

**SECTION 78 OF THE TOWN & COUNTRY PLANNING ACT 1990**

**AN APPEAL IN RELATION TO LAND BOUNDED BY HOAD WAY AND M4, AND  
HIGH STREET, THEALE**

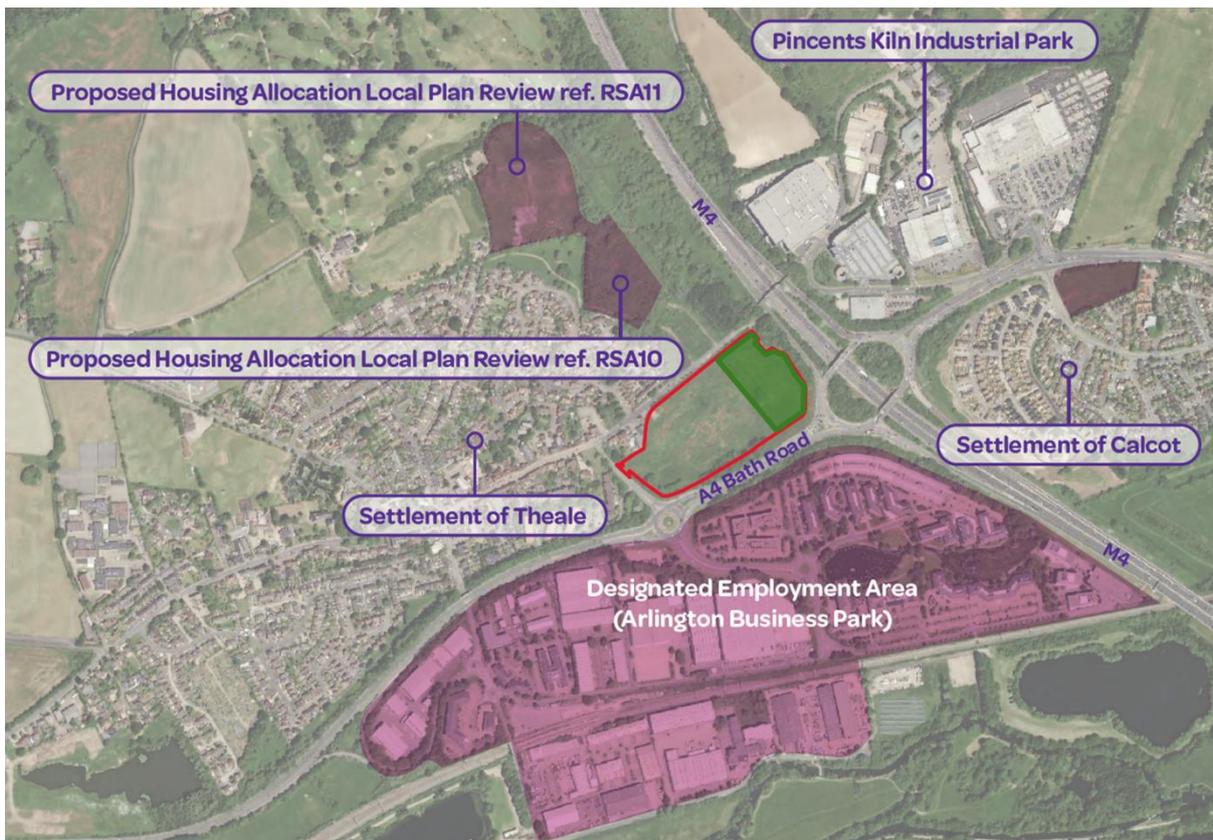
**BEFORE: Inspector J P LONGMUIR BA(Hons) DipUD MRTPI**

**APPEAL REFERENCE: APP/W0340/25/3360702**

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**APPELLANT'S CLOSING STATEMENT**

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**Figure 2.4 (SD POE) – Appeal Site Context**

## **INTRODUCTION & SUMMARY**

1. Following one week of detailed evidence, matters have further narrowed. There is even more clarity that consent ought to be forthcoming.
  - i. **Panattoni's** track record and desire to realise the site's potential is clear. Interest in the site from operators remains strong, and the aim is to deliver by 2027;
  - ii. The **Development Plan** context is a highly constrained District unable to meet its housing and employment land needs. The recently adopted LPR's shortfall is 'significant' and the sites seeking to deliver the 'minimum' have challenges. The spatial strategy supports this type of development in this location;
  - iii. On the **Need and Supply**, both parties agree there is a significant shortfall of 60,000sqft of employment land and that this cannot be met anytime soon. The need could be even higher but the land to meet that need remains highly scarce. The appeal site is a Grade A site and is available to deliver now.
  - iv. On the impact on the significance of the **Conservation Area**, the difference between the parties is narrow: where within the scale of 'less than substantial' does the harm fall. It is more rational to conclude at the middle of the scale.
  - v. As to the impact on the **character and appearance** of the area, here also much of the ground is common. A landscape led scheme, reduced from the previous iteration, with site specific impacts. Beyond the site, very limited impacts on the wider countryside, including the National Landscape, is agreed. There is no risk of coalescence between settlements and the visual impacts are modest.
  - vi. The **Planning Balance** here is clear. For the reasons set out below, these proposals are in accordance with an up-to-date the DP as a whole, and in accordance with NPPF 11(c) should be approved *without delay*.
  - vii. The **Government's Growth Agenda** strongly supports these types of sites.

## **PANATTONI**

2. Mr Watkins's evidence to the inquiry was compelling and completely unchallenged. It is worth summarising it as follows.

- i. Panattoni follows the market and covers a range of occupiers and areas;<sup>1</sup>
- ii. Its interests in Theale speak to the lack of land generally here, and the scarcity of Grade A quality sites more widely. This location was identified as suitable;
- iii. The proposed building relates to a mid-box size as creating opportunities for established businesses to relocate and for others to grow;
- iv. At least two companies have shown interest in taking space, particularly for the 'last mile' logistics which is unavailable in the area, but the lack of planning permission has been an issue for them. There is also around 1.6 million sqft of active requirements for the size of units being proposed by this appeal site;
- v. Whilst the application is 'speculative', Panattoni's business model is to build and commit with the returns coming when the properties are leased. There is no risk associated with keeping buildings vacant as they will always be occupied;
- vi. The site is in a unique position in having secured, unlike other sites, a grid and sewage connection, with other sites struggling to do the same before 2030.
- vii. Panattoni has a track record of creating jobs at all skill levels. Manual handling of equipment and parcels, supervision / administration tasks to management. Many of these jobs will remain local, with engineers drawn from regional areas. AW was clear that all jobs that will contribute to the local rural economy. Supporting the objective of NPPF paragraph 89 expectation to meet community needs in rural areas.<sup>2</sup>

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<sup>1</sup> See Appendix 7 of the POE

<sup>2</sup> "Planning policies and decision 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 not served by public transport."

3. The Burgess Hill development is one for which more information and images have been provided to the Inspector as another exemplar project by Panattoni.

### **DEVELOPMENT PLAN**

4. The West Berkshire LPR was adopted earlier this month, and it is important to understand the full context of its physical and environmental constraints as well as the wider area beyond the site itself.<sup>3</sup> To this end, the following are material considerations for this appeal, and which should focus the message of the recently adopted LPR:

- i. The location of any development is highly constrained by the North Wessex Downs National Landscape, which covers **74% of the District**, substantial areas liable to flood, the presence of Atomic Weapons Establishments (AWE), a Registered Battlefield to the west of Newbury, various national and international nature conservation designation.<sup>4</sup>
- ii. Other designations also include Conservation Areas and Registered Parks and Gardens of Special Historic Interest. This site's limited impact on the significance of one of those Conservation Areas is addressed further below;
- iii. The **Eastern Area**, which is where Theale (a Rural Service Centre) is located, contains significant employment provision within it,<sup>5</sup> as well as significant constraints with limited opportunities for redevelopment of brownfield land within existing settlement boundaries.<sup>6</sup> This makes the site uniquely placed to meet an identified need, with Theale highlighted as a District Centre, located in

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<sup>3</sup> CD xxx – Figure 1 – West Berkshire Constraints, page 12, LPR 2023-2041

<sup>4</sup> *Ibid*, paragraph 4.6

<sup>5</sup> *Ibid*, paragraph 4.13

<sup>6</sup> *Ibid*, paragraph 4.14

one of the three spatial areas.<sup>7</sup> Policy SP1 sees the Eastern area as important to business development.<sup>8</sup>

- iv. As part of the District Settlement Hierarchy Theale, as a Rural Service Centre, is a settlement ‘with good range of key services and opportunities for employment, community and education’.<sup>9</sup> The main focus of growth, in so far as it is possible to achieve under these constraints, is in Newbury, Thatcham and the east of the District.<sup>10</sup>
  - v. The six ESA sites relied upon by the Council’s supply must be approached with caution.<sup>11</sup> Four of them have considerable issues to overcome to meet policy, and are unlikely to be developed in at least the next decade and a half.<sup>12</sup> During the inquiry, ESA1 was confirmed as delivering less than its intended capacity.
5. In short, the newly adopted LPR anticipates a significant need for employment land to be met within the plan period, but does not provide the requisite amount of sites to be able to deliver in meeting that need. The location of the site to J12 of the M4, its place in the settlement hierarchy, and the general extent of constraints in West Berkshire generally, all mean that this is a prime site for this use. The Council is counting on precisely this type of site to come forward and urgently meet the needs of the District.
6. The NPPF (85) has clearly stated ‘*that significant weight should be placed on the need to support economic growth and productivity*’. This is precisely what this site seeks to do, by also giving expression to a freshly adopted LP and national policy.

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<sup>7</sup> Figure 3, Key Diagram, page 15 – Major Town Centre, Town Centre, District Centre

<sup>8</sup> LPR, pages 17-18

<sup>9</sup> LPR, Table 1 District Settlement Hierarchy, page 23

<sup>10</sup> LPR, paragraph 4.34 and 4.37

<sup>11</sup> LPR, paragraph 8.10, page 147

<sup>12</sup> CD 2.41 HELAA

## **Main Issue (a) principle of development; and (b) employment land supply**

7. Whilst a significant amount of time was spent on this issue, there is clear common ground that has emerged. The LPR does not provide for the employment land required for the plan period in highly constrained West Berkshire. The appeal proposals are needed to contribute to making up the shortfall. There is quite literally no other site that the Council is able to count on as of today this shortfall.
8. Even then, there will still be substantial unmet need.<sup>13</sup> There allocated sites and existing DEAs do not have the capacity to meet even the Council's 'minimum' demand estimates as expected in the recently by the recently adopted local plan. In short, the LPR anticipates a 'minimum' of **98,196sqm** of industrial space<sup>14</sup>, and we know that the examining Inspector referred to the shortfall as 'significant'<sup>15</sup>. At the agreed current shortfall of 60,000sqm, this site is available to meet c.15% of that shortfall immediately.
9. The Economics Team Officer at the consultation stage of the application stated, "*This development would make a **considerable contribution** to meeting this demand and would help address the identified shortage of suitable employment sites impacting the transport and storage industry within the district.*"<sup>16</sup> (emphasis added)
10. At this inquiry Mr Pestell has told us that this site has many '*advantages*' and will make a '*meaningful*' contribution towards this shortfall and that the Council should front load its supply. Ms Kirk attaches significant weight to the proposal.
11. This is the agreed starting point on the question of need and supply.

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<sup>13</sup> Whatever the range is, however it is calculated, and whether it takes into account suppressed demand.

<sup>14</sup> Policy SP17, and the supporting text at 7.8

<sup>15</sup> Inspector's Report, paragraph 259

<sup>16</sup> ID7

## Need

12. Despite the back and forth around the need figures, the position as confirmed is that the shortfall currently stands at **60,000sqm** – and that’s on the Council’s case alone. Ms Kirk also accepted ESA1 is only partially now available for industrial / logistics.
13. It is common ground that the significant shortfall against a minimum requirement will not be met in the next five years let alone in the plan period. There was little by way of land coming forward at the LPR, and any forthcoming review will similarly struggle to find suitable sites. The Council’s formidable challenges will continue to persist well into the future. The ELR 2022 rightly described the market for I&L land being tight.<sup>17</sup>
14. To address the situation, Mr Pestell’s recommendation in cross-examination was that the Council should find 20 years’ supply of I&L land which could be delivered immediately. Notwithstanding the significant demand for more space, landowners are not queuing up with new sites. That is mainly because of the constraints there are on development (i.e. National Landscape) in West Berkshire, a challenge that will remain as part of any subsequent review of the Local Plan. And not because of the market which, as Mr Pestell seem to believe, would result in more sites coming in the future.

## Methodology

15. On the issue of methodology, the Inspector’s findings on what is the ‘right’ model is inconsequential to this inquiry. But there are five points to note in relation to this. **First**, there is no one size fits all model, there is no ‘industry standard’ to which a decision-maker must adhere, and there is no specific model mandated in the PPG.

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<sup>17</sup> Para. 7.5 of the 2022 ELR

16. **Second**, the Warrington EIP report is hardly useful given its own particular circumstances, and Mr Pestell's clear obsession with protecting his approach has meant that he seeks to find comfort from it where there is none. The Inspectors' appraisal and review of vastly different models is not evidence that Mr Powney's approach was discredited, and in fact several examples of where it has been considered have been disregarded by Mr Pestell. The Examiners also rejected the local planning authorities past take up model preferred by Mr Pestell. The disproportionate amount of time spent on the Warrington Examiner's Report did not advance matters for this inquiry.
  
17. **Third**, Mr Pestell accepted that unlike calculating housing need and supply, there is no exact science to how this is calculated. This is important because this inquiry can be easily determined on the Council's accepted shortfall alone. **Fourth**, Mr Pestell accepts that whatever the approach taken on any model, there is still a significant shortfall that needs to be met, even with the development proposed. **Fifth**, there is a dearth of sites available to meet the need and this is highly unlikely to change in the near future.
  
18. Part of the Council's failure to appreciate what the Appellant has been saying about need figures might be down to a misplaced sensitivity about the recently adopted LPR. It has never been the Appellant's case that the LPR is unsound, or indeed seek to go behind the evidence base supporting it. We acknowledge and respect the significant amount of work that has gone into getting the LPR over the line.
  
19. Mr Powney's points have always been quite simple: it is that the approach taken may be obscuring a greater need than acknowledged, and a more robust and reliable approach is required to assess the full needs of WB.

20. To that end, to find even further common ground, Mr Powney’s approach to assessing suppressed demand and considering a wider geography than just West Berkshire is wholly consistent with Mr Pestell’s own ELR in 2022:

*“Demand for industrial space has increased since the previous assessment, while supply has continued to fall, placing further pressure on the existing stock. Demand across the Thames Valley is strong for largescale distribution, and remains robust because occupiers have not been able to satisfy their requirements for a sustained period; it is a tight market. West Berkshire is now considered a credible location for largescale storage and distribution helped by comparatively lower rents making it an attractive location for those occupiers being “priced out” of more expensive locations, closer to London and Reading. Take-up in the District has been low level, but this is because not all occupiers can find the space they want, and these requirements are unlikely to move at all due to the shortage of available space across the Thames Valley. New development at Beenham and Greenham Business Park will help, but will not relieve the pent-up demand, particularly in the supply of smaller units. Overall, there remains an acute shortage of good quality space.”<sup>18</sup> (emphasis added)*

21. Ultimately, the expression of a ‘minimum’ requirement, and the clearly acknowledged shortfall as soon as the plan was adopted, means there is tacit acceptance that the need ought to be higher. Always recalling the highly constrained nature of West Berkshire.
22. In so far as the Inspector is minded to deal with differences in the methodological approaches, these are the positions of the parties. The Appellant’s case has never been about the re-opening of the examination in public and what was decided. Table 4.1 of Mr Powney’s Proof of Evidence clearly shows West Berkshire is a supply constrained market, a conclusion which is consistent with that of Mr Pestell’s approach as contained in various ELRs. The simple point being that the concern around the *minimum* means

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<sup>18</sup> ELR 2022, paragraph 7.5, 2<sup>nd</sup> bullet point

that the real need figure is obscured and these historic supply constraints will continue. Once Mr Powney's model is applied and suitably adjusted (i.e. removing e-commerce) then the difference in position between the parties is modest. The Council's model, however, does not pick up the true demand potential as a starting point given its focus on projecting forward past land development trends which both parties agree has led to a tight, supply constrained market in West Berkshire.

23. The **suppressed demand** approach is consistent with the PPG and no one is suggesting that the PPG requires amendment. Mr Pestell's approach of looking back and only adjusting for an uplift towards the end does not paint the true picture. It ignores the 10 years of suppressed demand evidenced in Mr Powney's Proof of Evidence.<sup>19</sup>
  
24. **E-commerce and London's needs** is also particularly relevant in this context, and Mr Pestell's model ignores this despite references in his ELR such as that listed above noting its importance. There have been two models ran by Mr Powney: the Thames Valley Berkshire LEP; suppressed demand, e-commerce and need from London with a share of this wider demand apportioned to WB based on market signals. The second just at WB level, no London displacement, but with suppressed demand and e-commerce.<sup>20</sup> For both models a range of sensitivity tests are applied around removing commerce and reducing the availability rate at which suppressed demand is calculated. The lower projections of both models are only moderately different to Mr Pestell's model: a difference that would have been even smaller had he applied a 2-5 year margin consistent with his work for other local authorities.

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<sup>19</sup> See Table 4.1

<sup>20</sup> **CD 5.6**, 3.3.10-3.3.12 of Powney's POE

25. **Net absorption**, which forms the basis of Mr Powney’s model, is one of the most well-regarded market signals as it measures actual leasing demand within I&L sector.<sup>21</sup> The London displacement consideration is a matter of judgement given the substantial rise in housing numbers which has and is leading to industrial land losses in the capital. A pressure likely to be further intensified in the future given the housing target in London is increasing from 52,000 dpa to 88,000 dpa. This, alongside the growth in commerce, are the real-time indicators of what is happening. Simply looking at the past development of land does not do this and should be treated with caution.

### Supply

26. The starting point in understanding what the Examining Inspector considered as part of his judgment on the allocated sites is the HELAA.<sup>22</sup> This document represents the only discussion before the Inspector about the deliverability of the sites being allocated, namely the six ESA sites. There was no trajectory presented by the Council and no discussion about the specific challenges of each site. There is an expectation (and a commitment before the Examiner) that there will be a review within five years.<sup>23</sup> And unlike in housing which considers five year periods, this is over a plan period of 18 years. There are five points to make in relation to the supply of sites.

27. **First**, four of the six sites are classified as ‘potentially deliverable’ in the Council’s HELAA. This means that there is an expectation that these sites will come forward within the next 15 years, just three years shy of the plan period.

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<sup>21</sup> CD 5.6, figure 4.5 – Net Absorption and Net Deliveries p.a. (sqm) (2014-2024)

<sup>22</sup> CD 2.42 HELAA Appendix 4

<sup>23</sup> Paragraph 266 of the Inspector’s Report

28. **Second**, when the wording of each of these sites are taken into consideration, there is a significant list of requirements that must be met before each site could be granted consent. It is clear from some of the issues that the specific sites face, it will be many years before any application could be forthcoming. Take **ESA 6**, for example, where the expectation is to deliver approximately 12,400 sqm of employment floorspace across the site. The site lies within a Minerals Safeguarding Area and has some highways and contamination challenges. In addition, there is a nationally critical oil pipeline that is subject to the Control of Major Accident Hazards Regulations 2015 (COMAH) and will require a buffer. At best, this will take many years to assess, evaluate and approve. In all likelihood only to come forward in part.
29. **Third**, the idea that there will be a review forthcoming in 5 years, and thereby producing more sites, is unrealistic. Mr Pestell spoke candidly about the lack of sites, how previous calls have yielded few, how overall constraints make this difficult, and he advised the Council to ‘front load’ its supply as much as possible.
30. **Fourth**, there is no other site available to the Council to meet the shortfall. Mr Pestell’s words were ‘*the Council’s cupboard is bare*’. The appeal proposals also have significant advantages over the other allocated sites, it is a full application with only a minor landscape and heritage harm standing in its way. An established developer with a grid and sewage connection ready and able to deliver within the next two years. In the words of Mr Pestell it would make a ‘*meaningful contribution*’ to the identified shortfall. In the words of the Economics Team Officer, it would make ‘*considerable contribution*’. This is quite the consensus to emerge from the Council.

31. **Finally**, the way the Council has now lost the vast majority of the ESA1 site, the police site no longer available, in part, for industrial / logistics. This recognising that the Council's reliance on some sites are coming up short of producing the needed floorspace. And yet, Mr Pestell incredibly maintains that the Council is still able to demonstrate 11.5 years supply.

### Conclusion

32. In sum, the need for this type of development is significant and since the start of the inquiry, it has grown. The methodological approach taken by the Council arguably obscures a deeper need that's currently unaccounted for.
33. West Berkshire will continue to struggle to find sites that are unconstrained, suitable, sustainable, promoted by a willing developer of a Grade A quality proposal, with access to the electrical, sewage, and drainage systems required to make it work.
34. There is little prospect of a local plan review taking place in 5 years' time, still less finding enough sites to meet the identified need.
35. Until then, our site is the only show in town. And Panattoni is ready and willing to deliver within the next two years.
36. Turning now to the other main issues.

**Main Issue (b) the effect of the proposal on the Conservation Area**



37. There is considerable common ground between the Appellant and the Council on this matter, as recorded in the ScG. The only residual difference between the parties is simply where in the scale the ‘less than substantial’ harm does the impact on the Conservation Area’s significance through change, in a small part of its setting, for the purposes of the NPPF. The key part of the ScG tells us:

- i. The Theale High St / Blossom Lane CA is the only heritage asset requiring consideration in this appeal, and there is no appraisal of the character and appearance of said CA.

- ii. A very small element of the site is located within the CA engaging Section 72, and the impacts of the Appeal Scheme are predominantly via change in part of its setting, which is not designated.
- iii. As to the assessment of significance of the CA, contribution of setting, including the Appeal site as presented in the Heritage Statement, this is all agreed. It is worth noting that the assessment of significance in the Appellant's Heritage Statement is the only one before the Inspector that is agreed to have been prepared in accordance with the relevant planning policy and guidance;
- iv. As to the role of the **Setting of the CA and its contribution to significance**, it is agreed that setting does not make a strong contribution to the heritage significance of the CA<sup>24</sup> especially since the construction of the M4 and A4 and extensive later C20 development;
- v. The **contribution of the site to the significance of the CA** ought to be understood in its rightful context, as part of a transformed setting following extensive change in the mid-late C20.<sup>25</sup> Ultimately, it is also common ground that the site makes a minor contribution to the significance of the CA, having lost its historic field pattern and is now experienced in the context of a suburban townscape and wider patterns of C20 change.<sup>26</sup> Only when one reaches closer to the designated boundary at the junction with the High St do you associate the site with the strong, linear road-side character of the CA. Again, in the context of significant C20 change;

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<sup>24</sup> Para 3.13-3.18

<sup>25</sup> Para 3.19-3.24

<sup>26</sup> This was also validated and supported by the Council's own Historic Landscape Characterisation / assessment work

- vi. On the approach via **Hoad Way**, it is worth explaining that it is a modern, late C20 route, created as part of the extensive patterns of change following construction of M4/A4. It is not the best way to appreciate the significance of the CA and it was agreed at the RT that it is not until you reach the junction with High Street is there an awareness of the CA.
  
- vii. Further to this, the approach along the truncated extent of the former coaching route is where there is the greatest appreciation of the historic origins of the CA as a roadside settlement and the minor contribution made by the Site as a vestige of the rural setting. Notwithstanding, that approach now has an air of decline and experienced in the context of extensive late C20 change.
  
- viii. The works to be undertaken within the small part of the CA is agreed to not harm its significance, with the Council witness also confirming that there are no objections relating to harm arising out of traffic and noise impacts.
  
- ix. It became further common ground during the RT the proposal is landscape led and will seek to integrate multiple measures into the design that are sensitive and mitigate the harm.<sup>27</sup> These include, *inter alia*, materials, lighting, set back of built form and height.

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<sup>27</sup> Para 4.19-4.22

## Conclusion

38. In light of this, the final agreed position with the Council is that the proposal will impact the conservation area's significance through the inevitable change of the appeal site, as part of its setting.<sup>28</sup> There will be no impact on the strongest and most positively contributing elements of the CA's setting. This must all be understood in the context of significant changes in the past few decades to the CA's setting and surroundings, particularly beyond its eastern boundary.
39. The Council's judgement of less than substantial towards higher/middle level is not credible. To get an assessment even remotely close to the higher end would be to suggest that the identified harm is approaching the territory of 'substantial harm' in NPPF terms, which would mean total loss of significance or destruction – which is not remotely the case here. It is much more rationale to agree with the Appellant's conclusions that the middle of the spectrum is the right calibration.
40. In terms of the law and legislation, it is common ground that in so far as Section 72 is engaged, on the part of the conservation area is to be developed, the character and appearance of the Conservation Area will be preserved.<sup>29</sup> It is agreed that the Inspector need not consider Section 66 in relation to this development.
41. Policy compliance is considered further below in the planning balance.

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<sup>28</sup> CD 7.2

<sup>29</sup> The Planning (Listed Buildings and Conservation Areas) Act 1990

**Main Issue (c) – The effect of the proposal on the character and appearance of the area**

42. On this issue, there is also substantial agreement between the parties. As with any development introducing built development on a field, there is no dispute that there will be an impact on the landscape. But this requires careful understanding and a proportionate response to the landscape and its surroundings. It is also worth repeating that West Berkshire is not shy about designating worthy landscapes in its District, with some 74% of it sitting in the National Landscape. Making this site one of the most unique spots that's both available in landscape and highway/connectivity terms, and/or not ruled out for other reasons (DEPZ, or other designations).
43. The starting point for the Inspector is the Statement of Common Ground.<sup>30</sup> There is no dispute between the parties as to (a) methodology, approach and the LVIA; (b) the site is not a 'valued landscape'; (c) there will be localised impact on the site; (d) the impacts on the wider countryside away from the site would be very limited; and (e) the visual impacts would be limited to a few locations from the High Street, Hoad Way and the A4.<sup>31</sup>
44. The Panattoni proposal is not one which came to being in a vacuum. Ms Ede spoke to a design evolution that was iterative, where the scale of the development was reduced from the previous version, where a generous set back and a reduced height were introduced to help the scheme assimilate more successfully to its surroundings. The landscape approach, Ms Ede explained, fed into how the building is fixed and also influenced the design parameters from the start. This is the confidence with which a full application is advanced with a view to getting through Reserved Matters quicker.

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<sup>30</sup> CD 7.3

<sup>31</sup> See Section 3 of the Landscape Statement of Common Ground, page 11

### Appeal Site

45. This undesignated site, either locally or nationally, is not a ‘valued landscape’ and its setting does not contribute to the scenic beauty or special qualities of the NL. Mr Friend has produced no evidence to contradict this position. There are no sensitive features or valued characteristics within it, it is enclosed by the road, trees and mature vegetation. It sits topographically lower, not in the open countryside and therefore the proposals would not form an incongruous intrusion into the countryside, with plenty of opportunity to integrate any development. All these attributes of the site and its surroundings lends itself to this type of development and a landscape led approach to be successful.
46. Ms Ede was fair and clear to acknowledge the impact on the appeal site means there will be a change. But this is not a change that is dramatic or at the ‘higher end’, particularly mindful of the fact that the eastern part will remain largely open. The set back of the building from the boundary will be in the context of a leafy landscape that shall remain present with plenty more tree tops in the future. The building will not be an incongruent one introducing unexpected features. Rather, a formal building with natural edges to the east within an area that is already characterised by similar development of large scale logistics, retail and other employment uses. This change will be carefully managed through the landscape masterplan which shows plenty of landscape features being maintained and then enhanced by the proposal’s generous amount of planting to soften further the impact.<sup>32</sup>

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<sup>32</sup> CD 1.15

47. As the agreed figures demonstrate, the total site area is 53,500 m<sup>2</sup>, with only 23,200m<sup>2</sup> representing the total area of development (road, car park and building). This means that over half of the site (57%) will be left open and free from all development (i.e. no building, road or car park. (30,300m<sup>2</sup>).<sup>33</sup>
48. Mr Friend's evidence was missing a key component to be fairly characterised as anything resembling evidence: it featured no analysis. It was hardly transparent in explaining its judgements, and what Mr Friend had to say was largely platitudes about open and green space being lost, without explaining why this ultimately matters. He did not do his own LVIA and he did not seek to criticise that which was done by the Appellant. He acknowledged that it was important for the table of impacts<sup>34</sup> agreed in the ScG to have a transparent analysis to sit behind it.
49. And yet, there was little, if any, transparency explaining how the judgements have been reached, how they should be contrasted with that of Ms Ede, and ultimately whether the Inspector is able to rely on the same.

### National Landscape

50. The National Landscape is some 21 metres from the boundary of the site.<sup>35</sup> The closest part is a small slither of land whose inclusion remains inexplicable and severed from the main area by the M4 corridor. It may be a feature of the boundaries as drawn in the 1970s at a time when such limits were not rigorously assessed. There are no particular attributes or characteristics contained within the land in question that would justify this.

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<sup>33</sup> Inquiry Document to be submitted on the final day

<sup>34</sup> Table A1.1 of the ScG

<sup>35</sup> These distances have been agreed between the parties.

As the evidence given by Ms Ede supports, this looks and feels different to the wider National Landscape. There are no key views identified by any party, either to or from the NL, and in so far as there are any influences, they are minimal mindful of the M4. It is accepted that the development would impact the setting of the NL (just by virtue of its proximity). However, the development would not affect the Special Qualities of the NL and it is common ground that the development would not affect the Scenic quality. It is also agreed between the parties that the distance from the proposed footprint of the building (and not the boundary) to the NL is some 73m.

51. It is accepted that there is a visual connection but this is not as important as elsewhere in the NL. As Mr Friend accepted, it is not the most well protected part of the NL, with any level of visual connection ultimately severed by the motorway. He also confirmed agreement that the impact on the wider landscape, including the NL, would be ‘very limited’ as recorded in the ScG.<sup>36</sup>
  
52. The Appellant has also alerted the Inspector to two sites either granted consent or allocated for major development.<sup>37</sup> including the site known as ‘Land at Pincents Lane, Tilehurst for 138 dwellings. These decisions put into context the council’s concerns around development near the NL generally, and how credible their objections are in this instance, when the proposed development is further away from the NL and offers significant mitigation and screening.

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<sup>36</sup> Landscape Statement of Common Ground

<sup>37</sup> One example: land to the north of the appeal site (Whitehart Meadow) is for 160 bed hotel with associated facilities – See figures 2.2 and 2.3 in Mrs Dutfield’s POE

### LCA ROI

53. On the landscape character area **ROI**: it is clear that the impact is *very limited*, as agreed. None of the valued features / characteristics are demonstrated by the site. Cannot be seen from that particular part of the character area where features are present.

### Conservation Area

54. Mr Friend gave evidence that openness was somehow fundamental to the maintaining of the character of the CA.<sup>38</sup> There is no evidential basis to support this proposition, and his position does not align with the heritage evidence and agreed ScG. On the contrary, there is no document or material before this inquiry that supports this assertion nor is it identified as being important to the character area. As Ms Ede explained, the ZTV<sup>39</sup> shows limited impact on the CA, even from the High Street on the northern pavement – and even then this is dependent on the angle. At best the building is a background feature sitting below the roofline.
55. Mindful of this sensitivity, the mitigation proposed seek to follow appropriate design and colour, offering lighter colours at the top to relate more to the sky and darker colours at the bottom to help ground the building.<sup>40</sup>

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<sup>38</sup> See POE 4.17

<sup>39</sup> REF

<sup>40</sup> See Image 1A and 1B

## Coalescence

56. This issue remains curiously pursued by the Council. The context of this issue of whether Calcot and Theale will be confused or coalesce should be understood with reference to four crucial points. The first is the role and function that is played by the appeal site. There is no evidence to suggest that it plays a specific role, a transition, a gateway or a local reference point that would help people understand they're leaving Calcot and are now entering Theale. The agreed distance from the proposed edge of the car park associated with the development to Calcot residential area is 373m. The Inspector will no doubt experience the topographical changes, the hedges and mature trees and the general journey associated with these two distinct settlements.
57. The second relates to the agreed position around gaps that help keep settlements distinct from one another. The Council has a very recently adopted local plan that has been found sound and which has a specific gap policy DM2 that explicitly seeks to prevent coalescence and maintain separate identities.<sup>41</sup> If the appeal site was such a location, one might have expected the Council to have taken the same approach.
58. Third, the landscape character assessment does not support the proposition that this site plays a specific role, or that it contains features that would lend itself to such a role, such that it ought to be protected by keeping the site free from development.
59. Fourth, Mr Friend agreed that there is no intervisibility between the site and Calcot, and no intervisibility between Calcot and Theale. And agreement that there will not be any physical coalescence between the settlements.

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<sup>41</sup> LPR, page 162, DM2 identifies specific gaps to be maintained between settlements in the Policies Map

### Visual Impacts

60. It is common ground that there are no key view points from the **NL**. Two views were tested and the conclusion was no visibility. On the **High St**, between the CA and M4: VP3 on the wider panoramic view captures the likely impact at year 1 and 15. The evidence demonstrates that in time, with maturing vegetation, with the depth of planting proposed the impact will ultimately be minor.
61. On **Hoad Way**, Bath Road, up to M12 junction, it was agreed that the most likely receptors were drivers in vehicles. It is no a key pedestrian route, and not a scenic route at all that would attract leisurely walkers seeking this route.
62. On the visualisations from the roundabout (VP5), this is a relatively new view, still with motorists coming from Calcot. Despite this new view, Theale and Calcot will still remain clearly separate. The roundabout still provides a sense of departure and arrival. The junction will also change and with the topographic rise, the leaving of Calcot behind, and entering Theale, and ultimately it cannot be denied that development will be closer on that particular journey. However, with the mature vegetation to further ensure no loss of separation or identity between the two settlements.

### Conclusion

63. The appeal site is in a highly unconstrained location, with no landscape designation either national or local, making it pretty unique in West Berkshire as a whole. The impacts of the development are inevitably highly localised with a landscape led approach seeking to mitigate the harms. The impact on the wider landscape, including LCA RO1 and the National Landscape are very limited.

64. The proposed development complies with **Policy SP8** as a whole, a permissive policy designed to assist appeal proposals not curtail them. At most, the harm to landscape and character ought to be moderate.<sup>42</sup>

### **Other considerations**

65. In light of the above, there are some threads outside of the main issues worth bringing together. The simple reality is despite having a freshly adopted LPR, the Council desperately needs this site to come forward. It is not disputed that the **grid connection and access to drainage and sewage capacity** is a distinct advantage of the site. Panattoni's evidence of delivery within two years is uncontested.
66. The issue of **residential amenity** has been resolved between the parties.<sup>43</sup> The fact that the site has resolved all the major, and potentially constraining, matters should similarly be part of the consideration (i.e. flooding, highways, Biodiversity etc).<sup>44</sup> For we know that if these remained an issue, the Council would be inviting the Inspector to hold it against the proposal.
67. There is no evidence that the **local plan review** will happen in the next 5 years, let alone in the next two years, by which point the site would be delivered if consented. Even giving the Council the benefit of the doubt, and if such a review were to happen sooner, the likelihood of finding any sites, still less a site comparable to this one, is fanciful. The HELAA places in sharp focus what the Inspector was being told about deliverability. As anticipated also, ESA1 is unlikely to deliver fully.

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<sup>42</sup> LPR, Policy SP8, page 36

<sup>43</sup> See paragraph 7.8 of Mrs Dutfield's POE

<sup>44</sup> See Section 7 of Mrs Dutfield's POE

68. The appeal proposals would be a **substantial and deliverable** contribution to the Council’s employment land provision. This is important for the economic prosperity of the area; it would support the social well-being of the community and environmentally it would place jobs close to residents without the reliance upon vehicles.<sup>45</sup> Panattoni’s track record of training and delivering apprenticeship opportunities would benefit the prospects of the local community.
69. Construction jobs for local people will also a significant benefit. These measures are supported by Policy SP17 where feasible, and this proposal seeks to meet it.<sup>46</sup>

## **PLANNING BALANCE**

70. The LPR is the most recently adopted Development Plan document for West Berkshire is a significant material consideration. Section 38(6) of the Planning and Compulsory Purchase Act 2004 tells us that decisions should be made in accordance with the development plan, unless material consideration indicate otherwise.
71. **Policy SP8** is a permissive policy that tells us that a landscape led development which conserves and enhances the diversity and local distinctiveness of the landscape character of the District will be supported. As already set out above, this site is neither designated nor could it be said to be a ‘valued landscape’. In a District awash with a national landscape designation<sup>47</sup>, it is uniquely (and sustainably) placed to receive and accommodate development such as this one.

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<sup>45</sup> Schedule 2 of the Section 106 contains an employment skills plans

<sup>46</sup> LPR, Policy SP17, see SP17(q): “*Appropriate compensation measures are provided on site wherever possible and off site where this is feasible...*”

<sup>47</sup> LPR supporting text, 5.42

72. **Policy SP9:** The proposed development is in compliance with Policy SP9 (Historic Environment) – as it was accompanied by a ‘Statement of Heritage Significance’ (part of the Heritage Statement). The content of that statement of significance is agreed with the Council to accurately describes the significance of the conservation area and the contribution made by setting to that significance. The part of the proposed development within the conservation area sustains its heritage significance in accordance with the expectations of policies SP9 (Historic Environment) and DM9 (Conservation Areas). It is acknowledge that the proposed development is in limited conflict with policies SP9 and DM9 due to the agreed less than substantial harm to the significance of the conservation area caused by change in part of its setting.
73. The public benefits outweigh the identified heritage harm, aligned with the expectations of policy SP9.
74. The Council’s case as to whether this development would contribute to the ‘**Rural Economy**’ collapsed under cross examination. Ms Kirk was left with little choice to accept that Theale, a rural service village, serves the wider rural area including the countryside. Including providing employment opportunities. And crucially this was not simply a role to be filled by rural enterprises. Ms Kirk accepted that it was a change in position to now say that DM35 was now relevant. This is unreasonable.
75. Curiously, the Council’s now conceded the position on **DM35(a)**, namely that this proposal contributes to the rural economy, supporting local jobs and supports the local economy. Ms Kirk accepted she had no reason to contradict AW’s evidence. She also accepted that there was nothing in policy to support the proposition that *all* the benefits must contribute to the local economy.

76. On DM35 (c) it was conceded that this related to the uses around the site, and not related to the landscape issue. This point goes nowhere once the full context is understood and the uses which surround the site, particularly that of employment.<sup>48</sup> On DM35 (e) this was conceded in part in the context of having accepted that the appeal site is not in the countryside. That it would have **very limited** impact on the wider landscape and NL. And on DM35(h) it is acknowledged that the impact in heritage terms will be highly localised and the mitigation offered substantial and landscape led.
77. It is common ground that **DM31** does not relate to this proposal.

### Benefits

78. There are some profound consequences to the Council's inability to meet its identified shortfall in land to meet employment needs. There are significant benefits available and at stake through this development, as set out in Mrs Dutfield's evidence.<sup>49</sup> They can be summarised as follows:
- i. Provision of almost 10,000sqft of employment floorspace against an agreed shortfall of 60,000sqft in a recently adopted LP – **Substantial weight**.
  - ii. **Economic Benefits:** creation of 70 jobs, a GVA economic output of £9million and through business rates of £500,000<sup>50</sup> – **Significant weight**.
  - iii. **Social Benefits:** social well-being of the community, increased surveillance of High St, and the secured Employment and Skills plan<sup>51</sup> - **Significant weight**.
  - iv. **Environmental Benefits:** landscape enhancements, BNG, sustainable travel, reduction of carbon emissions – **Moderate weight**

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<sup>48</sup> See Section 2 of Ms. Dutfield's POE

<sup>49</sup> See Table 8.1 of the Planning Balance table

<sup>50</sup> CD 1.37: Economic Benefits Statement

<sup>51</sup> Schedule 2 of the Section 106 agreement

79. Turning now to the limited harms.

### Harms

80. Landscape and character harm – **moderate weight**

81. Limited impact on the setting of the CA. Whilst national policy mandates that great weight to be attached to the conservation of a designated heritage asset (NPPF 212), the weight to be attached to the limited harm – is **moderate weight**.

### CONCLUSION

82. Sir, for all the reasons set out above and as heard at the inquiry, there is a compelling need for this development. The District is reliant on precisely this type of proposal to be granted consent, otherwise there is no realistic prospect of them meeting their needs, especially in such a constrained district like West Berkshire. The benefits are overwhelmingly positive and available to deliver quickly.

83. The harms are limited and short-term. You're respectfully invited to allow the appeal.

84. The costs application is dealt with via a different document.

**JOHN LITTON KC**  
**HASHI MOHAMED**

Landmark Chambers  
180 Fleet Street, London

24 June 2025