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## Appeal Decision

Inquiry held on 29 – 31 October 2019

Site visit made on 31 October 2019

**by Philip J Asquith MA(Hons) MA MRTPI**

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

**Decision date: 19 November 2019**

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**Appeal Ref: APP/X0360/W/18/3205487**

**Land to the rear of No. 6 Johnson Drive, Finchampstead, RG40 3NW**

- 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 Mr Patrick Bancroft against the decision of Wokingham Borough Council.
  - The application Ref. 172230, dated 26 July 2017, was refused by notice dated 11 May 2018.
  - The development proposed is the erection of 25 no. dwellings (10 no. affordable) following the removal of the existing use and buildings.
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### Decision

1. For the reasons that follow, the appeal is dismissed.

### Procedural Matters and Background

2. The Council originally refused permission for eight reasons. However, through continued discussion between the Appellant and the Council, the submission of amended plans and further assessments, and the provision of various obligations under s.106 of the Town and Country Planning Act 1990 (as amended), issues have been narrowed.
3. An agreed Statement of Common Ground<sup>1</sup> (SoCG) records that in respect of the reason for refusal relating to impact on trees and protected species (bats and reptiles) the imposition of suitably worded conditions would overcome the Council's concerns. The submitted revised drawing No. 2362 – 23A, showing the addition of two further parking spaces, has overcome the Council's concerns regarding the level of parking provision within the appeal site. A signed s.106 agreement relating to mitigation of impact on the Thames Basin Heaths Special Protection Area (SPA) overcomes the Council's objections in this regard, whilst a separate s.106 agreement would secure an acceptable level of affordable housing provision.
4. As a consequence, the only reasons pursued by the Council at the Inquiry were reasons 1 to 3 of its original decision. These relate to the location of the proposal being outside development limits, impact on visual amenity and character of the landscape and countryside, and the site being unsustainably located.

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<sup>1</sup> 12 September 2019

5. The amendments made in the revised drawing No. 2362 – 23A relate solely to the addition of two communal parking spaces and the location of street lighting and bollards. I consider that no interests would be prejudiced from my consideration of this revised plan and, accordingly, my decision has been based on this.

### **Main Issues**

1. As a consequence of the above and from all I have seen, read and heard, I consider the main issues in this case are:
  - the impact of the proposal on the character and appearance of the locality;
  - whether the development is in a sufficiently accessible location to encourage the use of sustainable transport modes; and
  - compliance with development plan policy and the planning balance.

### **Reasons**

#### **Character and appearance**

6. The development plan for the area includes the Wokingham Borough Core Strategy Development Plan Document (adopted in January 2010) (CS) and the Managing Development Delivery Local Plan (adopted in February 2014) (MDD). Whilst the Council is in the process of preparing a new Local Plan, this is at a very early stage and there are currently no policies against which the proposal can be assessed. It therefore carries no weight in the determination of this appeal.
7. Those policies of the CS and MDD referred to within the Council's reasons for refusal are the ones which I consider to be the most relevant in the determination of this appeal. CS Policy CP3, relating to the general principles for development, sets out a list of criteria against which proposals will be judged. These include criterion a) requiring proposals to be of an appropriate scale of activity, mass, layout, built form, height, materials and character to the area. Criterion c) stipulates there should be no detrimental landscape impact. Criterion f) requires schemes to contribute to a sense of place in the buildings and spaces themselves and the way they integrate with their surroundings (especially existing dwellings) including the use of appropriate landscaping.
8. MDD Policy CC01 reflects policy in the National Planning Policy Framework (the Framework)<sup>2</sup> in noting that applications that accord with policies in the Development Plan will be approved without delay, unless material considerations indicate otherwise.
9. MDD Policy CC03 relates to green infrastructure, trees and landscaping. It requires proposals to demonstrate how, amongst other matters, they have considered and achieved the promotion of the integration of the scheme with any adjoining public open space or countryside, protected and retained existing trees, hedges and other landscape features, and incorporated landscaping as an integral part of the scheme.

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<sup>2</sup> The MDD was produced at a time when the 2012 version of the Framework existed. The policy remains consistent with that of the current 2019 version of the Framework

10. Policy TB21 of the MDD requires the demonstration that the requirements of the Council's Landscape Character Assessment (LCA) have been addressed and that proposals should retain or enhance the condition, character and features that contribute to the landscape.
11. The Borough Design Guide is a Supplementary Planning Document (SPD), adopted in 2012. RD9 of the Guide requires that the location, siting and design of new development on the edge of settlements be carefully designed to create an edge to the built-up area with a character that relates to the local pattern. Landscaping should be incorporated to soften the edge of settlements and to help integrate new housing into its rural setting.
12. The bulk of the appeal site is roughly triangular-shaped, in total amounting to some 1.37ha in extent. Access is off Johnson Drive, a short residential cul de sac leading from Nine Mile Drive, which itself is a straight historic ride formed through the previous royal forest. The southern portion of the site comprises part of the garden, stables and paddock within the curtilage of Rosewells, a large detached dwelling.
13. The larger northern portion of the site mostly comprises open, rough grassland with a number of access tracks although down its eastern side there are two blockwork and metal-clad buildings for the storage of building materials, permission for which was granted in 2003. A Certificate of Lawful Use for the storage of motor vehicles was granted on appeal in 1999 in respect of a portion of the site to the western side of the storage buildings<sup>3</sup>. On my visit a considerable number of old and damaged vehicles were in place<sup>4</sup>.
14. The appeal site is bounded to its western side by the curtilages of large detached dwellings within the residential cul de sac of Tomlinson Drive and by the overgrown lengthy curtilages of properties on Kiln Ride. Mature woodland borders the site to its east and the tall, mature trees on this boundary, as well as those marking the western boundary, are subject to a Tree Preservation Order (TPO)<sup>5</sup>.
15. The site lies within the Wokingham District Landscape Character Assessment Area M1 'Finchampstead Forested and Settled Sands'. The LCA notes that the straight roads provide a framework for the settlement which follows a strongly linear pattern of detached houses (mostly post-war) within a retained woodland setting and with modern estate infill between the rides. More specifically, in relation to the appeal site I consider the site's predominantly open nature provides a transitional landscape component between the more nucleated settlement pattern to the west and the expanses of mature woodland to the east and north.
16. The site helps to form a backdrop to and setting for what is the mostly linear pattern of frontage development along Nine Mile Ride. The adjacent mixed-species woodland and the predominantly open grassland character of the site is typical of the mosaic of woodland and heathland/grassland found in the M1

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<sup>3</sup> T/APP/X99/X0360/003156 and APP/X0360/C/99/1028620/1. A certificate was also granted by the Council in 2002 relating to seven storage buildings along the eastern boundary of the site (CLE/2001/3818), these buildings being subsequently replaced by the two present storage buildings. At the time of the Inquiry two refused applications for Certificates of Existing Lawful Use for the storage on parts of the site of inert waste and for the storage of builders' plant and materials were the subject of extant appeals

<sup>4</sup> It appeared that some vehicles were currently on the site beyond the defined area subject to the Certificate

<sup>5</sup> TPO No. 1522/2016

character area, the loss and fragmentation of which has been identified as an issue in the LCA.

17. The Appellant undertook a Landscape and Visual Impact Assessment to accompany the proposal. In relation to impact on the landscape and the character of the site, the landscape witnesses for the Appellant and the Council differ as its value and sensitivity, the former considering these to be 'medium' whilst the latter rating these as 'high'. Much of the difference in assessment stems from the degree to which the lawful storage use for vehicles and the presence of the storage buildings are considered to reduce the overall value.
18. It is apparent that the level of vehicle storage use has fluctuated over the years and that there is no limit on the number of vehicles that could be stored within the area covered by the Certificate of Lawful Use. Certainly, at the time of my visit, there was a considerable number of vehicles present in addition to the storage buildings and stored building materials. Collectively I accept that these do detract to a degree from the value and sensitivity of the site.
19. In terms of the magnitude of change that would be wrought to landscape character, and therefore the overall effect of the proposal, there is also disagreement between the Appellant and the Council. The former considers there would be small change whereas the Council considers this to be high.
20. The mature trees along the eastern and western boundaries would be retained, with, respectively, 10m and 5m buffer zones incorporated to form an ecological corridor and for protection for the trees. These would therefore provide a degree of landscape mitigation for development within the site. Nonetheless, despite the presence of the storage uses and the two storage buildings, the majority of the site has a current predominantly open character. This would be replaced by an overtly suburban housing development.
21. The proposed housing would be mostly two-storey detached dwellings served off a spine access road. In addition, there would be two pairs of semi-detached affordable houses and an apartment block of six affordable units. The Council takes no issue with the design of the proposed dwellings in their own right. However, the 25 dwellings would result in a form of development that would be of a higher density than that which is immediately neighbouring, particularly in relation to housing within Tomlinson Drive<sup>6</sup>. The dwellings fronting the main access would for the most part have shallow front gardens, unlike those in Tomlinson Drive which lend a more open feel to that development.
22. The provision of the two pairs of semi-detached houses towards the northern end of the site would be uncharacteristic of the existing predominantly detached dwellings in the vicinity. This is similarly the case with the large apartment block towards the narrowed northern apex of the site. These more intensive forms of development would be sited at the furthest-most end of the site in an area which is closely related to the more remote and wooded landscape beyond. Furthermore, I consider the closely positioned apartment block behind an area dedicated to parking would result in an unattractive tightly-knit setting.
23. Similarly, I am not convinced that what would be a grassed area to the rear of the apartment block would provide an attractive or practical amenity area for

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<sup>6</sup> The density of the proposal is some 18.2 dwellings per hectare, compared with that of Tomlinson drive of about 11.5 dwellings per hectare

- use by its residents. This is a result of its positioning to the north of the block and what would be considerable shading at certain times of the year from surrounding retained trees. Other than this area, the utility of which I consider to be questionable, there would be no other incidental areas for meaningful open spaces or landscaping; the retained buffer zones to the eastern and western boundaries being to the rear of what would be an inward-facing development. A detailed landscaping scheme accompanied the application, and planting within the site would have some mitigating impact. However, this would not be sufficient to satisfactorily offset the tightly-knit layout and, in places, cramped feel of the development.
24. As the trees on these boundaries are subject to a TPO the Council would be able to exercise future control should maintenance tree works be necessary. Particularly in relation to the positioning of some of the dwellings on the western side of the access drive, there would be a close relationship between residential curtilages and some of the tree canopies. The Council is satisfied that from a technical point of view development could take place without causing material harm to the protected trees: works would be carried out beyond root protection areas; there is suggested canopy reduction; and no undue levels of shading harmful to residential amenity would result.
  25. Nonetheless, I consider that because of the proposed relationship it is possible that there could be future pressure from occupants for works for pruning or felling to alleviate perceived apprehension relating to safety or because of nuisance from leaf, branch fall and insect and bird deposition. Given the control that the Council could exercise over future tree works through the TPO these matters would not in their own right be a major drawback of the scheme. Nevertheless, in my view such issues are symptomatic of a scheme that is overly intensive for the site in terms of the quantum, relationship and form of development and at odds with the overall grain of development in the area.
  26. The site has been subject to previous appeal decisions relating to residential development. The most recent were in 2002 when two linked appeals against the refusal of outline planning permission were dismissed<sup>7</sup>. In referring to the views of a colleague who had dismissed an earlier appeal in 1989<sup>8</sup>, the Inspector agreed that development on the site would not be a 'rounding-off'. Rather, it would be the introduction of an estate of houses into a rural backland area which would have an urbanising impact on the open and less developed rural character of the site's surroundings; the schemes would result in a significant intrusion of bulky built development into the countryside on a mainly greenfield site.
  27. It was agreed at the Inquiry by the Appellant's planning witness that there is nothing materially different now in relation to the site's surroundings than when the appeal decisions were made in 2002. The local and national planning policy context has clearly changed since then. There is also a lesser quantum of proposed development compared with that put forward in 2002. Nevertheless, it is apparent that when the previous Inspector made his decisions the site then benefitted from Certificates of Lawful Use in respect of motor vehicle storage and the storage of builders' materials on specified areas of the site and these were considered in his overall judgement. Whilst there are distinguishing differences between the present case and those considered

<sup>7</sup> APP/X0360/A/01/1076708 and APP/X0360/A/02/1081441

<sup>8</sup> T/APP/H0330/A/88/092313/P5

in the past, I am of the view that the general conclusions reached in terms of harmful impact on character still hold good.

28. Overall, the proposal would not result in a meaningful acceptable transition between the present settlement edge and the defined countryside beyond as a result of the form and nature of the development and this would be harmful to the landscape character of the area.
29. I accept that in terms of visual impact the site is well screened from wider public vantage points by trees to the east and by the linear frontage dwellings to Nine Mile Rise. Some limited view would be gained from Johnson Drive through the creation of the new access. The development would be visible in private views from residences within Tomlinson Drive which back onto the site and from where the more intensive urbanised form of development would be clearly more apparent and dominant. Nevertheless, despite the high degree of screening from wider views, this does not obviate this particular scheme's harmful effect on the overall character of the area.
30. In my judgement the proposal would detrimentally impact on the overall character of the locality and would be contrary to the thrust of CS Policy CP3, MDD Policies CC03 and TB21, and RD9 of the Borough Design Guide SPD. It would also be contrary to the Framework's expectation in relation to achieving well-designed places in that the development would not be sympathetic to the surrounding built environment and landscape setting<sup>9</sup>.

### **Sustainable location**

31. CS Policy CP1 relates to sustainable development. Criterion 11 requires the demonstration as to how a proposal supports opportunities for reducing the need to travel, particularly by private car, in line with Policy CP6.
32. As confirmed in the Core Strategy, Wokingham has one of the highest car ownership rates of any English authority area. To reduce the likelihood of those vehicles being used and to encourage modal shift, the CS indicates that proposals should be assessed for their impacts in generating travel demand.
33. CS Policy CP6, relating to managing travel demand, requires, amongst other matters, schemes to provide for sustainable forms of transport to allow choice. In accordance with criterion b) they should be located where there are, or will be at the time of development, choices in the mode of transport available and which minimise the distance needed to travel.
34. The Borough Design Guide SPD notes that if places are to be sustainable then the aim should be to create walkable neighbourhoods, with a range of facilities within ten minutes' walking distance of residential areas to encourage people to travel on foot or by bicycle. This is echoed in the Government's Manual for Streets which advises that walking offers the greatest potential to replace short car journeys, particularly those under 2km. It sets out that walkable neighbourhoods are typically characterised by having a range of facilities within ten minutes (equating to roughly 800m distance). The Chartered Institution of Highways and Transportation's (CIHT) recommended maximum walking distance to shops and facilities is between 800m and 1,200m<sup>10</sup>, the former

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<sup>9</sup> Framework, paragraph 127

<sup>10</sup> Guidance on Providing Journeys on Foot

being viewed as 'acceptable' and reflecting the advice in Manual for Streets, the latter being a preferred maximum.

35. A table of walking distances to various facilities is included in the agreed SoCG between the Appellant and the Council. This shows that the appeal site is about 1,055m from California Crossroads where there is a small collection of shops and services including a Co-op, food store, pharmacy, dentist, post office, takeaway, restaurant and service station<sup>11</sup>. There is a similar walking distance to a community hall on Finchampstead Road and a primary school on Nine Mile Ride. The nearest secondary school is about 6.2km away. Whilst the Council's highways witness noted that the facilities at California Crossroads offered a limited choice, its planning witness at the Inquiry accepted that Finchampstead North is a sustainable location with appropriate services and facilities commensurate with the scale of proposed development.
36. The walk to this nearest collection of facilities would be along Nine Mile Ride, a straight road with slight undulation, footpaths of reasonable quality and general overall width to both sides, and street lighting. The road is flanked by well-established leafy frontage residential development. Having walked this district distributor road during the middle of a weekday when traffic was light, I consider it provides a route that some potential occupants of the proposed development might find reasonably commodious.
37. However, the walk may be less agreeable and attractive at times when the road is busier and the weather less clement. This would be particularly so in the morning and evening peak hours and for those with mobility aids, pushchairs or encumbered with shopping, exacerbated by the fact that there is no separating verge between road and footpaths. This would make the walk for shopping purposes or to the nearest primary school less pleasant and likely. Furthermore, the travel distance from the appeal site is at the margins of what are considered to be the CIHT preferred maximum acceptable walking distances. I am not therefore convinced that, for many, the locational characteristics of the appeal site relative to the range of nearest facilities would represent a realistic everyday walking choice.
38. Having regards to public transport, the walking distance to the nearest bus stops on Nine Mile Ride are (from the middle of the appeal site) some 230m (eastbound) and 208m (westbound). The routes served by the 125 A and B and the Leopard 3B services are respectively to Wokingham and Crowthorne and to Reading and Bracknell. The SoCG notes that it is agreed that when assessed against Core Policy CP6 the two services together provide a good bus service along this road. Despite this agreement, however, I note that from the detailed timetable information provided, the level of service does not meet the definition as quoted in the CS<sup>12</sup>, with less than an average of two buses per hour in the morning and evening peaks, the 125 A and B having a minimal Saturday service and no service on Sundays. I consider it doubtful that these would fit well with reasonable commuting patterns.

<sup>11</sup> The walk distances are measured from the middle of the proposed development and would be about a further 100m for the dwelling units towards the northern end of the site

<sup>12</sup> CS paragraph 4.37 states that, in line with the WDLF definition, good public transport services 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)

39. The SoCG also notes that the site is too remote from rail services to make this a viable option to walk to. Cycling could be an option for some residents. The distance to secondary schools is outside the acceptable walk distance and cycling may be possible for some pupils. However, the Council suggests that routes from the site would be along busy roads where separated cycle infrastructure is very limited.
40. Paragraph 103 of the Framework states that significant development should be focused on locations which are or can be made sustainable, through the need to travel and the offer of a genuine choice of transport modes. The Council considers that such genuine choice would not exist in respect of the proposal. Whether the scheme should be considered a 'significant development' is a moot point, given that the Framework does not provide a definition.
41. Irrespective of this, I consider that any assessment should be grounded in realism as to whether a reasonable choice of alternative modes of transport exists in the specific circumstances of a proposal to provide an option to minimise car use. Overall, I am not convinced that the characteristics of the proposal's location would encourage the use of sustainable transport modes or provide realistic choice to support the opportunities for reducing the need to travel by car. As such, there would be conflict with the thrust of CS Policies CP1 and CP6.

### **Compliance with the development plan and the planning balance**

42. MDD Policy CC02 notes the definition of development limits for each settlement on the Proposals Map. Permission for proposals on the edge of settlements will only be granted where they can demonstrate that the development, including boundary treatments, is within development limits and respects the transition between the built-up area and the open countryside by taking account of the character of the adjacent countryside and landscape.
43. It is not disputed that the proposed development lies outside defined development limits for Finchampstead North and is in conflict with CS Policy CP11. This policy 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 except in certain specified circumstances (none of which is relevant to the present proposal). Given my conclusion in respect of the scheme's harmful impact on the character of the area, the proposal would conflict with the purpose of CP11 in regard to the maintenance of the quality of the environment.
44. The Appellant's position in relation to how this policy should be considered crystallised during the Inquiry to one of suggesting that the weight to be attached to it should be reduced because of its inconsistency with the Framework. In the Appellant's view this arises because the development limits were not intended to address the Council's current housing requirement but were proposed to address a much lower requirement; they were not even drafted to meet the minimum requirements let alone to significantly boost the supply of housing (an aim introduced by the Framework post-dating the drafting of the limits).
45. It was accepted at the Inquiry by the Appellant's planning witness that there is no inconsistency of the wording or the objectives of CP11 with the Framework. The policies of the development plan which apply development limits are

important in delivering certainty and consistency. This is underlined in the supporting text of Policy CP9, which relates to the scale and location of development proposals. Certainty and consistency are important aspects of the plan-led system.

46. The Appellant has argued that Policy CP11 is very restrictive, applying to all areas outside settlement limits, irrespective of their landscape value or sensitivity; outside of the narrow range of exceptions listed within the policy there is no opportunity to judge the acceptability of a site for market housing beyond the limits in circumstances where there could be a landscape benefit or neutral effect. However, in my view there is no inconsistency with the Framework in this regard which notes at paragraph 170 that planning policies should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. Furthermore, Policy CP11 contains the caveat that development beyond development limits will not *normally* be permitted, so allowing a degree of latitude in the consideration of proposals.
47. The Appellant's further argument as to the reduced weight to be applied to Policy CP11 is that previously-determined appeal decisions have alluded to or identified some deficiency in respect of the policy. Of the decisions relied upon, the Inspector in respect of the appeals at Finchampstead Road<sup>13</sup>, whilst referring to some previous Inspectors having regarded the boundaries as being out-of-date, did not in fact grapple with the issue itself. In the Lambs Lane/Beech Hill Road appeal decision at paragraph 46<sup>14</sup>, the Inspector suggested that the weight to be accorded the boundaries was reduced somewhat. This was on the basis that some of the Council's housing supply was composed of housing site permissions outside the boundaries. However, attributing limited weight to the aims of policies that referenced development limits was not supported.
48. The Council has undertaken further analysis since the Lambs Lane decision. Its unchallenged evidence is that, even deducting the number of units within the five-year supply on granted sites outside limits, the Council can demonstrate a 5.64-year supply. This figure would be even higher if three sites where special circumstances justifying a location beyond limits were taken into account. The demonstration of a five-year housing land supply entirely within the settlement limits was not known to the previous Inspectors.
49. In her decision on a housing proposal at land at Stanbury House<sup>15</sup> the Inspector afforded limited weight to the settlement boundaries on the basis that they were predicated on a much lower housing requirement. However, I accept the Council's point that it is not clear what weight is given by the Inspector to Policies CP9 and CP11 (as opposed to the settlement boundaries) given her conclusion that these are broadly consistent with the aims of the Framework.
50. In the appeal regarding land at Parklands<sup>16</sup>, the Inspector took the view that the development limits were out-of-date because they were based on an outdated housing requirement, whilst the aims of Policies CP11, CP9 and CC02

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<sup>13</sup> APP/X0360/W/18/3213163 and APP/X0360/W/18/3212916

<sup>14</sup> APP/X0360/W/18/3199728

<sup>15</sup> APP/X0360/W/18/3097721

<sup>16</sup> APP/X0360/W/18/3204133

were generally consistent with national policy. At the time of the Inquiry this decision was subject to a High Court challenge, with the risk that it may be quashed. I therefore consider this limits the weight to be applied to it in terms of the argument advanced.

51. The Council has a total deliverable housing land supply of 6.39 years; its performance against the Housing Delivery Test required by the Framework is 157%; the anticipated delivery of 15,345 housing units within the plan period to 2026 is well in excess of the minimum 13,230; there is a bank of planning permissions which, if assessed against Local Housing Need, shows a supply of 11.71 years against the old higher Local Housing Need and which is well beyond the plan period; the supply of housing has been significantly boosted; and the Borough has one of the highest delivery rates of affordable housing in England, with a minimum pipeline of 2,674 units against a needs register showing 408 households in priority need.
52. From the above, and the detailed evidence provided in this case, the Council's housing performance is consistent with the Framework's exhortation to significantly boost the supply of housing<sup>17</sup>. The Council's spatial policies within the CS and MDD are evidently working. I consider that in the light of paragraph 213 of the Framework, and having regards to referenced case law<sup>18</sup>, the evidence before me indicates that the Council's housing strategy, which has development limits as a component, is entirely consistent with the Framework. Conflict with Policies CP9, CP11 and CC02 on the basis of the proposal being outside development limits should therefore be given significant weight.
53. I have concluded that the proposal would detrimentally impact on the overall character of the locality. It would be contrary to the thrust of CS Policy CP3, MDD Policies CC03 and TB21, and RD9 of the Borough Design Guide SPD. It would also be contrary to the Framework's expectation in relation to achieving well-designed places in that the development would not be sympathetic to the surrounding built environment and landscape setting. The characteristics of the proposal's location would not encourage the use of sustainable transport modes or provide realistic choice. As such, there would be conflict with the thrust of CS Policies CP1 and CP6.
54. In addition, the appeal site lies outside defined development limits and conflicts with CS Policies CP9 and CP11, and MDD Policy CC02.
55. In terms of the benefits of the scheme, the Appellant has placed great score by the fact that it would result in the removal of the present uses on the site. I accept that the current lawful uses do in themselves detract to a degree from the appearance, rurality and tranquillity of the site. The uses have existed for a considerable time, have been, and can be, variable in their intensity and may well continue if permission for the present proposal was to be refused. There is a Unilateral Undertaking which would provide that, should permission be granted, the rights to rely on the two Certificates of Lawful Use would be relinquished.
56. The uses are constricted to specific areas and do not extend to the whole of the site, particularly its northern apex. As already noted, the visibility of the site from beyond is constrained and I have seen no evidence to suggest that the

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<sup>17</sup> Framework, paragraph 59

<sup>18</sup> Peel Investments (North) Limited and SoSHCLG and Salford City Council [2019] EWHC 2143 (Admin)

existence of the present lawful uses is resulting in material issues in terms of detriment to nearby living conditions. I give the benefits of the potential removal of these existing uses moderate weight.

57. Reference has been drawn to the use of what is recognised as previously-developed land (pdl), the Appellant accepting that this is limited to the areas used for builders' storage. Having regards the Framework definition of pdl, there was some dispute at the Inquiry as to the extent of this and whether the access track to the buildings should be included. However, even by the Appellant's own calculations, pdl amounts to no more than 10% of the site. The Framework notes at paragraph 118 that decisions should give substantial weight to the value of using such land for homes. However, this relates to this type of suitable land *within* settlements, whereas the appeal site lies outside a plan-defined settlement. I therefore give this matter only very limited weight.
58. Through the construction of the housing and the expenditure of future occupants there would be some boost to the local economy, factors to which I attach moderate weight. As a contribution to the local and national housing stock the provision of the market housing element of the scheme attracts moderate weight. The planning witnesses for the Appellant and the Council agreed that the affordable housing provision should be afforded significant weight. The ten units within the scheme would represent a policy-compliant 40%. Whilst I acknowledge that such provision is a very important factor, as already noted in paragraph 51 above, Wokingham is not an authority (unlike many others) where the pipeline of supply of such housing is deficient. In this instance, I accord the provision of an affordable housing element only moderate weight.
59. I consider that there would be some benefit from management measures that could be put in place in respect of the buffer zones for the protected trees and an ecological corridor, to which limited weight should be attached, particularly as the trees are already covered by a TPO. As the SANG provision would be simply policy-compliant and mitigation would be a requirement arising directly from the proposal, I consider this in terms of any benefit to be neutral.
60. Having regards to my overall conclusions, s.38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications be determined in accordance with the development plan unless material considerations indicate otherwise. I conclude that the proposal would be contrary to the development plan taken as a whole. The totality of the benefits of the scheme as outlined are insufficient to amount to material considerations that would outweigh the harms I have identified and the conflict with the development plan. Accordingly, the appeal must fail.

### **Other matters**

61. CS Policy CP8 states that development which, alone or in combination, is likely to have a significant effect on the Thames Basin Heaths SPA will be required to demonstrate that adequate measures to avoid and mitigate any potential adverse effects are delivered. The Thames Basin Heaths is a European protected site<sup>19</sup> and the appeal site lies within 5km linear distance of it. This

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<sup>19</sup> Conservation of Habitats and Species Regulations 2017, European Directive 2009/147/EC. The SPA covers some 8,400ha in Berkshire, Hampshire and Surrey and is designated for breeding populations of Dartford Warbler, nightjar and woodlark

being the case, mitigation measures are required to avoid any likely significant effects on its integrity as a consequence of activity pressures resulting from new development<sup>20</sup>. Avoidance measures should include a combination of Suitable Alternative Natural Greenspace (SANG), and Strategic Access Management and Monitoring (SAMM) measures on the SPA itself.

62. Because of the size of the appeal site it is not possible to provide the appropriate level of SANG within the site, nor is it possible to provide this appropriately elsewhere within existing SANGs in the Borough. However, agreement has been reached to the satisfaction of the Council for the requisite provision at the former Transport Research Laboratory site at Crowthorne in neighbouring Bracknell. This, together with payment of an appropriate SAMM, would be secured through obligations within a concluded s.106 agreement.
63. In accordance with the relevant Habitats Regulations, it is necessary for me to carry out an Appropriate Assessment. In doing so I have had regard to the totality of the evidence provided, including the views of Natural England as the relevant Statutory Nature Conservation Body. I am satisfied that if permission were to be granted the measures secured within the concluded s.106 agreement would be sufficient to ensure that the development either alone or in combination with other proposals would have no significant effect on the integrity of the Thames Basin Heaths SPA.
64. I have had regard to all representations made, including those by a number of local residents. Other than in respect of issues already addressed above, these include concerns regarding matters such as drainage and sewerage, highway safety and congestion, and the adequacy of local services and school capacity. The application was accompanied by a range of studies and reports to address differing aspects of the scheme. I am satisfied that from the evidence provided, the potential for appropriate conditions to be imposed if permission were to be granted, and the proffered obligations, there are no matters other than those I have identified and considered above that would tell against the proposal. However, neither these nor any other matters raised and considered alter the conclusions reached.

### **Overall conclusion**

65. For the reasons set out above, I conclude that the proposal is unacceptable and that the appeal should be dismissed.

*P J Asquith*

INSPECTOR

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<sup>20</sup> The guidance for this comes from a range of relevant policy documents which include The Thames Basin Heaths Delivery Framework (February 2009), Natural England's Guidelines for the creation of Suitable Accessible Natural Green Space and CS Policy CP8

## **APPEARANCES**

### *FOR THE APPELLANT*

Killian Garvey, of Counsel

instructed by Neil Davis, Davis  
Planning Ltd

He called:

Neil Davis MSc MRTPI

Director, Davis Planning Ltd

Also providing evidence on behalf of the Appellant were\*:

Jon Seymour BA(Hons) DipLA CMLI

Director, ACD Environmental Ltd

Dermot McCaffery Eng Tech FIHE MAIRSO

Highway Planning Ltd

### *FOR THE COUNCIL*

Guy Williams, of Counsel

instructed by Lindsay Jennings,  
Solicitor, Shared Legal Services

He called:

Ian Bellinger BSc(Hons) DipTP MRTPI

Category Manager for Growth and  
Delivery, Wokingham Borough Council

Simon Taylor BTP

Senior Planning Officer, Wokingham  
Borough Council

Also providing evidence on behalf of the Council were\*:

Brigitte Crafer BA(Hons) DipLA PGC MLI

Landscape Architect, Tree and  
Landscape Team (Community,  
Heritage and Green Infrastructure),  
Wokingham Borough Council

Gordon Adam BA DipEcon MA FCIHT MILT

Principal Development Control  
Engineer, Highways, Wokingham  
Borough Council

\*These witnesses provided evidence at the 'round table' inquiry sessions on character  
and appearance and sustainable location matters

### *INTERESTED PERSONS*

Roland Eckert  
Charles Margetts

Local resident  
Councillor, Finchampstead North,  
Wokingham Borough Council  
Local resident

Roger Marshallsay

Chairman of the Planning Committee  
of Finchampstead Parish Council

**DOCUMENTS (HANDED IN AT THE INQUIRY)**

1. Copy of the appeal notification and list of those notified
2. Appellant's opening submissions
3. Council's opening submissions
4. Mr Eckert's statement
5. Cllr Margetts' statement
6. Mr Allan's statement
7. Plan of routes from the appeal site to the nearest schools
8. Copies of executed s.106 agreements (affordable housing, and SANG and SPA Access Management and Monitoring Contribution) with covering email from Clifton Ingram Solicitors
9. Details of witness background for Mr Bellinger
10. Draft amended conditions
11. Plan showing the possible position of a foul pumping station within the appeal site
12. Updated list of draft conditions agreed between the Appellant and the Council
13. Plans from Mr Davis on behalf of the Appellant showing the suggested area of the site that could be considered to be previously-developed land
14. Copy of the Consent Order relating to quashed appeal decision APP/X0360/W/18/3194044
15. Site Plans Ref. 2362 – 23A
16. Council's closing submissions
17. Appellant's closing submissions