 – Employment Skills Plan
- Policy TB21 – Landscape Character
- Policy TB23 – Biodiversity and Development
- Policy TB24 – Designated Heritage Assets
- Policy TB25 – Archaeology
- Policy TB26 – Buildings of Traditional Local Character and Areas of Special Character

The National Planning Policy Framework

- 5.5. Both parties agree that weight should be attached to the NPPF which sets out the Government’s planning guidance for England and how such policies are expected to be applied.

Emerging Local Plan

- 5.6. WBC are currently preparing their new Local Plan which will set out the long-term special vision and development strategy for the Borough up to 2038.
- 5.7. WBC carried out a Regulation 18 Consultation between November 2021 and January 2022. Consultation on a Regulation 19 draft Local Plan is expected in early 2023.
- 5.8. The parties agree that the emerging Local Plan carries limited to no weight in planning decisions at the current time but does indicate the direction of travel for future planning policy.
- 5.9. Despite this level of weight, draft Policy H2 Sites Allocation for residential / mixed use development in the emerging Local Plan at Hurst site allocations include 12 units east of Broadwater Lane (Land north-west of Hogmoor Lane, Hurst) and 4 units at Whistley Green (Land adjacent to Whistley Green Cottage, Whistley Green Hurst).

Emerging Joint Minerals and Waste Plan

- 5.10. WBC is one of the four Central and Eastern Berkshire mineral planning authorities which have jointly prepared the Central and Eastern Berkshire Joint Minerals & Waste Plan (JMWP) for the plan period up to 2036.
- 5.11. The JMWP has been examined and found to be sound subject to main modifications.
- 5.12. WBC is expected to adopt the JMWP at the full Council meeting on 19 January 2023 prior to the opening of the inquiry.
- 5.13. The parties agree that the full weight can be given to the JMWP.
- 5.14. The parties agree that the following policies of the JMWP are relevant to the determination of this Appeal:
- Policy M2 – Safeguarding sand and gravel resources
 - Policy M4 – Locations for sand and gravel extraction

- Policy DM1 – Sustainable development
- Policy DM5 – Protection of the countryside
- Policy DM9 – Protection of health, safety, and amenity

6. MATTERS IN AGREEMENT

- 6.1. There are a number of topics in which both parties agree are acceptable in light of discussions following the refusal of the planning application. These primarily relate to Reasons for Refusal 7-10 and set out in the Table below.
- 6.2. There is also agreement between parties relating to the preliminary matters relating to the Appeal Site and surrounding area which is included in Sections 2-5.

Table 5: Matters in Agreement between Appellant and WBC

Areas of Agreement	
No Application of the Tilted Balance at Determination Stage	The Appeal Site falls outside the settlement boundary of Hurst.
	The Officer Report did not reflect a lack of 5-year housing land supply and did not apply the tilted balance and incorporate a balancing exercise when considering the application and relevant policies.
Current Housing Land Supply	The Council is unable to demonstrate a five-year supply of housing, the exact nature of which is hoped to be agreed prior to the Inquiry or alternatively, will form the basis of the respective Proofs. Notwithstanding, the 'tilted balance' in paragraph 11 of the NPPF applies and the outcome of the titled balance is in disagreement. It is expected that WBC will issue a Housing Supply Update Statement prior to the Inquiry,
Reason for Refusal 3 (Minerals extraction)	In response to RfR 3, the appellant submitted further information in a letter dated 13 December 2022 and this information has been reviewed by WBC. It is agreed that the site is unlikely to be promoted for mineral extraction in the future. As such, RfR 3 which related to insufficient information to justify the loss of safeguarded land has been removed.
Reason for Refusal 7 (Harm to Ecology and Biodiversity)	In response to WBC Ecology comments, biodiversity net gain, dark corridors for bats and other aspects of the development have been resolved. As such, RfR 7 which related to the lack of ecology information, has been removed. Final confirmation of agreement is within Appendix 3.
Reason for Refusal 8 (Highway Impacts)	In response to WBC Highway comments a strategic transport model was undertaken which confirmed that there is no need to assess any further junctions than the three identified (the site assess, Lodge Road and Broadwater Lane Priority Junction, and Lodge Road and Sawpit Road priority Junction) and that these are predicted to operate well within capacity. As such, RfR 8

Areas of Agreement	
	which related to the failure to demonstrate the proposed vehicle access, highway alterations and overall development would have an acceptable impact on highway safety has been removed. Final confirmation of agreement is within Appendix 1.
Reason for Refusal 9 and 10	The S106 Agreement (which all parties will seek to complete in accordance with PINS timescales) is anticipated to resolve the concerns which relation to RfR9 and RfR10. RfR 9 relates to the absence of a legal agreement whereby the proposals fail to secure opportunities for training, apprenticeships, and other vocational initiatives, RfR10 relates to the absence of a legal agreement where the scheme fails to make adequate provision for affordable housing.
Other areas of agreement	
Character of the Appeal Site and Landscaping	The Appeal Site falls within NCA 115.
	The Appeal Site falls within landscape character type C River Terrace.
	The Appeal Site falls within landscape character area C2.
	The Appeal Site is not covered by any landscape designation
	The proposed mitigation measures in the form of green infrastructure elements will help to reduce the landscape and visual effects.
	Additional viewpoints as agreed between the parties to supplement those viewpoints submitted with the LVIA in the original application are suitable.
Affordable Housing	The Appeal Scheme is policy compliant by providing 40% affordable housing and an affordable housing tenure split of 70% affordable rent and 30% intermediate affordable housing.
Access	The proposed site access on Lodge Road in the form of a ghosted right turn lane is acceptable. (Point 1)
	The provision of an emergency access off Tape Lane is acceptable. (Point 2)
	Pedestrian improvements have been agreed at the southern end of Tape Lane and at its junction with School Road to the south-east of the site. (Point 3)

Areas of Agreement	
Parking and Highways (see also Appended Highways SoCG)	<p>The proposed indicative provision of 346 allocated spaces and 73 visitor spaces is in accordance with the WBC parking requirements. Cycle parking will meet WBC standards. EV Charging points will be in accordance with Appendix E of the WBC's Living Streets document.</p> <p>Nine further parking spaces for the existing allotments are also proposed as part of the Appeal Scheme.</p>
	<p>The Appeal Scheme is acceptable in terms of the impact on traffic generated. There are no on site or off-site highway safety concerns with the proposed development insofar as it relates to vehicle movements on local roads.</p>
Flooding and Drainage	<p>The Appeal Site is located within Flood Zone 1.</p>
	<p>There are pockets of the Appeal Site that historically suffer from surface flooding however the proposed drainage strategy addresses this and provides appropriate mitigation.</p>
	<p>Following submission of revised drainage information, the Lead Local Flood Authority removed their drainage objection (subject to appropriate conditions) on 20 May 2022 although there is a holding objection from the Environment Agency that is presently subject to negotiation and may be resolved by conditions 5 and 10.</p>
Heritage	<p>The Appeal Site has no heritage designations.</p>
	<p>The Appeal Scheme would not unduly affect the setting of the Hurst Area of Special Character and the listed buildings surrounding the Appeal Site.</p>
	<p>Heritage matters are not a reason for refusal.</p>
Trees	<p>There are 3 veteran trees and some notable trees on the site.</p>
	<p>No trees are proposed for removal. Hedgerow will be removed (and replaced).</p>
Archaeology	<p>There is no objection to the Appeal Scheme on archaeology grounds.</p>
	<p>A pre-commencement condition can secure a phased scheme of archaeological work.</p>

Areas of Agreement	
	Berkshire Archaeology's response (9 March 2022) suggests a trial trench evaluation of 5% of the Appeal Site to be carried out prior to the submission of any Reserved Matters application which is scheduled to take place September – December 2022 in accordance with an agreed Written Scheme of Investigation. This can be secured by condition.
Draft Conditions	
	Conditions 1-34 contained at Appendix 4 are agreed although the appellant believes that Conditions 26 and 27 (Car and Motorcycle Parking and Cycle Parking respectively) should be delivered at reserved matters. The application of Condition 35 (Restriction of PD rights) is not agreed.

7. MATTERS IN DISPUTE

- 7.1. There are a number of topics in which the parties disagree. These relate to Reasons for Refusal 1-6 and are set out in Table 6 below.

Table 6: Matters in Dispute

Areas of Disagreement	
Appellant Position	WBC Position
The Council is unable to demonstrate a five-year supply of land and key policies in the determination of the Appeal are 'out of date' and the 'tilted balance' as set out in paragraph 11 of the NPPF applies. The significant benefits of the appeal scheme as out in the Appeal documentation trigger the presumption in favour of sustainable development.	As the Council is unable to demonstrate a 5- year supply of housing land, some of the policies in the Development Plan are deemed to be 'out of date', and the 'tilted balance' in paragraph 11 of the NPPF applies, such that planning permission should not be refused unless the adverse impacts of doing so significantly and demonstrably outweigh the benefits. In this case, the adverse impacts outweigh the benefits.
Reason for Refusal 1 (Unsustainable Pattern of Development)	
The Appeal site is sustainability located. The Development Plan identifies Hurst as a location of limited development and the emerging Local Plan seeks to allocate two sites in Hurst in very close proximity to the site.	The Appeal Scheme results in an unsustainable pattern of development by reason of the creation of a new unplanned large housing estate on a greenfield site in the countryside outside of settlement limits. It would be significantly out of scale with neighbouring small village of Hurst and the level of existing infrastructure within the village.
The scale of development will be addressed at the reserved matters stage and the application seeks approval only for the principle of development and details of access. Hurst is a sustainable settlement with a range of facilities and services.	The Appeal Scheme is of a disproportionate scale relative to the scale of the existing facilities and services, including schools, that are located within the limited development location of Hurst
The lack of 5-year housing land supply triggers the tilted balance under paragraph 11 of the National Planning Policy Framework and the site will deliver housing including 40% affordable housing as a significant benefit along with other benefits. The proposal therefore benefits from the	Under Paragraph 11 of the NPPF, the policies which are most important for determining the appeal are considered to be out-of-date. Planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits given that no

Areas of Disagreement	
Appellant Position	WBC Position
presumption in favour of sustainable development.	footnote 7 policies provide a clear reason for refusal.
Reason for Refusal 2: Loss of Agricultural Land	
An Agricultural Land Considerations Assessment supports this Appeal Scheme which confirms that the Appeal Site is predominantly subgrade 3b. Whilst 5.6ha of the Appeal site is inherently of Subgrade 3a quality, which is within the BMV category, the whole site is and always has been managed as Subgrade 3b. There are therefore considered to be no economic or other benefits arising at this site by virtue of its containing land of BMV quality.	There is a lack of any sufficient justification for the loss of 3a agricultural land which is the best and most versatile land, and the land should be retained for agricultural purposes in the planning submission.
Reason for Refusal 4: Impact on the Landscape and Character and Appearance of the Area	
Hurst and Whistley Green fall under the same settlement limits and therefore the Appeal Scheme would not erode the gap between the two villages. Development has taken place all along Broadwater Lane which links the two villages.	The Appeal Scheme would infill one of the only remaining open fields separating Hurst and Whistley Green and erode the gap between the two villages or the reverse C that is evident in plan form.
The Appeal Scheme comprises an efficient use of land in accordance with the NPPF and reflects the character and appearance of the area.	The quantum and density of development represents overdevelopment of the Appeal Site that poorly relates to the character and appearance of the area.
The Appeal Scheme will integrate well into the existing village and opens private land for public use/enjoyment to new and existing residents	The Appeal Scheme would feel as an isolated enclaved tagged onto the edge of the village and which turns its back onto the village.
The quantum of development will reflect the character and appearance of the area.	The quantum and density of development will result in a scheme that would not relate well to the character and appearance of the area and would have a detrimental impact upon the setting of the rural landscape and the village.

Areas of Disagreement	
Appellant Position	WBC Position
Whilst layout is not for approval, the illustrative masterplan shows a grain of development which reflects the character of the area.	The proposed layout has a tighter grain of development than is appropriate for the character of the area.
Whilst layout is not for approval, the illustrative masterplan shows how the Appeal Scheme can assimilate into the rural landscape and will not be out of keeping with the character of the area.	The Appeal Scheme will fail to assimilate into the rural landscape and would create a more urbanising suburban form of development in the countryside that would be out of keeping with the rural character of the area.
The Appeal Scheme will not result in a cul-de-sac that does not integrate well with the village.	The Appeal Scheme will result in a large insular cul-de-sac that does not integrate well into the rhythm and pattern of development in the existing village.
The site is not a valued landscape.	The site is a valued landscape.
Impacts on both the visual and landscape baselines will only be experienced within a very limited geographic extent. The experience of change will be reduced at a residual stage as a result of the proposed green infrastructure.	Impacts on both the visual and landscape baselines will be experienced from the existing villagers
The erosion of the gap or 'pocket' in which the Appeal Site sits will not be visible to an observer, i.e., there is currently no location from which an observer can see two settlements, and this will not change once the Appeal Scheme is built. A gap will remain in both physical and visual terms.	The erosion of the gap or 'pocket' in which the Appeal Site sits will be visible to an observer,
Reason for Refusal 5: Unsustainable Location – see Appendix 2	
The Appeal Scheme is in an accessible and sustainable location, relative to the village setting. Hurst provides a range of services and facilities. The Appeal Site is only 1.5 miles from the centre of Twyford and a significant range of higher order	The Appeal Scheme is not in a sustainable location, lacks adequate access to public transport, facilities and services, available school places and would be a car reliant development.

Areas of Disagreement	
Appellant Position	WBC Position
services and facilities including a supermarket.	
The Appeal Scheme will encourage walking and improvements are proposed. Cycling (including use of e-bikes) can be used to access Twyford and the station and Elizabeth Line. Hurst is served by local buses.	The lack of a continuous network of pavements linking into the east or southern part of the Appeal Site result in a poorly permeable development and would discourage walking.
The Appeal site is sustainability located. The Development Plan identifies Hurst as a location of limited development and the emerging Local Plan seeks to allocate two sites in Hurst in very close proximity to the site having assessed Hurst to be a suitable and sustainable location for development.	The village of Hurst is a limited development location which is reflective of its scale and facilities and services. The inclusion of sites in Hurst for development are of a limited scale reflective of the limited development location.
Reason for Refusal 6: Impact on Existing Trees and Hedgerows	
<p>Updated arboricultural information has been submitted and the Appeal scheme will not have an unacceptable impact on existing trees and hedgerows. In relation to root protection area of existing trees, being impacted, the proposals are in Outline supported by an Illustrative Masterplan and tree protection areas can be addressed at the Reserved Matters stage and/or via Condition.</p> <p>The inclusion of paths made of permeable surface are acceptable within root protection areas in accordance with guidance towards the successful installation of hard surfacing within root protection areas as detailed in BS5837:2012 at section 7.4. The standard identifies that a successful installation of hard surfacing covering up to 20% of the root protection area may be achieved, the Illustrative Masterplan shows only four</p>	<p>The proposed development does not demonstrate an acceptable impact on existing trees and hedgerows as there are avoidable and unnecessary incursions into the root protection area of existing trees. The British Standard requires that structures are kept outside the properly assessed RPA which is the minimum rooting area required to sustain a tree. In addition, the British Standard requires that the project arborist should properly plot the RPA of trees on and adjacent to the site - including any offsetting, should assess the impacts of existing and proposed structures on the RPA and demonstrate that any area lost to encroachment can be compensated for and that they should propose mitigation measures. The Council does not consider that the surveys or the plans yet fully address the requirements of the British Standard not that they demonstrate that trees can be sustainably retained in the long term. In addition, whilst a sketch plan or reordered balancing basins has been provided to the Council, this is not</p>

Areas of Disagreement	
Appellant Position	WBC Position
<p>trees with proposed hard surface incursions which are limited to coverage at 4.2%, 5.9%, 3% & 3.6% well within the acceptable range</p>	<p>overlaid on the AIA and so is unclear. Further the sketch plan has not been formally presented to the Inquiry and can therefore carry no weight. In consequence the Council cannot agree that this aspect of incursion into RPAs has yet been appropriately addressed. The Council do not consider that there is an overriding justification for construction within the RPA of protected trees.</p>
<p>The Appeal Scheme will not result in the loss of any trees and all RPA's will be protected.</p> <p>In relation to space around the three Veteran trees on site (T36, T58 & T66). The Illustrative Masterplan shows buffers beyond the standard root protection area (12x diameter of trunk) to the largest of either 15xdiameter of the trunk or 5m beyond the canopy line. This is commensurate with Government Standing Advice 'Buffer Zone recommendations'.</p> <p>In relation to WBC concern regarding increased need for management of the Veteran Trees, there is no structure or detail that would draw people to within any 'target zone' (an area where a failed part of the tree may impact) planned or shown on the Illustrative Masterplan specifically to avoid this outcome.</p> <p>The proposals are in Outline supported by an Illustrative Masterplan and tree protection areas can be addressed at the Reserved Matters stage and/or via Condition.</p> <p>Hedgerows to be removed will be replaced with improved hedgerow with in excess of 1km of additional significant hedgerow planting proposed within the site.</p>	<p>The proposed incursions into the root protection area of existing trees and hedgerows, and the need for additional maintenance affecting features of importance to veteran and other trees, as well as the removal of a length of hedgerow has the potential to damage the character and appearance of the area. Further the Council do not consider that the requirements of the NPPF or the EN/FC standing advice on the issue of veteran tree buffers has been fully complied with in all instances particularly over the issues of the extent, character, and quality of buffers and on the issues of mitigation for damage to the special qualities of veteran trees. Also, the Council does not agree that there are no features that would attract the public to the area of the veteran trees. The council does not consider that there are wholly exceptional circumstances for the incursion of the development into the RPA of veteran tree/s and nor is there suitable compensation strategy for the damage to these trees.</p>

Areas of Disagreement	
Appellant Position	WBC Position
Titled Balance	
<p>The most important policies for determining the application are:</p> <ul style="list-style-type: none"> - Policy CP9 – Scale and Location of Development Proposals - Policy CP11 – Proposals Outside Development Limits - Policy CC02 – Development Limits 	<p>The most important policies for determining the application are:</p> <ul style="list-style-type: none"> - Policy CP1 – Sustainable Development - Policy CP3 - General Principles for Development - Policy CP6 – Managing Travel Demand - Policy CP7 – Biodiversity - Policy CP9 – Scale and Location of Development Proposals - Policy CP11 – Proposals Outside Development Limits - Policy CC02 – Development Limits - Policy CC03 – Green Infrastructure, Trees and Landscaping - Policy CC07 – Parking - Policy TB08 – Open Space, Sport, and Recreational Facilities Standards - Policy TB21 – Landscape Character - Policy TB23 – Biodiversity and Development - Policy M2 – Safeguarding Sand and Gravel Resources
<p>As the Council cannot demonstrate a 5-year housing land supply, the tilted balance applies as set out in paragraph 11 of the NPPF. The most important policies for the determination of the appeal (CP9, CP11 and CC02) are out of date and therefore carry less weight in the planning decision. The significant benefits of the appeal scheme as out in the Appeal documentation trigger the presumption in favour of sustainable development.</p>	<p>The tilted balance set out in paragraph 11 of the NPPF is engaged as there is no demonstrable 5-year housing land supply. However, the harm is such that it would significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies of the NPPF as a whole. The proposal cannot therefore benefit from the presumption in favour of sustainable development.</p>
<p>The Appeal site is in a sustainable location and the economic, social, and environmental benefits of the scheme including the delivery of housing will support the village infrastructure. Each of the reasons for refusal has been addressed above. The lack of 5-year housing land supply triggers the presumption in favour of</p>	<p>The economic, social, and environmental benefits of the scheme do not outweigh the impacts, namely impacts to the village infrastructure, the landscape character of the area, existing trees and vegetation, the loss of agricultural land and mineral extraction and in terms of its unsustainable location.</p>

Areas of Disagreement	
Appellant Position	WBC Position
sustainable development under the tilted balance.	
Draft Conditions	
WBC would have the ability to control this matter at the reserved matters stage once the detailed design layout and landscaping has been without the detail design at this stage, no judgement can be drawn as to the potential for harm that can justify removing permitted development rights for additional built form.	The Council believes it is appropriate to remove permitted development rights in relation to Classes A, B and E of Part 1 of GPDO, as specified in Condition 35, to allow future assessment of the countryside character, landscape setting and protected trees and to avoid unplanned and excessive future extensions and outbuildings.
The site will come forward in phases, as allowed for in the conditions and without the detail design it will be difficult for the strategy to accurately respond across the whole site.	The Council believes that the delivery of parking requirements, as specified in Conditions 26 and 27 should come forward as part of the discharge requirements of the outline permission as it relates to the layout and distribution of parking across the development.

8. SIGNATURES

Signed on behalf of the Appellant Company

Name: Alyson Jones

Signature 

Date: 16/12/2022

Position: Planning Consultant on behalf of the Appellant

Signed on behalf of Wokingham Borough Council

Name: Simon Taylor

Signature 

Date: 16 December 2022

Position: Town Planner (WBC)

APPENDIX 1 – HIGHWAYS STATEMENT OF COMMON GROUND

APPENDIX 2 – SUSTAINABILITY STATEMENT OF COMMON GROUND

APPENDIX 3 – ECOLOGY STATEMENT OF COMMON GROUND

APPENDIX 4 – DRAFT CONDITIONS (SUBJECT TO CHANGE)