

**IN THE MATTER OF AN APPEAL UNDER SECTION 78 OF THE TOWN AND  
COUNTRY PLANNING ACT 1990**

**APP/W0340/W/20/3265460**

**LAND AT SANDLEFORD PARK, NEWTOWN ROAD, NEWBURY  
APPEAL BY BLOOR HOMES AND THE SANDLEFORD FARM PARTNERSHIP**

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**OPENING SUBMISSIONS  
ON BEHALF OF  
THE COUNCIL**

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**Introduction**

1. Any visitor to the appeal site (the Site) at Sandleford Park realises that it is special. No wonder it features in the novel ‘Watership Down’ by Richard Adams. No wonder there has been a high level of public interest in this site.
2. The Site is sensitive for a number of reasons. It is a valued landscape for the purposes of para 170 of the NPPF. It has literary associations, which makes it well-known and there is plainly a public desire to protect it. It sits at a sensitive location at the interface of the southern edge of Newbury. It is of ecological importance – it contains several blocks of Ancient Woodlands, several areas designated as Local Wildlife Sites, ancient and veteran trees and it provides habitat for dormice and bats (European Protected Species (EPS)), amongst other protected and notable species such as badgers, grass snakes, barn owls and skylarks. There is habitat of principal importance for the purpose

of conserving biodiversity. A Tree Protection Order<sup>1</sup> (TPO) covers the majority of the trees and woodlands further increasing the sensitivity.

### **The Decision of the Council**

3. The application for outline planning permission for, inter alia the construction of up to 1000 homes and 80 extra care housing units, was refused by a decision notice dated 13<sup>th</sup> October 2020 for 14 reasons.
4. An appeal was made against the Council's refusal.
5. The package of "Wheatcroft" information was submitted as part of the lodged appeal submitted to PINs on 17<sup>th</sup> December 2020 and validated with a start date of 20<sup>th</sup> January 2021<sup>2</sup>. For the reasons set out in proofs of evidence, the Council continues to object to both the Wheatcroft application and the further amendments that have been proposed in evidence submitted by the Appellants since.

### **The Council's case**

#### *The Policy position*

6. The Council's Development Plan (DP) policies provide the starting point for determining this appeal in accordance with s.38(6) of the Planning and Compulsory Purchase Act 2004.
7. The Spatial Strategy policies in the Core Strategy<sup>3</sup> provide the overarching strategy for development in West Berkshire. The ADPP policies guide development and are to be read in conjunction with Policy CS1 and the relatively new policy C1 (in the Housing

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<sup>1</sup> 201/21/1016 CD 17.6

<sup>2</sup> This included information originally submitted on 25<sup>th</sup> September 2020

<sup>3</sup> CD 8.5

Site Allocations DPD) (HSA DPD)<sup>4</sup> which makes clear where new housing is, and is not, acceptable. The strategy of the CS informed the HSA DPD which has been through examination and formally adopted.

8. By virtue of Policy CS3, most of this site is allocated as one of two strategic site allocations in West Berkshire and the principle of development on part of the site is not in dispute between the Council and the Appellant. However, an area of 0.35 hectares<sup>5</sup> proposed for development is outside the settlement boundary (reviewed as part of the HSA DPD and not arbitrarily drawn) and is therefore in the Countryside and development outside of the settlement boundary is contrary to Policy C1.
9. Importantly, Policy GS1<sup>6</sup> requires “Each allocated site will be masterplanned and delivered as a whole to achieve a comprehensive development that ensures the timely and coordinated provision of infrastructure, services, open space and facilities. A single planning application will be submitted for each allocated site...”. This is not simply an in principle policy objection - the lack of a single planning application leads to highways and landscape objections (due to the Central Valley crossing proposal) and risks to infrastructure delivery. This application coming forward on its own, without a legally binding agreement between the owners of the two parcels, fails to deliver the desired and required comprehensive and cohesive development of the whole of the SSSA.
10. Furthermore, this site has been allocated for nearly 9 years with not a single house built. Despite this, the consequence of the Council’s strategic policies, and the HSA DPD, and the proactive approach this Council has taken, is that it has a robust 5-year housing land supply. This has been demonstrated in several appeal decisions since 2016 and the Council’s latest AMR and 5-year housing land supply is not disputed. This allocation is one of two strategic site allocations in the Core Strategy; it has still not come forward but the Council has ensured a supply of housing across its district. Sandleford was removed from its 5-year housing supply in 2017 and has not been a component of 5-year housing land supply since. It has not been needed.

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<sup>4</sup> CD 8.6

<sup>5</sup> Owen Jones PoE para 5.50

<sup>6</sup> CD 8.6

11. Table 3.6 of the latest Annual Monitoring Report (AMR)<sup>7</sup> shows that, against the Core Strategy Requirement of “at least 10,500” dwellings to be provided, the subtotal of dwellings completed and outstanding with planning permission at March 2020 (6 years ahead of the Core Strategy plan period) is 10,911.
12. Allocation does not mean that any proposal put forward will be granted. The Sandleford SPD<sup>8</sup> is an important material consideration but the proposal still needs to comply with the Development Plan as a whole unless material considerations demonstrate otherwise. For this local planning authority, the DP policies are up to date and the proposals are in conflict with the DP and in conflict with the Sandleford SPD and in conflict with several paragraphs of the NPPF.

### *Landscape and visual impact*

13. As stated, the Council’s position is that the Site lies within a valued landscape for the purposes of para 170 of the NPPF and so should be protected and enhanced.
14. The LVIA (a requirement of any planning application under the Sandleford SPD) submitted with the planning application was based on out of date and superseded Landscape Character Assessments from 1993 and 2003. The relevant Landscape Character Assessment (LUC)<sup>9</sup> dates from 2019 and, from it, the Site lies within two landscape character areas: WC2 and UV4. Key characteristics include: presence of surface water and small streams, large open expanse of heathland<sup>10</sup>, surrounded by woodland, accessible landscape with rights of way, open views from the plateau (WC2), significant areas of woodland, important ecological habitats along the river, including ancient woodland and wetland habitats, contains part of the Sandleford Priory parkland (UV4). Both landscape character areas mention the Priority Habitats of woodland, grazing marsh and semi-improved grassland (UV4) heathland habitats and ancient woodland and Local Wildlife Sites (WC2). Both landscape character areas list valued

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<sup>7</sup> CD 16.7

<sup>8</sup> CD 8.14

<sup>9</sup> CD 8.21

<sup>10</sup> Acidic soils suitable for heathland are still present on Site

features and qualities consistent with those at the appeal site and both contain landscape strategies which include conservation.

15. The proposed development would adversely impact on the key characteristics of the appeal site and adversely affect its contribution to the rural setting of Newbury. The proposal would introduce a permanent and significantly harmful large-scale residential development at this location visible from a number of private and public views in the surrounding area. The proposal fails to acknowledge the value and sensitivity of the Site and does not take account of the key characteristics identified in the relevant LCA; the Appellants' assessment underestimated harm and overestimated landscape benefit.

### *Ecology and Trees*

16. Related to impact on landscape, is the impact on ecology and trees. The NPPF (para 175(c) provides that "*development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient and veteran trees) should be refused, unless there are wholly exceptional reasons, and a suitable compensation strategy exists*".
17. The proposal fails to protect the Ancient Woodlands in accordance with Standing Advice<sup>11</sup> by (i) failing to provide buffers of at least 15m, as appropriate to the location; (ii) including drainage and footpaths within buffers (iii) the severance of links between Ancient Woodlands. There will be indirect loss and deterioration of the woodlands and the habitats as a result of fragmentation which will impact on the inter-dependent LWS. There will also be indirect effects arising from residential pressure, recreational disturbance and the isolation of Crook's Copse as a result of the tight layout. Further indirect effects will arise from the playing field on the School Expansion Land which directly adjoins Ancient Woodland buffers and has potential to exert further recreational disturbance. A further late amendment to the SuDS schemes (13090DR04 A) proposes a conveyance channel through Slockett's Copse West resulting in direct loss of Ancient Woodland.

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<sup>11</sup> Natural England and Forestry Commission (2018) CD 8.31

18. In addition to impact on the Ancient Woodlands, there is impact on the Local Wildlife Sites at Waterleaze Copse and Gorse Covert if the cycle route is located on the south side of the existing path; however, if the cycle route is located on the north side, this would be likely to result in the loss of T166. Lighting (mentioned for the first time in rebuttal evidence) will also be harmful.
19. Amendments to both the original scheme and the Wheatcroft scheme to allow retention of veteran trees T31, T33 and ancient tree T34 are welcomed. However, the Council remains concerned about Veteran trees affected by the cycle route and track to the Country Park store/office<sup>12</sup>. T61 is lost due to development footprint and T153 and T154, will be affected by pollarding/making safe. Veteran trees T148, T149 & T150 will be affected by sealed footpaths. Furthermore, there are a number of trees at risk from the development which are considered by the Council to be Veteran or Potentially Veteran but these are not agreed with the Appellant. Several veteran/notable trees are included in the AIA for felling/major remedial works even though there is bat roost potential and one having additional barn owl nesting potential.
20. The proposals for the removal of trees and hedgerow on Monks Lane are not properly mitigated in response to the TPO and there will be net loss of hedgerow and trees to the detriment of ecology, streetscene and visual impact. The loss of T69 and G68 to create the Central Valley Crossing further fragments connections between the Ancient Woodlands at Barn Copse and Dirtyground Copse and causes harm in and of itself due to its potential as a corridor for commuting bats and dormice<sup>13</sup>.
21. The dormouse population at the appeal site is fragile. The destruction of existing green links will likely harm this vulnerable population. The revised pitch layout on the School Expansion land will cause disturbance to barn owls which have been confirmed to roost in T34.
22. A major part of the appeal site lies within the Greenham and Crookham Plateau Biodiversity Opportunity Area (BOA) 8 as identified by the Berkshire Local Nature Partnership. This is a formally identified area where substantial scope exists to make

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<sup>12</sup> Including T31, T57, T59, T143, T146, T166 (Cycle way) and T127, T128 and T133 (Country Park store road/track upgrade)

<sup>13</sup> Figure 2 EEMP CD 22.28

positive changes for biodiversity, to reverse existing habitat fragmentation, through expanding, linking and buffering semi-natural habitats. The proposals fail to do so and instead create further fragmentation, destroying links and creating inadequate buffers.

23. The proposed valley crossings have not been accompanied with information to demonstrate no adverse impact on badgers, bats, barn owls and other bird species. Ms Deakin has raised the need for further surveys in relation to the valley crossings as surveys to date (the most recent being 2019) indicate that there is a reasonable likelihood that protected species are present and will be affected<sup>14</sup>.
24. The location of the proposed SuDS basins and conveyance channels will impact on ecology particularly in the narrow northern valley between Slockett's Copse and High Wood.
25. The Biodiversity Net Gain claimed is not agreed and it is the Council's position that Ancient Woodland should not have been included in the BNG metric and there is no overall gain provided as a result of the proposal due to degradation of retained existing habitats over time which have not been adequately assessed.

### *Drainage*

26. Whilst the Wheatcroft proposals and further amendments to the Drainage scheme have resolved some issues, there remain objections and, indeed, further issues arise.
27. The groundwater investigation carried out dating from September 2014 is unreliable and unacceptable. The proposed SuDS are all 'site control' features with no 'source control' measures included. Furthermore, the SuDS measures lead to biodiversity harm as follows:
  - (a) they are generally located within the wet valleys between the various Ancient Woodlands and within the 15m buffer zones required for Ancient Woodlands which is unacceptable;

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<sup>14</sup> Contrary to Circular 06/2005 which advises that "it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances...".

- (b) the latest options (shown on 10309-DR-03 A and 10309-DR-04 A) include a conveyance channel through Slockett's Copse West causing direct loss of Ancient Woodland;
- (c) the outfall requirement at the north end of Waterleaze Copse impacts either the LWS or veteran tree T166;
- (d) all three new options presented<sup>15</sup> also impact on the purple moor grass and rush pastures Habitat of Principal Importance (HPI);
- (e) the measures (including the example Swale shown on 10309-DR-03 A) will draw off groundwater to the detriment of the hydrology in and around the Ancient Woodlands and any alternative proposals, such as lining and bunds, will restrict the capacity to develop into biodiverse habitats and/or adversely affect the landscape;
- (f) there will be a harmful reduction in infiltration from development areas adversely affecting the hydrology of the Ancient Woodlands and valleys between;
- (g) there will be significant harm during excavation and construction.

### *Education*

- 28. The Wheatcroft Amendments did not resolve the reason for refusal from the Local Education Authority but further discussions have narrowed the issues.
- 29. At the time of writing, noting that discussions are ongoing, there remains disagreement as to the School Expansion Land, costs for the secondary education provision, the timing of the delivery of education provision and the boundaries of each piece of land proposed for primary and secondary education.

### *Affordable Housing*

- 30. The tenure mix required for Affordable Housing (70% social rent and 30% intermediate affordable housing) has not been extended to the 80 extra care provision units. Furthermore, if the 80 extra care provision units are not needed and revert to affordable

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<sup>15</sup> See CD 10.17

housing they would not be appropriately ‘pepper-potted’, would result in an over-sized cluster of affordable housing in one location and would be of unacceptable tenure and mix.

### *Highways*

31. Both Policy CS3 and the Sandleford SPD require an access from Warren Road onto the Andover Road. As a result of the separate planning applications for the separate parcels within the allocation, this is not provided and this impacts on the vehicular permeability of the development and the attractiveness of any bus route.
32. The requirement for the Central Valley Crossing to provide emergency access would not be necessary were it not for the separate applications. This adds bulk to the structure which causes landscape harm which would not arise but for the approach now taken.
33. Despite useful discussions and amendments to the Unilateral Undertaking, risks to delivery of infrastructure remain as a direct result of the failure to submit a single planning application.

### *Carbon emissions/renewable energy*

34. On 27<sup>th</sup> June 2019 the UK became the first major economy in the world to pass laws to end its contribution to global warming by 2050<sup>16</sup>. The 2050 Net Zero target was recommended by the Committee on Climate Change. In the Government’s response to The Future Homes Standard (January 2021)<sup>17</sup>, it set out that (para 1.2 and 1.4):

In 2018, heating and powering homes accounted for 22% of all greenhouse gas emissions in the UK. The UK has already made considerable progress in this sector by reducing total emissions by 43% since 1990, despite there being approximately a quarter more homes. The homes that are constructed now and in the next decade will still exist in 2050 and we have acknowledged that more must be done to decarbonise all buildings.

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<sup>16</sup> Amendments to the Climate Change Act 2008

<sup>17</sup> CD 8.30

Energy efficient, low carbon homes will become the norm. It is significantly cheaper and easier to install energy efficiency and low carbon heating measures when homes are built, rather than retrofitting them afterwards. This means we will need to improve the fabric standards of our homes and build the supply chains and technology options for low carbon heat that will save carbon through the next decade and put us on a cost-effective pathway to 2050.

35. We live in an age in which we are bombarded with information about the destruction of our planet – climate change is an emergency, the need to act is urgent and there has been a recent recognisable shift in Government response. At local level, West Berkshire District Council declared a climate emergency in July 2019. This declaration is a material planning consideration. The Future Homes Standard will not move quickly enough to ensure that new housing will contribute to the Council’s goal. Indeed, if care is not taken, it will make the goal harder to reach. It is absurd, given the emergency that has been declared in West Berkshire, that an application has come forward for over 1000 homes which, as currently proposed, will add to carbon emissions.
36. The scheme proposes a 19% improvement on energy performance standards of Part L 2013 and to comply with minimum standards as those minimum standards within Building Regulations change over time. Building Regulations lag behind climate change evidence. This will make the Council’s local target to reach net zero by 2030, adopted in September 2020 as part of its Environment Strategy<sup>18</sup>, impossible.
37. The Council notes that in a recent decision of the Secretary of State<sup>19</sup>, the Inspector had recommended a condition requiring reductions at different phases against Part L 2013 of at least 50%, at least 75% and 100% for any dwelling approved in or after 2028, the Secretary of State agreed that the “scale and urgency of the climate change emergency is such that tackling climate change is a material consideration to which significant weight should be attached” and that “the need for housebuilding to become greener, warmer and more energy efficient has become more urgent”. However, he noted that “under the plan-led system it is not possible or desirable to predict what policies might apply in the future and apply them now. While noting the Council’s guidance of June 2020..it amounts to guidance only, which has not gone through a public examination

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<sup>18</sup> CD 8.25

<sup>19</sup> APP/V2255/W/19/3233606

process, rather than planning policy, sufficient to justify the imposition of conditions”. It was found that there was “no existing or emerging LP policy base” for the conditions the Council proposed. The same cannot be said for West Berkshire District Council. Not only has this Council declared a climate emergency and not only has it set a clear target for net zero by 2030, the Core Strategy contains a policy which requires that for new residential development after 2016, there will be zero carbon emissions (CS15). Furthermore, CS15 requires renewable energy generation on site or in the locality unless it can be demonstrated that such provision is not technically or economically viable.

38. The Council submits that both Development Plan policies and material considerations exist to make good on para 2.7 of the Government’s Response<sup>20</sup>:

The Government has dual ambitions of achieving net zero emissions by 2050 and continuing our progress towards achieving 300,000 homes a year by the mid- 2020s. These objectives are not mutually exclusive, and with good planning and smart design we can build the homes we need while protecting and enhancing the natural environment and adjusting to climate change.

## **Conclusions**

39. The answer to objections from the Council should not be: (i) the site is allocated; (ii) this is an outline planning application and this can be dealt with at detailed design; or (iii) the plans are indicative only.
40. The objections raised are fundamental to considering the acceptability of this outline application and matters of acceptability of sizes of AW buffers or location of SuDS, for example must be determined now. There are direct impacts on, for example, layout and landscape and biodiversity including irreplaceable priority habitat.
41. The proposals conflict with policies ADPP1, ADPP2, C1, GS1, CS3, CS4, CS5, CS6, CS13, CS14, CS15, CS17, CS18, CS19. It also conflicts with NPPF paras 108, 109,

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<sup>20</sup> CD 8.30

110, 127, 130, 131, 148, 150, 151, 153, 170, 174, 175. It is not fully compliant with the Sandleford SPD. The benefits claimed are not all agreed and do not outweigh the harms.

42. West Berkshire has waited 9 years for an acceptable proposal for this special site. With the Council's robust housing land supply, there is no rush for housing. There is no rush for this proposal which causes layers of harm from biodiversity to landscape to impact on climate change. There is time to wait until the right application comes forward or for alternative action.

43. In due course the Secretary of State will be invited to dismiss this appeal.

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5<sup>th</sup> May 2021