

**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**

**CLOSING SUBMISSIONS
ON BEHALF OF
THE COUNCIL**

Introduction

1. Putting aside the uncanny prophecy of the development of Sandleford Park raised in the fictional work ‘Watership Down’¹, the character Holly observes that: *“Men will never rest till they’ve spoiled the earth and destroyed the animals”*. Sandleford Park is an allocated site and can be developed without spoiling the earth and destroying the animals. But this proposal does both; and causes several layers of harm which are so serious that they cannot be left to conditions or to Reserved Matters or to detailed design.
2. The Appellants opened their case by saying that *“inconsistencies with bits and bobs in a plan do not necessarily mean that what is proposed does not accord with the [development] plan”*². It is submitted that the Council’s objections do not relate to “bits and bobs”. They relate to areas which are central to the Development Plan and its strategic objectives.

¹ Richard Adams

² ID1

3. These closing submissions are based on the main issues identified by the Inspector on the first day of this public inquiry:

- 1) Whether, in the absence of a single planning application, the proposed access arrangements, including the emergency access, are satisfactory in terms of highways considerations;
- 2) Whether the proposal makes satisfactory provision for pedestrians and cyclists;
- 3) The effect of the proposal, including the valley crossing, on the character and appearance of the surrounding landscape;
- 4) The effect of the proposed development on air quality;
- 5) Whether the proposal is acceptable with regard to carbon emissions and renewable energy;
- 6) The effect on the woodlands, including trees, and the impact on the character of Monks Lane;
- 7) Whether the direct and indirect effects on biodiversity can be satisfactorily mitigated;
- 8) Whether the submitted bats and badger surveys are adequate;
- 9) Whether the proposal would provide a biodiversity net gain;
- 10) Whether the proposed drainage strategy is acceptable, having regard to the water table and Ancient Woodlands;
- 11) Whether the proposed development would restrict, prevent or preclude the development of the New Warren Farm site and the timely delivery of infrastructure for the allocation as a whole;
- 12) Whether the proposal makes suitable provision for Affordable Housing;
- 13) Whether the proposal makes satisfactory provision for education including the park House school expansion land;
- 14) Whether the submitted unilateral undertaking would deliver the necessary infrastructure and comply with the tests;
- 15) Whether the proposal is acceptable in absence of a single planning application;
- 16) The Planning balance.

4. In relation to issues 1, 12 and 13, these matters were resolved to the satisfaction of the Council prior to the inquiry closing. The matters were not resolved by the Wheatcroft amendments but by further amendments made in evidence submitted to the Inquiry.

Issues 2 and 4 are not argued by the Council. Issues 11 and 15 have been combined and are dealt with together. These closing submissions focus on the remaining outstanding issues between the main parties (although not necessarily in the above order). It must be noted that whilst some of the main issues are resolved, there are some outstanding concerns which overlap with other areas and will be raised where relevant.

5. As requested by the Inspector, these submissions also cover the matters of mineral reserves and heritage assets.

Impact on Minerals

6. The adopted Sandleford Park Supplementary Planning Document (Sandleford SPD/SPD) confirms, at paragraph 30³, that:

The Sandleford Park site is an area known to contain sand and gravel deposits. The Replacement Minerals Local Plan for Berkshire (incorporating the alterations adopted in December 1997 and May 2001) identifies the fact that mineral resources, such as those at the Sandleford Park site, are a valuable, but finite, resource and as such the Replacement Minerals Local Plan for Berkshire includes saved policies 1, 2 and 2a that relate to mineral safeguarding and therefore are relevant to the Sandleford Park development.”

7. As confirmed by Mr Grigoropoulos in EIC, the Principal Minerals and Waste Officer has reviewed the application submissions and raised no objections subject to a condition to secure the incidental extraction of minerals as part of the development of the site, similar to that proposed.

Impact on Heritage Assets

8. Mr Grigoropoulos carries out the Heritage Assets Balance at section 10 of his PoE⁴. Whilst it has been concluded that the proposals result in less than substantial harm to

³ CD 8.14

⁴ Page 69

the significance of heritage assets, it has also been concluded that this is at the lower end of the scale and that, in accordance with para 196 of the NPPF, the public benefits provide clear and convincing justification for the harm and outweigh it. Mr Grigoropoulos has also had regard to s.66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. He concludes that the effect is acceptable.

Preliminary Points

The parameters of the Outline Planning Application and the accuracy of the Controlling Plans

9. The PPG⁵ confirms that the following should be submitted with an application for outline planning permission:

Information about the proposed use or uses, and the amount of development proposed for each use, is necessary to allow consideration of an application for outline planning permission.

10. The amount of development is defined on the Parameter Land Use and Access Plan⁶ in terms of “proposed development footprint” and by virtue of the description. As a result of what has been heard at the inquiry, the proposed development footprint may change: to accommodate 0.35 hectares outside of the settlement boundary, to accommodate at least 1.25 hectares for SuDS basins (not clear what will happen to conveyancing channels), to accommodate root protection areas of various trees which are now agreed to be impacted, to accommodate the NEAP (at least 400 sqm), the LEAP and to, as proposed by Mr Cooper⁷, translocate the 250m of Monks Lane hedgerow.
11. The amount of development proposed for each use has not formally changed. But the theme of the case is very much that “things can move”. The things that can be moved might or might not be significant on their own. However, cumulatively they are significant and there has been no assessment of the scheme that the Decision-maker is being invited to imagine.

⁵ para 034 Reference ID 14-034-20140306

⁶ CD 1.8

⁷ JC

12. This is even more relevant given that the Sandleford SPD requires certain supporting information to accompany any planning application for the Sandleford Strategic Site Allocation (allocation/SSSA). The Strategic Landscape and Green Infrastructure Plan (SLGIP) is required to accompany the application and “*will provide details on the Country Parkland and SuDS, non-vehicular access, strategic planting, green links and recreation and open space provision at a strategic level for the whole site*”⁸.
13. Principle H2⁹ sets out that “*SuDS need to be designed in conjunction with, and be reflected in, the Strategic Landscape and Green Infrastructure Plan and the Detailed Landscape and Green Infrastructure Design and Management Plans*”.
14. These represent additional requirements for a planning application for this allocation even if it is in outline.
15. Recognising the inadequacy and inaccuracy of the current SLGIP, Mr Cooper stated that what was needed was a further SLGIP (to be contrasted with a Detailed SLGIP¹⁰), introducing a new step into the “design cascade” (even he was not sure what this meant) between the current SLGIP and the detailed SLGIP. The only reason for a further SLGIP is because the current one, once changed to attempt to deal with the harms created, has nothing upon which details can be built¹¹. If the Council’s case regarding harms is accepted, the SLGIP is all wrong.
16. The inquiry has heard that the location of SuDS can move (the size of the basins alone are 1.25 hectares¹²), the location of the NEAP and LEAP can move, the development shown outside the Settlement Boundary could be restricted. Mr Grigoropoulos estimated that this would be over 2 hectares¹³. Changing the developable area, increasing density¹⁴, moving SuDS and other items are not *de minimis* changes to parameter plans. Mr Jones agreed that the plans would not be accurate were such

⁸ Page 31 Principle S1

⁹ CD 8.14 page 43

¹⁰ Which would be required at a later stage as an addition layer of information by Principle L2

¹¹ Accepted by OJ and JC to be the purpose of the original plan – a plan which provides information which is then expanded with details on that information

¹² JB Drainage RTS

¹³ EIC

¹⁴ Suggested to Mr Flatman in XX

changes contemplated but takes the view that because the application seeks only to be “in substantial compliance” by virtue of a condition there is no problem.

17. “Substantial compliance” with Parameter plans that are inaccurate, that refer to the SLGIP¹⁵ which will have nothing on it with which to comply (save for the existing footpath in the right location) is, in this case, tantamount to what Mr Grigoropoulos called a “permission in principle”. This is a case of the Appellants having to “wholesale re-design”¹⁶ compared to what has been submitted and it has never been assessed. The Council submits that the condition requiring only “substantial compliance” with the parameter plans is not precise, is not enforceable and is not reasonable giving the environmental background.

EIA

18. This proposal was screened as likely to have significant effect on the environment and a full Environmental Statement (ES) was provided. The ES has not been updated for the Wheatcroft amendments and, further to those amendments, the Appellants take the view that the protection of Ancient Woodlands and issues relating to Ecology, Drainage and SuDS and Carbon Emissions can all be dealt with by condition and the Central Valley Crossing design will finally be revealed at detailed design stage.
19. Reserved matters, as a matter of law, are required to be approved in order for the outline planning permission to constitute a development consent for the purposes of the EIA Regulations. But the implementing decision cannot extend beyond the parameters set by the principal decision, where the effects which a project may have on the environment must be identified and assessed at the time of the procedure relating to the principal decision. Those effects should be identifiable at the time of the principal decision. Certain effects were identifiable when the LPA made its decision. As submitted in *R (on the application of Barker) v Bromley LBC* [2007] 1 A.C.470, conditions designed to ensure that the project remains strictly within the scope of that assessment will minimise the risk that those effects will not be identifiable until the stage when approval is sought for reserved matters. This inquiry has been informed of

¹⁵ Parameter Green Infrastructure Plan cross refers to the SLGIP

¹⁶ NG

effects, likely to be left to Reserved Matters, likely to mean re-screening is necessary¹⁷. Mr Jones agreed that the changes that may happen are identifiable at this point¹⁸.

20. The Regulations allow for EIA at Reserved Matters stage but it is not to be waived through. The PPG sets out that the possibility should be minimised and that the permission should be subject to conditions or other parameters which tie the scheme to what has been assessed¹⁹.
21. The details required to assess this application that have been provided demonstrate harm. The details required to be satisfied that permission can be granted without causing harm have not been provided but have been suggested. This is not a case of matters not becoming apparent until a later stage.

The Settlement Boundary

22. 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 hectares²⁰ proposed for development is outside the settlement boundary. The settlement boundary was reviewed²¹, examined and adopted as part of the HSA DPD. On the review criteria

¹⁷ NG EIC

¹⁸ XX

¹⁹ *To minimise the possibility that further environmental information is required at a later stage of a multi-stage consent procedure, it is considered that (R v Rochdale MBC ex parte Tew [1999] 3 PLR 74 and R v Rochdale MBC ex parte Milne [2001 81PCR27]):*

- *where an application is made for an outline permission with all matters reserved for later approval, the permission should be subject to conditions or other parameters (such as a section 106 agreement) which 'tie' the scheme to what has been assessed; and*
- *while applicants are not precluded from having a degree of flexibility in how a scheme may be developed, each option will need to have been properly assessed and be within the remit of the outline permission.*

However, there may be circumstances where an environmental impact assessment will be required even after outline planning permission has been granted (Commission v UK (C-508/03)). This is because it is not possible to eliminate entirely the possibility that it will not become apparent until a later stage that the project is likely to have significant effects on the environment. In that event, account will have to be taken of all the aspects of the project which have not yet been assessed, or which have been identified for the first time as requiring assessment.

Paragraph: 056 Reference ID: 4-056-20170728

²⁰ Owen Jones PoE para 5.50

²¹ According to Settlement Boundary Review Criteria one of which was "The developable area of sites allocated through the Local Plan process"

alone, the settlement boundary cannot sensibly be argued to be “arbitrary”. More so, as explained by Mr Flatman, that there are landscape reasons for the line drawn where it is drawn (topography and wetland) supported by Mr Grigoropoulos.

23. When ADPP1 was adopted, there was no review of settlement boundaries and the allocations were outside of the settlement boundaries. Where ADPP1 allows for development “within or adjacent to the settlements included in the settlement hierarchy set out below” it is in order not to exclude the allocations from complying with the policy²². As a consequence, outside of the settlement hierarchy is “open countryside” where “only appropriate limited development in the countryside will be allowed, focused on addressing identified needs and maintaining a strong rural economy”. Policy C1 clarifies that position further and identifies that “There will be a presumption against new residential development outside of the settlement boundaries”.
24. Mr Jones explained that things have moved on since the developable area was defined. Now there is a need for the Crook’s Copse Link and that will change the context of where these 5-10 dwellings will be located outside of the settlement boundary. He agreed that, in that context, the 5-10 dwellings would add more development. Actually, his argument assists the Council’s point. The Crook’s Copse link is necessary and introduces development at a sensitive location. Adding more development adds insult to injury. The settlement boundary in that location is crucial and no development should be allowed beyond it.
25. The proposal provides for development on 0.35 hectares²³ beyond the settlement boundary and is unacceptable in principle and in landscape and visual terms (see below) and contrary to ADPP1 and C1.

²² Agreed by OJ XX

²³ HSA 7 HSA DPD is 0.4 hectares

Issue 3:

The effect of the proposal, including the valley crossing, on the character and appearance of the surrounding landscape

A valued landscape

26. As stated, the Council’s position is that the Site lies within a valued landscape for the purposes of para 170 (a) NPPF and so should be protected and enhanced. Mr Cooper resiled from the interpretation of para 170(a) as found in his proof²⁴ saying that he had been “advised” of the same and that this was a planning matter. He accepted that the Council did not use local landscape designations²⁵, that it did not propose to use local landscape designations²⁶. Mr Flatman was perplexed as to why the Landscape Institute would be consulting on updating guidance to determining a valued landscape²⁷ if the matter was closed as a result of the interpretation of para 170(a) preferred by the Appellants²⁸. As set out in that document, Inspectors have not been interpreting this in the way the Appellants do²⁹ and it is submitted that it would be an unreasonable interpretation to do the same.

27. Mr Cooper also resiled from his statements in his proof³⁰ that it is “illogical” to allocate a valued landscape. The Housing Site Allocations Development Plan Document (HSA DPD) has allocated approximately 495 dwellings in the AONB³¹. The requirement to respect that highly valued landscape does not evaporate on allocation. The two matters are not mutually exclusive.

28. In any event, Mr Cooper did attempt an analysis under Box 5.1 GLVIA 3³² in his proof³³.

²⁴ Para 9.2

²⁵ Para 5.137 supporting text to Policy CS19 page 87 CS, CD 8.5

²⁶ Para 5.33 supporting text to emerging Policy SP8, CD 8.13

²⁷ CD 17.12

²⁸ Although only stated under advice by JC

²⁹ A4.1.4.1, A4.1.5.1 ff

³⁰ Eg para 9.1 and 12.1(iii)

³¹ CD 8.6 – see policies HSA9, 10, 11, 18, 19, 20, 21, 22, 23, 24, 25, 26

³² Guidelines for Landscape and Visual Impact Assessment

³³ Table 5

29. However, that overlooked the GLVIA approach to non-designated landscapes which includes the use of landscape character assessments (LCAs). Most importantly this is the identification through strategy and guidelines as to what matters and what are the special qualities to be conserved and enhanced³⁴ which concludes that “*A stated strategy of landscape conservation is usually a good indicator of this [value]*”³⁵. Furthermore para 5.137 of the supporting text to policy CS19³⁶ says that the policy will protect and enhance the diversity and local distinctiveness through the use of Landscape Character Assessment. This appeared lost on Mr Cooper who had not assessed anywhere in his written evidence or oral evidence the valued characteristics³⁷ in the 2019 LCA or the landscape strategy of conservation³⁸ of various relevant features for both relevant landscape character areas WC2 and UV4³⁹. The Landscape Character Assessments and CS19 and the landscape strategies and guidelines did give an indication of which aspects of the landscape are particularly valued. There is a stated strategy of landscape conservation.

30. As to the assessment that was done under Box 5.1⁴⁰ by Mr Cooper, it was inadequate. Mr Cooper accepted that references to how the scheme is alleged to improve certain features is irrelevant to the analysis of current value⁴¹. He accepted that his assessment of ‘Condition’ was partly informed by a 2009 Sensitivity Assessment⁴² which did not refer to landscape condition and gave evidence about features irrelevant to condition such as “broken down fences” and “other unkempt fences”. His assessment, including his comment in his Table 5, ignored the definition of this factor in GLVIA 3. In relation to ‘Rarity’ he had not considered the association with the parkland opposite Sandleford Priory or the rare M23 habitat of principal importance. In relation to ‘Representativeness’, he had focussed on whether the site was “unique” rather than representative. Under ‘Conservation or other interests’, he had not included the 7

³⁴ CD 17.11 para 5.27 GLVIA

³⁵ Eventually agreed by JC XX

³⁶ CD 8.5

³⁷ CD 8.21, for area WC2 (page 167), woodlands, views, recreational value; for area UV4 (page 60) 5 valued features

³⁸ CD 8.21, for area WC2 (page 169) items 3 and 7; for area UV4 (page 61) 3 element requiring conservation including valley floor woodland, historic features and rural character of the landscape

³⁹ The SSSA falls in both these landscape character areas according to the 2019 LCA

⁴⁰ CD 17.11 page 84

⁴¹ See his analysis for Scenic Value, Conservation, Recreation Value and Associations which all incorrectly refer to future improvements

⁴² Cd 8.22

ancient woodlands (AWs), any veteran trees, mature trees or the ancient tree; the TPO; the fact that the SPD recognises that the trees are of “*individual quality and also significant landscape value*”⁴³; the European Protected Species and other wildlife; the Local Wildlife Site (LWS) designations, the ecological value of the site as noted in the SPD which calls it “*valuable at the district level*”⁴⁴. The attitude Mr Cooper took in relation to his analysis of value is demonstrated best by his conclusion on the factor ‘Perceptual Aspects’ for which he stated “*It is perceived as an allocated site*” and continued to state in oral evidence that ‘Joe Bloggs’ would know when walking across the Site that it was allocated. Mr Norman pointed out that that is not how local people see it at all and do value it. Mr Cooper failed to even acknowledge in his written assessment that there are elements of tranquility and wildness to the site (running water in the streams, bluebell carpets, deer, skylarks and the sound of birdsong). Lastly, Mr Cooper revised his assessment of ‘Associations’ to accept that there is a link to the fictional work, ‘Watership Down’. Mr Flatman was clear in his EIC that it is rare to find one association at a site, let alone two⁴⁵, as there are at this site.

31. Despite all of the features and associations pointed out to him, Mr Cooper continued to rate the Site at a grade of 3.5 or 50%. In order for it to be valued, for example, ecologically he said he was “looking for a national designation” rather than a local designation. Mr Cooper sets a high bar. Mr Flatman carefully explained all of his opinions in relation to value, none of which were properly challenged by Mr Cooper.. There exists on the Site a combination of all of the factors in Box 5.1. This site is out of the ordinary when all are considered. Indeed, if this Site is not valued then it is difficult to imagine a site which is.

32. It is anticipated that the Appellants response to this is: so what? Just as with an allocated site in the AONB, a valued landscape will change with development. But that does not mean that care is not taken to protect and enhance it. A higher level of care is required. Unfortunately, the attitude that “this is allocated”⁴⁶ and “people perceive it as allocated” has infected the approach and that includes the approach to protecting and enhancing

⁴³ CD 8.14 page 22 para 87

⁴⁴ CD 8.14 page 66, page 67

⁴⁵ Links to Watership Down and Capability Brown

⁴⁶ 14 relevant references in JC PoE (para 1.13, 1.16, 1.19 (twice), 8.13 (twice), 8.35 (twice), 8.38, page 42 in Table, 9.7, 12.1, 12.5, 12.6

(para 170(a) NPPF) or conserving and enhancing (CS19) or respecting (CS14) the landscape.

The flawed LVIA (original and as updated – twice⁴⁷ – by Mr Cooper)

33. The Landscape and Visual Impact Assessment (LVIA) is a requirement of any planning application under the Sandleford SPD⁴⁸ and a requirement of Development Plan Policy GS1⁴⁹. The supporting text to Principle L1 sets out that the Strategic Landscape and Green Infrastructure Plan should be informed by, inter alia, the LVIA⁵⁰. As the SLGIP, at planning application stage, will provide details on the Country Parkland and SuDS, non-vehicular access, strategic planting, green links and recreation and open space provision at a strategic level for the whole site, the LVIA forms the basis for how to design the site at a strategic level and provide the building blocks for the stages that follow. This is supported by the rationale for the LVIA in Policy GS1⁵¹ which provides that the LVIA will “*inform the final capacity, development design and layout of the site and requirements for green infrastructure and provision of public open space*”. This level of detail is required in order for the Council (or decision maker) to properly assess the scheme.

34. The LVIA must take into account a “whole suite”⁵² of documents. One of the key documents is the relevant Landscape Character Assessment. The LVIA submitted with the planning application did not take into account the relevant LCA which is key to the operation of Policy CS19⁵³. It was based on out of date and superseded Landscape Character Assessments from 1993 and 2003. The relevant Landscape Character Assessment (LUC)⁵⁴ dates from 2019 and states clearly that “*This West Berkshire Landscape Character Assessment supersedes both the 1993 and the 2003 and sits alongside the North Wessex Downs AONB Landscape Character Assessment...*”⁵⁵.

⁴⁷ (i) in his proof and (ii) in his addendum

⁴⁸ Page 31 (supporting text under Principle L1) and Appendix 4 page 91

⁴⁹ CD 8.6

⁵⁰ CD 8.13 page 31

⁵¹ CD 8.6

⁵² MF Re-ex

⁵³ Accepted by Mr Cooper in XX and see page 85 of the Core Strategy: “*Proposals for development should be informed by and respond to (a) The distinctive character areas and key characteristics identified in relevant landscape character assessments....*”

⁵⁴ CD 8.21

⁵⁵ CD 8.21 para 1.29

Those documents are no longer relevant for the purposes of CS19 or any credible LVIA. Mr Cooper has put forward an argument that it does not matter and that the differences between LCAs that were almost 30 and 20 years old respectively compared to the 2019 were of no effect. However, it became clear through XX that he was not sure whether he had compared the 1993 one or the 2003 one or a non-existent 2013 one and it was also clear that he had only compared one whereas the LVIA had been informed by both. Indeed, rather than this being resolved by a further second addendum⁵⁶, Mr Cooper made a further error in that he now thinks there is no 1993 LCA. Mr Flatman has had to correct this position⁵⁷. There is; and it was used to inform the LVIA⁵⁸ submitted with the planning application. Mr Cooper stated that he was in a “difficult position” in defending an LVIA undertaken by others but accepted that if the LVIA was flawed this could have consequences for the SLGIP and the design.

35. The language of the 1993 LCA is not replicated in the 2019 LCA (eg unkempt, destruction, commercial after-use, erosion, degraded). The 1993 LCA strategy is not considered in the LVIA⁵⁹. The 2019 LCA has more depth to the analysis and new categories including “Evidence of Past Use and Cultural Evolution” and “Natural Landscape and Priority Habitats”. Mr Cooper’s Table 3 comparison does not mention views (item 7 2019 LCA page 166), cultural associations (item 3 LCA page 167) or recreational value (item 6 2019 LCA page 166). The 2003 LCA does not specify the Sandford Priory Parkland (see UV4, Key Characteristics item 4) and does not mention designated local wildlife sites (see UV4, Key Characteristics item 3) or the HPI (see UV4 Natural Landscape and Priority Habitats item 2). The sections on “Detractors” in the 2019 LCA set out how key characteristics could be affected which is not considered in the 2003 document. As a result, there has been no consideration of how to ensure that detractors are not exacerbated. The loss and decline of hedgerow boundaries (item 2 page 168) and the changing land use patterns resulting in gradual loss of landscape variation and biodiversities identify some of the key issues and threats facing the area.

⁵⁶ ID69

⁵⁷ ID70

⁵⁸ See CD 20.18 page 7-7

⁵⁹ CD 20.18 page 7-7

The effects of the errors

36. Insufficient attention has been paid to hedgerow loss and severance and there is further loss and decline of hedgerows leading to fragmentation and/or loss of connectivity of Green Infrastructure and isolation of AWs. In outlining the fragmentation of Green Infrastructure, Mr Flatman made reference to the Proposed Hedge linkage Plan⁶⁰ as being relevant (and which is also relevant in ecological terms) but also highlighted the following:

- (a) The interface between the Site and Sandleford West: the position of the access severs the GI in a sensitive position⁶¹ where mostly category A and B trees are shown. There could perhaps not have been a worse location and no GI replacement is proposed;
- (b) Park House School Boundary: the SLGIP shows only loss and it is only through the Council's intervention that some sort of resolution is achieved (if conditions proposed provides for this);
- (c) Monks Lane: the original intention of the SLGIP shows that the intention was to retain the boundary (although the correct width was not shown); this was also reflected in the Design and Access Statement (DAS)⁶² and is reflected in the Sandleford SPD⁶³. The Council estimates that approximately 250m will be lost and not replaced adversely impacting the character of Monks Lane which has developed over 40 years. Mr Cooper's "translocation" has not been seriously put forward, and is not taken seriously by the Council. His evidence that a similar hedge/tree line (250m x 6m) would establish in 5 years is also not taken seriously. Mr Flatman said it would take 40 years to replace. There is no evidence from Mr Cooper to substantiate his theory.
- (d) The SLGIP identifies a Green Link from Monks Lane whilst the DAS⁶⁴ proposes 'Green Links' to connect Monks Lane to the Country Park, as does the SPD⁶⁵. The link from Monks Lane is not provided for adequately as part of the

⁶⁰ ID19

⁶¹ CD 14.5 Tree Surey (App B)

⁶² CD 1.10 page 76 and 77, keynote 1 and key design principle first bullet

⁶³ CD 8.14 page 34 last para: "The retention of existing landscape features and layout of the proposed development will influence the significant of the potential impacts on visual amenity along Monks Lane"

⁶⁴ Page 76

⁶⁵ Page 35

character from Monks Lane and its treatment and connectivity does not comply with L5 or CA4⁶⁶.

37. The Landscape Strategy in 2003 does not include retaining and enhancing open views (see page 169 item 2) which is also mentioned in the SPD at CA9 (page 81) where the key design principle is to retain the undeveloped character of the valley corridors. Had the LVIA been informed by the 2019 LCA, this strategy would have (or should have) been picked up, as reinforced by the SPD, and carefully integrated into the SLGIP. Instead, the two valley corridors, both highly sensitive features, will have their character and views through interrupted by conveyancing channels, footpaths, LEAP, wider than necessary bridge and SuDs basins. Mr Cooper stated that there would be no internal assessment of the valley corridors “until we get to the sequential views running across the site”. There has been no consideration of the valleys or the internal views as shown at para L5 of document Appendix G⁶⁷.

38. A further landscape strategy for area WC2 is balancing recreational pressure⁶⁸. There are various sensitivities that need to be considered in relation to landscape and ecology but no assessment of this in the LVIA and, it follows, the SLGIP. Integrating new development into the landscape is a further strategy but this is not part of the strategy in 2003⁶⁹. The restoration of heathland is listed in 2019 and this is a key characteristic for area WC2 which is omitted from any consideration for the strategy for this site. Heathland is shown in areas of ground around Gorse Covert and extending out into the parkland on the higher, drier acidic soils in historic maps⁷⁰. A lost opportunity.

39. The Ancient Woodlands are recognised as Valued features in both UV4⁷¹ and WC2⁷². In landscape terms the AW blocks will become more and more isolated as individual landscape units are carved up and connections lost. The SLGIP does not show any proposals for the re-creation of meaningful woodland and the proposal on the SLGIP bears no relation to the historic landscape character or pattern. One of the stated aims

⁶⁶ Last bullet point

⁶⁷ CD 22.42

⁶⁸ Item 5

⁶⁹ See page 7-6

⁷⁰ CD 22.35, App G1 ES

⁷¹ CD 8.21, Item 1 page 61

⁷² CD 8.21, Item 1 page 168

of the LVIA was “reinstatement of rural parkland character...new tree planting designed to reflect 18th century tree planting groups...”⁷³. Appendix G7 of the ES⁷⁴ provides for “footprint of ancient woodland areas and hedgerows to reflect their former coverage”. Lastly, one of the key design principles for CA8⁷⁵ in the SPD is: “New woodland planting to replace lost ancient semi-natural woodland to the south of the site” to be considered. Another lost opportunity (which would also have been an opportunity to relieve pressure from existing AWs by providing access to a new woodland).

40. The differences between the documents is not insignificant. As Mr Flatman said, there is a richer, fuller and updated evidence base and certain aspects have not been adequately addressed in the proposals. By the time Mr Cooper tries to demonstrate that there are similarities between the LCAs in his proof (rather than noticing the differences), the planning application has already been made and the horse has bolted. Failure to recognise this evidence base and the updated strategy for this landscape character area from the 2019 LCA leads to a flawed LVIA and has consequences for the SLGIP and the parameter plans. The NEAP, the orchard, the amenity kickabout, cycleway with lighting (not forgetting that the scheme submitted was for a concrete emergency access through the country park), the lack of woodland and heathland all create an urban edge country park as opposed to a historic parkland restoration.

41. In landscape terms, the proposals also fail to recognise the strategic objectives and strategies of the Sandleford SPD. By failing to respond to the 2019 LCA, it fails to meet Strategic Objective 4; contrary to strategic objective 4 the strategic landscaping is an unknown quantity; the proposal does not retain all important trees and hedgerows on the site, including all of the ancient woodland areas contrary to strategic objective 5; Mr Cooper was clear that the strategy was to encourage access to ancient woodlands and knew little about balancing their ecological value contrary to objective 5; the proposal does not retain approximately 60% of the site for informal open space as, if the woodlands are included, it amounts to 50.5%⁷⁶ contrary to strategic objective 7.

⁷³ CD 20.18, page 7-15, para 2, bullet point 2

⁷⁴ CD 22.42 7.1

⁷⁵ CD 8.14 page 80, last bullet point

⁷⁶ Para 4.51 PoE OJ

42. The 2019 LCA sets out that the sections of “Valued Features and Qualities” includes qualities particularly valued for their contribution to landscape character and if any one attribute ceased to exist, it would change the character to the detriment of the landscape⁷⁷. The AWs, the views, the rural recreational value and the tapestry of agricultural land, all valued features in WC2 are threatened by the proposals. The important semi-natural habitats including ancient woodland and the sense of enclosure and tranquillity, valued features in UV4, are threatened by the proposals. Harm, according to the 2019 LCA, follows.

Specific components of development

43. In terms of specific components of development which harm the landscape and visual amenity, the Main Valley Crossing (MVC) will cause a certain level of harm that the Council accepts. However, whilst the latest solution is the best on the table, it does not resolve all the issues raised in landscape terms.

44. Importantly, if no emergency access was required, there would be no need for 2 separate bridge decks amounting to a substantial 16m width. A narrower, single bridge (the Council says 2m narrower is possible), with no gap, no verges, no double parapets, reduced shading and combined columns/footings over the valley would reduce bulk further⁷⁸. Mr Cooper states in his proof of evidence that “..a narrow and high level crossing is to be preferred, as this will allow the maximum space underneath and the greatest preservation of openness”. He agreed that the narrower the bridge the better. This is in terms of footprint, construction footprint, lighting on extra edges of bridges, bulk and mass. Furthermore, he knew nothing of the second temporary bridge and had not even considered construction in the LVIA.

45. No raised valley crossing is proposed for the Crook’s Copse Link. The proposed road will slice through the valley floor and will cut off the flow of the valley which could be provided under a bridge. This is directly contrary to CA7 which provides that “*Should additional valley crossings be required the above design principles will apply*”⁷⁹. Other

⁷⁷ Page 14

⁷⁸ NG gave unchallenged evidence that there was a 2m difference (6m road, 2x1.5m cycleway, 2x2m footway, 2x0.5m parapet); verges are necessary on the twin deck compared to the single deck as cars and bikes on one deck need verges in order not to hit the parapet; on a single deck pedestrians are against the parapets.

⁷⁹ CA7 page 79

issues relating to Crook's Copse are confirmed in Mr Cooper's sketch: the breach of the minimum 15m buffer with housing, a myriad of pathways within either woodland buffers or protected ecological offsets in marshy grassland, fragmentation of linkages leading to isolation, housing encroaching on protected part of lower valley slopes, new woodland in the valley floor rather than upper edges of slopes and the lighting plan⁸⁰ showing 6m columns in the valley and on the crossing, all contrary to CA9⁸¹.

46. The NEAP, and the LEAP at Crook's Copse, are in locations contrary to the central location shown in the SPD⁸². They will be new urbanising features within the Country Park and valley. The NEAP is aimed at older children and requires, as Mr Flatman explained, a minimum of 465m² of hard surface suitable for 5-a-side football and can include a range of other hard features such as a skatepark as mentioned in the SPD. Aside from the odd location given its distance from the housing, it is not central to the scheme as the SPD requires. Its isolated location may encourage other more anti-social use/access to the AWs. The LEAP is located in the northern valley constraint location (although omitted from existence in Mr Cooper's sketch).

47. Despite the attempt by Mr Cooper to demonstrate that the SuDS ponds could be gentle features, the design is not achievable other than on an indicative sketch. There is a 4m rise (from 91m point up the valley side from the culvert to a 95m contour) as shown on the Topography plan⁸³. On the SLGIP the valley path follows the existing hedge which is also the location of the watercourse (not shown on the sketch) which should be the lowest point on the sketch section. The reality is that there will need to be a huge, engineered solution to either cut into the valley side or to form an embankment to create a level pond and then conveyance channels need to punch through the woodland edge of Waterleaze Copse.

48. The SuDS basins will be huge, engineered elements with hundreds of metres of conveyance channels associated. Such infrastructure is being placed in sensitive parts of the Site causing landscape and other harm.

⁸⁰ CD 22.30 – F20 Lighting Figure 8

⁸¹ CD 8.14, CA9 page 81

⁸² CD 8.14 pages 49 AND 45

⁸³ CD 21.9

Conclusions on Landscape and Visual harm

49. As a consequence, Mr Cooper's Landscape Effects Tables lack proper consideration of the effects. This may be because he has had to approach the exercise using someone else's work that he has updated. It may be because he has approached this exercise on the basis that the site is allocated and so harm is acceptable. But he has failed to assess significant components of development or consider the aggregation of a series of built features within the undeveloped valley corridors thus seriously underestimating harms. Furthermore, despite baseline assessments for, for example, areas 1a and 1b being high value and high sensitivity, he finds that adding in a valley crossing and development in the valleys increases the long term benefit of the development despite the fact that on his own para 7.5 he accepts that any crossing solution will have a major landscape and visual effect. Compartments 1a and 1b cannot get better after development especially given the high baseline. The harms to the AWs are ignored and whilst some management creates some limited benefit, it will not happen in 15 years especially given they will now endure recreational and residential pressure, given the proximity of housing, domestic activity and development within buffers. Again, the seven woodland blocks cannot get better after development especially given the high baseline. There is harm acknowledged to areas 3a and 3b by Mr Cooper. The rural farmland becoming a Country Park with formalised cycleways with lighting and formalised play areas and forming a view from Sandleford Priory that can hardly be seen⁸⁴ is an overplayed benefit. Just because something cannot be seen (the NEAP for example) does not mean landscape harm is not caused and it is not a Brownian approach to restoration of historic parkland characteristics. Furthermore, not a single line in the LVIA to assess construction effects.

50. In terms of visual effects there are 15 adverse visual effects out of 25 views and, out of those, 10 were substantial or moderate to substantial.

51. In short, the Appellants underestimate the harm and overestimate the benefits. This is not a case of forensically examining the professional exercise that should have been undertaken to inform the proposals in order to undermine the Appellants' case. The

⁸⁴ CD 22.38, viewpoint 8b

LVIA is key. The 2019 LCA is key. The SLGIP is key. These are all required as part of the planning application, have been assessed and found wanting and the proposals cause harm that cannot be avoided on the current scheme. The proposal is contrary to CS19, CS14 of the CS and principles L1, L4, L6, CA4, CA7, CA8, CA9 of the SPD. As a valued landscape, it is not protected and enhanced contrary to para 170 NPPF.

Issue 6:

The effect on the woodlands including trees and the impact on the character of Monks

Lane

Ancient Woodlands

52. The Standing Advice⁸⁵ explains that “*Ancient woodland takes hundreds of years to establish and is defined as an irreplaceable habitat. It’s important for its wildlife (which include rare and threatened species), soils, recreational value, cultural, historical and landscape value*”. On this site, the Ancient Woodlands are also local wildlife sites demonstrating their importance as habitats. Their value straddles various objections and disciplines (SuDS, Ecology, Landscape and Arboriculture).

53. 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*”. The “wholly exceptional reasons” examples provided are not consistent with this development. This represents a higher level of protection for irreplaceable habitat than under the 2012 NPPF⁸⁶ as explained by Mr Flatman⁸⁷.

⁸⁵ CD 8.31

⁸⁶ *planning permission should be refused for development resulting in the loss or deterioration of irreplaceable habitat, including AW and the loss of aged or veteran trees found outside AW, unless the need for, and benefits of, the development in that location clearly outweigh the loss* (para 118)

⁸⁷ MF Re-ex

54. Mr West states in his rebuttal at para 2.19 that “*we disagree that there will be significant deterioration (and no loss) of ancient woodland*”. NPPF does not require significant deterioration⁸⁸.

55. Whilst it is not accepted that the Sandleford SPD encourages public access in the AWs, it was drafted when national policy in relation to AWs was not as strong. Actually, what the SPD does is guide that there is a balance to be struck between public access and protecting the valued ecology on the Site⁸⁹:

- (a) Strategic Objective 5 is to "**manage** access to the ancient woodlands to ensure that their ecological value is **not compromised**";
- (b) Strategic Objective 6 is to "enhance the ecology and biodiversity on the site, in particular through woodland management...";
- (c) Para 105 mentions "opportunities for increased public use...with **some** managed access to the woodland areas";
- (d) L4(d) re pedestrian access being "managed" but this is under the heading L4 that “ancient woodland will be retained and protected”, i.e. not harmed;
- (e) CA8 says that "Public access will be encouraged into areas where access provision is **compatible** with the sensitivity of the retained or proposed habitats".

56. The SPD is subject to Development Plan policies which are also consistent. Policy CS3 requires “*conserve the areas of ancient woodland...*” and Policy CS17 does not permit development which “*may harm either directly or indirectly*” LWS or Habitat of Principal Importance (HPI)⁹⁰.

57. There is not just one Ancient Woodland affected but, whether directly or indirectly, all 7 Ancient Woodlands on the appeal site are affected to a varying degree by the proximity of the proposed development and human effects and activities causing habitat deterioration. In an appeal affecting one AW, as Ms Deakin noted, it would have been surveyed to within an inch of its life, and any potential for damage or incremental decline subject to a high level of assessment measures set in place to ensure its full protection. Because there is so much of this declining resource on the Site, care must be taken not to become blasé. It is all precious.

⁸⁸ Accepted by OJ XX

⁸⁹ Accepted by Mr Cooper

⁹⁰ Para 5.118 in the supporting text to Policy CS17 discusses AW in the same paragraph as discussion and explanation of HPI.

58. The Standing Advice⁹¹, jointly drafted by Natural England and the Forestry Commission, provides that “*Ancient woodland takes hundreds of years to establish and is defined as an irreplaceable habitat*”. It also provides that “*Direct impacts of development on ancient woodland or ancient and veteran trees include: damaging or destroying all or part of them (including their soils...), damaging roots..., damaging or compacting soil around the tree roots, polluting the ground around them, changing the water table or drainage of woodland or individual trees...*”. Indirect impact includes “*breaking up.....connections between woodlands..., increasing disturbance to wildlife from additional traffic and visitors, increasing light or air pollution...*”.
59. In relation to buffer zones, the Standing advice provides that the purpose “*is to protect ancient woodland and individual ancient or veteran trees*”. For ancient woodlands, the buffer zone needs to be “*at least 15 metres to avoid root damage*”. In some cases, and where assessment indicates that there is a reasonable likelihood that damage might occur, larger buffer zones are advised. In this case, the likely impacts of recreational damage and deterioration have been given insufficient regard.
60. Mr Giles wrote to the Forestry Commission⁹² seeking clarification as to his understanding, stating “*Within this 15m zone there should be no SuDS as this is within the RPA of the ANSW. If the buffer zone is greater than 15m then SuDS would be acceptable outside the 15m*”. The response was: “*Yes, your interpretation is correct. For ancient woodlands, there should be a buffer zone of at least 15 metres to avoid root damage. Where assessment shows other impacts are likely to extend beyond this distances, a larger buffer zone should be used.....Sustainable drainage schemes within buffer zones should be avoided unless they respect root protection areas and that any change to the water table does not adversely affect ancient woodland or ancient and veteran trees. If they are outside of the buffer zone this should be acceptable, provided they again will not affect the woodland’s water table or drain into them*”. The reference to SuDS within buffer zones is within buffer zones greater than 15m.

⁹¹ CD 8.31

⁹² AG Rebuttal Appendix

61. Further clarification has been sought and provided in an email dated 7th May 2021 that *“It is the general rule that paths should not be created within buffer zones”* and also advised that *“SuDS should not be used within buffer zones”*.
62. As a result of the Appellants introducing to the inquiry a decision of the Council re South of Pondhouse Farm, the Council located the Natural England consultation response⁹³ (which arrived after the Committee had resolved to grant planning permission⁹⁴). The response of the statutory consultee, dated October 2019, in relation to the buffer zone in that application was that *“This buffer zone should vary depending upon the size and nature of the development. Although the minimum size of a buffer zone should be at least 15 metres, Natural England’s standing advice would expect this to be larger for a development of this nature and size....Buffer zones should comprise semi-natural habitat only and not any element of the development, such as SUDS....”*.
63. This is important. A member of the Statutory Consultee is interpreting its own advice in the same way the Council interprets it.
64. There are several incursions into the 15m buffer zone as shown on plan at ID16 due to amenity uses, construction zones and SuDS. The incursions range in extent but the greatest incursions restrict the buffer to significantly less than 15m. The incursions affect Barn Copse in 3 areas, Crook’s Copse in 3 places, Dirty Ground Copse in 2 areas. There are substantial and widespread incursions to the 15m buffers of High Wood, Slockett’s Copse, Slockett’s Copse West and Dirty Ground Copse.
65. Direct impacts⁹⁵ include damaging or destroying all or part of the AW habitat (including soils, ground flora or fungi and other lower plants), damaging roots and understorey, damaging or compacting soil around the tree roots, polluting the ground around them, changing the water table or drainage of woodland or individual trees.

⁹³ ID38

⁹⁴ Accepted that it arrived before the final grant of pp but an element of realism is required when noting that point

⁹⁵ CD 8.31

66. A further late amendment to the SuDS schemes (10309-DR-03A⁹⁶) proposed a conveyance channel through Slockett's Copse West resulting in direct loss of Ancient Woodland. Furthermore, the Appellants have not grappled with the lack of space in the narrow northern valley between Slockett's Copse and High Wood which is exacerbated by the need for 8m buffers either side of the stream⁹⁷ and 15m buffers to protect the AWs required by the Council. With one pinch point measuring 32m, there is no room for SuDS and footpaths through this valley as proposed.
67. There are also footpaths proposed within the AWs in the Strategic Landscape and Green Infrastructure Plan which do not follow existing footpaths⁹⁸ or the indicative footpaths in the Access and Movement Framework, Figure 7 SPD⁹⁹. Oddly, the existing footpaths would not provide connections and would not follow desire lines¹⁰⁰. It is common sense that one warden cannot patrol and control public access to these precious areas. Signage and paths will help but they won't eliminate harm. The paths themselves will have direct impacts. The AWs will suddenly become a playground for thousands of people and children, possibly anti-social behaviour and, sadly, behaviour seen over lockdown of unintended consequences by over-use on limited pathways as described by local residents. This cannot be compared to wardening at Greenham Common – these woodlands will be seen as an extension of gardens for residents. The habitat is sensitive to trampling and decline will spread.
68. Severance of links between AWs caused by new roads and other large gaps occurs between Barn Copse and Dirty Ground Copse, Barn Copse and Gorse Covert, Barn Copse and Slockett's Copse, Crook's Copse and Slockett's Copse, Crook's Copse and High Wood and Crook's Copse and Barn Copse. This leads to fragmentation and isolation which is considered an indirect impact on AW in the Standing Advice because it breaks up and destroys connections between woodlands. This fragmentation is directly contrary to the aspirations of the Biodiversity Opportunity Areas (BOAs) which covers the Appeal Site. The Appellants have steadfastly failed to acknowledge or assess the adverse effects of this fragmentation adequately. Other indirect impacts

⁹⁶ LW App B

⁹⁷ Required by the Environment Agency but not known by JC

⁹⁸ West Appendix A Figure 2; accepted by JC in XX

⁹⁹ Accepted by JC XX

¹⁰⁰ SD RTS

listed include increasing disturbance to wildlife from additional traffic and visitors, increasing light, noise or air pollution, increasing damaging activities like fly-tipping and the impact of domestic pets and changing the landscape character of the area.

69. Indirect effects will arise from residential pressure, recreational disturbance and the isolation of Crook's Copse, in particular, as a result of the tight layout. Mrs Deakin gave evidence about the pressure that will come from the proximity of the woodlands to the residential dwellings, about the numbers of people accessing the woodlands which is unprecedented in this location and about the impacts of pets (supported by Dr Foster). Dwellings in such close proximity to dense woodland will lead to further pressure. As Ms Deakin stated – the development is overbearing on the woodlands and the woodlands are overbearing on the dwellings. The presence of massive trees around the perimeter of the woodlands (approximately 23m in height) will not only prove a nuisance in terms of shade, leaf-fall etc but, importantly, will also pose a Health and Safety risk necessitating works which would not be necessary were the development not so close or a substantial buffer was provided. 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.

70. There are solutions so that development and the AWs can co-exist but the proposals simply do not provide enough space. Generous buffers could have been proposed to allow for protection and for “breathing space”. 15m is the minimum. Sadly, the proposals sink to the lowest common denominator and loss and deterioration is inevitable. Ms Deakin is of the view that a return visit in 5-10 years time will reveal an entirely different landscape and habitat and not for the better.

71. There will be loss. There will be deterioration. This cannot be dealt with by condition because there is no proposal showing where various important elements of the development will go other than in the buffers.

Ancient/Veteran/Notable Trees

72. The SPD notes that *“there is a high proportion of good trees, groups and woodland within the site. As most of the trees are of individual quality and also significant*

*landscape value, there is very limited scope for removals without significantly adversely affecting the local character. Where specific trees have been identified as being of a lower individual quality there may be scope for their removal*¹⁰¹. Because there are such a high number of important trees on the Site, sight should not be lost of those which are still good trees and whose loss causes harm.

73. ID17 shows that there are a number of trees identified both in the Arboricultural Impact Assessment (AIA) and the Ancient Tree Inventory (ATI) as Veteran. It also shows that there are a number of Veteran trees not identified in the AIA as Veteran but identified in the ATI as Veteran (13 within the appeal site and 5 outside the appeal site) and a number of Veteran trees not surveyed in the AIA but identified in the Ancient Tree Inventory (6). All those not noted previously by the Appellants but noted by Mr Giles as being present on the ATI are agreed to be Veteran/Ancient/Notable trees. Mr Giles also considers a number of trees on the site to be of Veteran/Potential Veteran status. He does not rely solely on the size of the stem but also relies on the characteristics of the trees. Even if they are not all of Veteran status, they are plainly substantial, mature trees of considerable landscape, arboricultural and nature conservation merit.
74. Amendments to both the original scheme and the Wheatcroft scheme to allow retention of ancient tree T34 have been welcomed. However, the Council remains concerned about Veteran trees affected by the cycle route and track to the Country Park store/office¹⁰². Whilst Mr Alder said in the round table session (RTS) that there was no intention for the cycle route to impact on Veteran trees, the plans show that it does (including impacts on the RPA of Veteran Trees T57, 59 and 166 which all lie close to Gorse Covert or Waterleaze Copse). Furthermore, in relation to T31, there is a pinch point and it has not been demonstrated that it can be avoided altogether. In relation to the track to the Country Park store/office, T127, 128 and 133 are all on the line of the existing track and their RPAs would be affected by increased traffic and the necessary formalising of the track. All these Veteran trees are considered to be irreplaceable habitat and thus afforded substantial protection under para 175(c) NPPF.

¹⁰¹ Page 22 SPD CD 8.14

¹⁰² Including T31, T57, T59, T143, T146, T166 (Cycle way) and T127, T128 and T133 (Country Park store road/track upgrade)

75. T61¹⁰³ is lost due to development footprint and T153¹⁰⁴ and T155¹⁰⁵ will be affected by pollarding/making safe. As these 3 Veteran trees will be affected, the Appellants claim that they are “unsuitable for retention” or “require works” for retention. These trees are only unsuitable for retention due to their location and not their quality and could be retained. 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/roosting potential.
76. The developable area was agreed to need amending due to impact on T44 and T45 (both notable mature oak trees). T46 adjoins the DNH access point and is likely to be impacted by the proposed route. T114 is on the northern tip of Slockett’s Copse and should be included in the AW with a 15m protection area which would extend its RPA into the line of the road. It also has a confirmed bat roost¹⁰⁶. T111 is considered a Veteran tree by Mr Giles and its increased RPA would restrict built development at a pinch point/road route to the South East of Crook’s Copse. T78 is agreed to be within the AW and so needs a 15m buffer zone which will also affect the developable area.
77. 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 substantial net loss of hedgerow and trees in this area to the detriment of ecological connectivity, streetscene and visual impact as submitted earlier (under Landscape impact). This harm could have been significantly reduced.

Issue 10:

Whether the proposed drainage strategy is acceptable, having regard to the water table and Ancient Woodlands

¹⁰³ Not identified as Veteran in the AIA but identified as Veteran in the ATI; agreed to be lost but, as it is fallen, the Appellants say it can be moved. Mr Giles is of the view that this is compensation only to be used as a last resort. It is still an irreplaceable habitat.

¹⁰⁴ As above

¹⁰⁵ As above

¹⁰⁶ Tree Roost Assessment Plan A070660-23 Fig 3 rev.A

78. Whilst this main issue is phrased in the singular, there have of course been several drainage strategies submitted. The email from the FC explains how important the hydrology and water table is to the AWs¹⁰⁷.

79. Out of several iterations presented in relation to drainage strategy, not one avoids either harm to the AWs or harm to the Purple Moor Grass and Rush Pasture (PMGRP) priority habitat. Each time a new proposal landed with the Council, solving one problem created another:

- 10309-DR-03A¹⁰⁸ impacts directly on the AWs (the purported gap - shown to the inquiry further to the plan showing direct impact - is only 20m, less than the two converging 15m AW buffers) and impacts directly on the HPI and shows an example design of a 3m Swale which would also have an adverse impact on drawing off groundwater to the detriment of the hydrology in and around AWs; indirect harmful effects will arise due to 1 feeder channel in central valley marsh below DGC and basin B locates 1 basin in very wet marsh north of Crook's Copse link; 2 channels encroach on Slockett's and High Wood AW 15m buffer; Basin C is very close to T166 leading to construction impact;; channel from Basins B encroaches on M23 PMGRP HPI; construction of Basin C and channel feeding it will further affect PMGRP habitat.
- 10309/DR-02¹⁰⁹ and 02A¹¹⁰ show the feeder channel in the wet valleys; the outfall is into the stream located very close to the northern tip of Waterlease Copse and Veteran tree T166 which would both likely be affected; both conveyance channels cut the corners of DGC AW 15m buffer; both channels cut through marshy ground; basin B¹¹¹ (3 no.) is located in the upper end of the valley marsh area between Slockett's Copse and HighWood; 1 basin appears to encroach in Slockett's AW 15m buffer; 1 basin is in the very wet marsh area

¹⁰⁷ As SuDS are designed to channel rainwater away from developments, great care needs to be taken to ensure that they will not either cause more water than is usual to enter ancient woodland or its buffer zones, or deprive the woodland of water. Both flooding and drought can cause stress to trees, which in turn can cause them to become more unstable and therefore potentially dangerous. Raising or reducing the water table can also cause soils either to become waterlogged, washed away, or desiccated and blown away. This is therefore why it is not recommended to put SuDs in buffer zones.

¹⁰⁸ LW Appendix B

¹⁰⁹ ES Vol 3 Appx K1 FRA

¹¹⁰ CD 10.17 Appendix D (within which App A)

¹¹¹ 3 no.

north of Crook's Copse Link and the third encroaches on the High Wood AW 15m buffer as does the conveyance channel to the third basin B; all features affect marsh habitat in this valley; basin C is very close to T166 leading to impact from construction; C is also located in the unnamed copse area north of the PROW and north of Waterleaze; the channel from basin B to C is very close to M23 PMGRP HPI which will likely be impacted; construction of Basin C and channel feeding it will affect the HPI area.

- 10309-DR-04A Option 1¹¹² impacts directly on the AWs and on the HPI; 1 feeder channel is in central valley marsh; basin B has 3 basins all north of Crook's Copse Link - one remains in very wet marsh area with no channels and localised outlets to the existing stream which will cause some damage to the marsh area; a new basin south of Slockett's West with feeder channel from built area runs between Slockett's Copse West and Slockett's Copse & encroach on AW 15m buffer and PMGRP; outlet from basin to stream will encroach on PMGRP; basin C is not shown so the detrimental effect cannot be properly assessed, but it is likely the harm is the same as 3A;
- 10309-DR-04A Option 2¹¹³ impacts directly on the AWs and on the HPI; basin A is not shown; basin B is now a single large basin in very wet marsh north of Crook's Copse Link; outlet from basin to existing stream will cause some damage to marsh area; attenuation tanks in built area may be acceptable but located on steep slopes; other harms are the same as Option 1.

80. The impact on the water table has not been properly assessed. That results from the failure of the Appellants to undertake ground investigations at the right time of year and in the right places¹¹⁴. This has consequential effects on design, construction, layout and effectiveness.

81. Mr Bowden's own experience is that September is one of the driest times of the year and his own observations on the Site in April demonstrated to him that there was considerable marshy and boggy land indicating higher ground water levels than

¹¹² LW Appendix E

¹¹³ LW Appendix E

¹¹⁴ No investigations undertaken where SuDS proposed to be located

assessed. Whilst he did not seek to persuade the inquiry that his Appendix 2 should be relied upon on its own and he was transparent as to its limitations, he relied upon it together with the Council Groundwater study carried out in 2014 (albeit a different geological area) which “has some bearing on this area”, his own experience and his own on-Site observations.

82. Mr Bowden was clear that any SuDS located within marshy, boggy areas will almost all consist of excavations that will create depressions. If groundwater levels are as high as site conditions indicated in April 2021 (after a dry April) then groundwater will draw off into the excavations, then through the proposed channels and basins and out to the receiving streams to the detriment of AWs and sensitive marshy grassland habitat and ecology. The inclusion of a gravel filled trench below the channels as indicated (3A) would exacerbate this further. This is a concern that is “very real” and he believes it “will happen”. In order to accommodate the proposed channels and basins where indicated within the existing sloping terrain, excavated slopes on the ‘high sides’ would effectively increase the depth of any excavations and exacerbate the drawing off of groundwater.
83. There will be a harmful reduction in infiltration from development areas affecting the AWs. Mr Witts¹¹⁵ refers to 18.9% reduction of surface water (rainfall) into the ground whereas Mr West¹¹⁶ refers to 25.49%. These figures are inconsistent (and worryingly different), but either figure represents a substantial reduction in potential infiltration that will have a marked effect on groundwater in the AWs and the wet valleys. Furthermore, the interception of natural run-off by the developed areas before it can reach the AWs will also adversely affect the AWs by starving them of water supply.
84. Mr Giles explained that changes to hydrology would put undue stress on an AW and already over mature trees and the likelihood of them being able to compensate is pretty slim.
85. Proposals such as lining of the SuDS or introducing bunds would impact ecology and/or landscape and the Council’s position is that neither is acceptable.

¹¹⁵ Para 1.13 Rebuttal LW

¹¹⁶ Para 3.1.8 Proof AW

86. Mr Bowden gave evidence that he “firmly believes” that “it is not possible to provide SuDS within the green areas that are currently proposed on any of the alternative layouts so far provided” without damage to habitat and AWs. Whilst Mr Bowden is of the view that the only place SuDS could go is in the developable areas, no proposal has been put forward thus far demonstrating that even that could be achieved. He thought it was necessary to provide a “reasonable level of design” now and it was not appropriate for the re-design (as opposed to detailed design building on any original design) to be left to a later stage because there is no acceptable strategy thus far. For example, there is no allowance in the catchment calculations in the FRA for runoff to be dealt with in the developable areas. The “tool box” of options suggested for the built development has not demonstrated that a suitable SuDS scheme can be provided within the built area.
87. There still needs to be an assessment of a proposal demonstrating an adequate drainage strategy that actually works without causing permanent harm. Mr Bowden does not require detailed design immediately. He requires an indication of what is being proposed so that he can assess the impact. Given the time the Appellants have had to demonstrate a non-harmful drainage strategy, this cannot (and should not safely) be assumed given the sensitivities which are still close to the developable areas.
88. Furthermore, all proposed measures are “site control” rather than “source control”¹¹⁷. There are no substantial ‘green SuDS’ measures located within the development parcels which conflicts with the SuDS SPD¹¹⁸ and the SuDS Manual C753¹¹⁹ and no green roofs or rainwater harvesting contrary to Principle H4 Sandleford SPD.
89. The Detention basins alone will have a surface area of 1.25 hectares. This is not an insignificant area (either on its own or in combination with other issues that may reduce the developable area) and is not a matter to be left to detailed design given that there is no proposal before the inquiry to show them satisfactorily located within the developable area. Mr Bowden was very concerned that there “is so much at stake and so many unknowns” and no confidence that hypothetical solutions could ever work.

¹¹⁷ See drawings 10309-DR-01, 02, 03, 04

¹¹⁸ See CD 8.16 page 04 Vision, page 7

¹¹⁹ Page 28, 70, 86, Box 4.3, page 88 para 4.3.2

90. There has also been a failure to consider construction (whether that is basins, channels) or the topography affecting the construction or the wetland affecting the construction. The Construction Method Statement submitted on behalf of the Appellants¹²⁰ fails to demonstrate that construction of SuDS will be in accordance with standards of good practice¹²¹. It does not consider the restriction of ground water flow in relation to the valley crossing or Crook's Copse Link. It does not assuage any fears in relation to additional excavation in the wet valleys or 15m buffer zones. Indeed, further to the document, the Council now has new fears that the method of construction could cause localised flooding of important habitat. Concerns raised during the round table are not resolved¹²².
91. Any biodiversity or water quality improvements (which would be highly dependent on how they were planted and maintained) would be clearly outweighed by the loss to habitat and biodiversity caused by all designs before the inquiry.
92. CS16 requires that SuDS should be in accordance with best practice and provide other benefits where possible. The SuDS SPD¹²³ seeks to ensure that designs do not just ensure drainage but also to "provide multiple benefits" such as "resilience to climate change" and biodiversity. Benefits would be possible if the proposals were properly designed but are not provided.
93. Strategic objective 8 of the Sandleford SPD requires surface water discharge to be effectively managed by way of a range of SuDS. Neither the proposed strategies nor the "toolbox" demonstrate that the objective can be met.
94. The Council submits that the decision-maker cannot be satisfied, on the basis of current proposals, that the drainage strategies do not impact the AWs or the water table. These are not matters to be designed from scratch at Reserved Matters. It is recommended that SuDS are integrated from the beginning¹²⁴.

¹²⁰ ID52

¹²¹ ID XX para b

¹²² Response Note submitted by the Council

¹²³ CD 8.16 page 4

¹²⁴ SuDS SPD page 10 and contrary to para 5.105 CS CD8.5

Issue 7:

Whether the direct and indirect effects on biodiversity can be satisfactorily mitigated

95. In addition to the issues raised specifically in relation to the loss and deterioration of Ancient Woodlands and, in particular, certain trees, other direct and indirect effects on biodiversity also arise. It is important to note that the 15m buffer suggested by the Council to be sacrosanct, it also crucial to protect the AW habitat itself and the inhabiting wildlife. The intrusion into the 15m buffer also has repercussions on flora and fauna and the wider ecoservices because of a complex interrelationship of species, soil, seedbank, ground flora, understorey and the dependent invertebrates and faunal associations higher up the food-chain that have evolved over centuries¹²⁵.

Hedgerow connectivity/severance

96. ID19 is the Proposed Hedge Linkage plan with annotations provided on behalf of the Council demonstrating where severance will take place. The loss of T69 and G68, a substantial hedgerow/shaw, to create the Central Valley Crossing fragments connections between the Ancient Woodlands at Barn Copse and Dirty Ground Copse and causes harm in and of itself due to its potential as a wildlife corridor for commuting bats and dormice and other species¹²⁶. There will be indirect loss and deterioration of the habitats as a result of fragmentation which will impact on the inter-dependent LWS which will remain as woodland “islands”, separated from each other by closely enveloping built development and roads/bridges which will prevent the inhabiting wildlife from freely foraging within their territorial ranges.

97. There is impact on the Local Wildlife Sites at Waterleaze Copse and Gorse Covert due to the cycle route 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 of this route (mentioned for the first time in rebuttal evidence) will also be harmful on nocturnal animals and has never been assessed.

¹²⁵ SD RTS

¹²⁶ Figure 2 EEMP CD 22.28

98. The priority species affected include skylark and lapwing (red list species which would be subject to ground nesting disturbance from recreational use of the Country Park), barn owl (displacement/disturbance from tree roost/nest sites at, for example trees near the Country park office and T34 within the revised pitch layout on the School Expansion Land and the risk of road mortality at the Crook's Copse crossing - due to proposals for an embanked at-grade structure within an area of known barn owl hunting territory, rather than a bridged structure which would be less harmful); Bats (disturbance/possible loss of roost sites at, for example DNH access point/foraging and commuting disturbance and vehicular mortality at the crossings and road severance at the south east corner of Crook's Copse); Brown hare will also suffer likely disturbance and displacement from woodland/open habitats affected by human disturbance and pets. Dormice isolated in Barn Cops are a particular concern as the population is fragile and the destruction of existing green links will likely harm this vulnerable population.
99. There is no satisfactory mitigation proposed. At the round table session, Ms Deakin explained that hop overs would not be appropriate over such large new 'gaps' and was of the view that dormouse gantries would have significant landscape impact and would be unlikely to actually be used¹²⁷. The plots proposed for the skylarks and lapwings are "ungenerous". Dr Foster called the nest boxes "meagre" and was surprised at the "very little provision" for other red list birds. Ms Deakin's view was clear that for ground nesting birds, reptiles and brown hare, a large area is needed particularly given the location which will now be edge of development. Other proposals for mitigation are not properly presented, thought through or demonstrated to have any likely impact. As Ms Deakin noted, by the time it is found out that they have not worked, it would be too late.

The Crossings

100. The proposed valley crossings have not been accompanied with information to demonstrate no adverse impact on badgers, bats, barn owls and other bird species. Whilst ground moving wildlife are able to cross beneath the Main Valley Crossing, the risk of vehicular mortality to low flying species attempting to cross the Main Valley Crossing has been down-played and sufficient information has not been provided with

¹²⁷ She has direct experience of a site where over 8-10 years a gantry has not been used

regard to potential impacts. No information has been presented with regard to shading. Construction had plainly not been considered until a CMS was submitted (contrary to Principle E2). As set out in the Council's response, this has underestimated the impact of construction and not properly investigated how to minimise impact. The Council doubts the efficacy of a 4m haul route and calls it a "*substantial underestimation of what is required*". The Council also doubts that the bridge can be entirely constructed from a single temporary haul road on one side of the bridge. There are no details in respect of construction of bridge abutments (a point specifically raised by Mr Bowden), the location of which, in association with even a restricted working area / earthworks, will encroach into Barn Copse AW and/or its buffer; constructing the proposed twin deck structure with no access via Warren Road will impact the method and the impact, the second deck increases the overall working footprint and the risk of greater concrete spillage and methods like the geotextile base to the temporary haul road are insufficient. As a consequence, the construction footprint has been under-estimated in such a way as to minimise it. A precautionary approach (necessary when dealing with the protection of irreplaceable woodland habitat and European Protected Species) has not been adopted. Furthermore, a single, narrower bridge would reduce construction impact and therefore environmental harm. In respect of the Crook's Copse Crossing, the proximity of the only main badger sett within the Site to the crossing, combined with the presence of outlier / subsidiary setts, presumed to be of the same badger colony (but not determined by survey) both within High Wood and Crook's Copse, would exacerbate the likelihood of badger mortality when attempting to cross the road. The proposed badger ledge within the culverted section of the stream is unlikely to be sufficient mitigation and harm would be done.

101. Therefore, whilst the Council recognises that there must be a Main Valley Crossing and a Crook's Copse Link, the Council's position is that in ecology terms a single, narrower bridge for the MVC with less width and less lighting would be less harmful and a bridged structure rather than an at-grade road would be less harmful to valued and protected species of wildlife.

The Purple Moor Grass and Rush Pasture (HPI)

102. The purple moor grass and rush pasture HPI (M23) covers 0.45 hectares on the appeal site. If it covered 0.5 hectares it would qualify for SSSI but, at present, has county importance and is now being considered for LWS status in its own right. This is habitat of principal importance (HPI) and will be directly impacted by the MVC which overlies it, by construction of this valley crossing, by paths, SuDS and conveyance channels and construction of the latter due to extensive earthworks on sloping ground. This loss is not quantified in any of the permutations of the Biodiversity Net Gain metric provided by the Appellant and there is no adequate mitigation for loss of this HPI. There is wider concern that the wetland marshy grassland habitat within the two valleys, which act as complementary, adjunct semi-natural habitat to the adjacent complex of ancient woodland parcels, will be seriously disturbed and damaged by the sheer quantity of recreational users of the Country Park.

The SuDS

103. This is already covered but it is further reiterated that the location of the proposed SuDS basins and conveyance channels will impact on wetland habitats and wider ecological issues particularly in the narrow northern valley between Slockett's Copse and High Wood and to the south of Slockett's Copse and Slockett's Copse West..

Issue 8:

Whether the submitted bats and badger surveys are adequate

104. Ms Deakin has raised the need for further surveys in relation to the valley crossings in particular, as surveys to date (the most recent being 2019) indicate that there is a reasonable likelihood that protected species are present and will be affected¹²⁸.

¹²⁸ 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...".

105. The CIEEM Advice Note dated April 2019¹²⁹ advises that the surveys undertaken are no longer valid in relation to mobile species including badgers, bats and dormice. The woodlands have not been adequately surveyed, there is serious potential that the particularly rare woodland species of bat; barbastelle bat¹³⁰ may be on the site, having been recorded in the past. Furthermore, other limitations in surveys became apparent during the RTS – for example, the most recent (2019) reptile survey was only carried out in Development Parcel North.

106. According to Circular 06/2005 “*The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances...*”. There are no exceptional circumstances.

Issue 9:

Whether the proposal would provide a biodiversity net gain

107. During the inquiry, Mr West accepted Ms Deakin’s proposition that calculations for Biodiversity Net Gain (BNG) should not include irreplaceable habitats. The Appellants’ position during the RTS was that this is fine because, by removing it, the BNG they say is achieved actually increases. Firstly, Ms Deakin points out through ID45 that the loss of the HPI is not included in the metric. Neither is physical degradation of habitats, substantive displacement of species. The BNG is inflated and must be tempered with a degree of realism.

108. Secondly, and importantly, the position misunderstands the rationale for not including it. The reason for excluding it is because “*The metric focuses on widespread species and typical habitats...impacts on..irreplaceable habitats are not adequately measured by this metric*”.¹³¹ Similarly, protected and locally important species needs are not covered by the metric¹³². As the email from Natural England advises, assessment of AW must be undertaken under para 175(c). It is an entirely separate assessment. Such irreplaceable habitat is so important that its loss cannot be measured

¹²⁹ CD16.3

¹³⁰ Extremely rare

¹³¹ ID23

¹³² ID53

or compensated. If the Council is right and there is deterioration or loss of Ancient Woodland then this is a loss of such magnitude that it renders any BNG claimed technical and academic. More importantly, the loss and deterioration has not been assessed separately, comprehensively and appropriately. The concerns raised are serious, the level of survey information inadequate and, as a result, this should not be a can to be kicked down the “conditions will sort it” road.

109. Furthermore, the BNG achieved on the Site is easy and easily explained by Ms Deakin: *..in simple terms, on a site of this scale the loss of arable land of low value with semi-natural grassland of considerably higher value (albeit a widespread and typical habitat, that is readily created) is easy to achieve.*

110. This proposal is contrary to CS17 which provides that biodiversity assets will be conserved and enhanced. Furthermore, as the development harms directly or indirectly LWS, Ancient Woodland, HPI and species of principal importance, it would only be permitted under CS17 if there are no reasonable alternatives and there are clear demonstrable social or economic benefits of regional or national importance to outweigh the harm. Mr Jones confirmed that he did not argue that the proposal was of regional or national importance. Lastly, for the reasons outlined above, the proposal does not maximise opportunities to achieve net gains in biodiversity. It is contrary to CS14 which requires a proposal to provide, conserve and enhance biodiversity and create linkages between green spaces and wildlife corridors (rather than the contrary). It is also contrary to para 175(c) NPPF and Strategic Objective 6 of the Sandleford SPD.

Issue 5:

Whether the proposal is acceptable with regard to carbon emissions and renewable energy

111. On 27th June 2019 the UK became the first major economy in the world to pass laws to end its contribution to global warming by 2050¹³³. 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)¹³⁴, it acknowledged that homes

¹³³ Amendments to the Climate Change Act 2008

¹³⁴ CD 8.30

constructed now and in the next decade will still exist in 2050 and that “*more must be done to decarbonise all buildings*”.

112. The Appellants say that this can all be resolved with a condition. It can but the Appellants will not agree to the Council’s suggested condition. After the application was determined¹³⁵, which had offered no improvement on reducing CO2 emissions against the Building Regulations Part L 2013 (BRs), an amended condition was proposed for the first time in April 2021 which would secure a 19% improvement on energy performance standards of Part L 2013 and thereafter to comply with minimum standards as those minimum standards within Building Regulations change over time. As the Inspector pointed out during the round table discussion¹³⁶, this would be necessary with or without the condition proposed as and when BRs are amended.

113. Not only might it be seen as highly unattractive or, as Mr Norman put it, “irresponsible” for developers to propose 1080 home schemes built to the lowest common denominator, built to add to carbon emissions in West Berkshire and contribute to Climate Change rather than seek to ameliorate this emergency, it is contrary to Development Plan policy.

114. The first objective of the Core Strategy¹³⁷ is “Tackling Climate Change”. The LPA set out that its strategic objective was to “*exceed national targets for carbon dioxide emissions reduction and delivery the District’s growth in a way that helps to adapt to and mitigate the impacts of climate change*” (emphasis added).

115. Whilst it is accepted that the Code for Sustainable Homes referenced in CS15¹³⁸ no longer applies, that does not mean that there is no requirement for Sustainable Construction or Energy Efficiency in the Core Strategy¹³⁹.

¹³⁵ Apparently because the Government has clarified that they are not going to change the Planning and Energy Act 2008 and LPAs can continue to set additional local energy efficiency standards further to the Future Homes Standard Government Response issued January 2021

¹³⁶ Carbon Emissions Round Table 7th May 2021

¹³⁷ CD 8.5 page 16

¹³⁸ CD 8.5 page 75

¹³⁹ The supporting text for CS15 provides at para 5.96 that Carbon reduction is a key issue for WBDC; Sustainable construction and CO2 emissions reduction measures form the start of the development are less than if they were retro-fitted afterwards

116. As Mr Grigoropoulos explained in his evidence at the round table session, within Policy CS15 there are two parts and there is no connection between Code for Sustainable Homes and the reductions in CO2 emissions. Indeed, there would be no need for the section on CO2 emissions if it was solely related to Code for Sustainable Homes. Furthermore, it does not say, for example, “in line with the Code for Sustainable Homes”.

117. The requirement in CS15 for zero carbon development is a standalone requirement for major development only and says that it is to be based on CO2 emissions “after the installation of energy efficiency measures related to either the Code for Sustainable Homes, BREEAM **or equivalent method has been applied**” (i.e. BRs). Therefore, apply the Building Regulations but, on top of that (and fulfilling the strategic objective to exceed national targets) the residual impact needs to be zero after 2016.

118. The Appellants argued during the RTS that interpretation of Policy CS15 was assisted by the Core Strategy Inspector’s report¹⁴⁰. It is worth noting that at the time the CS was adopted, NPPF 2012 was in effect¹⁴¹ which used less urgent language¹⁴². Furthermore, if para 133 of Inspector Emmerson’s report is read in full, any concern with the drafting of the policy was because he was concerned about the costs burden. There is no equivalent concern about the costs from planning policy expectations in NPPF 2.

119. As with much of the CS, there is in built flexibility and not rigidity. By virtue of footnote 74, Policy CS15 can adapt as national policy changes. There cannot be an area in which such far reaching change is being considered and proposed than in that of mitigating Climate Change. Footnote 74 simply explains that the requirements imposed are “*in line with stated government aspirations which may be subject to change*”. Firstly, it does not say “*must not exceed government aspirations*”. Indeed, as already noted, the strategic objective is to exceed government targets in this area.

¹⁴⁰ CD 8.10

¹⁴¹ *To support the move to a low carbon future, local planning authorities should....when setting any local requirement for a building’s sustainability, do so in a way consistent with the Government’s zero carbon buildings policy and adopt nationally described standards* (CD 8.3 para 95)

¹⁴² Para 99

Secondly, government aspirations have changed over the life of the CS. Currently, it is plain that government aspirations are going in one direction – to reduce carbon emissions and to achieve net zero. This policy and its requirements are “in line” with government aspirations. Lastly, the wording in the policy box is the policy – not the CS Inspector’s report and not the supporting text. As Mr Katkowski QC said himself in the RTS: “*According to the words on the page, this should be a zero carbon development*” (KK RTS). It is submitted that the caveats that followed, for the reasons above, are not made good.

120. The Appellants, through the Main SOCG, do not accept that CS15 attracts full weight. Policy CS15 does not conflict with the NPPF¹⁴³. Indeed, it is consistent with the NPPF in seeking renewable and low carbon energy (para 148, 151 and 153). It is argued (Owen Jones para 5.32 and Garratt) that CS15 was superseded by the Written Ministerial Statement (WMS) March 2015¹⁴⁴. A Development Plan policy is not superseded by a WMS which has never been consulted upon nor examined. A DP policy becomes out of date if it is inconsistent with NPPF (para 213).

121. No amendment to legislation was made to reflect the WMS. Section 1 (1) (c) of the Planning and Energy Act 2008 still allows for local planning authorities to impose their own reasonable requirements¹⁴⁵.

122. Furthermore, the WMS was not written into the NPPF when amended in 2018 and 2019. The Appellants drew the Inspector’s attention to the PPG on this¹⁴⁶ and

¹⁴³ Para 150(b) says that local requirements for sustainable buildings should reflect Gov policy for national technical standards. They may say we go too far. “Reflecting national technical standards” could be argued to mean exceeding them and I think reason this is here is to ensure no local authority goes under them?

¹⁴⁴ CD 1.13 Appendix C

¹⁴⁵ (1) *A local planning authority in England may in their development plan documents... and a local planning authority in Wales may in their local development plan, include policies imposing reasonable requirements for—*

(a) a proportion of energy used in development in their area to be energy from renewable sources in the locality of the development;

(b) a proportion of energy used in development in their area to be low carbon energy from sources in the locality of the development;

(c) development in their area to comply with energy efficiency standards that exceed the energy requirements of building regulations.

¹⁴⁶ In relation to Para 012 Reference ID: 6-012-20190315, it is submitted that the PPG is in serious need of revision as it is internally inconsistent and inconsistent with other Government guidance.

commented that it leaves the situation in a “pickle”. There is no pickle because the PPG is simply guidance. The WMS is simply guidance. The PPG appears to be written on the basis that section 43 of the Deregulation Act will come into force. We know from the Future Homes Standard Government¹⁴⁷ response that Government will not amend the Planning and Energy Act 2008¹⁴⁸. The PPG needs updating to reflect the current thinking outlined in the the Future Homes Standard Government response which accepted that the combination of the Planning and Energy Act 2008 amendment not commencing and the WMS led to the “current position” which “has caused confusion and uncertainty for local planning authorities and home builders alike”¹⁴⁹.

123. Here we have Development Plan policy and National Policy “in line”. The PPG does also actually state (Paragraph: 001 Reference ID: 6-001-20140306) that addressing climate change is one of the Framework’s core land-use principles that should underpin plan and decision making. The WMS dates from 2015 and, in the context of Climate Change, is of a different generation.

124. CS15 is breached by the proposal.

125. CS3¹⁵⁰ requires the generation of on-site renewable energy. This proposal proposes 12%. When read in conjunction with the Sandleford SPD¹⁵¹ and CS15, that is hopelessly non-compliant.

¹⁴⁷ CD 8.30

¹⁴⁸ Para 2.40 page 20

¹⁴⁹ Paras 2.34-2.35

¹⁵⁰ CD 8.5 page 46

¹⁵¹ CD 8.14

- *The SPD sets out the minimum design and delivery standards which should be achieved....Developers will be encouraged to exceed these standards¹⁵¹*
- From the Vision for Sandleford – first para:
Through maximising sustainable design and construction techniques, the development will mitigate against climate change and minimise carbon dioxide emissions¹⁵¹
- *To deliver the development on site in a way that maximises the potential for carbon reduction, sustainable construction and renewable energy generation¹⁵¹*
- *A key objective of the CS is therefore to exceed national targets for carbon dioxide emissions reduction and deliver the District’s growth in a way that helps to adapt and mitigate the impacts of climate change. The Council has also adopted a policy within the Core Strategy (CS15) that aims to ensure ever greater levels of sustainability¹⁵¹.*
- Section F, Development Principle R¹⁵¹:

126. The WBC Declaration of Climate Emergency is a material consideration as is the target of net zero by 2030.

127. Emerging local plan policy¹⁵² carries little weight in this appeal but is some evidence of the direction of travel in WBDC¹⁵³. In addition, during the RTS, Mr Grigoropoulos read a statement from the Head of Policy within the Council in relation to DC3 in which he confirmed there would be amendments to the draft policy¹⁵⁴.

128. The Swale Decision Letter¹⁵⁵ is a material consideration on this topic and, whilst it is noted that the SoS did not support the Council's suggested condition for that proposal, the circumstances can be differentiated. Firstly, it must be noted that the DL quoted from a response from the Minister for State for Business, Energy and Clean Growth to Swale Borough Council identifying that the ability to set minimum renewable requirements would not be affected by any changes to legislation that LPAs

R1: *“fully exploit the latest sustainable construction techniques together with ‘building embedded’ technology...in order to minimise the use of resources, maximise efficiency and reduce both carbon emissions and energy consumption..”*

Explanatory text R1: *“...significant potential to deliver exemplar site regarding carbon dioxide reduction in the form of renewable energy generation and the sustainable construction standards.”*

The Appellants drew attention to para 100 of the SPD which states that the targets will need to accord with CS15 and that they will “need to be reviewed at regular intervals over the life of the build as Government policies and targets evolve”. Government policies and targets have evolved – net zero by 2050 and the Future Homes Standard Government response¹⁵¹ which states that “local planning authorities will retain powers to set local energy efficiency standards for new homes” with no limit imposed. Para 100 supports the Council's case with regard to CS15 and the requirements of the SPD.

¹⁵² CD 8.13

¹⁵³

- Strategic Objective number 1 is still Climate Change¹⁵³ (page 11);
- SP5¹⁵³ “Responding to Climate Change” in its introductory paragraph states that “All development should contribute to West Berkshire becoming and staying carbon neutral by 2030”; and that
- ..development will be expected to satisfy “all of the relevant following criteria”:
 - To take advantage of the latest low and zero carbon technologies and innovations;
 - To achieve highest viable levels of energy efficiency;
 - To generate and supply renewable, low and zero carbon energy for its own use and/or local distribution....
- SP16¹⁵³ which is the site specific policy for the SSSA expects “On-site renewable energy to assist in the delivery of a carbon neutral development”.

¹⁵⁴ *In consultation with the Planning Policy Manager, I can confirm that Policy DC3 on Building Sustainable Homes and Businesses as currently drafted will be changed to remove reference to the Homes Quality Mark. This will be with the intention to maximise energy efficiency and to reduce as much as possible the on-site regulated carbon.*

¹⁵⁵ ID7

cannot set standards to exceed BRs (which now will not happen in any event – Future Homes Standard Response).

129. Secondly, the SoS recognised the emergency and the weight accorded to it is relevant¹⁵⁶ (significant).

130. However, both the Inspector¹⁵⁷ and the SoS recognised that the proposal did comply with Development Plan policy. Even so, the Inspector found that the “*need for action increases daily*”¹⁵⁸ and that “*The planning regime has a role to play and cannot leave climate change to other regimes to deal with particularly when those regimes have not kept pace with the requirement to take urgent and material action*”¹⁵⁹.

131. In rejecting the condition proposed by the Inspector, the SoS did so only because there was no planning policy to justify it and the Council’s guidance had not been through a public examination process and there was no existing or future local plan policy. The SoS also stated that the proposed conditions went beyond current and emerging national policy. There is no reference to what the “current and emerging national policy” is. It is submitted, for the reasons outlined above, that the PPG and the WMS are outdated and are guidance, that the NPPF does not set any limits and there are no limits in law. In any event, the decision maker in this appeal need not search for a national policy to justify the Council’s proposed condition because the clear difference is that WBDC has a local plan policy that has been through public examination and which the latest AMR¹⁶⁰ says is the relevant policy, it has an SPD for Sandleford which was consulted upon and which builds on and refers to the requirements for net zero.

132. The condition proposed is reasonable and necessary because of the policy position, because of the climate emergency and because this is one of the largest single developments across this district which should set an example to developers and provide comfort to residents that planning policies and declarations (local and national)

¹⁵⁶ Para 36

¹⁵⁷ Para 11.89 ff

¹⁵⁸ Para 11.96

¹⁵⁹ Para 11.97

¹⁶⁰ ID8

are meaningful. Future generations deserve better than the lowest common denominator.

133. Building Regulations lag behind climate change evidence. By sinking to the lowest common denominator, this will make the Council’s local target to reach net zero by 2030, adopted in September 2020 as part of its Environment Strategy¹⁶¹, impossible. It is inexplicable to everyone except housebuilders how proceeding with minimum possible compliance, adding to carbon emissions, can possibly be permitted. One wonders how future generations will look back on these defining moments. The Council’s proposed condition is lawful.

Issue 14:

Whether the submitted unilateral undertaking would deliver the necessary infrastructure and comply with the tests

134. The draft unilateral undertaking (UU) will deliver the necessary affordable housing, highways, travel plan, education, sport facilities, open space and health infrastructure required to mitigate the impact of development. The Council submits that the relevant tests are complied with. However, some crucial elements are still not delivered.

135. Critical Infrastructure for the SSSA is listed in Appendix D of the Core Strategy and Appendix 3 of the Sandleford SPD, and the following are not delivered via the unilateral undertaking:

- (a) The bus link through the site to Warren Road (Strategic Objective 2, APP 3 Infrastructure Requirements Sandleford SPD and Appendix D Core Strategy);
- (b) An all-vehicle access link through Warren Road (Strategic Objective 3);
- (c) Improved cycle link at Andover Road (App 3 Infrastructure Requirements Sandleford SPD).

136. Policy CS3 requires “Provision for retail facilities in the form of a local centre and business employment”. Section F of the Sandleford SPD required community

¹⁶¹ CD 8.25

facilities including “Small scale retail facilities to provide at least one local shop/convenience store” and a “A space for indoor community use...”. The UU currently (at the time of writing) allows for a marketing period of 18 months after which a change of use can take place. Given that Mr Jones claims this as a planning benefit, he confirmed that a period of 18 months was not long enough during his XX. Furthermore, the unit may be less attractive prior to the adjacent 500 homes coming forward. Despite it being proposed in the description of development for which planning permission is sought, the Local Centre as currently proposed to be secured via the UU may never be delivered.

Issues 11 and 15:

Whether the proposed development would restrict, prevent or preclude the development of the New Warren Farm site and the timely delivery of infrastructure for the allocation as a whole;

Whether the proposal is acceptable in absence of a single planning application

137. A single planning application is required by relatively recently adopted Policy GS1¹⁶² and by Development Principle S1¹⁶³.
138. The single application required by S1 is not just to achieve comprehensive development and ensure timely provision of infrastructure, services, open space and other facilities in a properly coordinated fashion. It is also to “ensure the optimum approach to the development” and to enable “a comprehensive development across the site which maximises its potential as a well-planned and sustainable urban extension”. It will “ensure...deliver[y of] one community” and “ensure that it achieves the vision and objectives for the site as set out within the SPD”. The SPD, all 95 pages of it, relates to the allocation and not to separate parts or parcels.
139. Any argument that the local plan review is considering dropping the requirement for a single planning application must be seen in the context that this is emerging, carries little weight and, in any event, still requires comprehensive development.

¹⁶² CD 8.6

¹⁶³ CD 8.14 page 31 – inserted separately and deliberately in March 2015

140. In order to assess whether this appeal scheme maximises the potential of the SSSA, it has to be considered as against what would be provided for the SSSA. Because of the Council’s open commitment to consider CPO, that is not a fantasy.
141. The Memorandum of Understanding (MOU) does nothing more than pay lip service to cooperative working. It is not legally binding. The Combined plans, that are lauded as demonstrating the cooperation and close working between the sites, are deficient. The Combined Green Infrastructure Parameter plan¹⁶⁴ does not show pedestrian and cycle access points corresponding to the Access parameter plan for the appeal¹⁶⁵. That does have a bearing on the appeal site¹⁶⁶. The Combined Building Heights Plan¹⁶⁷ does not have heights in metres. The inconsistencies at Item 51 Appendix 3 Rebuttal OJ, pointed out by the Council, like those at items 27, 28, 29, 30, 35, 38, 39, 40, 42 are met with the response that there is “no bearing on the appeal site”. There is no point to these purported “Combined” plans – they are not produced to form the basis of any application or for any reference to this appeal other than to show that the parties can work together to produce a set of parameter plans that are inaccurate.
142. 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. Mr Goddard provided evidence to the Inquiry that this application would not comply with CS3 and that there are “quite limited” bus services currently on Andover Road with 5 services per day only between Newbury and Andover. Further bus services are “quite some distance away”. Mr Goddard was clear that the bus route terminating at the Local Centre, turning around and going back out of the site the same way they come in was acceptable up to a certain point i.e. acceptable on the basis that eventually the bus route is expected to progress through the site (rather than double backing on itself) and on to Andover Road and what he called a “sustainable transport link” and “full vehicular access link”. Mr Goddard, in his proof of evidence at para 3.30, set out that the bus

¹⁶⁴ CD 1.28

¹⁶⁵ CD 1.8

¹⁶⁶ Contrary to the comment at Appendix 3 OJ Rebuttal item 36

¹⁶⁷ CD 1.29

service “*is shown to loop and return. In my view, this is not ideal, as it reduces viability of the service. I would consider that by the time DPC commences the link through to Warren Road could be available and should be used to increase the chances that the service would be viable*”. Para 2.18 of the Highways SOCG¹⁶⁸ is used against Mr Goddard but that paragraph is plainly subject to prior clauses and his proof is clear. Mr Jones accepted that nothing about the “loop and return” bus route had changed between Mr Goddard writing his proof and the Highways SOCG being submitted by the Appellants. The reason viability is mentioned is because a loop and return bus route is highly unattractive and no one will use it. However, the bus route linking through to Warren Road makes it more attractive.

143. Whilst the Council accepts that the access to Andover Road depends upon the outcome of the planning application being made on the adjacent site, the point is that no one knows what the outcome will be, whether it will ever be implemented, whether development will ever happen. Bearing in mind that there has been no development for almost 9 years, it cannot be assumed. On the application before the Secretary of State, the proposal fails to comply with CS3 and CS14 and ADPP2 in relation to the bus service.

144. The requirement for the Central Valley Crossing to provide emergency access would not be necessary were it not for the separate applications. This is because, were the planning application to be made for the whole site, provision for emergency access would be made through the site on to Warren Road and Andover Road. In the absence of that permeability through the site, crucial for emergency access, the Central Valley Crossing requires additional width. Despite the case put forward by the Appellants on this matter, there is plainly additional bulk to the structure which causes landscape, ecology and hydrology harm which would not arise but for the approach now taken.

145. It is not argued by the Council that allowing the appeal will prevent, preclude or restrict development on the adjacent site. It is submitted that is the wrong test. The test is: what will allowing the appeal not deliver and how will that fail to maximise the

¹⁶⁸ ID11

potential of the SSSA. As a matter of fact, insofar as it is relevant to the comprehensive development issue, it will not deliver:

- (a) Housing on the adjacent site so will fall short of maximising housing delivery (SO1);
- (b) The bus link through the site to Warren Road (SO2, APP 3 Infrastructure Requirements Sandleford SPD and Appendix D Core Strategy);
- (c) An all-vehicle access link through Warren Road (SO3);
- (d) Improved cycle link at Andover Road (App 3 Infrastructure Requirements Sandleford SPD)
- (e) The site holistically as one community, within which there are two new neighbourhoods to the north and to the west of the site (SO11);
- (f) Infrastructure needs arising from the development planned and delivered comprehensively in a timely and coordinated manner which keeps pace with the development (SO 14).

146. Furthermore, there is no certainty that the adjacent site will come forward at a similar time to the appeal site or at all. The “coordination” between the parties is not demonstrated in any real way. There are no deadlines for either side to meet, no uniformity in those instructed to design, no penalties for any failures. The Council is to become the “arbiter” and will be able to control everything from design to contribution strips. From ID54, it is interesting to note that, in relation to the North East Thatcham site allocation, the Partnership consists of four sites and the Council is *“aware ...that the Partnership has negotiated a collaboration agreement which is in the process of being signed by all parties”* and a single application for the entire site is expected to be submitted. Donnington New Homes is part of the Partnership. The attempts to show that the “will” is there are simply not substantiated.

147. In the absence of a collaboration agreement, a legal agreement, joining the adjacent site to the s.106 obligation, the Council, as the inquiry heard through Mr Grigoropoulos, is now ready to pursue compulsory purchase which would ensure a single application and control over the whole allocation to achieve the strategic objectives.

148. This has the added benefit of avoiding the following harms and risks:

- (a) A wider than necessary central valley crossing to accommodate the emergency access;
- (b) DPC being a large cul-de-sac served by a bridge;
- (c) the lack of public transport, vehicle and cycle connectivity to the west of the site;
- (d) risks to infrastructure as identified;
- (e) difficulties with design codes which range from difficulties with enforcing to difficulties prioritising one development over the other¹⁶⁹;
- (f) unnecessary increased harm to the sensitive environment of the central valley due to the lack of availability of a second access from the west;
- (g) concern regarding the imposition of the contribution strip which risks the possibility that the 2 parts of the SSSA may never connect and there may never be a comprehensive and cohesive development.

The Planning balance

149. The ordinary planning balance under s.38(6) applies. The proposal is in conflict with several Development Plan policies relating to landscape, biodiversity, trees, suitable sustainable drainage and renewables (CS 15, 16, 17, 18, 19). In addition, the proposal does not comply with ADPP1, ADPP2, C1, C5, GS1. In relation to CS3, it has failed to deliver the housing it should have, it fails to provide a bus route and cycle route from Warren Road, it fails to conserve the areas of AW. These are critical parameters within CS3 and cannot be overlooked.

150. Conflict with an up-to-date development plan can be accorded substantial weight. There are conflicts with the Sandleford SPD and the NPPF and the emerging plan which also weigh against the proposal. The proposal conflicts with the Council's declaration of a climate emergency. There is also the residual highways harm which will be unmitigated (para 3.26 Paul Goddard PoE).

¹⁶⁹ NG EIC

151. The benefits include housing and affordable housing in a district in which there is a robust 5 year housing land supply. As to market housing, that is not a benefit of substantial weight. As has been seen, this LPA has successfully delivered housing without the Sandleford allocation for years (it currently has a 7.6 year supply). It is proactive and takes steps required when sites like this fail to deliver. Any housing is a benefit but it should not be inflated.
152. The Council, in accordance with Policy CS1, has provided for the delivery of 10,500 dwellings long before the end of the plan period.
153. If the Appellant is to gain weight in the Housing Balance for market housing because of completions data, then it is not good enough to speculate about the Council's completions record. Table A11 of the AMR substantiates the completions trajectory. There are a number of game changers that mean that it is entirely reasonable for the Council to predict higher completions over the next few years:
- (a) Newbury Racecourse continues to complete new homes and comprises a mixture of flats and houses;
 - (b) The HSA DPD and the Mortimer NP were both adopted in 2017 and completions are now coming through that could not have come through in previous years;
 - (c) The row for "Committed sites of 10 or more" can now account for completions at North Newbury where construction is underway.
154. The Council evidence in the AMR on completions has not been meaningfully challenged.
155. The shortfall in affordable housing is not agreed. The global figure of 319pa¹⁷⁰ includes a figure for the new widened definition of those in need but for which there is no guidance available. It is nothing more than an estimate. By including those who can afford to rent but cannot afford to buy (and aspire to buy) care must be taken not to prejudice the delivery of affordable housing for those in the most acute need (163 pa). Whilst the Council accepts the need is high, it is not accepted that its shortfall is over 200 per year. This is for a number of reasons:

¹⁷⁰ Table 9.1 CD 8.19

(a) The figure of 319 is not accurate, not based on any guidance¹⁷¹ and is a best estimate;

(b) Table 3.10 of the AMR¹⁷² shows the Total Deliverable Supply as 4314 from 2020 to 2026. A broad brush calculation of 35%¹⁷³ that is sought as an overall target means this is 1510 which over 6 years is 252pa. Whilst not every site will deliver 35%, Table 3.22 shows New Permissions above affordable housing threshold. This demonstrates 94% for permissions of 15 or more units, 100% for permissions 10-14 units and 46% for permission 5-9 units. Out of the 4314 supply, if the numbers identified for prior approvals are removed (re-examination OJ) (464 and 32) and those for the small site windfall allowance are allowed 54% to take account of the success rate shown in Table 3.22, the total is 3583. At 35% that would be 1254 which is still above the round figure of 1200 put to OJ in XX. It equates to 29% of total deliverable supply which is not significantly under the 35% “broad brush” taken. But during the “broad brush” exercise in XX, the figure put to Mr Jones was actually 1200 which averaged at 200 per year. The more exact arithmetic and the 29% allowance produces 1254 which averages at 209 per year. Evidently, more permissions have been granted since March 2020 also which are not included in the AMR.

(c) The acute need is 163 pa and that can be met.

156. “Facilitating” the delivery of the adjacent site is not a benefit. The allocation is supposed to be delivered by virtue of a single planning application or is supposed to be delivered. Facilitating the delivery facilitates the policy non-compliance.

157. The off-site highway works, the school expansion, the local centre – these are all required whether or not Sandleford West comes forward. The need for them arises as a result of this appeal proposal and, as contributions are expected to be repaid, these cannot be seen as benefits.

¹⁷¹ Para 4.61 CD 8.19

¹⁷² ID8

¹⁷³ See para 5.31 of the CS

158. For the reasons above, the Local Centre may never materialise. That is not a benefit if it cannot be secured¹⁷⁴.
159. The economic benefits are not unique. The weight accorded to the CIL payment is misplaced by virtue of PPG¹⁷⁵. This sets out that according to s.70(4) of the 1990 Act, payment of CIL is a “local finance consideration” and “decision takers need to ensure...its connection to the development”. Mr Jones simply responded that £6 million was a benefit that ought to be taken into account but did not state how it should be taken into account because he cannot point to any connection to the development.
160. The Council submits that the contention that the disbenefits arising are as a result of the allocation, is not correct. At the stage of allocation, information available was not in the detail as it is before this inquiry. The Core Strategy Inspector could not possibly have understood that 250m x 6m of hedgerow at Monks Lane would be removed (the Council’s witnesses did not understand that until recently) or that there would be unmitigated traffic impacts (albeit not severe), or that the ecology harm (presented by site promoters at the CS Examination) could be at the level it is.
161. Aside from the issues that give rise to policy conflict, the Council also points to the lack of permeability and connectivity, the failure to provide the Community Facility the woodland mineral impact, the missed opportunity to properly respond to the historic landscape character as other disbenefits.
162. There are benefits but they cannot and do not outweigh the extensive Policy conflict (which amounts to conflict with the Development Plan as a whole) and/or the material considerations and disbenefits weighing against the scheme.

Conclusions

163. As was said in opening, 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,

¹⁷⁴ Agreed by OJ XX

¹⁷⁵ PPG Paragraph:011 Reference ID:21b-011-20140612

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.

164. Table 3.6 of the latest Annual Monitoring Report (AMR)¹⁷⁶ 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.

165. Allocation does not mean that any proposal put forward will be granted. The Sandleford SPD¹⁷⁷ is an important material consideration but it is not a self contained tick box exercise or mark scheme for the proposal to pass or fail. 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. Furthermore, the proposal fails against the mark scheme – it is contrary to Strategic objectives 1, 2, 4, 5, 6, 7, 8, 9, 11, 13 and 14. It is also in conflict with several paragraphs of the NPPF including 170 and 175(c).

166. The mantra of the Appellants throughout this appeal has been: allocation¹⁷⁸, reserved matters, detailed design¹⁷⁹ and conditions. This Council does determine outline planning permissions routinely. It knows what they are. But this outline application is full of errors, inaccuracies, inconsistencies¹⁸⁰, scrabbling around to put forward new designs at the 11th hour. And when all that doesn’t work, fall back to the mantra, the developable area can change, density can change, things can move that have never been assessed.

¹⁷⁶ CD 16.7

¹⁷⁷ CD 8.14

¹⁷⁸ 14 references by JC alone

¹⁷⁹ 7 references in the RTS by West alone

¹⁸⁰ A huge number of inconsistencies needed clarification in Appendix 3 OJ Rebuttal

167. West Berkshire has waited 9 years for an acceptable proposal for this special site. With the Council's robust housing land supply, the Council repeats that there really 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 for a planning application that does demonstrate a carefully struck balance between built environment and natural environment. If not, the Council has plans of its own.

168. The Secretary of State is respectfully invited to dismiss this appeal.

EMMALINE LAMBERT
CORNERSTONE BARRISTERS
2-3 GRAY'S INN SQUARE
LONDON

28th May 2021