

Sandleford Park

Appellants' Closing Submissions

Introduction

1. The Appellants' case is the determination which would be in accordance with the development plan when read as a whole would be to allow the appeal and material considerations do not indicate otherwise. Accordingly, the appeal should be allowed.
2. The Council's case is the determination which would be in accordance with the development plan when read as a whole would be to dismiss the appeal and material considerations do not indicate otherwise. Accordingly, the appeal should be dismissed.
3. However, if the Secretary of State agrees with the Appellants that the appeal proposals accord with the development plan when read as a whole, then the Council does not contend that the appeal should be dismissed nonetheless because of material considerations: Mr Grigoropoulos in answers in cross-examination. The Council does not have a second ("other material considerations") step in its case.
4. The upshot of this is that if the Secretary of State agrees with the Appellants concerning the development plan, then the appeal should be allowed.
5. By way of contrast, the Appellants do have a second step in their case because in the event the Secretary of State agrees with the Council that the appeal proposals do not accord with the development plan when read as a whole, it is our case that material considerations (namely, the considerable benefits the appeal proposals would bring) would indicate that the appeal should be allowed nonetheless.

Context

6. The appeal site is, in the view of the Council, located in "*the most appropriate location for strategic housing delivery in Newbury.*"¹
7. It constitutes 114 of the 134 hectares² "Sandleford Strategic Site Allocation" in Policy CS3 of the West Berkshire Core Strategy (2006 – 2026).³

¹ West Berkshire Local Plan Review 2020 – 2037: Emerging Draft, para. 6.29-page 63 CD 8.13

² i.e. 85%

³ CD 8.5 page 46 [2012]

8. Amongst other things the allocation is for *“up to 2,000 dwellings, of which at least 40% will be affordable and with an emphasis on family housing”*; with *“development to be limited to the north and west of the site”* with *“a country park .. in the southern part of the site”*; *“a local centre”*, *“a new primary school .. and the extension of Park House School”* and *“Two vehicular accesses .. off Monks Lane ..”*
9. The Council now envisages the wider site *“.. comprising approximately 1,500 dwellings”*⁴ (rather than up to 2,000) which simply reflects the appeal application for some 1,080 homes⁵ on the lion’s share of the Strategic Site Allocation coupled with the planning application for New Warren Farm / Sandleford Park West, which includes the rest of the Strategic Site Allocation, for 500 homes.
10. As envisaged in the Core Strategy, the Council went on to prepare the Sandleford Park SPD *“to set out the detailed guidelines for the distribution of uses and design of the site.”*⁶ Over its 95 pages the Sandleford Park SPD⁷ includes a *“Vision for Sandleford Park”*⁸, 14 *“Strategic Objectives”*⁹, 49 *“Development Principles”*¹⁰ and at Figure 13 a *“Masterplan Framework”*.¹¹
11. The appeal application, remembering that (as the SPD contemplated¹²) it is an outline rather than full application, incorporates everything in Policy CS3¹³ that this, the by far and away larger part of the overall Strategic Site Allocation, can reasonably be expected to deliver **in order to make the application acceptable in its own right**, and it is a close fit with those of the detailed guidelines in the SPD which relate to this, the major part, of the wider allocation.
12. The appeal proposals accord with all those *“parameters”* in Policy CS3 *which are relevant to ensuring that the appeal application is acceptable in its own right and is, in and of itself, “a sustainable and high quality mixed use development”*¹⁴ and facilitates the bringing forward of the remainder of the overall allocation to the west.

⁴ Policy SP16 page 61 CD 8.13

⁵ 1000 new homes and 80 Extra Care homes.

⁶ 5.14 on page 47 of CD 8.5

⁷ CD 8.14 [2015]

⁸ Page 7

⁹ Pages 7 & 8

¹⁰ Pages 30 - 82

¹¹ Page 57

¹² Paras. 129, 140, 142 on pages 83 & 84

¹³ Page 46 of CD 8.5

¹⁴ To quote the opening words of CS3 (page 46 of CD 8.5)

13. The appeal application includes 1,080 homes, of which 40% will be affordable, and with an emphasis on family housing – the proposals are predominantly houses for families¹⁵; development is limited to the north and west of the site¹⁶, with a country park which at 86 hectares is some 75% of the appeal site in the southern part of the site; the application includes a local centre, and makes provision for a new primary school and the expansion, including land for a new playing field, of Park House School; detailed permission is sought for the vehicular accesses off Monks Lane.
14. To a reader of Policy CS3 this should sound familiar.
15. The same reader would be hard pressed to spot the limited differences between the key plans for the appeal proposals¹⁷ and the SPD’s Masterplan Framework¹⁸ and would appreciate that as an outline application, reserved matters and appropriately drafted conditions and planning obligations would secure the delivery at the detailed design stage of the multitude of things the SPD aims to achieve.
16. The same point holds for many of the requirements of the Core Strategy as well.
17. Policy CS 3 requires “.. *appropriate buffers between the development and the ancient woodland ..*” on the site¹⁹ and the SPD states that the buffer zones should be 15 metres for all the woodlands on the site (most of which are ancient woodlands) and explains what can and can’t happen within these zones²⁰; it is *obvious* that this can be secured by conditions, as indeed is acknowledged in the Statement of Common Ground²¹.
18. The logic of this approach has latterly been acknowledged in relation to other matters, for example, in relation to the generation of on-site renewables which is now proposed to be addressed by a planning condition. The Appellants and the Council disagree about the *content* of such a condition but not the *principle*.
19. The Council’s case fails to credibly engage with a simple reality: the appeal site is the major part, some 85%, of a Strategic Site Allocation and the appeal proposals are being

¹⁵ 60% of the housing mix is family housing (CD9.1, para 6.6), with an average density range of between 30 and 50 (CD9.1, para. 6.4).

¹⁶ See the Concept Plan at Appendix C of Core Strategy (ID6), and the Framework Masterplan in the SPD (CD8.14 page 57, figure 13)

¹⁷ As listed in one of the draft conditions

¹⁸ Figure 13-page 57 CD 8.14

¹⁹ See the last bullet point in the policy, page 46 CD 8.5.

²⁰ Items a) and b) under L4 on page 33 and the 1st “key design principle” in CA8 on page 80, CD 8.14

²¹ CD 9.1 para. 8.1 page 10

brought forward in accordance with the parameters (*to the extent relevant*) in the allocation policy (CS3).

20. Perhaps the best illustration of what the Appellants regard as the Council's doublethink came with Mr Flatman's vivid turn of phrase in answers in cross-examination that the site is "only an allocated site" (sic).

Why then has the major part of an allocated site ended up at appeal?

21. As noted in Opening, given all this any sensible person should be bewildered by the Council's refusal of the appeal application for an extraordinary 14 reasons.

22. The reasons²² extend to more than 8 pages, are rambling and repetitious, and for good measure culminate in the Orwellian statement that they are the result of the Council having "*approached this decision in a positive way*".

23. We can see only two, limited, inconsistencies between the appeal application and the 13 development plan policies referred to in the reasons for refusal.

24. These two limited inconsistencies are: (1) the application covers 85% rather than 100% of the Strategic Site Allocation and so is not: "A single planning application for [the] allocated site" and as such does not tally with *part* of the 1st of the 10 criteria in Policy GS 1 of the West Berkshire Housing Site Allocations DPD²³, and (2) the proposed homes are not "Code for Sustainable Homes Level 6" as required by Policy CS 15.²⁴

25. As is well known, in working out whether the grant or the refusal of planning permission would be in accordance with the development plan²⁵ the plan is to be read as a whole; inconsistencies with some or other parts of the development plan do not necessarily mean that what is proposed does not accord with the plan.

26. It is our case that the determination which would be in accordance with the plan, *when read as a whole*, would be to allow the appeal.

27. But in any event, there are powerful material considerations²⁶ which dilute the meaningfulness of these inconsistencies, not least (1) the Council now proposes to

²² CD 4.2

²³ Pages 10 & 11 CD 8.6

²⁴ Page 75 CD 8.5

²⁵ As per the first part of s.38(6) of the Planning and Compulsory Purchase Act 2004

²⁶ As per the second part of s.38(6) of the 2004 Act

delete Policy GS 1 and its aspiration for a single planning application²⁷ and (2) the Code for Sustainable Homes no longer exists.²⁸

28. Further, notwithstanding Policy GS1, as Mr Jones explained in evidence in chief *the Council* and the Appellants and Donnington New Homes (Sandleford Park West) have been working together since 2017 to bring forward the Strategic Site Allocation via two applications, and this is now reflected in the emerging Local Plan Review which drops the requirement for a single application.

29. Given this, it is perhaps unsurprising but telling that the Council's *Planning Policy* team does not object to the appeal application on the basis that it is a separate application to DNH's²⁹ and advises that:

“Conclusion

*In policy terms, development of the site is currently, in principle, in accordance with policy, due to its allocation within the .. Core Strategy. The Council is currently progressing its Local Plan Review.”*³⁰

30. The Council's *Planning Policy* team's response is dated 17th September 2020 since when the Emerging Draft Local Plan Review published in December 2020 proposes to continue the allocation as *“..it remains the firm belief of the Council that Sandleford Park is **the most appropriate location for strategic housing delivery in Newbury.**”*³¹

31. The *only* policy objections raised by the Council's *Planning Policy* team in their response were: *“The application proposal is not policy compliant in respect of affordable housing and renewables provision.”*³² Both of these have been overcome, the first by the planning obligation and the second by planning condition.

Policy GS1

32. Policy GS1³³ seeks *“to achieve a comprehensive development that ensures the timely and coordinated provision of infrastructure, services, open space and facilities”*.

²⁷ December 2020, CD 8.13 para. 6.32 page 63 **which explains that the Council's new approach would also “[take] precedence over the SPD requirement for a single planning application ..”** (Emphasis added.)

²⁸ References in Policy CS 15 (page 75, CD 8.5) to “Zero Carbon” development are footnoted (FNs 74, 75) with the caveats that these are *“in line with stated Government aspirations, **which may be subject to change**”* which has indeed proven to be the case. (Emphasis added.)

²⁹ See CD 2.37

³⁰ See the last page of CD 2.37

³¹ Para. 6.29 page 63 of CD 8.13 (Emphasis added.)

³² As per FN 30

³³ CD 8.6 page 10

33. The appeal proposals via planning conditions and planning obligations would ensure the timely and coordinated provision of all such infrastructure, services, open space and facilities *as are necessary to make the appeal application acceptable*.
34. The appeal proposals would not preclude, restrict or in any way prejudice the delivery of the remainder of the overall allocation on land to the west of the appeal site including whatever infrastructure, services, open space and facilities are necessary to make Donnington New Homes' application acceptable.
35. *In addition*, and importantly, as Mr Jones explained in his evidence in chief, the appeal proposals would *facilitate* the achievement of the overall comprehensive development of the whole allocated Strategic Site by providing social and other infrastructure which would serve not only the residents of the circa 1,000 homes we propose but also the 500 homes proposed by Donnington New Homes:
- a) the Country Park;
 - b) the Local Centre;
 - c) the expansion of Park House School and its facilities;
 - d) access to the A339 enabling dispersal of traffic across the network;
 - e) fully funding highway improvement works which would accommodate the *entire* Strategic Site Allocation.
36. Mr Grigoropoulos agreed in cross examination that the appeal proposals would facilitate comprehensive development in these ways.³⁴
37. However Mr Grigoropoulos expressed a concern that a comprehensive development might not be achieved because Donnington New Homes might not provide the connection through to the appeal site. This, it has to be said, is a very odd point. There is no evidence (literally none) that DNH would act in this way. In fact the evidence is clear that DNH would provide the connection as is shown by the MoU³⁵, their application³⁶ and their letter to the Inspector.³⁷ But quite apart from this, in the event that the appeal is allowed the Appellants would provide the connection on their land to the boundary between the sites and *the Council* has the power to ensure as part of

³⁴ Items a, b, c and e (item d wasn't put to him)

³⁵ CD 14.13

³⁶ The series of documents in CD 14

³⁷ ID 9

any planning permission granted on Sandford Park West that DNH would have a reciprocal obligation to provide the connection on their land to the boundary so as to complete the connection through. The Council is not a helpless onlooker in all this.

38. The “contribution strip” discussed in the session on the s106 unilateral undertaking does not impinge on this and there is no question of the Appellants having the ability (even if they wished to, which they do not) to put “concrete blocks” in the way.

Policy C1

39. Although not mentioned in the extraordinarily extensive reasons for refusal which one would have thought make every conceivable point and many more besides, the Council has belatedly sought to make something of the fact that part of the proposed “Development Parcel North 1”³⁸ lies outside the settlement boundary of Newbury³⁹ and thus is subject to the presumption against residential development in the countryside set out in Policy C 1⁴⁰ but the Appellants regard this as a flimsy point as: (a) the area in question, which is shown on the plan in Mr Jones’ Appendix 14, comprises 0.35 of a hectare, some 0.3% of the 114 hectares application site, and (b) this is a “boundary” created entirely by policy - it runs through a field with nothing to distinguish what lies on its eastern side (within Newbury in policy terms) from what lies on its western side (“countryside” in policy terms), as we consider a site visit will confirm.⁴¹

40. The policy boundary was drawn so as to include within the settlement the “potential areas for development” shown on the Masterplan Framework in the SPD.⁴² However, since 2015 when the SPD was published the Council has required the provision of the Crooks Copse Link which would link the two development areas to either side of it. This means that the element of the proposed development which would be outside the settlement boundary would have a road to its west and south-west, as well as new homes to the east (i.e. the appeal proposals to the east within the settlement boundary).

³⁸ See the Parcelisation Plan CD 1.23

³⁹ As defined on the Map on page 137 of the HSA DPD, CD 8.6

⁴⁰ Page 83 CD 8.6

⁴¹ As explained by Mr Jones in paras. 5.49 – 5.52 pages 64 & 65 of Mr Jones’ Proof

⁴² Figure 13 page 57 CD 8.14

41. The 1/3rd of a hectare in question would accommodate ten houses at most⁴³ which when considered in this context would not lead to any unacceptable harm.

42. In the event that the Secretary of State disagrees then a condition could be imposed to exclude the area in question from the development area.

Warren Road

43. Mr Grigoropoulos was asked in cross examination whether it was impossible for the appeal proposals to be acceptable *in their own right* and he answered that without the provision of the link through Warren Road onto Andover Road the appeal proposals could not be acceptable. Later on in the cross examination he moderated his position.

44. This then is a fundamentally important issue and appeared to form the mainstay of the Council's case.

45. The 5th parameter in policy CS3⁴⁴ refers to "*an additional sustainable transport link for pedestrians, cyclists and buses provided from Warren Road onto the Andover Road*" however this is for the entire allocation of 2,000 dwellings. In similar vein, the list of "Critical Infrastructure" in Appendix D to the Core Strategy⁴⁵ lists "Bus access from Sandleford to Andover Road through Warren Road" – although not cycling and walking infrastructure⁴⁶ – and this too is for the entire allocation.

46. The question which arises is whether the link along Warren Road is *necessary* in order for the appeal proposals to be acceptable. That is a *different* question to whether it is necessary in order for the development of the entire allocation i.e. including Sandleford Park West, to be acceptable.

47. Before summarising the Appellant's answer to the question concerning the appeal proposals we note that subsequent to the Core Strategy, the SPD asks for an "all vehicle access link through Warren Road" to be "explored"⁴⁷ but once again this is for the entire allocation of 2,000 homes, and is not part of the development plan.

⁴³ As Mr Jones explained in his evidence in chief

⁴⁴ CD 8.5 page 46

⁴⁵ Page 108 of CD 8.5

⁴⁶ See footnote 45, and on page 107 Warren Road is not listed as critical infrastructure for the road network either

⁴⁷ Strategic Objective 2 page 7 of CD 8.14

48. More recently still, the draft Local Plan Review expects an all vehicle access via Warren Road⁴⁸ but this is for the entire allocation, in this instance of some 1,500 dwellings, and is not part of the development plan.
49. It is the Appellants' case that a link through Warren Road to Andover Road is not necessary in order for *the appeal proposals* to be acceptable.
50. There is a pedestrian link in any event and so the issue concerns (1) an all vehicles link, (2) a bus link, (3) a cycling link. Taking each in turn:
51. As to (1) *it is common ground that* "the proposed development does not require a vehicular access to be constructed onto Warren Road / Andover Road."⁴⁹
52. As to (2) *it is common ground that* the bus service improvements that would be secured by the appeal proposals - which do not include a bus link via Warren Road - would provide "a good quality bus service."⁵⁰ The Transport Statement of Common Ground explains that this "can be further enhanced with addition of the Warren Farm element of the SSSA and the creation of a bus link to Andover Road"⁵¹. Accordingly, the bus link is not necessary in order to make *the appeal proposals* acceptable. The bus services would be *better still* with the addition of the link via Warren Road but that does not mean that the link is a necessity for the appeal proposals. Plainly, it isn't.
53. In his proof of evidence⁵² Mr Goddard describes the "loop and return" bus service that we propose as "not ideal, **as** it reduces the viability of the service." We have emphasised "as" because this provides the reason why Mr Goddard considers the proposal to be "not ideal" (note, he does not describe it as unacceptable). However, it is our case that this concern is misplaced as explained by Mr Bird during the round table session and as elaborated in his proof of evidence.⁵³
54. Mr Goddard said in terms at the round table session that the bus service we propose is "acceptable".⁵⁴

⁴⁸ SP16 5th bullet point page 61 of CD 8.13

⁴⁹ Transport Statement of Common Ground (ID12, para 4.9, page 11) and main Statement of Common Ground (CD9.1 para 10.5, page 12).

⁵⁰ Transport SoCG para 2.18 ID12

⁵¹ See the second part of para 2.18 [ref. as FN 50]

⁵² Goddard Proof para 3.30 page 17

⁵³ Bird Proof at 5.42 – 5.45

⁵⁴ Using the timings in the You Tube recording of the session: Mr Goddard at 40mins 50secs (emphasis added): "sustainable access to pedestrian and buses onto Andover Road. Clearly as mentioned by Mr Bird that part of the proposal is not currently before you. Therefore, it could be argued that policy CS3 has yet to be complied

55. As to (3) *it is common ground that* the appeal proposals, without a link via Warren Road, would provide “good quality .. cycling links”.⁵⁵ Accordingly, the link for cyclists is not necessary in order to make the appeal proposals acceptable.
56. Sandleford Park West will bring forward the Warren Road access⁵⁶. When it does, provision for buses and cyclists (and all vehicles) would be even better. Until it does, what we propose is perfectly acceptable. Were Sandleford Park West not to come forward, what we propose would remain perfectly acceptable.
57. The Council’s obsession with Warren Road is based on muddling what would be desirable for the entire Strategic Site Allocation with what is necessary in order to make the appeal proposals acceptable. The two things are not the same.

The SPD

58. Mr Jones agrees with Mr Grigoropoulos that the SPD⁵⁷ is a material consideration of significant weight.
59. The purpose of the SPD is “to guide development on the [allocation] site in more detail.”⁵⁸
60. The emerging Local Plan Review explains that: “The Council will be supportive of proposals which have regard, and positively respond, to the Sandleford Park SPD (2015) which provides a framework for the future development of the site.”⁵⁹
61. Three things spring from this: (1) how close a fit the appeal proposals are with the SPD is a material consideration; (2) the closer the fit, the greater the weight of the point in favour of allowing the appeal, and (3) there is no trace in the emerging Local Plan Review of the Council backtracking on or wishing to revise anything in the SPD *apart from the requirement for a single planning application.*

with. We have as Mr Bird has mentioned spoken in some detail how buses will progress through the site as the site proceeds. And I think what is called Stage 3 the bus would reach the local centre and would then turn around and go back out to Monks Lane. **That is acceptable to that stage.** We are very keen as a Local Highway Authority for the bus to ultimately to pass through to Warren Road and Andover Road.” And at 5hrs 52mins: “Having the route through to Andover Road serves a far wider area, is much more attractive and it is our hope that that service would be provided should the New Warren Farm ever come forward.”

⁵⁵ Transport SoCG ID 11 para 2.17

⁵⁶ This is a longstanding commitment, there is an extant permission for a 4.8m widening, and see, for example, the DNH letter of 4th May 2021 (ID9) and Mr Jones’ Proof at 3.19- 3.22

⁵⁷ CD 8.14

⁵⁸ Para 3 page 4 CD 8.14

⁵⁹ SP16 4th para page 61 CD 8.13

62. This last point (i.e. point (3)) is an important one because many of the criticisms of the appeal proposals made by the Council are of elements where we have followed the detailed guidance in the SPD (e.g. in relation to buffers to the woodlands; access to the ancient woodlands; SUDs in the green areas of the site) only to find the Council insisting on the appeal proposals doing things differently, and in some respects very differently, from what is said in terms in the SPD.
63. Fundamentally, as Mr Jones explained in his evidence in chief, the appeal proposals are a close fit with the Masterplan Framework in the SPD⁶⁰ and the detailed guidance in it.
64. Development Principle S1 in the SPD⁶¹ “requires” a single planning application for the entire allocation but the Council now no longer wishes to insist on this as the emerging Local Plan Review explains.⁶²
65. Our submissions concerning the reference in the SPD to a link via Warren Road are set out above. The link is not necessary in order for the appeal proposals to be acceptable.
66. Turning then to those parts of the detailed guidance in the SPD which relate directly to the appeal site (as opposed to Sandlesford Park West) as Mr Jones explained in his evidence in chief, there are only a few, *limited* differences between what we propose and what the SPD aspires to:
- a. Location of the NEAP: proposed to the east of the Central Development Area in the area between Dirty Ground Copse and Gorse Covert. There is a great deal of history which led to the proposed location which was previously agreed by the Council to be acceptable⁶³.
 - b. Location of the LEAP in the northern valley: the SPD isn't clear regarding the preferred location for this LEAP⁶⁴. Again, the proposed location was previously agreed by the Council to be acceptable⁶⁵.

⁶⁰ Figure 13 page 57 CD 8.14

⁶¹ Page 31

⁶² Para 6.32 page 63 CD 8.13

⁶³ Following detailed design and visual assessment work with the Council's previous landscape consultant, Mrs Kirkham. See ID 60

⁶⁴ Figure 13 of the SPD page 57 CD 8.14 shows an indicative location to the west of Crooks Copse in the development area whilst the text on p.46 refers to locating the northern LEAP in the northern valley (not within the Country Park) i.e. in the green crosshatch area on Figure 13.

⁶⁵ See ID 60.

- c. A minor access off Monks Lane: we have added a minor access to serve a small number of homes, some five to ten. This surely can't be a matter of any significance.
- d. An emergency access alongside the Valley Crossing: the Valley Crossing itself is shown on the SPD's Masterplan⁶⁶ and is discussed in Development Principle L7 and its supporting text⁶⁷ and in Development Principle CA7⁶⁸. We propose a bridge to carry the main valley crossing. Immediately alongside this bridge, we propose a separate bridge which would provide a footway / cycleway at a width which would provide an emergency access. The gap between the structures would be ½ metre.⁶⁹ The Council argue that this emergency access would not have been necessary had a link via Warren Road been provided as part of the appeal proposal but as submitted above, there is no need for such a link in order to make the appeal proposals acceptable and so this argument of the Council's doesn't go anywhere. Mr Grigoropoulos contends that the additional structure would lead to an overall width for the two side by side crossings 2 metres wider than a single bridge would have been whereas Mr Jones explained in his evidence in chief, the overall difference is 1 metre.⁷⁰ The SPD tells us at CA7⁷¹ that: "Should additional valley crossings be required the above design principles will apply." These principles include minimising visual impact. An additional valley crossing is required in order to provide emergency access and by being budgeted up close to the main valley crossing and adding only 1 metre to the overall width of the crossings it must surely be the case that the visual impact of the additional crossing has been minimised.

⁶⁶ Figure 13 page 57 CD 8.14

⁶⁷ Page 36

⁶⁸ Page 79

⁶⁹ See Mr Jones' Rebuttal Appendix 3 section A-A and as explained by Mr Bird at the Transport round table session.

⁷⁰ As became clear in Mr Jones' evidence in chief the difference turns upon whether you include the "verges" (for services) referred to on page 63 of the SPD and shown on the Vectos drawing at Mr Jones' Rebuttal Appendix 3 in which case the difference is 1 metre. Mr Grigoropoulos included the verges for the Appellants' two structures proposal but not for the notional single bridge, in other words comparing apples and pears.

⁷¹ Page 79 CD 8.14

- e. The Crooks Copse Link: is required by the Council⁷² and its absence was previously the basis of a reason for refusal. Mr Cooper has shown how it can be designed in a sensitive manner.⁷³

No Showstoppers

67. Nothing that has been raised by way of objection to the appeal proposals when properly analysed amounts to a showstopper, to anything which would warrant dismissing the appeal.

68. The issues raised in the reasons for refusal are helpfully set out in tabular form on pages 16 – 25 of the Statement of Common Ground.⁷⁴ Taking each in turn:

- 1) *Comprehensive development*: as discussed above, the appeal proposals neither preclude nor inhibit but instead facilitate the bringing forward of the remaining 15% of the overall allocation in accordance with the requirements and aspirations of the Core Strategy and the SPD.
- 2) *Landscape and visual impact*: Mr Flatman for the Council considers that Mr Cooper for the Appellants has understated the degree of impact. We don't think Mr Cooper has but whoever's assessment is preferred this must be seen in the context of the radical changes to the site mandated by the Core Strategy and the SPD, with no change of tack in the Emerging Local Plan. It seems odd as a matter of first principles to criticise the proposals for landscape and visual impacts which are by and large the inevitable consequences of developing the site with the disposition of built development, uses and infrastructure provided by the allocation and the SPD. Mr Flatman's analysis was almost entirely bereft of any acknowledgement of the allocation or the guidance in the SPD. It was a very odd way of going about things. In similar vein, Mr Flatman's contention that the site should be treated as a valued landscape is curious as well. What is one supposed to do with the point given that even if it is right to consider the site a valued landscape it is one in which the allocation and the SPD provide for the building of thousands of homes, a local centre, roads, a bridge and much more besides. We do not accept that the site is a

⁷² SoCG CD 9.1 para 6.12 page 8

⁷³ Mr Cooper's Appendix G Figure L1 page 106

⁷⁴ CD 9.1

valued landscape under NPPF 170a which refers to protecting and enhancing valued landscapes “in a manner commensurate with their statutory status or identified quality in the development plan”.⁷⁵ One can only protect a landscape in a manner ‘commensurate’ to its identified quality in the development plan if it is in fact so identified. In the present case there is no such identification.

- 3) *Affordable housing*: this has now been resolved and the Council no longer objects to the appeal proposals on this basis.⁷⁶
- 4) *Carbon*: this can be dealt with in an appropriately worded condition. The Appellants and the Council have each put forward a suggested condition. The Appellants consider that theirs accords with national policy and guidance but be that as it may the point is, as Mr Grigoropoulos agreed in cross-examination, with an appropriately worded condition the issue falls away.
- 5) *The Central Valley Crossing*: this is necessitated by the terms of the overall allocation in Policy CS 3 (indeed at the time of the examination of the CS the Council envisaged two valley crossings some distance apart⁷⁷) and is required by the SPD. The application does not seek detailed approval of the crossing. The Appellants have illustrated via the “Wheatcroft” consultation⁷⁸ how this can be achieved in an appropriate manner, including emergency access⁷⁹; the rest is for the detailed design stage.
- 6) *Park House School Expansion Land for an additional playing field*: there is ample space within the application site adjacent to the school to accommodate this in a satisfactory manner. This issue has now been resolved and the Council no longer objects to the appeal proposals on this basis.⁸⁰
- 7) *Woodland and trees*: the appeal proposals need not result in the loss or deterioration of irreplaceable habitats, ancient woodland, ancient or veteran trees, the satisfactory protection of all of which can be secured by appropriately worded conditions and planning obligations. The Arboricultural

⁷⁵ Emphasis added

⁷⁶ ID56 and Mr Grigoropoulos’ confirmation to the Inspector during the s106 session

⁷⁷ See Mr Jones’ Appendix 5

⁷⁸ As finessed in the Vectos drawing at Mr Jones’ Rebuttal Appendix 4

⁷⁹ The Council agree that the proposed emergency access is satisfactory in highways terms: ID11 para 3.13

⁸⁰ ID20

Statement of Common Ground⁸¹ sets out the Appellants' and the Council's position on points in issue in respect of which we ask that Mr Allder's more sensible evidence is preferred to that given by Mr Giles. Mr Cooper also added heft to our case. Again the points made by the Council must be considered in their true context that this is an allocated site, the subject of detailed guidance in the SPD.

- 8) *Ecology*: the appeal proposals need not result in significant harm to biodiversity, the satisfactory protection of ecological interests can be secured by appropriately worded conditions and planning obligations. The Appellants consider that there would be a worthwhile net gain in biodiversity.⁸² Once again the points made by the Council must be considered in their true context that this is an allocated site, the subject of detailed guidance in the SPD. The appeal proposals really should not be criticised, as Mrs Deakin does⁸³ for envisaging public access to the ancient woodlands just as the SPD repeatedly explicitly encourages⁸⁴ but if the Secretary of State disagrees then this can be resolved by an appropriately worded planning condition. In similar vein to the landscape and visual impact case made by the Council, it seems odd as a matter of first principles to criticise the proposals for ecological impacts which are by and large the inevitable consequences of developing the site with the disposition of built development, uses and infrastructure provided by the allocation and the SPD. A striking example of this is the criticism made by Mrs Deakin that the appeal proposals would "surround" Crooks Copse – if this is an apt description it is one which describes the disposition of the northern development areas required by the SPD⁸⁵ and the Crooks Copse Link required by the Council.⁸⁶ We ask that Mr West's more grounded evidence be preferred.

⁸¹ ID24

⁸² ID 50, ID 51

⁸³ See for example paras. 3.3.9 and 3.3.11 on pages [unnumbered but it is] 18, and 19 of her Proof.

⁸⁴ CD 8.14 Strategic Objective 5 (page 7), para. 105 (page 25), **Development Principle L4 at d** (page 33), the caption to Picture 18 (page 36), the "indicative circulation" shown on Figure 7 (page 42), and Figure 13 (page 57), **Development Principle CA8 5th "key design principle"** (page 80), Development Principle CA9 2nd "key design principle" (page 81)

⁸⁵ Figure 13 page 57 of CD 8.14

⁸⁶ CD9.1 para 6.12 page 8

9) *Drainage / SuDS*: the SPD envisages the provision of “a variety of Sustainable Drainage systems”⁸⁷ the details of which can be secured by an appropriately worded condition.⁸⁸ This is another example of the Council objecting to the appeal proposals for doing something which the SPD explicitly envisages should be done – as Mr Grigoropoulos agreed in cross examination, the SPD imagined that the “SuDS elements such as swales and ponds” would be provided in the “green links”⁸⁹ i.e. the open, green, areas of the site. This is the obvious place in which the most could be made of these features in landscape, visual, ecological and amenity terms. However at the drainage round table session, Mr Bowden contended that they should be confined within the areas of built development.⁹⁰ This seems very odd to us but if the Secretary of State agrees with the Council’s newfound point then this can be addressed by a planning condition. We rely on Mr Witts’ more measured evidence.⁹¹

10) *Infrastructure Provision*: this has been appropriately secured by way of planning obligations and conditions.

69. In summary, on a proper and sensible analysis none of the ten issues raised in the reasons for refusal justify dismissing the appeal.

70. Mr Norman on behalf of SNTS raises concerns regarding air quality. The Council do not object on the basis of impacts on air quality.⁹² We rely on Mr Mann’s expert evidence⁹³ which demonstrates that any impacts would be negligible. Once again, any such impacts must be seen in the context of the allocation and the disposition of development provided for in the SPD.

71. Newbury Town Council and Greenham Parish Council raised a number of other concerns which were either points rightly not taken by the Council (e.g. highways impacts) or an extreme variant of the Council’s points (e.g. requiring buffers to the woodlands which would be so large that it would not be possible to build any

⁸⁷ Development Principle H2 page 43 CD 8.14

⁸⁸ The Council’s suggestion is draft condition 14.

⁸⁹ Page 36 of CD 8.14 immediately under item c

⁹⁰ Mr Bowden can only have made this suggestion on the basis that he considered this to be a workable solution.

⁹¹ Proof, Rebuttal and ID 22 in response to ID 21

⁹² CD9.1 paras 15.1, 15.2 page 14

⁹³ Proof of evidence and ID 47

significant development on the site, contrary to the allocation and the SPD). None of their points would provide a tenable basis for dismissing the appeal.

72. BBOWT raised unsubstantiated concerns regarding impacts on the Greenham and Crookham Commons.

The proposals would deliver extremely worthwhile public benefits

73. We ask that the degree of weight given to the benefits of the appeal proposals by Mr Jones in his rational and readily understandable analysis⁹⁴ should be preferred to Mr Grigoropoulos' somewhat opaque and rather grudging evidence on the subject. It seems very odd to say the least that Mr Grigoropoulos does not regard the provision of 1,080 homes including 432 affordable homes together with a huge country park as benefits of substantial weight – on any sensible analysis they are.

74. The appeal proposals would deliver a considerable range of extremely worthwhile public benefits amongst which the standout ones are:

- i. 1,080 homes. The Council can demonstrate a 5 years' housing land supply but that doesn't bear upon the weight to be given to the over 1,000 homes that we would deliver as (a) the 5 years' housing land supply requirement is a minimum and providing more homes is a good and not a bad thing, and (b) the site is allocated to provide security of housing land supply in the medium to longer term. Both these points were rightly agreed to by Mr Grigoropoulos in cross examination. In addition, as Mr Jones explained in his evidence in chief the Council is relying on an unprecedented sustained scale of housing delivery in the next few years in order to meet the Core Strategy requirement.⁹⁵
- ii. Most of the new homes would be *houses* for families. The 1st parameter in CS3⁹⁶ is that there should be "an emphasis on family housing". There is.
- iii. Of the 1,080 homes, 432 (40%) would be affordable homes. The need for affordable housing in West Berkshire is "substantial" at some 319 affordable homes *per annum*⁹⁷. It became apparent in cross examination and re-examination that Mr Grigoropoulos had thought the level of need to be a lot

⁹⁴ Jones' proof pages 131 – 134

⁹⁵ As seen in Table 3.4 on page 9 of ID8. The same can be said of the LHN see Table 3.5.

⁹⁶ Page 46 of CD 8.5

⁹⁷ CD 8.19 page 80 table 9.1 and para 9.7

less than this but the Updated Housing Needs Evidence⁹⁸ dated May 2020 is the source of the 319 per annum figure and the study in question is relied upon in the Emerging Local Plan Review without demur.⁹⁹ Meanwhile, as Mr Grigoropoulos agreed in cross examination delivery of affordable housing has been running at an average of some 84 net completions per annum. In short, the need is very large, and delivery routinely falls well short of need.

- iv. The appeal proposals would deliver everything sought by the Strategic Site Allocation (CS3) which can reasonably be laid at our door while also facilitating the development of the remainder of the allocation.
- v. An 86 hectares (over 200 acres) Country Park. Mr Cooper said in evidence in chief that over his long career he had never seen such a generous provision of new publicly accessible open space in a development scheme.

75. In overall conclusion we ask the Inspector to recommend and the Secretary of State to allow the appeal.

Christopher Katkowski QC

Constanze Bell

28th May 2021

⁹⁸ CD 8.19

⁹⁹ Page 69 FN29 CD 8.13