

## Statement of Case

Land bounded by Hoad Way and M4 and High Street, Theale

Appeal by CP Logistics UK Reading Propco Ltd.

Against the decision by West Berkshire Council to refuse planning permission for:

*“Full planning application for the construction of 2 employment units for flexible uses within Class E (light industrial), B2 and/or B8 of the Use Classes Order (including ancillary office provision) with associated enabling works, access from Hoad Way, parking and landscaping.”*

LPA application reference: 24/00145/FULMAJ

February 2025

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Appendix 1: Industrial & Logistics Needs Assessment, prepared by Savills (February 2025)

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Appendix 2: Flood Risk Sequential Assessment, prepared by Turley

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Appendix 3: Flood Risk Assessment – Addendum, prepared by BWB Consulting

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**Client**

CP Logistics UK Reading Propco Ltd.

**Our reference**

FIRS3002

14<sup>th</sup> February 2025

# 1. Introduction

1.1 This Statement of Case has been prepared by Turley on behalf of CP Logistics UK Reading Propco Ltd (the 'Appellant') to support an appeal against West Berkshire Council's (the 'Council') decision to refuse a full planning application (ref. 24/00145/FULMAJ) for commercial development on land bounded by Hoad Way, the M4 and A4 and High Street in Theale (the 'Appeal Site').

1.2 The Appellant's parent company is Panattoni who is the world's largest privately owned industrial developer.

1.3 The description of development is:

*"Full planning application for the construction of 2 employment units for flexible uses within Class E (light industrial), B2 and/or B8 of the Use Classes Order (including ancillary office provision) with associated enabling works, access from Hoad Way, parking and landscaping."*

## **Statement of Common Ground**

1.4 A draft Statement of Common Ground ('SoCG') is submitted with this appeal. It is expected that a signed SoCG will be available prior to the Inquiry commencing, in accordance with normal procedure.

1.5 Further statements of common ground on technical matters may be produced should this be necessary to assist the Inspector in identifying any areas of agreement or disagreement between the parties.

## **The Application Decision**

1.6 The planning application forming the subject of this appeal was validated by the Council and given the reference 24/00145/FULMAJ (herein referred to as 'the Application').

1.7 The Council's Officer recommended that the Application be refused and the decision was taken under delegated powers. The Application was refused for the four following reasons:

*" 1. The application site comprises some 5.4 hectares of greenfield land outside of, but adjacent in part, to the settlement of Theale, a Rural Service Centre. Policy ADPP1 of the West Berkshire Core Strategy 2006-2026, states that within the countryside only appropriate limited development will be allowed focusing on addressing identified needs and maintaining a strong rural economy. The proposed development does not specifically support the rural economy nor is it limited in scale. The supply of employment sites across the district for the next 10 years will be successfully managed through the Local Plan Review with a commitment from the Council to revisit this to ensure adequate longer term delivery up to 2041. As such the short term needs for commercial space are adequately met and there is no immediate need for sites."*

*The significant scale of the use and built form is far from limited and is not considered to be compatible with the nearby residential uses. Policy CS9 of the West Berkshire Core Strategy seeks to ensure that uses are compatible. The proposal introduces a large scale commercial use immediately adjacent to an otherwise predominantly residential area with associated amenities. The existing pattern of uses in the surrounding area maintains a greater separation and distinction between the residential settlement of Theale and the commercial area to the south, which would be eroded by the proposed development.*

*Accordingly the proposal fails to comply with Policy ADPP1 and CS9 of the West Berkshire Core Strategy 2006-2026 and the economic objective of the National Planning Policy Framework which seeks to ensure that new development is in the right place.*

*2. The application site is located within Flood Zone 2. Policy CS16 of the West Berkshire Core Strategy 2006-2026 states that the sequential approach will be strictly applied across the district with the aim of locating new development within those areas at lowest flood risk. The policy clearly states that development will only be accepted if it is demonstrated that that it is appropriate at that location and that there are no suitable and availability alternatives at lower flood risk. Due to concerns for the methodology which underpins the sequential test; the suitability and accuracy of the evidence base which unpins the search and the approach taken to exclude sites based on their size, the application fails to demonstrate that there are currently no alternative sites available at lower risk of flooding. As such the proposals fail to comply with the requirements of Policy CS16 of the West Berkshire Core Strategy 2006 – 2026 and the guidance within the National Planning Policy Framework and Planning Practice Guidance.*

*3. The site comprises of some 5.4 hectares of relatively flat grassland with some areas of trees / shrubs. The site is semi-open along its southern, western and northern edge to the surrounding area and wider landscape. Towards the eastern end overhead electricity cables cross the site with one large pylon. The site is located on the eastern edge of the historic village settlement of Theale and is partly within the Theale High Street and Blossom Lane Conservation Area. The application site is important to the semi-rural setting of this part of the village.*

*The loss of the greenfield site and the proposed buildings by virtue of their scale and design will have a significant adverse effect on the landscape quality of this area and the setting of the National Landscape and view across to it. The impacts will also harm the setting of the High Street and Blossom Land Conservation Area, and adversely effect the separate identify of Theale from Calcot and degrade the approach and gateway into Theale, an historic settlement. The scale of the proposed buildings is vastly disproportionate to the scale of the existing dwellings and commercial businesses which boarder the site as these are predominantly 2 storey and the jarring impact of this can be seen from a range of vantage points along the High Street. Furthermore, the proposals will have an adverse effect on identified valued landscape features and qualities. For these reasons the proposals fail to comply with Policies ADPP5, CS14 and*

*CS19 of the West Berkshire Core Strategy 2006-2026 and the guidance within the National Planning Policy Framework and the AONB Management Plan.*

*4. The site is set on the edge of the historic village of Theale partly adjacent and within the Theale High Street and Blossom Lane Conservation Area. The site is visible from the eastern most edge of the conservation area with the entrance into Theale from Hoad Way being amount the most prominent. Here the undeveloped character of the site contributes to the original village setting of Theale Policy CS19 of the Core Strategy seeks to conserve and where appropriate enhance heritage assets and their settings in line with paragraph 8 of the National Planning Policy Framework.*

*The proposed development will have a negative impact on the setting of the conservation area and result in the loss of legibility to the eastern part of the conservation area. The proposed built form is also distinctly out of keeping with the appearance and scale of the existing buildings on the edge of the settlement. This harm is further accentuated by the use of the grey gradient panels which area strikingly graphic. The proposed development will result in Moderate/High level of less than substantial harm to the setting of the conservation area. Despite being less than substantial, this harm is real and serious and outweighs public benefits. As such the proposals fail to comply with Policy CS19 and CS14 of the West Berkshire Core Strategy 2006 – 2026 and the guidance within the National Planning Policy Framework with regards to conserving and enhancing the historic environment.*

- 1.8 This Statement of Case sets out the Appellant’s case in response to the reasons for refusal and other material considerations.

#### **Documentation**

- 1.9 The Appellant will seek to agree a core document list with the Council in the SoCG.

## 2. The Appeal Site and its Surroundings

- 2.1 The Appellant has set out a description of the Appeal Site and its surroundings within the draft SoCG submitted with the appeal. This matter is also set out within the material submitted with the application and the description below is taken from the Planning Statement.

### **The Appeal Site**

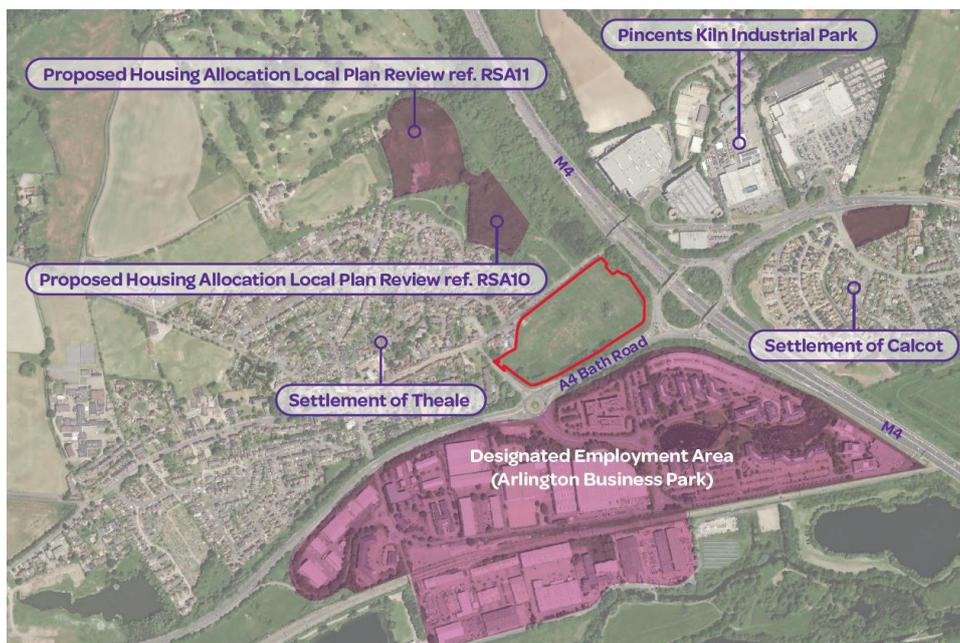
- 2.2 The Appeal Site is located to the south of Theale and directly to the west of Junction 12 of the M4 providing strong strategic transport links. The southern boundary of the site aligns with Bath Road providing access between Newbury and Reading.
- 2.3 The Appeal Site comprises a grass field extending to circa 5.4ha. The site is broadly rectangular in shape with no built form or public access. Power cables cross over the site and there is a pylon within the site itself. The northern boundary of the site benefits from an established hedgerow.
- 2.4 The Appeal Site abuts the High Street to the north with a number of residential properties abutting the north-west corner of the site. Vehicular access along the High Street to the north of the site is limited by barriers, but cycle/ pedestrian access remains. This route leads to a footbridge across the M4 to Pincents Lane, Calcot.
- 2.5 The M4 is located along the north-eastern boundary with a small inset on the northern corner which is outside the site boundary and is associated with the existing telecommunication mast. The south-eastern corner abuts the spur road from Junction 12 of the M4 to the Bath Road that runs along the southern boundary of the site. These boundaries of the site are screened by existing landscaping including established trees.
- 2.6 The western boundary aligns with Hoad Way connecting the A4 to Theale High Street. Adjacent uses comprise predominately road infrastructure (east, south and west) with a number of residential properties abutting the north-western boundary.

### **Surrounding Area**

- 2.7 The character of the site is considerably influenced by infrastructure arising from the surrounding road network of the M4 carriageway and Junction 12, as well as the A4 Bath Road and Theale High Street. The site sits adjacent to the strategic road network for West Berkshire and the wider Thames Valley.
- 2.8 The A4 lies to the north of the established and designated employment sites known as Arlington Business Park and Theale Industrial Estate. Arlington Business Park consists of mainly office buildings within a landscaped setting, whilst Theale Business Park comprises predominantly warehouse development with limited landscaping and a large proportion of loading bays, yard areas and parking associated with the distribution uses. Arlington Business Park and Theale Industrial Estate are also accessed off the A4 Bath Road.

- 2.9 To the west of the site lies James Butcher Drive where there are existing three storey residential apartments accessed from Hoad Way. There is a tree belt along the site boundary with well-established trees. Further west lies the centre of the village of Theale which has a range of residential, retail and commercial properties. It is acknowledged that the site falls within the setting of the Theale conservation area and that a very small proportion of the site falls within it.
- 2.10 To the north of the site there is a modern residential estate on the other side of the old High Street. This estate abuts an undeveloped field further east (subject to an approved planning application for a 160-bed hotel in 1988, which was never built out). Part of this field is proposed for allocation as a housing site within the emerging Local Plan currently the subject of examination under Policies RSA10-11. This land It is noteworthy that proposed allocation RSA11 is further away from the settlement edge than the proposed development and closer to the National Landscape.
- 2.11 The A4 Bath Road also runs to the south of the site, meaning the site is highly connected to major transport routes, principally the M4 Motorway at Junction 12.
- 2.12 Beyond the M4 immediately to its east is another established employment area (Pincents Kiln Industrial Park) and the settlement of Calcot. Pincents Kiln Industrial Park comprises an IKEA retail warehouse with a large multistorey car park, a second large retail warehouse (currently occupied by Dunelm), a large Porsche dealership and servicing centre and a large retail park comprising a Sainsburys, McDonalds, Sports Direct, Boots and B&M. There are several other business/industrial units further into the industrial park. These uses sit directly adjacent to the National Landscape. It is of note that during the Local Plan examination the Inspector has instructed the Council to extend the settlement boundary to include this area.
- 2.13 This is all clearly depicted in Figure 2.1:

**Figure 2.1: Site and Surroundings**



- 2.14 With regard to accessibility, the closest bus stops to the Appeal Site are located on the High Street in Theale within 150m of the site. There are two main bus services that provide access between Reading Town Centre, Calcot, Thatcham and Newbury and run half hourly every day. The closest railway station is approximately 900m to the south-west of the site and offers regular services between Newbury, Reading and London Paddington.

### **Development Plan Designations**

- 2.15 For the purposes of the adopted Development Plan, a small part of the Appeal Site is located partially within the Theale High Street Conservation Area. The site falls within Flood Zones 1 and 2. The site is outside the existing settlement boundary of Theale which currently extends to the rear of the properties abutting the northern boundary and along the western edge of Hoad Way.
- 2.16 The Lower Pang Valley and Sulham Stream Biodiversity Area is located to the north of the site, on the other side of High Street. A small and narrow part of the North Wessex Down National Landscape (former AONB) boundary is positioned to the north-east of the site and extends across the M4 to the east.

### 3. The Development Proposals

#### Description of Development

3.1 The description of development is as follows:

*“Full planning application for the construction of 2 employment units for flexible uses within Class E (light industrial), B2 and/or B8 of the Use Classes Order (including ancillary office provision) with associated enabling works, access from Hoad Way, parking and landscaping.”*

#### Layout, scale and appearance

3.2 The proposed quantum of development, the size of individual units and the servicing areas have been designed specifically to accord with prevailing market conditions and occupier requirements, as well as taking into account comments on the previously withdrawn applications.

3.3 The proposed development comprises a total floorspace of 9,645 sqm GIA.

3.4 It comprises of two units of 49,045 sq ft and 54,769 sq ft GIA, all for a flexible Class E (light industrial), B2 and B8 Use. The range of units and the flexible use proposed ensures that there are opportunities for a range of occupiers to locate to the site.

3.5 The units are located to the west and centrally within the site. The north eastern section of the site is proposed as open space and landscaping. Table 3.1 below outlines the key characteristics of each unit:

**Table 3.1: Key Characteristics**

Unit	Key Characteristics
1	<ul style="list-style-type: none"><li>• GEA – 50,329 sq ft including mezzanine</li><li>• 2 Level Access Doors</li><li>• 5 Dock Access Doors</li><li>• 60 car parking spaces</li><li>• 10 trailer spaces</li><li>• 20 cycle spaces</li></ul>
2	<ul style="list-style-type: none"><li>• GEA – 56,124.8 sq ft including mezzanine</li><li>• 5 Dock Access Doors</li><li>• 2 Level Access Doors</li><li>• 60 car parking spaces</li><li>• 10 trailer spaces</li><li>• 20 cycle spaces</li></ul>

3.6 The buildings are 13m to the top of the parapet.

### **Access and Parking**

3.7 The appeal proposals include a single vehicular access and egress point from Hoad Way, comprising a priority junction.

3.8 The Appeal Site is laid out in order to allow the 25m HGV turning circles.

3.9 Two pedestrian accesses are proposed. One from the High Street, which provides access to the shops and facilities within Theale and the other along the vehicular access point from Hoad Way.

3.10 Parking (for all vehicle types) for each unit is provided as set out in Table 3.1.

### **Landscaping**

3.11 The landscape strategy for the Appeal Site looks to create a strong landscape buffer that softens the interface between the site and the adjacent village of Theale. These buffers will be utilised for the creation of a mosaic of habitats while also reinforcing the existing boundary vegetation. Internally, the landscape design will seek to create an attractive formal business park feel through the use of hedgerow, larger stature trees, close mown grass verges and ornamental planting with breakout space created for the benefit of employees and visitors to the site.

3.12 Development has been sensitively set back from High Street to respect the visual amenity of the residential properties. A landscape buffer with a native tree and shrub mix will run along the High Street boundary to strengthen the existing tree line, this will provide increased visual screening and soften the potential visual impact of the built form.

3.13 The existing perimeter vegetation is defined by well-established semi-mature trees which contribute to the containment of the Appeal Site. These will largely be retained, with the exception where removal of some vegetation will be necessary to facilitate the proposed vehicular entrance. Root protection areas of existing trees have been respected.

3.14 Additional supplementary tree and shrub planting is proposed to perimeter vegetation to strengthen the boundaries. This is specifically required where the Appeal Site borders Bath Road. Landscaping to the access road will be formal in appearance to establish a threshold into the development and will utilise avenue tree planting, clipped native hedgerows, close mown grass areas, ornamental planting and low groundcover planting.

3.15 Landscaping to the wider Appeal Site will be more naturalised in appearance and will utilise a native tree and shrub mix, species-rich grassland mixes and seasonal bulb planting as well as individual native tree planting. Overall, the planting will optimise opportunities for landscape enhancement to soften the built form and service yards whilst assimilating the proposals within the existing landscape context.

## 4. Government's Growth Agenda

- 4.1 On 30 July 2024, the new Labour government published a draft revised National Planning Policy Framework ('the Framework') for consultation and an accompanying Written Ministerial Statement (WMS) by the Deputy Prime Minister, Angela Rayner MP. The accompanying WMS set out the Government's aspirations to drive the delivery of new homes, stating:

*"I've come to the House to make a statement about this government's plan to get Britain building. Delivering economic growth is our number one mission. It's how we'll raise living standards, for everyone, everywhere... The only way we can fix our public services. So, today I am setting out a radical plan to not only get the homes we desperately need. But to also drive the growth, create jobs and breathe life back into our towns and cities."*

- 4.2 The latest revised Framework was subsequently published in December 2024. The new Framework sets out the Government's planning policies for England and how these are expected to be applied.

- 4.3 In respect of economic development the Framework states that:

*"significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development." (para 85)*

- 4.4 Recognition is also given to the need to consider greenfield sites to achieve the economic growth required in paragraph 89, which states:

*"Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist."*

## 5. Relevant Planning Policy Context

- 5.1 Section 54(a) of the Town and Country Planning Act (1990), as amended by Section 38(6) of the Planning and Compulsory Purchase Act 2004, states that Local Planning Authorities (LPAs) should determine planning applications in accordance with the Development Plan unless material considerations indicate otherwise.
- 5.2 With regard to applications for planning permission within conservation areas, it is set out that in the Planning (Listed Buildings & Conservation Areas) Act 1990:
- “s.72(1) In the exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.”*
- 5.3 The setting of a conservation area is not enshrined in legislation and does not, therefore, attract the weight of statutory protection.
- 5.4 It has been confirmed<sup>1</sup> that Parliament’s intention in enacting section 66(1) of the 1990 Act was that decision-makers should give “considerable importance and weight” to the desirability of preserving the setting of listed buildings, where “preserve” means to “to do no harm” This duty must be borne in mind when considering any harm that may accrue and the balancing of such harm against public benefits as required by national planning policy. It has been confirmed that this weight can also be applied to the statutory tests in respect of conservation areas<sup>2</sup>. The Secretary of State has confirmed<sup>3</sup> that ‘considerable importance and weight’ is not synonymous with ‘overriding importance and weight’.
- 5.5 The meaning of preservation in this context, and for both listed buildings and conservation areas, as informed by case law, is taken to be the avoidance of harm.
- 5.6 At a national level, relevant planning policy and guidance is set out within the National Planning Policy Framework (the ‘Framework’) published in December 2024 and the associated Planning Practice Guidance (the ‘PPG’).
- 5.7 The Appellant envisages that the relevant planning policy context will be agreed with the LPA in a Statement of Common Ground with documents provided as ‘Core Documents’.

### The Development Plan

- 5.8 The adopted Development Plan of relevance to the Appeal comprises the following:
- Saved policies of the West Berkshire Local Plan 1991-2006 (Saved Policies); and

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<sup>1</sup> Barnwell Manor Wind Energy Limited and (1) East Northamptonshire District Council (2) English Heritage (3) National Trust (4) The Secretary of State for Communities and Local Governments, Case No: C1/2013/0843, 18th February 2014

<sup>2</sup> The Forge Field Society v Sevenoaks District Council [2014] EWHC 1895 (Admin); North Norfolk District Council v Secretary of State for Communities and Local Government [2014] EWHC 279 (Admin)

<sup>3</sup> APP/H1705/A/13/2205929

- Core Strategy 2006 – 2026 (July 2012).

5.9 The Housing Site Allocations Development Plan Document (May 2017) also forms part of the Development Plan but is not of relevance to the Appeal proposals.

**Saved Local Plan policies (Local Plan 1991-2006)**

5.10 The relevant Saved Local Plan policies are as follows:

- Policy OVS5 (Environmental Nuisance and Pollution);
- Policy OVS6 (Noise Pollution);
- Policy TRANS1 (Meeting the Transport Needs of the Development); and
- Appendix 5 – Parking Provision for New Development.

**Core Strategy (2006-2026)**

5.11 The Core Strategy is the principal Development Plan document in the Borough and covers a plan period from 2006 to 2026 and was adopted in December 2012.

5.12 The Core Strategy sets out a number of policies which are of relevance to the determination of this appeal as set out below. Those highlighted in **bold** are the ones the Council consider the scheme to be contrary to.

- **Area Delivery Plan Policy 1 – Spatial Strategy.**
- Area Delivery Plan Policy 4 – Eastern Area.
- **Area Delivery Plan Policy 5 – North Wessex Downs Area of Outstanding Natural Beauty.**
- Area Delivery Plan Policy 6 – The East Kennet Valley.
- Policy CS5 – Infrastructure Requirements and Delivery.
- Policy CS8 – Nuclear Installations – AWE Aldermaston and Burghfield.
- **Policy CS9 – Location and Type of Business Development.**
- Policy CS11 – Hierarchy of Centres.
- Policy CS13 – Transport.
- **Policy CS14 – Design Principles.**
- Policy CS15 - Sustainable Construction and Energy Efficiency.
- **Policy CS16- Flooding.**
- Policy CS17 – Biodiversity and Geodiversity.
- Policy CS18 – Green Infrastructure.
- **Policy CS19 – Historic Environment and Landscape Character.**

**Material Considerations**

**National Planning Policy Framework (the Framework NPPF) and Planning Practice Guidance (PPG)**

5.13 The NPPF was published in December 2024 and includes specific guidance on the need to build a strong, competitive economy (paras 85 to 89).

5.14 Planning Practice Guidance (PPG) provides context and explanation to the Framework.

5.15 Both are material considerations in the determination of planning applications and will be referred to where relevant in the Appellant’s evidence.

### **The Emerging Local Plan (Review to 2037)**

- 5.16 West Berkshire Council is preparing a new Local Plan, the 'West Berkshire Local Plan Review to 2041'.
- 5.17 The Local Plan Review was submitted for Independent Examination in March 2023. The Council's LDS was produced in March 2024 and anticipated adoption of the plan in March 2025. Hearing sessions were held in May, June and October 2024 and based on the hearings and additional work undertaken at the request of the Inspector, the Council issued proposed Main Modifications in December 2024. The consultation closed on January 31<sup>st</sup> 2025. On this basis adoption of the plan, should the Inspector find the plan sound, will be delayed beyond March 2025 to allow for consideration of the submission of the main modifications, for the Inspector to issue his final report and for any recommendation to Full Council to be prepared.
- 5.18 Paragraph 49 of the Framework states that "*local authorities may give weight to relevant policies in emerging plans according to:*
- a) the stage of preparation of the emerging plan (the more advanced its preparation , the greater the weight that may be given);*
  - b) the extent to which there are unresolved objections to the relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
  - c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given<sup>4</sup>)."*

### **Emerging Local Plan Policies**

- 5.19 The emerging Local Plan includes a number of draft policies that are relevant to the acceptability of these proposals. The Council did not identify any emerging policies within their reasons for refusal.
- Policy SP1 – Spatial Strategy
  - Policy SP2 – North Wessex Downs AONB
  - Policy SP3 – Settlement Hierarchy
  - Policy SP4 - AWE Aldermaston and Burghfield
  - Policy SP5 – Responding to Climate Change
  - Policy SP6 – Flood Risk
  - Policy SP7 – Design Quality
  - Policy SP8 – Landscape Character
  - Policy SP9 – Historic Environment
  - Policy SP10 – Green Infrastructure
  - Policy SP11 – Biodiversity and Geodiversity
  - Policy SP20 – Strategic approach to employment land
  - Policy SP21 – Sites allocated for employment land
  - Policy SP23 – Transport

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<sup>4</sup> In accordance with footnote 23 of the Framework the emerging Local Plan Review is being considered against the 2021 Framework given the point of submission for examination.

- Policy SP24 – Infrastructure requirements and delivery
- Policy DM3 – Health and Wellbeing
- Policy DM4 – Building sustainable homes and businesses
- Policy DM5 – Environmental nuisance and pollution control
- Policy DM6 – Water Quality
- Policy DM7 – Water Resources & Waste Water
- Policy DM8 – Air Quality
- Policy DM9 – Conservation Areas
- Policy DM14 – Assets of Archaeological Importance
- Policy DM15 – Trees, woodland and hedgerows
- Policy DM32 – Designated Employment Areas
- Policy DM41 – Digital Infrastructure

**North Wessex Downs AONB Management Plan (2019 – 2024)**

5.20 The Council refer to the management plan within reason for refusal 3 but does not refer to any specific policies or paragraphs.

## 6. The Appellant's Case

- 6.1 The Section of the Statement of Case provides the Appellant's response to the main issues raised within the Council's reasons for refusal and by third parties. These are considered thematically.

### Response to the Reasons for Refusal

#### Principle of Development

- 6.2 In respect of the principle of development, the Council's first reason for refusal states that:

- the site is outside of the identified settlement boundary and contrary to the adopted policies which seek to limit development in the countryside to only where it is required to meet an identified need and support a strong rural economy; and
- the scale of the development is not compatible with the nearby residential uses or the existing pattern of users in the surrounding area.

- 6.3 The Council identifies policies ADPP1 and CS9 in this regard.

- 6.4 Policy ADPP1 relates to the overall spatial strategy for West Berkshire and states that development will follow the existing settlement patterns. Theale is identified as a rural service centre, the second highest tier behind the urban centres. The policy states that:

*"Most development will be within or adjacent to the settlements included in the settlement hierarchy set out below, and related to the transport accessibility of the settlements (especially by public transport, cycling and walking) their level of services and the availability of suitable sites for development. The majority of development will take place on previously developed land."*

- 6.5 The Appellant will seek to agree with the Council that this does not preclude development outside of settlement boundaries from being approved.
- 6.6 The Appellant accepts that the site lies outside of the identified settlement boundary but does not agree that the proposals would be contrary to the identified development plan policies, in particular that the site should not be considered as open countryside given its location and context and existing pattern of uses in the surrounding area.
- 6.7 The Appellant's evidence will demonstrate that, with regard to the proposed development, the proposals satisfy the requirements of Policy ADPP1.
- 6.8 Policy CS9 of the adopted Development Plan relates to the location and type of business development. Outside of the existing protected employment areas the policy states that new development will be assessed by the Council against the following criteria:

*“- compatibility with uses in the area surrounding the proposals and potential impacts on those uses; and*

*- capacity and impact on the road network and access by sustainable modes of transport.”*

- 6.9 There were no objections raised by statutory consultees in relation to the impact of the appeal proposed on highways, noise or air quality grounds and no residential amenity concerns were raised by officers within the Officer Report. The Council can therefore only allege conflict with policy CS9 in respect of the potential visual impacts, the compatibility of the development with other uses in the surrounding area and the relationship with the settlement boundary. The Appellant will demonstrate that development is appropriate in the location and complies with the policies identified within the reasons for refusal.
- 6.10 In relation to the principle of development, the Appellant’s position is that there is no conflict with the identified development plan policies but that in any event there are material considerations that outweigh any harm that the Council may allege.

#### **Industrial and Logistics land supply**

- 6.11 Reason for refusal 1 also states that:

*“the supply of employment land will be managed through the emerging local plan, which can identify sites for the next 10 years and there is no immediate need for the site to come forward.”*

- 6.12 The Council has no adopted planning policies in relation to the supply of employment land and the reference to supply within the reason for refusal must therefore relate to the emerging local plan.
- 6.13 Where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, the Framework is clear that development proposals should be granted unless:

*“ i. the application of policies in this Framework that protect areas or assets of particular importance<sup>7</sup> provides a strong reason for refusing the development proposed; or*

*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination”*

- 6.14 In the present case there are no adopted development plan policies relating to the supply of employment land. Further, the Council has accepted as part of the examination of the emerging local plan that they are unable to identify sufficient sites to meet the employment land needs identified in the emerging plan over the plan period but appear to be contending, without any policy support, that through

frontloading the delivery of those sites, there is sufficient land for the first 10 years of the plan period. Based on the Council's evidence, the employment shortfall is currently at least 39,796 sqm of industrial floorspace.

- 6.15 The Appellant's position is that there is no policy at national or local level that states that an immediate supply of land negates or overrides the need to plan for the fully identified position and thus the Council's assertion that there is no immediate need for the appeal site is flawed.
- 6.16 The "Industrial and Logistics Need Assessment" prepared by Savills and submitted with this Statement of Case demonstrates that the actual need across the district is greater than that identified by the Council's local plan evidence base. This report is provided as **Appendix 1** to this Statement of Case.
- 6.17 The Appellant's case is that even with the allocation of sites within the emerging local plan there is a substantial residual unmet need for employment land. The appeal site will make a significant contribution to meeting that need.

### **Flood Risk Sequential Assessment**

- 6.18 The second reason for refusal relates to the flood risk sequential test which was submitted with the original planning application.
- 6.19 In the reason for refusal the Council raise concerns in relation to:
- the methodology which underpins the sequential test
  - the suitability and accuracy of the evidence base which underpins the search; and
  - the approach taken to exclude sites based on their size.
- 6.20 The Appellant had engaged with the LPA prior to the submission of each application on the appeal site and sought to agree the methodology and site selection criteria for the sequential assessment but without reaching agreement to date.
- 6.21 An updated sequential assessment is submitted with the appeal and is the subject of ongoing discussions with the Council with a view to agreeing the methodology and site selection. This sequential assessment is provided at **Appendix 2** and was sent to the LPA on 4<sup>th</sup> February 2025. The Appellants have taken a proactive approach to the search criteria, including a 10% buffer in site size and capacity and a reduction in the site size for the purposes of the sequential assessment to just the built area.
- 6.22 All 'reasonably available sites, appropriate for the development' have been assessed. The assessment included a review of existing development plan allocations, other potentially suitable sites identified promoted through the HELAA (2023) with a review of the prospects of each site being appropriate for the proposed development with regard to flood risk, size and quantum, planning policy support and technical constraints. In addition, sites being actively marketed for freehold sale have also been reviewed.

- 6.23 The Appellant concludes that there are no reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding and the appeal site passes the sequential test.
- 6.24 In the event that the Appellant and Council fail to agree on the site specific matters and the Council alleges that there is a sequentially preferable site(s) the Appellant's evidence will seek to show that the extent of the employment land need is such that there will still be a shortfall and that the benefits of developing the appeal site and helping to meet the need should be a material consideration in favour of the development.

### **Flood Risk**

- 6.25 A site-specific flood risk assessment was submitted with the application. Consultee responses from the Council's own drainage team and the Environment Agency raised no objections in respect of on site flood risk.
- 6.26 The Appellant will confirm that the scheme fully accords with the Framework (paragraph 181) and will agree with the Council that there are no technical flood risk concerns.
- 6.27 An updated note from BWB Consulting is provided at **Appendix 3** to reaffirm that the scheme accords with points (a) – (e) of paragraph 181 the Framework.

### **Landscape Impact**

- 6.28 The Council's third reason for refusal relates to the landscape impact in 2 respects, these being:
- The loss of a greenfield site which will have a significant harmful impact on (a) the landscape quality of the area; and (b) the setting of the National Landscape and views across the site to the National Landscape;
  - That the development will have a harmful impact on the separation of Theale from Calcot and degrade the approach / gateway into the historic settlement of Theale
- 6.29 Policies ADPP5, CS14 and CS19 are cited within the reason for refusal. Policy CS19 is considered below under heritage impacts.
- 6.30 Policy ADPP5 is the strategic policy for the North Wessex Downs National Landscape (formerly Area of Outstanding National Beauty) and provides extensive criteria for development. The reason for refusal does not clarify which part of the policy is in question but states that it is the impact on the setting of the national landscape and views to it that causes harm. The Appellant will seek to agree that it is solely the first criteria of the environment section of Policy ADPP5 which is of concern. This states that:

*“Recognising the area as a national landscape designation, development will conserve and enhance the local distinctiveness, sense of place and setting of the AONB whilst*

*preserving the strong sense of remoteness, tranquillity and dark night skies, particularly on the open downland. Development will respond positively to the local context, and respect identified landscape features and components of natural beauty.”*

- 6.31 The Appellant’s evidence on landscape matters will include information submitted in respect of the application subject to this appeal to which the Appellant does not consider sufficient weight has been attached. Whilst both parties agree the proposed development would result in some adverse effects on the local landscape character and the visual amenity experienced by identified visual receptors, there is disagreement around the extent of these adverse effects and the value and sensitivity of the Site in landscape and visual terms.
- 6.32 The evidence will demonstrate that whilst there will be some change to the character and appearance of the site, the effects on the wider landscape will be limited and localised. Evidence will also be provided which demonstrates that the proposals are sensitively located and have been designed to avoid or minimise impacts on the National Landscape. The proposals therefore meet the requirements of both the Framework and the North Wessex Downs AONB Management Plan.
- 6.33 With regards to impacts on views to and from the National Landscape, the evidence will demonstrate that these will not be so significant or harmful as to be contrary to the policy or the aims of the national framework and that within the context of other existing development within and immediately adjacent to the National Landscape the scheme is acceptable.
- 6.34 Policy CS14 relates to design principles and contains 10 criterion which development is expected to meet. Whilst not referenced within the reason for refusal the Appellant will seek to clarify with the Council whether their concerns relate to the following two criteria, namely:
- Make efficient use of land whilst respecting the density, character, landscape and biodiversity of the surrounding area
  - Conserve and enhance the historic and cultural assets of West Berkshire (dealt with within heritage impact).
- 6.35 The Appellant’s evidence will show that the development makes efficient use of land and that it respects the character and landscape of the site and its surroundings.

### **Heritage Impact**

- 6.36 Reason for refusal four deals with the heritage impacts arising from the appeal proposals, specifically, the impact on the significance of the Theale High Street/Blossom Lane Conservation Area through change in part of its setting. There is no harm alleged to the significance of the conservation area from works proposed in that part of the Site located within its designated boundaries. The Council conclude that there is less than substantial harm, in NPPF terms, and that the identified harm outweighs the public benefits in the overall planning balance, citing policies CS14 and CS19 and the relevant parts of the NPPF.

- 6.37 There is agreement between the parties that the appeal proposals would cause ‘less than substantial harm’ in NPPF terms. The appellant ‘calibrates’ the harm towards the middle of that part of the ‘harm spectrum’ with the Council concluding that it would be a moderate/high level in that part of the ‘harm spectrum’.
- 6.38 The Appellant’s evidence will demonstrate that that the public benefits that the appeal scheme brings outweigh that less than substantial harm when considered in the planning balance, providing the clear and convincing justification required by the NPPF, having regard to the great weight and importance to be placed on the desirability of sustaining the significance of the Theale High Street/Blossom Lane Conservation Area.

### **Highways and Access**

- 6.39 The application was supported by detailed technical reports on highways, including completion of the VISSIM model and accessibility and there was no objection from statutory consultees including the Council’s highways development management function and National Highways.
- 6.40 The Appellant will seek to agree the sustainable travel credentials of the site with the Council but reserve the right to provide evidence on highways should the Council or any third party raise issues not previously identified that require a response.

### **Biodiversity**

- 6.41 The application was supported by detailed ecology reports and a biodiversity net gain metric. There were no objection from statutory consultees including the Council’s ecologist and Natural England.
- 6.42 The Council propose that the Section 106 Agreement and Landscape and Ecological Management Plan (LEMP) will secure the necessary biodiversity credits. The Appellant will seek to agree planning conditions with the Council and will ensure a LEMP is captured. A draft Section 106 agreement supports this appeal submission.
- 6.43 The Appellant reserve the right, however, to provide evidence should the Council or any third party raise issues not previously identified that require a response.

### **Matters raised by interested parties**

- 6.44 The PINS Procedural Guide on Planning Appeals requires that a Statement of Case should take due account of any representations received by the Local Planning Authority at the application stage.
- 6.45 The Council’s Delegated Report for the application identified the matters raised, which included from local residents and local Parish Councils.
- 6.46 There were a number of matters raised by these parties through the application process that are not referred to by the Council as forming their reasons for refusal in determining the planning application.

- 6.47 Most of these relate to the same issues as the Council's Reasons for Refusal (such as impact on the significance of the conservation area) and will, therefore, be dealt with through the appeal.
- 6.48 A number of the comments related to technical matters (such as highways and ecology), however the Appellant notes that these have been addressed through the significant material presented as part of the application itself.
- 6.49 The Appellant will consider the need for any specific evidence to address matters raised by third parties.

## 7. Planning Obligations / Conditions

### **Obligations**

- 7.1 A Draft Section 106 Agreement is submitted with this appeal, in accordance with the procedural guidance.
- 7.2 The draft agreement deals with matters identified by the Council during the determination of the planning application.
- 7.3 In any event, the Appellant reserves the opportunity to submit evidence which addresses the obligations and the extent to which they would accord with Regulation 122(2) of the Community Infrastructure Levy Regulations. The Appellant expects that the LPA will produce a 'CIL Compliance Statement' in that regard.

### **Conditions**

- 7.4 The Appellant expects that discussions will be held with the Council to identify any conditions which should be applied in the event that this appeal is allowed.

## 8. Procedure and Witnesses

- 8.1 The issues raised by the appeal include complex matters, namely issues of policy interpretation and consideration of technical evidence, especially in relation to landscape impact, heritage matters, flood risk assessment and industrial & logistics land supply. These matters will require to be tested through cross-examination.
- 8.2 The Appellant's case will also require submissions of law. For these reasons a public inquiry is considered essential to ensure a thorough consideration of the issues raised, as per our appeal pre-notification letter.
- 8.3 The Appellant reserves the opportunity to present evidence necessary in order to address the Council's key concerns as expressed in its Statement of Case.
- 8.4 At this stage (and bearing in mind the matters raised during the determination of the application by consultees and in the LPA's reasons for refusal) the Appellant considers that it will be necessary for evidence to be presented by expert witnesses in respect of the following matters:
- Planning, compliance with the Development Plan and overall planning balance;
  - Industrial & Logistics land supply;
  - Flood Risk Sequential Assessment;
  - Heritage Impact; and
  - Landscape Impact
- 8.5 It may be necessary to respond and address matters beyond those set out in the reasons for refusal through evidence.
- 8.6 Should Third Parties produce further evidence, or a 'Rule 6 Party' be formed and associated evidence submitted, it may be necessary to examine this evidence through formal questioning on any matters raised.
- 8.7 The Appellant respectfully requests that the appeal should be determined by an inquiry.

**Appendix 1: Industrial & Logistics Needs  
Assessment, prepared by Savills  
(February 2025)**

**Appendix 2: Flood Risk Sequential Assessment,  
prepared by Turley**

**Appendix 3: Flood Risk Assessment –  
Addendum, prepared by BWB  
Consulting**