

# Planning

## Proof of Evidence

**Town and Country Planning Act 1990**  
**Section 78 appeal against the refusal of planning permission**

**Witness:** Mr Matthew Shepherd Bsc (Hons) Msc

**Subject of Evidence:** Planning

**Appeal:** APP/W0340/W/22/3312261

**Site:** The Hollies Reading Road Burghfield Common Reading  
RG7 3BH

**Proposal:** Erection of 32 dwellings including affordable housing,  
parking, and landscaping. Access via Regis Manor Road.

**Date:** August 2024

**Council Reference:** 22/00244/FULEXT

## Proof of Evidence

Mr Matthew Shepherd – Planning

August 2024

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Glossary	
AWE	Atomic Weapons Establishment
REPPIR	Radiation Emergency Preparedness and Public Information Regulations 2019
DEPZ	Detailed Emergency Planning Zone
OSEP	Offsite Emergency Plan

## Appendices

Appendix 1 - Housing Land Supply at February 2024 Statement
Appendix 2 – Appellants Emails Dated 09/08/2024 re 5 year land supply challenge
Appendix 3 - Inspector’s Interim findings at the Local Plan Examination dated 19 July 2024
Appendix 4 – West Berkshire Council Response to IN14 Action point AP12. Main modifications to SP4.
Appendix 5 – ONR Letter to WBC CEO concerns post ALDEX-23 dated 29/10/2024.
Appendix 6 – Shyshack Lane Decision APP/H1705/W/23/3326959
Appendix 7 - APP/M2270/W/20 /3247977. Land at Gate Farm, Hartley Road, Hartley, Cranbrook TN17 3QX
Appendix 8 - APP/B1930/W /20/3260479 Smallford Works, Smallford Lane, Smallford, St Albans AL4 0SA

# 1. Summary of Proof

- 1.1 My name is Matthew Shepherd. I am a Senior Planning Officer at West Berkshire Council. I hold a Bachelor of Science in Geography from Swansea University and a Master in Science in Spatial Planning from Oxford Brookes University. I have 9 years' experience as a planning professional within West Berkshire Council. I am a member of the Development Management team.
- 1.2 My first proof of evidence in this appeal [CD11.10] is updated here to reflect changes in circumstances and to further clarify my evidence since the first inquiry.
- 1.3 My Planning evidence should be read alongside the proofs of evidence presented by the other expert witnesses for West Berkshire Council. My evidence covers planning matters including the overall planning balance. "The Council" in my proof of evidence means West Berkshire Council as the local planning authority, unless stated otherwise.
- 1.4 My proof reviews the appeal proposal's compliance with Core Strategy Housing Policies and the Atomic Weapons Establishment ("AWE") Policies. My evidence shows that the Council can display a housing land supply of 5.7 years and asserts that the development plan is up to date in regard to the most important policies for determining the appeal. The 'tilted balance' under paragraph 11d of the NPPF does not apply.

## **Housing policies**

- 1.5 The Officer's Report on the Application [CD4.1] noted that the proposal breached policy GS1, bullet 1 (Housing Site Allocations DPD – General Site Policy) because site allocation policy HSA16 provides for 60 dwellings to be masterplanned and delivered as a single entity in order to achieve a comprehensive scheme, but the appeal was not comprised in the previously approved scheme for 28 dwellings (granted in October 2018). Although this did not of itself amount to a reason for refusal, the previous approval for 28 dwellings does not indicate that the principle of the appeal development is acceptable.
- 1.6 The appeal proposal is considered to comply, in isolation, with the principles of core strategy Area Delivery Plan Policy 1 in terms of its location only, following the Council's spatial strategy and in terms of scale and density of development.

- 1.7 The Council considers the development largely, but not fully, accords with Area delivery plan policy 6. This is because, in line with the Officer's Report [CD4.1] *not* accepting the principle of the development, the second bullet point of ADPP6 ties in to Policy CS8. The proposal does not accord with Policy CS8 because of the objections made by the Office of Nuclear Regulation ("ONR"), the Council's Emergency Planning Department, and AWE/the MOD.
- 1.8 The Council has agreed the housing tenure percentage splits with the appellant. The outstanding matter is that no legal agreement is in place to secure the affordable housing. At the time of writing the Council is content that the Unilateral Undertaking document secures the required level of affordable housing. The UU is acceptable in principle subject to updates to relevant signatures, dates, and updating references to quashing of the previous appeal decision. These are considered more technical matters related to the legalities of the document.

#### **AWE policy – CS8**

- 1.9 The Council's development plan policy for housing predates the Radiation (Emergency Preparedness and Public Information) Regulations 2019 ("REPP19") brought into force following the change by the Government to the evaluation of radiation risk to the public.
- 1.10 The Council considers the context in which CS8 falls to be applied, at this point in time, is as required by REPP19 because the proposal falls within the Detailed Emergency Planning Zone ("DEPZ") for AWE Burghfield.
- 1.11 REPP19 is a material consideration that should be given great weight in the planning balance because it contains legal requirements to ensure both the safety of the public in the DEPZ, and also the ongoing effective operation of the AWE Burghfield as a national defence installation.
- 1.12 The appeal proposal is considered to not accord with CS8 which deals with development around the Nuclear Installations in the district at AWE Aldermaston and Burghfield. The Council as local planning authority has refused permission for the development due to objections from its Emergency Planning Team, AWE/MOD and the ONR.

- 1.13 As the Officer's Report [CD4.1] and Reasons for Refusal [CD4.2] summarise, the proposal would compromise public safety and the ongoing effective operation of AWE Burghfield.
- 1.14 The anticipated "likely" refusal of planning permission under Policy CS8 has been triggered by the ONR's advice that planning permission should be refused [CD4.14]. That advice was given because the Council's Emergency Planning Department is unable to provide the ONR with adequate assurance that the proposed development can be accommodated within the offsite emergency plan (OSEP).
- 1.15 The reasons for the Emergency Planning Department's conclusion that the development could not safely be accommodated within the OSEP for AWE Burghfield are fully set out in the evidence of Carolyn Richardson, Joint Emergency Planning Unit Service Manager.
- 1.16 The Council considers that Policy CS8 remains in accordance with the most recent version of the NPPF at paragraph 101(a) (December 2023), in relation to public safety and emergency planning in the context of defence and security. This provision (previously paragraph 97) continues to require planning decisions to promote public safety and take into account wider security and defence requirements by - amongst other actions - taking appropriate and proportionate steps to reduce vulnerability and increase resilience.
- 1.17 The proposal is not in accordance with this provision because it increases the number of people living permanently inside the DEPZ, who cannot safely be accommodated within the offsite emergency plan ("OSEP") for AWE Burghfield.
- 1.18 In addition, the objections from AWE and MOD regarding risk to the future development and operation of AWE Burghfield indicate a breach of NPPF 101(b). AWE Burghfield is a unique defence installation and critical to the UK's national security.
- 1.19 The Council attributes great weight to the breach of policy CS8 resulting from the ONR's advice to refuse permission and the objections of the AWE/MOD. It does not consider that this weight should be reduced.

### **Loss of trees / impact on character**

- 1.20 The Appeal proposal by virtue of its size and siting, would result in the direct loss of 4 trees the subject of TPO 201/21/0989. The loss of the trees is unacceptable especially as the proposal has not sought to minimise the impact on the existing TPO trees and also does not allow sufficient space on site to replace the trees that would be lost. This would have an adverse impact on the amenity and character of the area in which it is located. The Council's case is that impact is as described by the Inspector at the first inquiry at paragraphs 42 onwards of the decision letter [CD 21.1].
- 1.21 The Council considers that moderate weight should be accorded to this negative impact.

### **Summary**

- 1.22 The Council's evidence demonstrates that the appeal proposal is contrary to the development plan as a whole and material considerations including the NPPF. While there are benefits to the development including the provision of affordable housing, these do not outweigh the harm arising from failure to accord with Policy CS8.
- 1.23 In view of the above the Council will respectfully request that the appeal is dismissed.



## 2. Introduction

### **Qualifications and Experience**

- 2.1 My name is Matthew Shepherd. I am a Senior Planning Officer at West Berkshire Council. I hold a Bachelor of Science in Geography from Swansea University and a Master in Science in Spatial Planning from Oxford Brookes University. I have 9 years of experience as a planning professional within West Berkshire Council. I am a member of the Development Management team whereby I am responsible for determining minor and major planning applications and other commensurate development management duties for the Local Planning Authority.
- 2.2 I am familiar with the appeal site, the surrounding area, the appeal proposals, and the relevant planning policies and material considerations. My evidence covers those planning matters not covered by my colleagues, including the overall planning balance, and should be read in alongside the proofs of evidence presented by other expert witnesses for West Berkshire Council. Where I refer to “the Council” in this proof I mean the Local Planning Authority as distinct from the Council’s Emergency Planning Department.
- 2.3 I confirm that the evidence which I have prepared and provided for this appeal is true to the best of my knowledge and belief and it has been prepared and is given in accordance with the guidance of the RTPI. I confirm that the opinions expressed are my true and professional opinions.

## 3. Preliminary Matters

### Scope

- 3.1 The Council has set out the appeal site description, proposal, reasons for refusal and relevant and emerging planning policies in detail in its Statement of Case, Decision Notice and Delegated Report. It does not seek to duplicate these matters in this proof of evidence.

### Housing Land Supply position

- 3.2 I consider that the Council has a housing land supply of 5.7 years and my evidence in this proof is given on that basis. This is supported by the Council's Latest Housing Land Supply Statement at February 2024 **[Appendix 1 CD. 24.3]**.
- 3.3 I was made aware by email dated 9 August 2024 **[Appendix 2 CD. 24.4]** that the appellant will argue the Council does not have a 5 year supply, following the Inspector's Interim findings at the Local Plan Examination dated 19 July 2024 **[Appendix 3 CD. 24.5 ]**. The Council is not in a position to respond to the appellant's case on this issue until their planning proof of evidence is received on 23<sup>rd</sup> August. The Council intends to submit a rebuttal proof if the supply position cannot be agreed.

### Affordable Housing

- 3.4 The Council considers that the submitted Unilateral Undertaking in principle deals with the first reason for refusal in terms of affordable housing. This is subject to adjustments in regard to the legal wording of the document related to the quashing of the previous appeal decision and updated wording on Starter Homes. The Council does not wish to provide further evidence on this reason for refusal which is effectively overcome.
- 3.5 Should the wording of the UU not be updated satisfactorily prior to the inquiry, the Council may have to provide a rebuttal proof on this matter.

## Landscaping and Trees

- 3.6 The Council maintains its reason for refusal in regard to Landscaping and Trees on site, as its concerns have not been adequately addressed. However, the Council has sought to agree with the appellant that the findings of the first Inspector on the level of harm are a fair considered view. The Inspector concluded the following;

*“Therefore, I conclude that the proposal would result in limited, localised harm to the character and appearance of the area. As such, it would conflict with Policies ADPP1, CS14, CS18 and CS19 of the CS which together seek to ensure that development respects local character, while making efficient use of land.”*

- 3.7 The residential development of this site would result in loss of its existing character, reducing its of its open and undeveloped nature and increasing urbanisation of this end of the village. This would include removal of four oak trees, which are protected by Tree Preservation Order No. 201/21/0989, from the top end of one of the site’s mature hedge lines, to accommodate a stretch of internal access road.
- 3.8 This would punch through and reduce the verdancy of one of the locally distinctive mature hedgerows that contains oak trees of longevity and stature. These changes would be noticeable from various viewpoints on the appeal site, from several adjoining residences, and in views of treetops glimpsed from Reading Road.
- 3.9 Policy CS14 Design Principles states that “New development must demonstrate high quality and sustainable design that respects and enhances the character and appearance of the area” and makes a positive contribution to the quality of life in West Berkshire. Specifically it will “provide, conserve and enhance biodiversity and create linkages between green spaces and wildlife corridors.”
- 3.10 Policy CS18 Green Infrastructure states that “The District’s green infrastructure will be protected and enhanced..”. Policy CS19 Historic Environment and Landscape Character states that *“In order to ensure that the diversity and local distinctiveness of the landscape character of the District is conserved and enhanced, the natural, cultural, and functional components of its character will be considered as a whole.”*

48. Therefore, I conclude that the proposal would result in limited, localised harm to the character and appearance of the area as agreed with the appellants. In my view it would conflict with Policies ADPP1, CS14, CS18 and CS19 of the CS which together seek to ensure that development respects local character, while making efficient use of land.

3.11 The Appeal proposal by virtue of its size and siting, would result in the direct loss of 4 trees the subject of TPO 201/21/0989. The Impact would therefore be of limited localised harm. This harm is not in accordance with the development plan policies CS14, CS18, and CS19 which generally seek to protect and enhance the districts green infrastructure and seeks to enhance the landscape character.

3.12 While the appellant agrees with the Inspector's assessment of "limited localised harm", they do not agree that this results in conflict with the relevant policies of the development plan. I consider that the policies CS14, CS18 and CS19 are fully in accordance with the NPPF in particular paragraph 180 and should be given full weight. I address the weight to be accorded to the harm in my assessment of the planning balance, below.

## 4. Compliance with Core Strategy Housing Policies

- 4.1 I have explained the relevant planning background and the policy framework in my first proof of evidence [CD11.10] at paragraphs 3.1 to 3.13, which remain in substance unchanged. For ease of reference I have set this out below.
- 4.2 The statutory development plan for the area in which the Appeal Site is situated comprises the West Berkshire Core Strategy (2006-2026) and the Housing Site Allocations DPD (2006-2026).
- 4.3 The Emerging Local Plan is also a material consideration, and the draft has been submitted to the Secretary of State. I refer to this below.
- 4.4 The application for the development of the Appeal Site was made on 22<sup>nd</sup> February 2022, after the coming into force of the Radiation (Emergency Preparedness and Public Information) Regulations 2019 (REPPIR 19) on 22<sup>nd</sup> May 2019. These Regulations required, for the first time, the Council rather than the regulators to determine a “Detailed emergency planning zone” (“DEPZ”) under Regulation 8, on the basis of the recommendation of the site operator (AWE) under those Regulations.
- 4.5 As correctly recorded in the Application Form (dated 31<sup>st</sup> January 2022), the Appellant made no request for pre-application advice. This is directly contrary to the clear advice in paragraph 5.41 of the reasoned justification to Policy CS8 of the development plan. The Appellant sought advice after the application and prior to submitting this appeal. This is set out in the Proof of Evidence of Carolyn Richardson.
- 4.6 The Applicant proposed to develop an area covered by Policy HSA 16, adjacent to a part of an area also covered by that Policy for which outline permission for 28 dwellings (reference 16/01685/OUTMAJ) was granted in October 2018, before REPPIR19 came into force on 22<sup>nd</sup> May 2019.
- 4.7 The Application was accompanied by a Planning Statement that asserted, in paragraphs 6.70-6.73 and without more, that the proposed development should be acceptable because of the grant of the outline planning permission for 28 dwellings on part of the

adjacent land covered by HSA 16. However, from 22<sup>nd</sup> May 2019, REPP19 required the Council (instead of the Office for Nuclear Regulation) to determine the geographical extent of a “Detailed Emergency Planning Zone” (“DEPZ”) that was based on a “Consequences Report” that AWE Burghfield was itself required to prepare.

- 4.8 My colleague Carolyn Richardson addresses REPP19 and the DEPZ in detail in her emergency planning evidence. The implications for land use planning are set out below.
- 4.9 As a result of changed risk parameters, the Consequences Report under REPP19 [CD11.6] “recommended” under Part 2 the enlargement to a new “minimum” geographical extent (and description) of the “Inner Zone” that was previously defined by the Office for Nuclear Regulation under the earlier REPP19 Regulations. The new legislation also required the extent of the DEPZ to be no less than the area referred to in the Consequences Report, which is a minimum radius of 3160 metres from the centre of the site. As a result, the “minimum” area referred to in the Consequences Report included the application site. This was publicised in Consequences Report in November 2019, after the grant of 16/0185/OUTMAJ for 28 dwellings, and before January 2022 when the Application that is now under appeal was made.
- 4.10 Appendix A of the Consequences Report shows the change in the geographical coverage from the ragged edged outline around the installation at AWE Burghfield, to a blue circle of a minimum radius of 3160m from the AWE site centre. The appeal site lies immediately West (and previously outside) of the previous edge, but (under the new legislation) inside of the blue circle.
- 4.11 The appellant does not now dispute that the appeal site lies within the DEPZ. However, the Planning Statement accompanying the Application noted (without more) that the Application Site was in the “Middle Land Use Consultation Zone” under Policy CS8 and made no mention at all of the DEPZ.
- 4.12 The procedures undertaken by West Berkshire to designate the DEPZ around AWE Burghfield with a minimum radius of 3160m from the centre of the site in March 2020 were ratified following a claim for Judicial Review by Crest Nicholson Operations Ltd [CD 8.4] which unsuccessfully challenged the process undertaken by the Council, and was dismissed in January 2021. The Claimant’s evidence on the Consequences Report was given by Dr Keith Pearce, who also gives expert evidence for the appellant in this appeal. The Judge observed that *“the Claimant’s case fails to grapple properly, or at all,*

*with the true significance in public safety terms of the designation process. Nor does it show any proper understanding of the national security issues arising from the information which underlies the decision”.*

4.13 I understand that the appellant the remains of the view that the Appeal Site is in the “Middle Land Use Consultation Zone” for the purposes of applying Policy CS8, despite the fact that this has been superseded by the DEPZ as required by REPP19.

4.14 The Council also considers that the grant of permission for half the allocated site prior to the coming into force of REPP19, and so prior to the DEPZ, does not justify the grant of the balance of the allocated site, when this is not in accordance with the development plan and all material considerations.

### **Planning Policies**

4.15 My evidence on the relevant planning policies is also set out in my first proof at paragraph 3.15 onwards and repeated here for ease of reference. I have updated my evidence on the housing land supply position, and the local plan review which has progressed significantly since the first inquiry.

4.16 In this Appeal, the Council considers the main policies relevant to considering Housing in the proximity of AWE Burghfield are listed as follows:

- ADPP1
- ADPP6
- CS1
- CS6
- CS8
- GS1
- HSA16

## Application of policies

- 4.17 The Council will now set out what it considers are the relevant sections of the above listed policies and will consider the weight the policy should be given.
- 4.18 Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF provides a presumption in favour of sustainable development (paragraph 11), which for decision taking means approving development proposals that accord with an up-to-date development plan without delay. Conversely, paragraph 12 states that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. The NPPF follows statute in this respect.
- 4.19 Paragraph 11d of the NPPF provides a 'tilted balance' in favour of granting permission where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date. The Council's position is that neither limb applies nor is the 'tilted balance' of paragraph 11d engaged.

## 5 Year Housing Land Supply

- 4.20 The housing land supply position has changed since the first inquiry. Council can now demonstrate a housing land supply of 5.7 years as displayed in the table below (Appendix 1). It should be noted that 32 dwellings out of the total identified supply of 3,448 represents 0.9%, and even after removing the proposed 32 units from the supply side, the Council would still have a healthy land supply. The Housing provided as part of this application could be situated in other areas in the district away from the AWE constraint of the DEPZ. The Local Plan Examination Inspector explicitly refers to the AWE as a constraint in his interim findings of 19 July 2024 [**Appendix 3 CD 24.5**].

	Five-year housing land supply against a five-year housing land supply requirement with a 5% buffer
A. Requirement including a 5% buffer (A)	2,704 (515* 5 years*1.05)
B. Total deliverable housing land supply including communal accommodation (B)	3,073 (five-year housing land supply)
<b>C. Total deliverable housing supply in years (B ÷ A x 5)</b>	<b>5.7 years</b>



- 4.21 The affordable housing proposed can be situated on an alternative site outside of the DEPZ. This would result in delivery of housing outside an area of known risk.
- 4.22 Whilst the application has appeared in the Council's annual monitoring report for 2021 to 2022, this was due to the monitoring report running from 1st April to 31st March each year. The decision on this application was still pending consideration at that time and the final decision on the application was made on the 1st June 2022. Furthermore, the site was again included in the 2024 monitoring report due to the previous Inspector's appeal decision, which is now quashed.
- 4.23 The decision to remove the site as an allocation from the Local Plan Review was taken by the Council in December 2022. I deal below in section 7 with the weight to be accorded to emerging local plan policies including SP4 which replaces CS8.

#### **ADPP1 (Spatial Strategy)**

- 4.24 My assessment of the proposal against policy ADPP1 has not changed. ADPP1 sets out that Development in West Berkshire will follow the existing settlement pattern and comply with the spatial strategy set out in the Area Delivery Plan policies of this document, based on the four spatial areas. Provision will be made for the delivery of at least 10,500 net additional dwellings and associated infrastructure over the period 2006 to 2026. Most development will be within or adjacent to the settlements included in the settlement hierarchy. Burghfield Common is identified as a Rural Service Centre.
- 4.25 The policy goes on to state that the scale and density of development will be related to the site's current or proposed accessibility, character and surroundings. Significant intensification of residential, employment generating, and other intensive uses will be avoided within areas which lack sufficient supporting infrastructure, facilities or services or where opportunities to access them by public transport, cycling and walking are limited.
- 4.26 The reasoned justification to ADPP1, paragraph 4.12, notes that "*Development within the East Kennet Valley will take into account the presence of AWE ... Burghfield, as set out in Policy CS8*". Therefore, Policy ADPP1 reference in paragraph 2 to "*Most*" (*not "all"*) development is considered to mean that the strategy for development in the Valley remains conditional upon accordance with Policy CS8 and is not a given. This aligns

with the Officer's report *not* accepting the Principle of the Development and instead recognising that it is conditional on other development plan policies.

4.27 ADPP1 is considered to accord with the NPPF, as it provides new development in a sustainable manner, being genuinely plan led, and according with the principles of sustainable development. Full weight should be given to this policy.

4.28 The appeal proposal is considered to comply, in isolation, with the principles of ADPP1 in terms of its *location* following the Council's spatial strategy and in terms of scale and density of development to be related to the site's current or proposed accessibility, character and surroundings.

### **ADPP6 (The East Kennet Valley)**

4.29 My assessment of the proposal against ADPP6 also remains the same. The spatial strategy for the East Kennet Valley is covered by this policy. Figure 5 identifies the "AWE" site. ADPP6 identifies that some growth is planned for this area to help meet the needs of the village communities and to assist with the viability of village shops and services. This amounts to approximately 800 homes between 2006 and 2026, an average of 40 new homes a year.

4.30 Paragraph 4.44 of the reasoned justification explains also that the AWE Burghfield "*has implications for the future level of development in this area*". This aligns with the Policy in bullet 2 of ADPP6 that, like ADPP1, also makes *residential* development in the Valley contingent on accordance with Policy CS8.

4.31 With regard to the presence of AWE Burghfield, the Council will monitor housing completions and population levels in conjunction with the ONR and neighbouring authorities. Residential development in the inner land use planning consultation zone (now the DEPZ) is likely to be refused planning permission in accordance with Policy CS8.

4.32 The application of CS8 in the context of REPIR19 means that the Council is now required itself to define the extent of the land use consultation zones (of which the smallest is now the DEPZ), whereas previously that defining role was undertaken by the ONR, hence the reference to the ONR in Footnote 60 to CS8. Therefore, there is today

no “Inner Zone” under CS8 because the REPP19 Regulations have altered the approach to the areas, as discussed later in this proof.

- 4.33 In the new legal context, the Council applies CS8 with regard to the new REPP19 Regulations’ change to risk evaluation and different zonal characterisation. The result is that residential development in what was before the ‘inner land’ use planning consultation zone, is now the DEPZ, and is likely to be refused planning permission where there is an objection the ONR. There is an objection by the ONR to this Application. This is alongside objections by the Council’s Emergency Planning and AWE/MOD. Therefore, under CS8 the Application proposal was likely to be refused, and indeed, was refused.
- 4.34 ADPP6 notes that there was a ‘basket’ of potentially developable sites which appeared when the Council adopted the HSADPD in 2017. This Development Plan Document made a range of housing allocations across the District and Burghfield including the application site. This document was published prior to the updates to REPP19 in 2019, and the designation of the DEPZ.
- 4.35 The application site comprises the *western* half of the site allocated under policy HSA16. That policy allocates approximately 60 dwellings. 28 dwellings were permitted in the different regulatory context as explained earlier: before the REPP19 Regulations and before the DEPZ had been designated. Those dwellings were constructed to the east of the allocation site. The appeal proposal seeks to secure planning permission for the remainder of 32 dwellings allocated under HSA 16.
- 4.36 Policies ADPP6 (and CS8 which is addressed in further detail below) are considered to accord with the NPPF as they are consistent with the requirements of the NPPF in respect of providing new development in sustainable manner, being genuinely plan led, and according with the principles of sustainable development. They also accord with the NPPF (paragraph 101) in regards to safety in relation to the AWE sites. Full weight should be given to these policies. However, site allocation policy HSA16 is not considered to accord with NPPF paragraph 101, for the reasons explained further below.
- 4.37 The Council considers the appeal development largely, but not fully, accords with ADPP6. This is because, in line with the Officer’s Report *not* accepting the Principle of the Development, the second bullet point of ADPP6 ties in to Policy CS8. In this way

there is no accord with policy ADPP6 because of the objections made by AWE and by the Council's Emergency Planning Department in its role under REPP19:

*"With regard to the presence of AWE Aldermaston and Burghfield, the Council will monitor housing completions and population levels in conjunction with the ONR and neighbouring authorities. Residential development in the inner land use planning consultation zone is likely to be refused planning permission in accordance with Policy CS8."*

- 4.38 In this context, the spatial strategy for this particular area identifies that due to AWE, sites for residential development in the inner land use planning consultation zones (now the DEPZ) are likely to be refused planning permission in accordance with Policy CS8.
- 4.39 The spatial strategy of ADPP6 also builds further cautions by noting the Council will monitor *housing* completions and population levels in conjunction with the ONR and neighbouring authorities.
- 4.40 Due to the failure to accord with policy CS8 (set out below), the proposal also conflicts with ADPP6 given the following section of bullet point two which reads: *"Residential development in the inner land use planning consultation zone is likely to be refused planning permission in accordance with Policy CS8."* The overarching spatial strategy acknowledges that development in the inner zone (now the DEPZ) is likely to be refused if the ONR advises against it.

### **CS1 (Delivering New Homes and Retaining the Housing Stock)**

- 4.41 My evidence on CS1 at paragraphs 3.9 – 3.13 of my first proof remains unchanged. The Core Policies are set out in Section 5 of the Core Strategy. Policy CS1 describes that Provision "will be made" for the delivery of at least 10,500 net additional dwellings and associated infrastructure over the period 2006 to 2026 and how it will be made (by Site Allocations). Delivery will be phased and managed in order to meet at least an annual average net additional dwelling requirement of 525 dwellings per annum and to maintain a rolling five year supply of housing land. It goes on to state that new homes will be located in accordance with the settlement hierarchy outlined in the Spatial Strategy and Area Delivery Plan Policies.

- 4.42 The Site Allocations and Delivery Development Plan Document will identify specific sites to accommodate the “broad” distribution of housing set out in the Area Delivery Plan policies. Greenfield sites will need to be allocated adjoining settlements in all four of the spatial areas to accommodate the required housing. Taking into account the SHLAA, updated by any further evidence, such sites will be selected to achieve the most sustainable pattern of development consistent with the other policies in the Core Strategy.
- 4.43 Policy CS1 is considered to accord with the NPPF as it is consistent with the requirement in respect of providing new housing development in sustainable manner, being genuinely plan led, and according with the principles of sustainable development. Full weight should be given to this policy.
- 4.44 The appeal proposal is considered to be consistent with Policy CS1 in that, being on a site that is allocated, the Proposal aligns with the “broad” distribution of housing. However, the weight to be given to the proposal’s consistency with CS1 must in my view be limited because of the effect of REPP19 in placing the site within the DEPZ, and the ONR’s advice to refuse planning permission.

### **GS 1 (Housing Site Allocations DPD General Site Policy)**

- 4.45 My evidence on the proposal’s accordancy with GS1 is at paragraphs 3.42 to 3.44 of my first proof and also remains the same. The Officer Report **[CD4.1]** correctly notes that the proposed development is at odds within Policy GS 1 in regards to HSA16 which provides for approximately 60 dwellings. This is because GS1 bullet 1 requires “*a single planning application*” to be submitted for each allocated site ... “*to ensure [a] comprehensive approach to development is achieved*”. In relation to HSA 16, a single application was made for the development of the area covered by HSA 16 for 28 dwellings and this was granted in outline under reference 16/01685/OUTMAJ on the 30<sup>th</sup> October 2018, with reserved matters being approved on the 8<sup>th</sup> August 2019.
- 4.46 Therefore, the requirement of GS1, bullet 1 was met by that previously approved scheme but is not met by the current Application/Appeal because it is a second application.
- 4.47 As is also noted in the Officer’s Report under “Principle of Development”, GS1 also requires compliance with the policies of the development plan including the Core

Strategy. Here, as has been noted above and explained further below, the Application/Appeal proposals also breach Policy CS8 of the Core Strategy.

**Policy HSA 16 (Land to the rear of The Hollies Nursing Home, Reading Road and Land opposite 44 Lamden Way, Burghfield Common (site references BUROO2, 002A, 004)**

- 4.48 Policy HSA 16 relates to the allocation of the area that contains the Application/Appeal site.
- 4.49 It can be seen that the allocation under HSA 16 of the area of the Appeal Site contributes to the annual supply of housing. It can also be seen that the actual contribution of 28 dwellings from the annual supply would not reduce the supply to below 5 years' worth of dwellings.
- 4.50 The Council considers the Application/Appeal development is contrary to HSA 16 because access is not from Reading Road and secondary access is not from Stables Cottage, as is required by Bullet 2 of HSA 16, but rather is from Regis Manor Road. As set out in the Officer Report [**CD4.1**], this is a result of the proposal not being part of a "streamlined and co-ordinated approach" in accordance with the requirements of GS1.
- 4.51 As set out above this site is de-allocated in the Emerging Local Plan.

## 5. CS8: Emergency Planning and National Security

### CS8 - Nuclear Installations - AWE Aldermaston and Burghfield

- 5.1 The Council's evidence on the application of policy CS8 (CD.6.1) was provided to the first inquiry by Bryan Lyttle (CD11.11). I agree with Mr Lyttle's assessment however the views set out below are my own professional views.

#### Policy interpretation

- 5.2 CS8 relates to land use planning around the Nuclear Installations at Atomic Weapons Establishment Aldermaston (AWE A) and Burghfield (AWE B). The appeal site is approximately 2km away from the AWE B site and within the DEPZ. The Atomic Weapons Establishments are the only two sites in the UK which accommodate its Nuclear Warhead design, production and decommissioning. These sites are unique, and central to the UK's Nuclear Deterrent : no other location in the UK provides this vital capability.

- 5.3 CS8 sets out that the policy relates to public safety. It provides:

*"In the interests of public safety, residential<sup>(59)</sup> development in the inner land use planning consultation zones<sup>(60)</sup> of AWE Aldermaston and AWE Burghfield is likely to be refused planning permission by the Council when the Office for Nuclear Regulation (ONR) has advised against that development. All other development proposals in the consultation zones will be considered in consultation with the ONR<sup>(61)</sup>, having regard to the scale of development proposed, its location, population distribution of the area and the impact on public safety, to include how the development would impact on "Blue Light Services" and the emergency off site plan in the event of an emergency as well as other planning criteria. Consultation arrangements for planning applications will be undertaken with the ONR using the table below."*

- 5.4 The Council considers that as a result of the introduction of REPP19 and the designation of the DEPZ, the "inner land use planning consultation zone" has been replaced by the DEPZ. Footnote 60 of CS8 is engaged and provides that the

consultation zones are “as defined by the ONR and shown on the West Berkshire Proposals Map”.

5.5 As part of the Council's aim to modernise the Planning System the Proposal Maps are now online, and as shown in Figure 1 the DEPZ is now defined on its interactive mapping system. The Council considers that given the ONR has updated its consultation zones as per figure 2, and the Council has updated its online mapping to reflect the changes to the DEPZ , the relevant consultation zone for this application is evidently the DEPZ. The wording of Emerging Local policy SP4 also reflects this change.

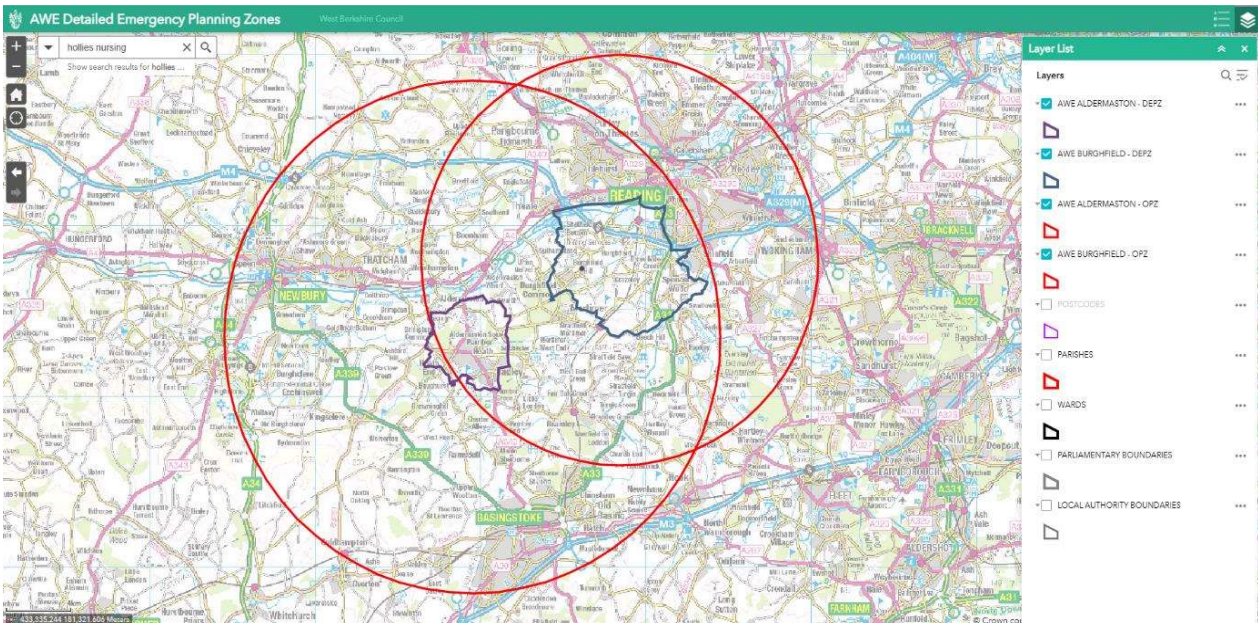


Figure 1 Online Interactive Map showing AWE Sites, DEPZ and Outer Consultation Zones.

Zone	Description
<b>On the nuclear site</b>	Within the nuclear site boundary.
<b>Detailed Emergency Planning Zone (DEPZ)</b>	The DEPZ where set by a Local Authority.
<b>Outer Consultation Zone (OCZ)</b>	Extends from the perimeter of the DEPZ out to a distance defined by ONR from the centre point of the site, where this distance is determined by the nature of the site. For sites without a DEPZ, the OCZ extends outward from the site perimeter fence.
<b>12km zone</b>	A circular zone of 12km radius around all nuclear sites, for certain types of significant development due to the potential for such developments to pose an external hazard to sites.
<b>Special case</b>	ONR also requests to be consulted on planning applications, irrespective of distance from nuclear sites, for special cases. These represent developments that either introduce a new hazard or change the existing external hazards posed to nuclear sites.

Figure 2 Officer of Nuclear Regulation has updated its consultation zone



5.6 Following REPP19 it is a legal requirement that the DEPZ defined under Regulation 8, must have an “adequate offsite emergency plan (OSEP) covering that zone” in accordance with Regulation 11.

5.7 The supporting text to policy CS8, although adopted before REPP19 came into force, emphasises the need for continued monitoring and flexibility of approach. Paragraph 5.42 states :

*“Given the potential cumulative effects of any population increase surrounding the installations, it will be necessary to monitor committed and future development proposals in partnership with neighbouring Councils and the ONR. The Councils will monitor housing completions and commitments as part of the Annual Monitoring Report and send this information directly to the ONR for them to make informed judgements when assessing future development proposals.”*

5.8 Paragraph 5.42 states :

*“there is likely to be changes of inputs to the ONR’s model which may result in a less restrictive approach been taken by the ONR.”*

5.9 Whilst the supporting text only mentions a less restrictive approach, Regulations 8(1) and 8(6) of REPP19 allow the local authority to re-determine the DEPZ which may include extending it.

5.10 The Council’s view is that the “Consultation Zones” (whether, referred to in the CS8 table as “inner”; “Middle”; or “Outer”) referred to in CS8 are no longer consistent with REPP19, and cannot override its requirements.

5.11 Should the Inspector nevertheless consider that the proposal falls within the former Middle Zone, the following part of CS8 would apply :

*“All other development proposals in the consultation zones will be considered in consultation with the ONR(61), having regard to the scale of development proposed, its location, population distribution of the area and the impact on public safety, to include how the development would impact on “Blue Light Services” and the emergency off site plan in the event of an emergency as well as other planning criteria”.*

5.12 It is clear from the consultation responses received from WBC Emergency Planners, ONR and the MOD that both public safety and the OSEP would be at risk if this

development were permitted (set out below). There is clear conflict with policy CS8 regardless of whether the proposal is considered to fall within the DEPZ or not.

- 5.13 Policy CS8 is considered to accord with the NPPF as it is consistent with the requirement in respect of promoting public safety and taking into account wider security and defence requirements for which the Council considers an objection from the MOD and /or AWE would meet the requirements of NPPF paragraph 101 (b). Full weight should therefore be given to this policy.

#### Consultation responses

- 5.14 The Council consulted with the ONR and note that its response, dated 19<sup>th</sup> March 2022 (**CD.4.14**), advised:

*"I have consulted with the emergency planners within West Berkshire Council which is responsible for the preparation of the off-site emergency plan required by the Radiation (Emergency Preparedness and Public Information Regulations) (REPPiR) 2019. They have not been able to provide me with adequate assurance that the proposed development can be accommodated within their off-site emergency planning arrangements.*

*Therefore, ONR advises against this development, in accordance with our Land Use Planning Policy"*

- 5.15 The ONR's advice [**CD4.14**] is based on the consultation response of the Council's Emergency Planning Department which is responsible for preparing the OSEP. The evidence of Carolyn Richardson explains the relationship between her department, the ONR and the multiple other agencies involved in preparing and maintaining an adequate OSEP in accordance with REPPiR. The ONR is ultimately responsible for deciding whether or not the OSEP is and will remain adequate.

- 5.16 I understand that the Council's emergency planners have undergone exercises to test the OSEP which led to concerns from the ONR expressed in a letter to West Berkshire's Chief executive officer dated 29/10/2023 [**Appendix 5 CD 24.7**] :

*“[the ONR] is concerned that apparent issues with the delivery of the plan will be exacerbated by further increased in population and improvements are required to address these”.*

The Council’s Emergency Planners are taking action to address these concerns and one of these actions is to resist further development of population density in the DEPZ.

- 5.17 Furthermore the MOD also formally objected to this application making the following statements on the 07/04/2022 **[CD 4.4]**:

*“The purpose of this email is to record the MOD’s formal OBJECTION to this proposal for the reasons set out below. The MOD reserves the right to make further representation should the application proceed through the development process for instance to appeal if the application is refused.*

*I note that the ONR [19/03/2022] has “advised against” this development and also that WBC Emergency Planners [22/02/2022] has recommended refusal. AWE Burghfield [AWE B] is owned by the Secretary of State for Defence and together with AWE Aldermaston and Blacknest, delivers the warhead contribution to the nationally and internationally significant nuclear deterrent. AWE B has unique national strategic importance as it is here that warheads are assembled and maintained while in service and decommissioned when out of service. It is the only site in the UK with this capability. The importance of that use is reflected in the current WBC Local Plan, representations made by MOD to the emerging Local Plan and National Planning Policy Framework paragraph 95.”.*

*The MOD has consistently sought to ensure that any constraints on delivering the capabilities at AWE B now and in the future are minimised. The proposed introduction of this development is directly contrary to safety and emergency planning advice and practice in light of the DEPZ required. It could have an adverse impact upon the nation’s security by constraining both the current and future operation of AWE B.”*

- 5.18 Ultimately, the impact of the development on the adequacy of the OSEP or the future capabilities of AWE B are emergency planning matters and I defer to the expertise of the Council’s emergency planners, the ONR and the AWE/MOD. The text of existing policy CS8 and SP4 in the ELP reflects that position : development in the DEPZ is not completely ruled out, but it is “likely” to be refused.

- 5.19 It is important to understand the distinction between the role of development control planners, and the Council's emergency planning service, in assessing planning applications within the DEPZ. Development control planners do not have any detailed input into Emergency Planning's consultation response. We will advise on the development proposal's nature so they understand what the development may bring in terms of population increase. But the emergency planning impacts are for Emergency Planning to consider and advise us. We would not seek to interrogate their objection, only to understand the reason for it, so we can apportion appropriate weight. If Emergency Planning and the ONR advise against a proposal in the DEPZ, there is a very strong presumption against granting planning permission. The test we apply as development control planners is whether the planning benefits outweigh the negative impacts. If we are advised that a development should be refused for emergency planning reasons, we rely on that advice. It is not for development control to decide how the development impacts the OSEP.
- 5.20 If the ONR does advise against a development in the DEPZ, I consider that policy CS8 does still allow some extremely limited scope for the local planning authority to grant permission on planning grounds. I address this under the 'planning balance', below.
- 5.21 If, contrary to the Council's case, the Inspector considers that the second sentence of policy CS8 applies (i.e. the proposal triggers the 'middle zone' considerations "*in consultation with the ONR*" including the scale of the development proposed, etc. then "*other planning criteria*" are explicitly relevant and there is greater scope for a grant of permission. However as I have said I do not consider that the proposal triggers these considerations, and in any event the ONR's advice is that permission should be refused and the MOD also objects to the proposal.
- 5.22 In conclusion. I consider that the proposal does not accord with Policy CS8 or the development plan as a whole.

#### **Other relevant appeal decisions - DEPZ**

- 5.23 The appellant's approach appears to be to undermine the emergency planners' and the ONR / AWE's views on the impact of this particular proposal on the adequacy of the OSEP. However, CS8 and its successor SP4 are worded to avoid a case-by-case review of the emergency planning impact of proposals within the DEPZ on the OSEP once the

emergency planning experts have given their view. The ordinary planning impacts (e.g. design, landscape) still fall to be considered individually.

5.24 It is an increasing trend that the Council's to which the DEPZ overlays are having to defend reasons for refusal related to further development in the DEPZ. These appeals seek to challenge the Council's view of its OSEP to accommodate further development. For example the Kingfisher Grove appeal decision [CD 8.3] and the Shyshack Lane Decision [Appendices 6 CD 24.8], both addressed below in section 6 of this proof. The Council is also defending the following appeals on emergency planning grounds:

- APP/W0340/W/24/3344580 - 23/01692/FUL - 132 Recreation Road, Burghfield Common, Reading, RG77EN. Proposed development for one dwelling.
- APP/W0340/W/24/3343072- 23/01812/FUL- Village Stores Sunnyside Reading Road, Burghfield Common, Reading, RG7 3EG. Proposed development for 2 dwellings.
- APP/W0340/W/24/3342596 - 23/02105/FULMAJ Benhams Farm, Hollybush Lane, Burghfield Common, Reading, West Berkshire RG7 3JS. Proposed development for 9 dwellings.
- APP/W0340/W/3346878 – 23/02984/FUL Land at Brimpton Common opposite Blacksnest. Proposed development for 1 mobile home, 1 touring caravan and 1 dayroom plus access to lane.

5.25 In each of these appeals the appellant suggests that there would only be a small impact on the emergency plan, but when taken cumulatively that impact adds up. This issue is expressed well by the Inspector in paragraph 12 of appeal decision APP/H1705/W/23/3326959 Shyshack Lane. The Inspector on any individual appeal is not in a position to assess its impact on the OSEP. In any event, that is an emergency planning matter subject to the REPPIR regulations and the oversight of the ONR.

5.26 As the ONR is the government's nuclear safety regulator, its emergency planning advice should be given the greatest weight. The view of the Council's Emergency Planners and ONR are best placed to advise me as a Development control Planner (and also the Inspector) of the impact of a proposal on the OSEP, which is a multi-agency strategic plan covering a wide area.

5.27 The Council is very concerned that this trend of 'piecemeal' attacks on emergency planning decisions, via planning appeals, will continue until a clear and consistent indication and is given by the Secretary of State that this is not the appropriate approach.

## 6. National Planning Policy Framework

- 6.1 The NPPF (December 2023) is a material consideration. The Council notes that CS8 was drafted based on the 2012 NPPF which read as follows in regard to major hazard sites.

*“Public safety from major accidents 172. Planning policies should be based on up-to date information on the location of major hazards and on the mitigation of the consequences of major accidents.”*

- 6.2 The Council notes that the NPPF has been revised three times since this initial document, in 2019 and 2021 and 2023.
- 6.3 The Council considers that Policy CS8 remains in accordance with the most recent version of the policy in paragraph 101 of the NPPF (2023), which has been expanded. The contents and effect of Policy CS8 aligns with the principles of paragraph 101(a) and (b) in terms of public safety and emergency planning. Public safety is considered to encompass both the risk to the public in an emergency and in terms of national defence.
- 6.4 The Council considers that the development would not accord with the NPPF paragraph 101(a) due to the impacts identified by the Council’s emergency planning response and the ONR, and 101(b) due to the MOD’s concerns about the future capability of the AWE Burghfield installation.
- 6.5 Furthermore, the objection from AWE and MOD informs the Council’s consideration that the development “...could have an adverse impact upon the nation’s security by constraining both the current and future operation of AWE B.” The AWE sites, as the Council understand, are the only two sites in the United Kingdom that support the MOD’s Trident Nuclear Deterrent in the form of producing the warheads. Any constraint to the AWE’s site activities could have a knock-on effect on the Country’s nuclear deterrent having far wider implications for public safety than just those in West Berkshire.

## 7. Emerging Local Plan

- 7.1 Following consultation undertaken between 20 January 2023 and 3 March 2023, the Council formally submitted its Local Plan Review (2022-2039) to the Planning Inspectorate for examination on 31 March 2023. The local plan examination hearings took place in May and June of this year. The Inspector has issued interim findings (19 July) [**Appendix 3 CD 24.5**].
- 7.2 Policy SP4 (Atomic Weapons Establishment (AWE) Aldermaston and Atomic Weapons Establishment (AWE) Burghfield) will replace current West Berkshire Core Strategy Policy CS8. As part of the Local Plan Review Inspector raised action points on policy SP4. A copy of the policy with the proposed main modification in response to the action points is attached [**Appendix 4 CD 24.6**].
- 7.3 The changes proposed have been worked on with the ONR and AWE to make the policy clearer and more effective in its implementation. The changes do not alter the overall 'thrust' of the policy and its view on restricting development. The modifications still seek to manage development in the public interest and to ensure that any proposed development does not adversely affect the defence related operations or capability of the AWE sites.
- 7.4 It is notable that the Local Plan Inspector has not raised issue with the direction of the policy to restrict development in the DEPZ whereby it impacts the emergency plan. The inspector's comments do not invite a site-specific assessment of risk. It does not require modification to the Council's approach to development in the DEPZ around the site, only seeking to clarify statements and proposal maps related to the policy.
- 7.5 Furthermore, whilst the LPR Inspector has provided interim findings (19 July 2024) and flagged up concern with the number of dwellings being delivered as part of the plan, these findings acknowledge :

*"The AONB, areas of flood risk and the two Atomic Weapon Establishments, along with other constraints, mean that opportunities to identify further sites that are suitable for housing development are limited having regard to national policy and the Plan's spatial strategy". (My emphasis added)*



- 7.6 This statement from the Inspector recognising the district's constraints is a strong indication that the AWE installations are an accepted constraint on identifying sites suitable for housing development. The changes to SP4 do not alter the position that if the ONR does advise against a proposal, permission is likely to be refused. All these factors would indicate that the LPR Inspector is content with the Council's assessment of the AWE constraint, and that the de-allocation of this site for development in its emerging plan is justified.
- 7.7 The main modifications (1 August 2024) to the emerging local plan containing the latest version of SP4 also state at paragraph 4.46 of the supporting text that (emphasis added) :
- “During the plan period there may be changes to the REPPIR legislation and/or in the inputs to the ONR's process which may result in consequential changes to the land use planning consultation zones or consultation criteria, which in turn could result in changes to ONR's advice on particular proposals. These will be kept under review and **policy SP4 will be applied to the latest version of the ONR Guidance/Zones.**”
- 7.8 The Council consider the Local Plan Review to be at an advanced stage; to have minor unresolved objections with regard to policies SP4; and to be consistent with the NPPF. As such the Council considers the status of these policies to have moderate weight.
- 7.9 Permission for this appeal development appeal could therefore undermine the local plan review, which is at an advanced stage, and the LPR Inspector's consideration of development sites within the DEPZ. The granting of permission could undermine SP4 and the general spatial strategy of constraint around the AWE sites.

## 8. Affordable Housing

- 8.1 Policy CS 6 of the Development Plan deals with affordable housing. In order to address the need for affordable housing in West Berkshire a proportion of affordable homes will be sought from residential development. The Council's priority and starting expectation will be for affordable housing to be provided on-site in line with Government policy.
- 8.2 On development sites of 15 dwellings or more (or 0.5 hectares or more) 30% provision will be sought on previously developed land, and 40% on greenfield land.
- 8.3 The housing officer has noted that should the application be approved the 13 on site affordable units (40% affordable housing of which 70% 9 units should be for social rent) must be achieved via the completion of a relevant obligation attached to the planning permission.
- 8.4 At the time of writing the Council is content that the Unilateral Undertaking document secures the required level of affordable housing. The UU is acceptable in principle subject to updates to relevant signatures, dates, and updating references to quashing of the previous appeal decision. These are considered more technical matters related to the legalities of the document
- 8.5 The Council is however of the view that the weight afforded to the delivery of affordable housing does not outweigh the conflict with CS8. The affordable housing could be situated on an alternative site outside of the DEPZ area whereby there is no risk to the future occupants or to the capability of the installation.
- 8.6 The Council accepts that there is a need for affordable housing in the district, but this must be balanced against the need to protect its residents now and in the future. It also needs to ensure an environment that welcomes AWE/MOD as one of the largest employers in the district and ensures the operations of the site are not curtailed by a failure of the Local Authorities' Emergency Plan. The Council also needs to have consideration to the impact this scenario may have on national security as set out in the MOD's objection.
- 8.7 The Council's view that the Inspector should not give great or significant weight to the affordable housing issue is supported by other Inspector's decisions.

- 8.8 For example, in Appeal Ref: APP/M2270/W/20/3247977 [**Appendix 7 CD 24.9**] Land at Gate Farm, Hartley Road, Hartley, Cranbrook TN17 3QX, where Tunbridge Wells Borough Council did not have a 5 year land supply the Inspector put moderate weight on market housing for 40 dwellings (Paragraph 107). However, more relevant here was the affordable housing situation where the delivery against “need” was poor, as set out in the Decision Letter (Paragraphs 108-111). Despite this the Inspector gave only moderate weight to Affordable Housing.
- 8.9 In contrast, the Council can display a 5-year supply, and whilst affordable housing does need to be delivered across the district, other Inspectors only give this moderate weight in the planning balance.
- 8.10 The Council also notes Appeal Ref: APP/B1930/W/20/3260479 Smallford Works, Smallford Lane, Smallford, St Albans AL4 0SA [**Appendix 8 CD 24.10**] which was dismissed at appeal. Of note is that the Inspector gave significant weight to the contribution of housing due to the agreed 2.4-year land supply (paragraph 79). The Inspector also gave very significant weight to the contribution to affordable housing above the local plan requirement (paragraph 80).
- 8.11 Again, in comparison to the situation in West Berkshire the 5-year supply is much higher, and the contribution to affordable housing is only in accordance with policy and does not exceed its requirements.
- 8.12 In light of comparable appeal decisions, only moderate weight should be given to affordable housing provision here.
- 8.13 The appellant will seek to argue that there is a large need for Affordable Housing in Burghfield Common, and that statistics show there are a number of people who have shown a desire to live in Burghfield Common on the Housing register. However, what is not expressed is that in the Housing Officers opinion roughly 90% have indicated that they wish to live elsewhere too, and that some do not fill out this section of the report at all. The weight given to this evidence needs to be tempered given the inconclusive survey information evidence presented.

## 6. Appeal Cases

### Land at West of Kingfisher Grove

8.14 The Secretary of State has permitted 49 units to be built within the AWE Burghfield DEPZ. See the decision of the Secretary of State, reference APP/X0360/W/22/3304042, dated 31<sup>st</sup> January 2023 **[CD8.3]**.

8.15 However, the appeal decision referred to above is significantly different to this appeal in a number of ways.

8.16 Firstly, the relevant development plan policy (Adopted Wokingham Borough Managing Development Delivery Plan TB04) is worded differently to CS8 and SP4. It explicitly provides for the applicant to demonstrate that the proposal can safely be accommodated and does not refer to the consultation response of the ONR:

*1. Development will only be permitted where the applicant demonstrates that the increase in the number of people living, working, shopping and/or visiting the proposal (including at different times of the day) can be safely accommodated having regard to the needs of "Blue light" services and the emergency off-site plan for the Atomic Weapons Establishment site at Burghfield. 2. The applicant will need to provide this information where the proposal exceeds the scale of development detailed below for the consultation zone as defined on the Policies Map.*

8.17 In addition, paragraph 42 of the Decision notes that Wokingham Borough Council does not have a 5 year housing land supply. Wokingham Borough Council had an unmet housing need and the tilted balance was therefore engaged. Whereas the Council (West Berkshire) in this instance has a healthy land supply of 5.7 years and no short fall, unlike that noted in the end of paragraph 42 of the Kingfisher Grove appeal decision, even were one to discount the Appeal proposal of 32 homes.

8.18 Furthermore, paragraph 42 notes that the Kingfisher site would "...provide approximately 6% of the Council's annual supply of homes, which I consider to be a sizeable proportion." Whereas in the case of this Appeal the contribution to the supply of housing would be around 0.9%, so comparatively very limited.

- 8.19 The Council must now revisit its emergency plan (OSEP) to accommodate these 49 dwellings. This is significant as the Council already had concern in terms of accommodating the appeal proposal, now it must accommodate the Kingfisher decision houses, which uses up further capacity. The cumulative impact of the Kingfisher decision and this development, if the appeal is allowed, on the OSEP and the future ability of AWE to function is a material consideration which should carry very significant weight.
- 8.20 Neither the ONR, AWE nor the MOD participated in the Kingfisher inquiry, which is clearly a very material difference. The Council considers the differences between this appeal and the Kingfisher Appeal are significant enough to justify giving no weight to it as a material consideration.

### **Land at 1-9 Shyshack Lane**

- 8.21 Appeal Ref: APP/H1705/W/23/3326959 Land at 1-9 Shyshack Lane, Baughurst, Tadley, RG26 5NH [**Appendix 6 CD 24.8**] was for the erection of 3 no. detached dwellings and associated access and parking. The main issue was the effect on public safety, with particular regard to the Aldermaston Atomic Weapons Establishment (AWE) off-site emergency planning arrangements.
- 8.22 The Council is of the opinion that this appeal decision identifies key assessments of the matters at hand in the present appeal, and supports the Council's case.
- 8.23 In Shyshack Lane the Inspector recognises that the development would introduce additional dwellings in close proximity to the AWE site boundary. In this case it was only 3 dwellings. The Inspector acknowledges the ONR's advice on the application that further development would have the potential to impact upon the adequate implementation of the OSEP. The ONR arrived at this view following assessment of evidence collected through its regulatory oversight under REPPiR, modular exercises, a live test and wider engagements with WBC. The live test confirmed shortfalls that were identified through the previous exercises and suggests uncertainty that a population increase can be accommodated by the OSEP as it stands. The same concern is expressed by the ONR in this appeal.
- 8.24 The ONR's position is consistent with West Berkshire Emergency planners' assessment that they are unable to give assurance that the additional households proposed could

be accommodated within the existing OSEP. It has explained that the AWE area presents a complex situation in the event of an emergency event and the OSEP is at a “cliff edge” when considering its ability to accommodate additional households.

8.25 The Inspector’s decision letter identifies that the proposal for 3 dwellings is relatively small scale, the proposal would increase demand on resources available to implement the OSEP in the event of a radiation emergency. This demand would be in addition to the existing people requiring assistance in the event of an exercise, increasing pressure on rest centres and increasing the need for any long-term accommodation required for evacuated members of the public.

8.26 Crucially the Inspector recognises that:

*“placing people in an area where there is a known risk would contribute to the complicated response required from emergency services. Increased demand on services, at such a time, could jeopardise the effectiveness of the plan as a whole in contradiction of the objective of policy SS7.”*

8.27 Bearing in mind this was in relation to only three houses, applying the same considerations to 32 houses in this appeal, and the population increase in the DEPZ, the appeal proposal is more likely to adversely impact on the OSEP.

8.28 The Inspector observes that:

*“12. The suggestion that individual development could be justified on the basis that it alone would be small in scale and have a negligible, if any, effect on the preparation and delivery of the OSEP is an argument that could be easily repeated. This approach would result in incremental development that would over time significantly erode the effective management of the land use planning consultation zones surrounding the AWE to the disbenefit of public safety. The proposed development would place a greater burden on the OSEP, which is already under pressure based on the comments of the ONR.”*

8.29 The Council endorses and invites this Inspector to follow the approach of the Inspector in the Shyshack Lane appeal in rejecting the “incremental” approach to planning decisions in the DEPZ, for the same reasons: the ONR and the Council’s emergency planners are best placed to make emergency planning decisions in their sphere of regulatory expertise.

- 8.30 This inquiry should focus instead on the planning balance and whether the benefits of the proposal are sufficient to outweigh non-accordance with the development plan. Even if, which the Council does not accept, the tilted balance were to apply as a result of the Council's housing land supply position, that would not justify a grant of permission. The adverse impact of non-accordance with policy CS8 would still significantly and demonstrably outweigh the benefits of the proposal when assessed against the NPPF as a whole.
- 8.31 That is the approach taken by the Inspector in the Shyshack Lane appeal : Basingstoke and Deane could not display a 5-year land supply, however the Inspector still found that the adverse impact of the development on the delivery of an adequate OSEP would significantly and demonstrably outweigh the benefits of the proposal.
- 8.32 The Council considers that refusal of permission for this proposal is entirely consistent with the Inspector's decision in Shyshack Lane, and whilst the benefit of more housing is scaled up, so is the risk to the OSEP.

## 9. Planning Balance

9.1 I use the following hierarchy of terms :

- Great
- Significant
- Moderate
- Limited
- None

### **Planning benefits that attract weight**

9.2 The Council acknowledges that the development is an allocated site under policy HSA16. It could make a small contribution to the Council's 5 year housing land supply (a low percentage). Only **limited weight** is given to this benefit due to the Council having a 5.7 year housing land supply. The Council can deliver on its housing numbers without the need for this site at all. Furthermore the site has been formally de-allocated in the emerging local plan that is consistent with there being no assessed need for the site to be further developed.

9.3 The Council acknowledges that the development is subject to a satisfactory legal agreement would deliver 13 affordable housing units. **Moderate weight** is given because of the public interest in such housing. It is considered that only moderate weight can be given to the provision of affordable housing in this instance as it does come with risk to future such occupiers of their ongoing safety due to the factors relating to unexpected occurrences at AWE and to Emergency Planning. These affordable units could be delivered elsewhere and where there is no risk or a reduced risk to future occupiers because the housing type would be outside of the DEPZ. This benefit's weight is also reduced given that adequate land supply can be shown by the Council. The reduced weight aligns with other comparable appeal decisions as set out above.



### Planning matters attributed no or neutral weight in the balance

- 9.4 The development would not have an unacceptable impact on neighbouring amenity. The development would not have an unacceptable impact on the surrounding Highways. It is accepted that the design of the dwellings themselves are in accordance with development plan policies on design. These matters all attract neutral weight in the planning balance given they are needed to comply with the Development Plan and are expected by National Policy.
- 9.5 Weight should not be given to the Kingfisher appeal decision due to the significant differences explained in this proof.

### Planning Disbenefits

- 9.6 For the reasons explained above, the development is considered not to accord with policy CS8 of the local plan, which is intended to ensure public safety and the viability of defence operations at AWE Burghfield. The ONR's advice as the statutory regulator raises extraordinarily serious concerns, as does the objection of the AWE/MoD. These attract the **greatest weight**.
- 9.7 The development would not comply with the spatial strategy ADPP6 due to non-accordance with CS8. This attracts **great weight**.
- 9.8 The Council attributes **great weight** to its Housing Land Supply position of 5.7 years enabling housing to come forward in other locations without any associated risk to future occupiers, risk to the OSEP or national security.
- 9.9 The proposal would therefore not comply with the Council's spatial strategy for housing. The Council gives this issue **significant weight** given the policy conflict. The Council considers a lesser level of weight can be given to this conflict due to the more important considerations of ongoing public safety and CS8.
- 9.10 The development would result in limited localised harm and conflict with development plan policies ADPP1, CS14, CS18 and CS19 of the Core Strategy, which together seek to ensure that development respects local character, while making efficient use of land. Given the limited localised nature of this harm and conflict, **moderate weight** is given.

## **The planning balance**

9.11 Whilst the site is an allocated housing site under the current development plan, the allocation is not unconditional, and development of the land is based in particular on other policies that include CS8 and recognise the situation at AWE Burghfield. The material considerations that have arisen since this allocation was made in 2017 are significant and greatly outweigh the weight attributed as a result of the policy allocation and the benefits of housing (including affordable housing).

9.12 Overall, the at most moderate weight attributed to the planning benefits of the appeal proposal do not outweigh the very great planning disbenefits, and conflict with the development plan as a whole.

## **Conclusion**

9.13 The Council respectfully requests the appeal is dismissed.