



Quod

**Land to the rear of the
Hollies Nursing Home,
Burfield Common**

(PINS REF: APP/W0340/W/22/3312261)

**Proof of evidence of Sean
Bashforth on Planning Matters
*(for AWE plc and the Ministry of
Defence)***

11 MAY 2023

Q230344

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1 Qualifications, Experience and Scope of Evidence

Qualifications and Experience

- 1.1 My name is Sean David Bashforth. I hold a First Class Bachelor of Arts Degree in Geography and a Master of Arts Degree in Town and Regional Planning. I am a Member of the Royal Town Planning Institute (RTPI).
- 1.2 I am a Senior Director at Planning Consultants Quod, one of the largest independent planning consultancies in the UK, with offices in London and Leeds. I have advised clients for over 25 years on housing, regeneration and infrastructure projects. I have acted as an expert witness on many occasions in planning and compulsory purchase inquiries and in the Upper Lands Tribunal.
- 1.3 I was instructed on this matter in April 2023. I have read all of the background information and made enquiries such as I consider necessary to fulfil my duties as an expert witness. My evidence comprises my true professional opinion and is provided in accordance with the RTPI Code of Professional Conduct and the RTPI Practice Advice for Planners as Expert Witnesses (September 2018).

Scope of Evidence

- 1.4 My evidence is concerned with the appeal proposals' consistency with planning policy and other material considerations. AWE plc (AWE) and the Ministry of Defence (MOD) consider that the Appeal Proposals should be refused planning permission because the introduction of housing is directly contrary to safety and emergency planning advice and could have an adverse impact upon the nation's security by constraining both the current and future operation of the AWE site at Burghfield (referred to as AWE B). I support this view in planning terms and my evidence is focussed on reason for refusal 2 'RfR2' which states as follows:

"The application is part of an allocated housing site in the Council Local Plan [HSADPD of 2017]. In addition, it lies in the inner protection zone of the DEPZ for AWE site [B] at Burghfield. This public protection zone was formally altered in 2019, after the site was allocated and accepted in the HSADP. Policy CS8 in the WBCS of 2006 to 2026 notes that [inter alia] within the inner zone, in order to be consistent with ONR advice, nearly all new housing will be rejected [para 5.43 of the supporting text], as the additional resident population would compromise the safety of the public in the case of an incident at AWE. This accords with the advice to the application provided by the Council Emergency Planning Service, and the ONR.

In addition, para 97 of the NPPF of 2021 notes that [inter alia] "planning policies and decisions should promote public safety, and take into account wider security and defence requirements by—b] ensuring that operational sites are not affected adversely by the impact of other development in the area. Given the clear objection from both the AWE and the ONR to the application on this basis it is apparent that the application is unacceptable in the context of this advice.

The Council accordingly considers that future public safety would be compromised if the development were to proceed, and potential harm would occur to the future capability and capacity of AWE Burghfield to operate effectively, in the light of the above. These are clear material planning considerations which, despite the site being allocated for housing in the Local Plan, are factors which a responsible LPA cannot set aside.

The proposal is accordingly unacceptable.”

- 1.5 I have also had regard to the first two issues relevant to AWE/MOD’s concerns as set out in the Inspector’s note following the Case Management Conference (CMC) [CD 9.3]:
- 1) The effect of the proposal on the safety and well being of future residents of the proposed development, and the wider public, with regard to the proximity of the Atomic Weapons Establishment (AWE) site at Burghfield; and*
 - 2) The effect of the proposal on the future capability and capacity of AWE Burghfield to operate effectively;*
- 1.6 Where appropriate, I draw upon the evidence of other witnesses representing AWE Plc and MOD who, as agreed, have been anonymised as ‘Person AW’ and ‘Person MD’ respectively.

2 AWE Burghfield and the role of AWE/MOD

- 2.1 As explained in the AWE/MOD Statement of Case [CD 13.41], AWE is MOD's Non-Departmental Public Body and the operator of two nuclear licensed sites at Burghfield (AWE B) and Aldermaston (AWE A).¹ AWE is responsible for the safe and secure running of these sites which are essential to the delivery of the warhead contribution to the nationally and internationally significant UK nuclear deterrent.
- 2.2 This appeal concerns the implications of development proposals on AWE B. AWE B is where nuclear warheads for the UK's Continuous at Sea Deterrence (CASD) programme are assembled and maintained while in service and decommissioned when out of service. AWE B is the only site in the UK which has all the required permissions to undertake the authorised activities associated with the assembly, disassembly, handling and storage of nuclear warheads.
- 2.3 AWE B covers an approximate area of 91 hectares and occupies the former Royal Ordnance Factory dating from 1940. The site includes numerous buildings and structures used for a variety of research, development and industrial processes. Excluding construction activities (see below), AWE B provides approximately 800 - 1000 FTE jobs, and along with AWE A (which provides approximately 6000 FTE jobs), is one of the largest employers in the local area.
- 2.4 As explained in Person MD's evidence [CD 13.42], in accordance with the 'Integrated Review Refresh 2023' [CD 13.6], it is national policy of the highest strategic order that the UK maintains a nuclear deterrent. I am advised that AWE B (and AWE A) are required to fulfil their unique functions for the foreseeable future. In the event that this role were to cease, I am also advised that the sites would require several decades of nuclear decommissioning, necessitating development activities consistent with this policy.

AWE Investment programme

- 2.5 AWE has an ongoing programme of investment and improvements to the AWE estate. Its representations to the Regulation 18 West Berkshire Local Plan review provides information in the public domain about its plans and these are provided in **Appendix 1 [CD 13.30]**.
- 2.6 The representations included an Illustrative Framework Plan for AWE B together with a Site Analysis and Vision Report and shows the potential land uses up to and beyond 2030. The representations make reference to attracting and retaining world leaders in the fields of science and engineering and the plans show how AWE plc plan to continue to invest in AWE B over the coming years.
- 2.7 I attach in **Appendix 2 [CD 13.31]** the previous 2005 and 2008 Illustrative Framework Plans which, when compared with that in Appendix 1, shows how the site has continued to evolve over the years.

¹ On 1 July 2021, the MOD took back full ownership of AWE, transitioning AWE's status to a NDPB.

- 2.8 Continued investment in the site is borne out from the significant amount of construction work currently being undertaken at AWE B. The investment extends to circa £2Bn at AWE B alone.
- 2.9 AWE B's planning history is summarised in **Appendix 3 [CD 13.32]**. Most recently in 2021 planning permission was granted for a two storey 6,553 sq. m Multi Materials Facility ('MMF') and associated works in the north western sector of the site (LPA ref. 20/02966/COMIND). The building is currently under construction. **Appendix 4 [CD 13.33]** comprises the Officers report to planning committee in respect of the MMF which explains that the buildings will provide front of house accommodation, production areas and plant rooms/production cells. It illustrates how AWE is investing in its vitally important strategic defence function with production and research functions at AWE B.
- 2.10 Page 4 of the MMF Officers report also explains the important local and national role that AWE B plays in the context of planning policy and the local economic strategy as follows:

"In addition, the policy in para 95[b] of the NPPF specifically encourages local planning authorities to recognise and support development for UK operational defence capability and security purposes, which the proposed MMF is one. In addition, it is very clear that the application site location is brownfield, and within the context of the existing AWE site. So, although it lies in the rural area in policy terms, this makes the principle of the development acceptable.

In addition, the Council's Economic Development Strategy 2020-2023 was adopted in April 2020 and is thus a material consideration. It notes the importance generally of supporting the wider economy in the district, for reasons of future regeneration, prosperity, and job creation. The strategy states that AWE is an important provider of local jobs, and that the Council will consider how it can support sustainable growth on these sites, ensuring that AWE's status as a world leader in innovation and employment opportunities is allowed to grow. In all these ways the proposal is accordingly supported, and the economic benefits are integral to the support within the Local Plan for supporting development at AWE. In addition, it is clear that the new facility functions to maintain the UK Nuclear Deterrent, which is in accordance with current Government Policy....." [Emphasis Added]

- 2.11 Construction is underway on the £1.8 Bn Project MENSA building complex which was approved in March 2009. Once complete this building will comprise the replacement warhead assembly, maintenance and disassembly facility and will allow AWE B to undertake the same activities for the next generation of deterrent. Further information is in Person MDs evidence.

The Role of AWE and MOD

- 2.12 Details of the relevant legislation and the roles of AWE, the MOD and the ONR are set out at length in the respective parties' Statements of Case. For the purposes of Town and Country Planning, AWE has an important role in establishing the DEPZ pursuant to the Radiation Emergency Preparedness and Public Information Regulations 2019 (REPPiR).
- 2.13 As major stakeholders in the local area, AWE/MOD are in regular dialogue with LPAs (West Berks, Wokingham, Reading, Basingstoke and Deane) and are consulted on planning applications in the vicinity of AWE A and B.

- 2.14 AWE provide evidence and recommendations on the establishment of the DEPZ as described in detail in the decision of Mrs Justice Thornton in a recent High Court decision [CD 13.3]² which dismissed a challenge to the expansion of the AWE B DEPZ in 2020. AWE prepared the November 2019 AWE Burghfield Consequences Report [CD 11.6], which recommended the minimum geographical extent to be covered by West Berkshire District Council's Off Site Emergency Plan (of 3,160m). As explained in that judgement³ this was then translated into the DEPZ by West Berkshire District Council which has formed the basis for the REPPIR protective area around AWE B since 2020 and in turn the Council's Off Site Emergency Plan⁴.
- 2.15 Mrs Justice Thornton's judgment attests to the robustness of the process and in my opinion underlines why AWE as the author of the consequences report which underpins the establishment of the DEPZ are, along with ONR as the safety regulator of that work, best placed to comment on public safety. All of these parties objected to the Appeal Proposals.
- 2.16 AWE/MOD's objection to the planning application, 9 April 2022, stated as follows: '*The MOD has consistently sought to ensure that any constraints on delivering the capabilities at AWE B now and in the future are minimised. The proposed introduction of this development is directly contrary to safety and emergency planning advice and practice in light of the DEPZ required. It could have an adverse impact upon the nation's security by constraining both the current and future operation of AWE B.*'

² *Crest Nicholson & Ors v WBDC [2021] EWDC 289 (admin)*. [CD 13.3]

³ See for instance the Chronology on page 10 onwards [ibid]

⁴ The resident population within the Inner protective zone increased significantly and also included the M4 Motorway and the Madejski Stadium

3 Planning Policy

Adopted Statutory Development Plan

3.1 The following parts of the statutory development plan are relevant to the determination of this Appeal in respect of RfR 2:

- West Berkshire Core Strategy 2006-2026, July 2012 (WBCS) [CD 6.1]
- Housing Site Allocations Development Plan Document 2006-2026, May 2017(HSA DPD) [CD 6.3]

3.2 Policy CS8 of WBDC's Core Strategy (2012) [CD 13.14] cited by the Council in RfR2:

"In the interests of public safety, residential development in the inner land use planning consultation zones of AWE Aldermaston and AWE Burghfield is likely to be refused planning permission by the Council when the Office for Nuclear Regulation (ONR) has advised against that development. All other development proposals in the consultation zones will be considered in consultation with the ONR, having regard to the scale of development proposed, its location, population distribution of the area and the impact on public safety, to include how the development would impact on "Blue Light Services" and the emergency off site plan in the event of an emergency as well as other planning criteria....." [My Emphasis]

3.3 Whilst this policy refers to the inner land use planning consultation zone which has been superseded by the (post REPPiR 2019) DEPZ, in my view the policy should continue to be given substantial weight.

3.4 The approach to defining an inner and outer zone still applies in relevant guidance. For instance, Tables 2 & 3 of the ONR's land use planning guidance [CD 12.7] continues to advise that there remains an inner area (now called the DEPZ) where there is an automatic requirement to consult the ONR where development could increase residential or non-residential populations and outer consultation zone where consultation is triggered by a minimum number of dwellings or population.

3.5 The equivalent of the inner consultation zone has been enlarged to 3,160m from AWE B because REPPiR 2019 has taken a more precautionary approach than REPPiR 2001 which informed the extent of the inner zone at 1.5km shown in the 2012 Core Strategy [CD 6.1]. This is because REPPiR 2019 changes the evaluation and assessment of risks and includes a new requirement to plan for events which have a low likelihood of occurrence, but a high impact if they occur, following lessons learnt after the meltdown of three reactors at the Fukushima Daiichi nuclear power plant in Japan in March 2011.

3.6 The Core Strategy itself acknowledges that '*the consultation zones may change as well as ONRs advice on particular proposals*' (paragraph 5.44). The Core Strategy also expressly contemplates the need to monitor committed and future development proposals in partnership with the ONR in light of potential cumulative effects of population increases surrounding AWE B (paragraph 5.42).

- 3.7 In terms of the application of the policy, it is clear that Policy CS8 [CD 13.14] contains a presumption against new residential development within 'inner land use planning consultation zones' when, as in this case, the ONR has advised against that development. If there was any doubt about this presumption, supporting text in paragraph 5.43 of the Core Strategy states that that '*The ONR has indicated that....it would advise against nearly all new residential within the inner land use planning zones..*'.
- 3.8 I recognise that the Appeal Site forms part of a site allocated for housing (60 dwellings) under adopted Policy HSA16 of WBDC's Site Allocations Development Plan Document 2017 [CD 13.10] which postdates the Core Strategy. I also note that part of this allocation has been built out and this Development Proposal is, effectively, for the balance of that allocation.
- 3.9 However, in my view, limited weight can now be given to that allocation because of the very significant material consideration of the enlarged protective zone (DEPZ) which was introduced in May 2020 after the adoption of that policy. As a consequence of these changes, the Appeal Site is now within the DEPZ and equivalent to the "inner consultation zone" for ONR consultation and development plan classification purposes.

Emerging Local Plan

- 3.10 Following consultation undertaken between 20 January 2023 and 3 March 2023, the Council formally submitted its Local Plan Review (2022-2039) [CD 7.12] to the Planning Inspectorate for examination on 31 March 2023.
- 3.11 Policy SP4 (Atomic Weapons Establishment (AWE) Aldermaston and Atomic Weapons Establishment (AWE) Burghfield) [CD 13.12] represents the Council's replacement Policy for current WBCS Policy CS8 and states as follows:

"In the interests of public safety, and to ensure that any proposed developments do not pose an external hazard to the AWE sites, any new development of a type more particularly described in the table below located in the Detailed Emergency Planning Zone (DEPZ) of AWE Aldermaston and AWE Burghfield is likely to be refused planning permission by the Council, especially when the Office for Nuclear Regulation (ONR) and/or Ministry of Defence (MoD) have advised against that development and/or object.

The ONR will be consulted on applications for new development in the DEPZ, Outer Consultation Zone (OCZ) and any other consultation zone as detailed on ONR website which meets the consultation criteria described.....". [My Emphasis]

- 3.12 The underlined text shows that the updated policy carries forward essentially the same policy test as Core Strategy Policy CS8 and therefore the presumption against development in situations where the ONR objects to development in the inner (DEPZ) protective zone. Like CS8, there is no criteria based flexibility in the emerging policy, but in addition to CS8, MOD's objections are now afforded a specific planning status. In the DEPZ, the presumption against new development also covers a wider range of land uses consistent with those cited in ONR's Land Use Planning Policy, as follows: *"Any new development, re-use or re-classification of an existing development that could lead to an increase in residential or non-residential populations thus impacting on the off-site emergency plan"; and "Any new development, re-use or re-classification of an existing development that could pose an external hazard to the site."*

- 3.13 The text under the consultation table explains that the ONR website provides non-exhaustive examples of the types of developments that could pose an "external hazard" to a nuclear licensed site. Supporting paragraphs 4.39 and 4.40 refer back to NPPF Paragraphs 45 and 97(b) which I come on to consider below.
- 3.14 Like CS8, the supporting text also recognises the position can change over time. With paragraph 4.57 noting that during the plan period there may be '*changes in the inputs to the ONR's process which may result in consequential changes to the consultation zones or criteria. Paragraph 4.58 goes on to note that '...there may also be changes to the DEPZ as a result of the requirement under REPPiR legislation to undertake formal reviews of the DEPZ... this may result in the DEPZ for either AWE site remaining the same, extending or reducing in size and geography over time.*'
- 3.15 If the Appeal Proposals were considered against draft policy SP4 they should be refused planning permission given objections from ONR and the MOD. However, I recognise that the policy is draft and it, and the accompanying plan showing the DEPZ and OCZ in Appendix 3 [CD 13.32], are the subject of objections from the Appellant and others⁵.
- 3.16 In the context of paragraph 48 of the Framework [CD 13.16], the stage of the plan (in this case pre-examination) and extent of objections would limit the weight which could be given to the plan. I recognise that the soundness of the policy will be tested in due course at the Local Plan examination. However, taking into account the draft policy's consistency with NPPF, the NPPG and ONR's Land Use Policy guidance [CD 12.7], and how it carries forward the principles of CS8, I consider that some weight can be given to SP4.
- 3.17 The draft submission Local Plan review also introduces an entirely new policy DM33 [CD 13.13] which recognises the significant local economic function of AWE B (and AWE A) and their contribution to national and international UK nuclear deterrent. The draft policy states:
- 'Development within the Aldermaston and Burghfield Atomic Weapons Establishments (AWE) will be supported where it directly sustains the functioning of each of the AWE sites as Government research and defence establishments.* [My emphasis]
- 3.18 Supporting text (paragraph 12.11) recognises that the NPPF requires policies to support development required for defence and security purposes and also (at paragraph 12.12) notes that the sites draw in employees, provide indirect support to businesses nearby and '*The uses at the sites relates to defence services, owned by the Secretary of State for Defence, delivering the warhead contribution to the national and international UK nuclear deterrent.*'
- 3.19 According to the Council's online version of the submission version of the Local Plan DM33 was the subject of 5 comments. I have provided these in **Appendix 5** [CD 13.35]. None of these, in my view, could be described as significant unresolved objections for the purposes of paragraph 48 of the NPPF. The Environment Agency noted that separate environmental permits may be required for changes at the AWE sites, the Defence Infrastructure Organisation sought a similar policy for Denison Barracks and RAF Welford, Stanford Mortimer Parish Council's concerns are unclear but appear to relate to ensuring that the implications on roads etc have been taken into account and AWE itself supported the policy subject to minor modifications. Accordingly, in my

⁵ Paragraph 3.19 of the Council's Statement of Case notes that there were 21 comments on the policy [CD 11.1]

view this policy can be given weight as a material consideration consistent with paragraph 48 of the Framework.

National Planning Policy

National Planning Policy Framework

3.20 Section 4 of the Framework sets out policy on decision making with paragraph 45 [CD 13.15] guiding decision-making for development around “Major Hazard Sites”. It states:

“45. Local planning authorities should consult the appropriate bodies when considering applications for the siting of, or changes to, major hazard sites, installations or pipelines, or for development around them.”

3.21 AWE B meets the definition of a “Major Hazard Site” in the Framework because it is a licensed nuclear site and licensed explosives site (see Annex 2: Glossary [CD 13.18A]). Major Hazard sites are defined as:

“Sites and infrastructure, including licensed explosive sites and nuclear installations, around which Health and Safety Executive (and Office for Nuclear Regulation) consultation distances to mitigate the consequences to public safety of major accidents may apply”

3.22 Section 8 of the NPPF sets out policy on promoting healthy and safe communities. Paragraph 97 [CD 13.17] focuses on the need to not only promote public safety but also to take into account wider security and defence requirements. It states:

“97. Planning policies and decisions should promote public safety and take into account wider security and defense requirements by:

a) anticipating and addressing possible malicious threats and natural hazards, especially in locations where large numbers of people are expected to congregate⁴³. Policies for relevant areas (such as town centre and regeneration frameworks), and the layout and design of developments, should be informed by the most up-to-date information available from the police and other agencies about the nature of potential threats and their implications. This includes appropriate and proportionate steps that can be taken to reduce vulnerability, increase resilience and ensure public safety and security; and

b) recognising and supporting development required for operational defence and security purposes, and ensuring that operational sites are not affected adversely by the impact of other development proposed in the area. [My Emphasis]

3.23 It is clear from part b that planning decisions need to ensure that operational defence sites like AWE B are not adversely affected. This is particularly important when there are no alternative sites in the UK which can undertake the activities carried out at AWE B.

3.24 Section 15 of the NPPF sets out the policy on conserving and enhancing the natural environment, and introduces the agent of change principle which seeks to prevent existing businesses having unreasonable restrictions placed on them. Paragraph 187 [CD 13.18] states:

“187. Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.” [My Emphasis]

- 3.25 In my opinion this clearly applies to the AWE B which should not have unreasonable restrictions placed on it as a consequence of residential and other development in the DEPZ.

National Planning Practice Guidance (NPPG)

- 3.26 As explained in the AWE/MOD Statement of Case, NPPG guidance on hazardous installations is also of relevance to the operation of AWE B because (1) the guidance reflects well established principles for planning around sites whose operations involve risks to the public (in this case which have been reflected in the requirements of REPPiR 2019) and (2) these principles may in future apply to AWE B if it becomes subject to COMAH⁶. The NPPG states as follows:

“Handling development proposals around hazardous installations’. When considering development proposals around hazardous installations the local planning authority is expected to seek technical advice on the risks presented by major accident hazards affecting people in the surrounding area and the environment. This advice is sought from the Control of Major Accident Hazards (COMAH) competent authority. This allows those making planning decisions to give due weight to those risks, when balanced against other relevant planning considerations. The competent authority also provides advice on developments around pipelines, licensed explosives sites, licensed ports, developments around nuclear installations and other relevant sites. There are also additional expectations on how local authorities notify people about applications in the vicinity of a hazardous establishment” (Paragraph 002 Reference ID: 39-002-20161209). [My Emphasis] [CD 13.20]

- 3.27 The NPPG is also of relevance to the ‘agent of change’ principle set out in paragraph 187 NPPF [CD 13.18] and specifically of relevance to this case: *“What about development around nuclear installations?’The Office for Nuclear Regulation specifies consultation distances and the type of developments on which it should be consulted”* (Paragraph: 075 Reference ID: 39-075-20140306) [CD 13.23]. It goes on to state:

“.....Given their statutory role in public safety, local authority emergency planners will have a key role to play in advising local planning authorities on developments around nuclear installations”

- 3.28 In my view, this guidance underscores that WBDC Emergency Planning Team’s views should also be attributed appropriate weight and it is significant that they advised against the Proposed Development. This is also evident from the same guidance:

⁶ noting that although AWE is not required to hold a Hazardous Substance Consent because it is classified as a military establishment, AWE seeks to achieve the same safety standards as a matter of policy

“How should cumulative development around major accident hazards be dealt with?”

Local planning authorities should ensure that their land-use or other relevant policies take account of public consultation requirements in preventing major accidents and limiting the consequences of such accidents for human health and the environment. They also need to take account of the increase in the number of dwellings (or population at risk) in the consultation zones from the time the hazardous substance consent was granted.

Local planning authorities are well placed to judge the extent of development around major hazard establishments and major accident hazard pipelines so, when considering public safety in planning decisions and the formulation of development plan policies, they should take account of the total number of people that are present in the consultation zones around these sites, and the implications of any increase as a result of a planning decision or policy. In the case of encroachment (development getting closer to the major hazard) the risks can increase as well as the number of people.

Cumulative development may not always be obvious particularly in the case of infill (buildings built to occupy space between existing buildings) and densification (replacement of single houses with multiple-occupancy properties). Such cumulative development, by whatever means, leads to a rise in population within the consultation zone and a proportionate increase in the consequence should a major accident occur. This can also add substantial costs for businesses that may be required to provide additional safety measures. [Emphasis Added]

4 The effect of the proposal on the future safety & well-being of future residents

- 4.1 The Appellant is seeking permission for the ‘*Erection of 32 dwellings including affordable housing, parking, and landscaping. Access via Regis Manor Road*’. The Appeal Site is located approximately 2,000 metres to the south west of AWE B, well within the DEPZ. The Appeal Proposals are predicted to have a resident population of approximately 77 people⁷.
- 4.2 On safety matters, the Appellant’s case is predicated on seeking to show that the risks to the safety and well being of future residents based on its modelling is very low.
- 4.3 In my view, this approach misinterprets the relevant policies and how a precautionary approach must be taken to any development within the DEPZ consistent with the relevant legislation and guidance.

Irrelevance of a safety risk approach

- 4.4 Neither Core Strategy Policy CS8 [CD 13.14] nor draft policy SP4 [CD 13.12] allow flexibility for the inner zone or DEPZ to be the subject of a risk based approach. This only applies to sites for housing within the middle/outer zones identified by CS8 and by the Outer Consultation Zone (OCZ) for draft policy SP4.
- 4.5 The Appeal Proposals are not consistent with either of these policies; the ONR has advised against them and, applying the development plan, permission should be refused. The safety risk analysis, upon which the Appellant’s case relies, is irrelevant for the purposes of establishing compliance with policies relating to the protective area in the development plan (adopted and emerging). This is even clearer when the purpose and reasoning behind these policies are examined.
- 4.6 **Appendix 6** [CD 13.35] comprises extracts of the Core Strategy Inspectors Report (2012) along with recommended Main Modifications which led to the adopted final version of Core Strategy Policy CS8. The Inspectors Report explains how the Council recognised that the ONR was ‘highly likely’ to advise against all applications for additional dwellings within the inner land use zone around the AWE sites and, in this context wanted to make it clear in the development plan that it would follow that advice, and therefore refuse permission (paragraph 84, 3rd bullet).
- 4.7 The Core Strategy Inspector specifically considered the soundness of what became policy CS8 after the 16 June 2011 Secretary of State’s (SoS) Boundary Hall decision [CD 8.1] which is relied upon by both the Appellant in this case and by the Inspector in the Kingfisher Appeal (see below). It was clear that Core Strategy Policy CS8 was specifically formulated to avoid the case by case examination of risk as per the SoS’s reasoning in Boundary Hall.

⁷ Section 13 Applicants ‘*Draft Statement of Common Ground: Facts,*’ dated 2 May 2023 [CD 15.2]

4.8 As the Core Strategy Inspector noted:

'The Secretary of State's decision (16 June 2011) to allow 115 dwellings and other development at Boundary Hall, Tadley was a balanced decision on the particular circumstances of that case and does not undermine the ONR's policy approach or the need for the Council to make clear its intention to follow that advice in the inner zone. This decision does not justify the implications of the AWE sites and the ONR's views having to be considered solely on a case-by-case basis. The development plan should provide reasonable certainty for all interested parties as to the type and scale of development likely to be acceptable in different locations, avoiding the potentially wasted effort of proposals being pursued which had little prospect of success.' [My Emphasis]

4.9 Paragraph 85 goes on to explain that 'A clear policy should be set out reflecting the high degree of constraint likely to be applied in the inner consultation zone, with a clear explanation of the implications over the wider area;' and goes on to endorse modifications which led to the final form of CS8.

4.10 I interpret CS8 (and its draft replacement SP4) as CS8 was intended to be applied; where the ONR advises against, then there is a presumption against the grant of housing development. The policy is unambiguous with virtually no flexibility. It is clear that this was intentional. Furthermore, it was specifically formulated to avoid the approach that the Appellant is seeking to advance in this Appeal, i.e. safety risks need to be looked at on a case by case basis consistent with the approach taken by the SoS in Boundary Hall.

4.11 The Appellant may seek to rely on the 31 January 2023 Kingfisher Grove Appeal Decision [**CD 13.4**] to support its case. Whilst that scheme also fell within the DEPZ/Inner Zone of AWE B, the policy context and circumstances are different in several important respects:

4.11.1 It was determined against policies in the Wokingham Borough Council Local Plan not West Berkshire's Core Strategy (policy CS8). The Inspector in that case referred to MDD Policy TB04 which states that development will only be permitted where the applicant demonstrates that the increase in the number of people living, working, shopping and/or visiting the proposals can be safely accommodated. Unlike this Appeal, criteria based policies allowed that appellant to advance a case specific safety case. I have provided a full extract of that policy in **Appendix 7 [CD 13.36]**;

4.11.2 It relied upon the Boundary Hall decision as part of its reasoning (paragraph 14) which, as explained above, is not relevant for proposals in West Berkshire given that the Local Plan deliberately sought to prevent a similar decision taking place;

4.11.3 AWE/MOD and ONR did not present evidence or participate in that inquiry; and

4.11.4 The overall planning balance is not comparable. Those proposals were for 100% affordable housing and were approved in the context of the Council not having a five year housing supply. I come on to consider this further in section 6 of my evidence.

4.12 The Kingfisher Grove case does, however, show how that Planning Inspector continued to base that decision on a local plan policy (MDD Policy TB04) formulated and adopted before new (post 2019) REPPiR requirements significantly expanded the DEPZ and continued to apply the policy as if it were located within the DEPZ/inner zone. Like the Appeal Site, that site was not located within the DEPZ/inner zone initially but fell within the DEPZ from May 2020⁸. I also note how that Inspector specifically explained (at paragraph 21) how considerations in that case would not set a precedent for allowing other development in the DEPZ which must be assessed on its own merit.

4.13 More broadly, I note how prior to this decision there had been a series of appeal decisions where Inspectors have dismissed appeals for schemes much smaller than currently proposed by this appeal (see table 4.1 below). As an example, in the appeal relating to one dwelling at James Lane Grazely Green, that Inspector said that *‘.There is little detail to support the appellant’s conclusion that one dwelling would not compromise the ability to enact emergency planning or evacuation of the resultant population, should the need arise, or that the development would not place undue pressure on emergency services. Based on the evidence before me I cannot rule out that the proposal would place unacceptable additional pressure on the Off-Site Emergency Plan.’*

4.14 That and other decisions underline the importance of considering each site on its merits taking into account relevant planning policy. The reasoning of the James Lane Inspector also refers to policy CS8 in West Berkshire Core Strategy and did not say that policy should be given reduced weight:

‘13 West Berkshire has two nuclear establishments. The risk of a nuclear incident is low, but in the interest of public safety, Policy CS8 of the CS seeks to ensure that any new development can be accommodated under off-site emergency plans in the event of an emergency. The appeal site is within the specified ‘inner zone’, where Policy CS8 sets out that residential development is likely to be refused planning permission when the Office for Nuclear Regulation (ONR) has advised against it.’

The Precautionary Approach

4.15 I accept that REPPiR 2019 and national planning policy do not impose an absolute moratorium on additional housing within a DEPZ. However, the approach is intended to deter development and for any additional housing to be acceptable there would need to be very convincing justification. Within West Berkshire, planning policy CS8 and draft policy SP4 has effectively found the risks and uncertainty to be unacceptable where ONR advise against and imposes a presumption against the grant of planning permission. Even if this was not the case, in my view, a precautionary approach is essential.

⁸ Paragraph 8 of the decision noted that the site was 2.8 km from AWE and therefore within the 3,160 m DEPZ

Table 4.1 Recent Appeal decisions summary

Decision Date/ PINS Reference	Site Name	Summary of Proposed Development	Local Planning Authority	Decision
31 January 2023 APP/X0360/W/22/3304042	Kingfisher Grove, Three Mile Cross	Outline application for erection of 49 affordable dwellings , new publicly accessible open space and access	Wokingham Borough Council	Allowed
26 October 2022 APP/W0340/W/22/3296484	Land at James Lane, Grazeley Green	Erection of 1 no dwelling	West Berkshire District Council	Dismissed
18 February 2022 APP/X0360/W/21/3275086	Willow Tree House, Brookers Hill, Shinfield	Mixed use development comprising the proposed erection of 23 dwellings and community hall with vehicular access off Brookers Hill and pedestrian and cycle access from Hollow Lane together with open space and landscaping.	Wokingham Borough Council	Dismissed
3 September 2022 APP/X0360/W/21/3271017	Hearn and Bailey Garage, Basingstoke Road, Three Mile Cross	Erection of 4no. dwellings consisting of 4no. 3 bedroom dwellings with associated landscaping, bin enclosure, bicycle store, garaging and car parking, following demolition of the existing car garage and change of use to residential (C3).	Wokingham Borough Council	Dismissed
31 August 2021 APP/X0360/W/21/3269974	30 Grazeley Road, Three Mile Cross	Subdivision of the site and the erection of a 3 no. bedroom dwelling with detached garage	Wokingham Borough Council	Dismissed
25 June 2021 APP/X0360/W/21/3269790	Land at Croft Road, Spencers Wood, Shinfield	Erection of 3 detached dwellings	Wokingham Borough Council	Dismissed
1 February 2021 APP/X0360/W/19/324023	Land to rear of Diana Close, Spencers Wood	Erection of 24 dwellings with associated access, landscaping and parking	Wokingham Borough Council	Dismissed
16 June 2011 APP/H1705/V/10/2124548	Boundary Hall Site, Aldermaston Road, Tadley	The demolition of the existing hall, the relocation of the existing substation and redevelopment of the land to provide approximately 945 square metres of B1 commercial space, 115 dwellings , new public open space, car parking, new footpaths, landscaping and 2 new access roads off Almswood Road and improvements to the existing access point off Aldermaston Road'	West Berkshire District Council	Allowed by SoS

4.16 Paragraph 97 of the NPPF [CD 13.17] requires appropriate and proportionate steps to be taken to reduce vulnerability and ensure public safety. In this case, whilst chances of a radiation emergency at AWE B are very low, the potential impact on the local population would be high and an appropriate and proportionate step is, to where possible, avoid new development being located within the DEPZ. Section 5 of Person AW's evidence [CD 13.41] explains the importance of not relying on arguments based on the low likelihood of a fault occurring as this does not properly reflect the need to be fully prepared for the actions needed when a radiation emergency does occur.

4.17 I note that the ONR's Statement of Case [CD 12.1], whilst recognising that impacts remain small, expresses uncertainties which underline the need to take a cautious approach, including:

4.17.1 The significant expansion of the DEPZ in 2020 significantly increasing the complexity of an emergency plan response, making its efficacy less certain with test exercises indicating uncertainty about whether population increases can be accommodated in the off site emergency plan (paragraph 36 to 40); and

4.17.2 The large size of the DEPZ (second largest of all GB nuclear sites), short notice to respond to an incident (no more than 10 minutes to shelter) and difficulty monitoring (paragraph 42).

4.18 It is notable that the risks not only apply to any new population but also to existing populations, where the burden of managing existing residents and workers would come under more pressure if new housing increased populations and complexity.

4.19 In my opinion, very significant weight must be placed on the objections of ONR and AWE/MOD. As the nuclear safety regulator and operator respectively they are best placed to advise on risks to future public safety and well being.

Safety Risks

4.20 The Table in Section 2.5 of the August 2022 AWE Off site Emergency Plan [CD 5.20] sets out 14 potential hazards at the AWE installation. Three of these relate to radioactive material as summarised in table 4.2.

Table 4.2 Extracts of AWE Off Site Emergency Plan (Section 2.5)

Identified Hazard	Scenario	Potential Off-Site Consequences
Fissile Radioactive Material	Criticality incident in certain facilities may result in an elevated radiation dose at the site boundary	Elevated (but not life-threatening) radiation dose rates within very limited areas of the site boundary. Local cordons may be required around limited areas of the site boundary and may extend across public roads.
Radioactive Material	Release of radioactive material from a facility may result in contamination of downwind areas outside the site boundary.	Significant downwind radioactive contaminations of individuals, premises, transport routes. Sheltering and evacuation (as well as temporary or permanent relocation) of potentially contaminated areas may be required, involving the displacement of potentially large numbers of members of the public for an extended period.
Radioactively contaminated water	A major accident of a toxic chemical from a facility may result in a hazard requiring a cordon extending outside the site boundary.	Pollution of water courses, with possible effect on drinking water quality.

4.21 Section 2.6 of that plan also includes tables which explains the potential impacts relating to an off site radiation emergency:

Table 4.3 Consolidated Extracts of AWE Off Site Emergency Plan (Section 2.6)

Consideration	Impact from Plutonium	Impact from Tritium
<p>Environmental & Building Issues.</p>	<p>Plutonium could be dispersed as particles of oxide dust into the atmosphere and would be carried along by the prevailing wind to form a "plume" of solid particles, rather like a cloud or plume of smoke.</p> <p>Dispersed radioactive material would fall to earth again; landing on surfaces to produce a fine but invisible layer of radioactive material loosely called "contamination".</p> <p>The area involved would extend from the origin of the event within the site to areas downwind from it. The levels of dispersed material would normally decrease as the distance from the event increased, until they became undetectable.</p> <p>Later, any activity that disturbed deposited plutonium oxide particles might lead to its re-suspension in the air and to the inhalation of airborne particles. The magnitude of the hazard would depend on the level of deposited material, the proportion of it re-suspended and the length of time for which an individual was exposed to it.</p>	<p>Tritium that remained in the form of gas would behave similarly to hydrogen and would disperse rapidly and upwards due to its very low density.</p> <p>Both tritiated water and tritium gas might be carried along by the prevailing wind to form a "plume" or cloud. The water content of the atmosphere and the turnover of water in the environment would ensure the rapid dispersion and dilution of any tritium or tritiated water that was released, as a result significant levels of tritium contamination occurring outside the AWE site involved is unlikely</p>
<p>Human Health Issues</p>	<p>Dispersed material containing plutonium could present a hazard if it were to find its way into the human body. This could occur if airborne particles of plutonium oxide were to be inhaled from the passing cloud. The magnitude of the hazard would depend on the level of deposited material, the proportion of it re-suspended and the length of time for which an individual was exposed to it, increasing the statistical risk of developing cancer in the future.</p>	<p>Tritium emits very low energy beta particles that are unlikely to penetrate clothing or skin. External radiation from the passing cloud or from deposited material containing tritium would be negligible.</p> <p>Dispersed tritium containing material could present a hazard if it were to find its way into the human body. This could occur if airborne tritiated material was inhaled from the passing cloud, was absorbed through the skin, or if contaminated foodstuffs were consumed.</p>
<p>Food & Water Issues</p>	<p>If foodstuffs or water contaminated with deposited material were consumed, radioactive materials might be ingested and enter the body, increasing the statistical risk of developing cancer in the future</p>	<p>In the case of breast feeding or pregnant mothers, a proportion of the inhaled/ingested dose will be transferred to the unborn child or passed on to the breast feeding infant through contaminated mothers' milk</p> <p>If tritium containing material was inhaled or ingested it would be rapidly dispersed throughout the body tissues (which themselves consist largely of water) and would be excreted in the urine. Measures can be taken to promote excretion of urine (and hence of tritium) and minimise the consequences of any intake of tritium that may have occurred.</p>

- 4.22 Section 10 of Person AW's evidence [CD 13.41] explains that the development of the off-site emergency plan assumes the accident has already happened irrespective of the risk value. Increasing the population within the DEPZ will therefore increase the burden on the off-site emergency plan potentially rendering it unsuitable.
- 4.23 Section 10 of Person AW's evidence explains how housing development located within the DEPZ means that larger populations could result in the delay to the deployment adequate protection measures because of the increased burden on emergency responders to safely manage the population and concerns about a larger range of health effects and physical injury arising from the undertaking of emergency actions for a larger population (including active and latent psychological and mental health issues as a result of being exposed to a radiation emergency).
- 4.24 It is clear from the tables 4.2 and 4.3 above, that risks associated with an emergency pervade much longer than an emergency event. Section 9 of the August 2022 Off Site Emergency Plan dedicates a whole section to 'Recovery'. Section 10 of Person AW's evidence notes how in the unlikely event of an emergency, afterwards a larger population could be subject to direct and indirect health effects thereby placing increased burdens on health care provision, there would be more buildings to decontaminate and extended disruptions to normal living as a result of restricted access to more dwellings (which could include impacts to health as a result of restrictions e.g. access to medical support) and a greater burden falling on local authorities to relocate impacted residents. Person AW goes on to note risks to post stabilisation recovery activities including long term quality of life effects due to disruption during decontamination/clean-up, relocation of people to lower hazard areas disrupting ways of life and impacts on property/the need for waste storage. These additional outcomes are reasonably foreseeable and could be avoided if no additional housing was permitted on the Appeal Site.
- 4.25 As far as I am aware, the Appellant is not proposing any form of obligations to seek to mitigate the increased burden on the off-site emergency plan arising from the additional population from the Appeal Scheme. In my view, notwithstanding clear policy conflicts, any safety or well-being concerns could not be addressed with S106 obligations in any event. Measures which focus on the initial emergency which I am aware have been suggested in other cases (e.g. phone lines) would not meet the relevant test for planning obligations⁹. They would not:
- 4.25.1 Account for the additional societal risk associated with the additional population. Any mitigation would need to address not just the risks for the circa 77 persons within the DEPZ, but also the additional risks to the established populations because the additional homes place more burdens on the emergency response.
 - 4.25.2 Provide mitigation for the recovery stage activities such as the cost of decontamination or cost of accommodation for the population whilst this takes place.

⁹ As set out in Regulation 122(2) of the Community Infrastructure Levy Regulations, being *a) necessary to make the development acceptable in planning terms; b) directly related to the development; and c) fairly and reasonably related in scale and kind to the development* [CD 13.24]

5 The effect of the proposal on the future capability and capacity of AWE Burghfield

- 5.1 As explained in Section 4 of my evidence, the NPPF requires operational defence/ security sites to not be adversely affected by the impact of other development proposed in the area (paragraph 97b) [CD 13.17] and requires development to not have unreasonable restrictions placed upon them because of new development as per the agent of change principle (paragraph 187) [CD 13.18].
- 5.2 Draft Local Plan Review Policy DM33 [CD 13.36] specifically supports development at AWE B which directly sustains its function as a research and defence establishment and therefore recognises the ongoing role and importance of the AWE B (and AWE A) as part of the overall Local Plan Review strategy. As explained in section 4 of my evidence, this policy should be given weight on the basis that there are no substantive objections to it.
- 5.3 Section 5 of Person MDs [CD 13.42] and Section 11 of Person AW's [CD 13.41] evidence explains that increasing the local population around AWE B risks AWE's operations, both current and future. It is explained that the more people that live in the local area, the greater the chance is that AWE will either have to limit or constrain its activities. This may apply to the maintenance of current operations, the delivery of already consented development or future, as yet defined developments/operations, which would be essential to meet future defence and national security requirements.
- 5.4 Person MD's evidence (section 5) explains that AWE B needs to both continue its current operations unhindered and to evolve and expand its use of AWE sites. As an example, it is explained that developments like MENSAs are far from straightforward and can be much less flexible than other industrial projects might be. They cannot be delivered from any other site; nor are they the sort of programmes that can be easily adapted to accommodate potential local population growth. For some key aspects, if AWE was not allowed or able to deliver these projects as intended, then they simply would not be able to progress as planned, or to operate effectively.
- 5.5 Section 5 of Person MD's evidence explains that if the population around the AWE B is allowed to increase, then so does the risk that operational permissions, licences, or restrictions are impacted. An increased population is explained to present a critical risk that AWE may in turn be compelled to limit or constrain its activities to remain in compliance with its regulatory obligations. Projects such as the Appeal Scheme therefore risk current and future operations at AWE, particularly if they set a precedent which enables further population increases within the DEPZ.
- 5.6 Section 6 of Person MD's evidence goes on to express concerns about increased risks to the securing of the AWE B site which falls into the highest classification of security information in the UK. Potential risks that could arise from the cover of an increased population around AWE's sites could include terrorism, espionage, subversion (action to undermine the morale, loyalty, or reliability of key sectors of the state), sabotage, and organised crime. In simple terms, the more people that are in the local area, the more that these security risks have the potential to increase.

- 5.7 Section 11 of Persons AW's evidence reinforces MODs concerns and explains how increasing the population in the DEPZ could affect the ability to deliver CASD by restricting licensable activities, limiting the ability to secure planning permission or other operating consents (thereby inhibiting future operations) and the potential to increase objections to proposals or complaints against AWE proposals.
- 5.8 Given the importance of the precautionary approach which I refer to in section 4 of my evidence, in my opinion, these risks which could undermine national security and defence commitments weigh significantly against the grant of permission for any housing within the DEPZ, including for the 32 homes in the Appeal Proposals. Even where risks are small to the future operation of AWE, given the unique and vitally important strategic defence function, there must be a presumption against new housing development within the DEPZ.

6 Conclusion & Summary

- 6.1 Whilst the Appeal Site forms part of a site allocated for housing (60 dwellings) under adopted Policy HSA16 of WBDC's Site Allocations Development Plan Document 2017 [CD 13.13] and part of the allocation has been built out only limited weight can now be applied to his allocation.
- 6.2 The Appeal Site also falls within the AWE B DEPZ where policy CS8 of the adopted Core Strategy [CD 13.14] clearly indicates that, when the ONR advise against the proposal, planning permission is likely to be refused. Taking into account that the Core Strategy acknowledges that there could be changes to the consultation zones (paragraph 5.44) and the establishment in 2020 of much larger DEPZ when REPPiR was updated to include the Appeal Site, Policy CS8 remains up to date and should be given substantial weight.
- 6.3 The development plan must be read as a whole and, in my view, the relative balance (CS8 substantial weight vs HSA16 housing allocation limited weight) means that, in this case, where the ONR has advised against the proposal, even on a site which is allocated in the development plan, planning permission should be refused.
- 6.4 Material considerations also weigh against the Appeal Scheme/continuing relevance of the site allocation including:
 - 6.4.1 The need to give significant weight to a more precautionary approach to public safety following the coming into force of REPPiR 2019 and subsequent establishment of the significantly enlarged DEPZ. This took place after the adoption of the HSA16 site allocation which formed part of the May 2017 HSADPD.
 - 6.4.2 The draft replacement local plan which takes forward the policy position of '*likely to be refused planning permission*'. Whilst the subject of objections, the policy has continuity in approach to precluding development in the DEPZ and, in turn, removes the HSA16 site allocation.
 - 6.4.3 How significant weight must be given to the views of the ONR who have advised against; both in its role as the UK's nuclear safety regulator which includes as part of its statutory purpose protecting persons against risks of harm from ionising radiations from GB nuclear sites and as the safety regulator of AWE B.
 - 6.4.4 Conflicts with the principles in the NPPF to not adversely affect the operation of defence sites (paragraph 97b) nor have unreasonable restrictions placed upon existing facilities due to development permitted afterwards (paragraph 187). For the reasons explained in the evidence of Persons AW and MD, incremental and cumulative population increases pose a risk to the licensed operations of AWE B and security concerns at a time when it is evolving and being upgraded to meet national security and defence requirements. Given the unique importance of AWE to the UK's national security and international obligations even a small risk to future operations must afforded significant weight in the planning balance.

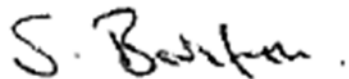
- 6.5 The Appellant's Statement of Case [CD 5.1] expresses frustration with how the Site Allocation has been set to one side and I note criticism about the consistency of approach in the Regulation 18 Local Plan, Annual Monitoring Report and pre-application advice. However, given the position I explain above, in my view none of these change the position. Indeed, a number of the concerns have been overtaken by the Council's decision to refuse the application and the approach in the Regulation 19 Local Plan which now proposes to remove the HSA16 housing allocation.
- 6.6 I do not consider that other material considerations would be capable of rebalancing matters in favour of the grant of consent. In my view only minor weight can be given to the provision of 32 dwellings (40% affordable). I am not aware that the Appellant is alleging that the Council does not have a 5 year housing supply where the Framework's paragraph 11d 'tilted balance' or presumption in favour would be engaged. The most recent Housing Delivery Test (HDT) Results and the Council's published 5 year housing supply figures show that it would not. The 2021 HDT (published January 2022) [CD 13.40B] indicates a healthy 117% housing delivery against target and paragraph 3.27 of the Council's January 2023 AMR indicates a 5.9 year supply which even where the 32 homes in the Appeal Scheme were omitted would remain materially unchanged [CD 13. 40B] ¹⁰. Therefore, refusing permission for the Appeal Proposals would not undermine the overall delivery of the Local Plan strategy as it relates to housing.
- 6.7 I conclude that planning permission should be refused. The proposals are contrary to the development plan when read as a whole and there are series of significant material considerations which further weight against the grant of planning consent.

¹⁰ Table 3.11 of the AMR indicates a 5 year housing supply of 3,391 compared to a requirement for 2,874. Even excluding the balance of the HSA16 allocation on page 16 of the AMR, this would reduce to 5.84 years

7 Declaration

The evidence which I have prepared and provide for this planning appeal in this proof of evidence is true and has been prepared and is given in accordance with the guidance of my professional institution and I confirm that the opinions expressed are my true and professional opinions.

Dated: 11 May 2023

A handwritten signature in black ink that reads "S. Bashforth." with a period at the end.

Sean David Bashforth
Senior Director