

Dear Mr Butler

AWE Burghfield

Response to development proposals by TA Fisher & Sons Limited for land to the rear of Hollies, Reading Road - pre-app reference 22/02010.

Purpose

1. The purpose of this letter is to **object** to the proposals put forward by TA Fisher & Sons Limited for a development site at Land rear of the Hollies, Reading Road, Burghfield Common.
2. TA Fisher & Sons Limited are seeking pre-application advice in connection with a **residential development**, for up to 32 dwellings (approximately 75 additional residents), access, associated parking, landscaping and public open space on a site where planning permission for substantially the same development was refused by the Council on 1 June 2022 (application ref 22/00244/FULEXT) (the original scheme).
3. The development is inappropriate in the location proposed, for the reasons set out in the AWE and ONR objections to the original scheme, the Council's reasons for refusal of the original scheme, and this letter.

Background to AWE's operation at AWE Burghfield

4. On 1 July 2021, the MoD took back full ownership of AWE plc, the contractor and operator of the licenced nuclear sites at Burghfield and Burghfield. AWE plc is now an arm's length non-departmental public body and is still responsible for the safe and secure running of AWE sites as well as delivery of the warhead contribution to the nationally and internationally significant UK nuclear deterrent. The sites and assets continue to be owned by the Secretary of State for Defence and are Crown Land.
5. AWE Burghfield has a unique national strategic importance which is linked to Government policy in respect of continuing to maintain a nuclear deterrent. This policy has not changed.
6. As made clear in AWE's Regulation 18 Draft Local Plan representations, AWE's Burghfield and Aldermaston sites require identification within West Berkshire's Local Plan and safeguarding for their unique purposes, as well as to sustain and deliver an associated investment programme. Current proposed investment includes, but is not limited to, new builds along with refurbishment of existing key facilities to maintain the site national defence contribution and readiness and to ensure no impediments to that sustained use.

Radiation (Emergency Preparedness and Public Information) Regulations

7. As you are aware, AWE must meet the requirements of the Radiation (Emergency Preparedness and Public Information) Regulations 2019 ("REPPIR 2019"). This includes a duty to identify the hazards arising from working with ionising radiation which have the potential to cause a radiation emergency and to advise the Council of the consequences of such an emergency. REPPIR 2019 also placed a legal duty on the Council to determine the Detailed Emergency Planning Zone ("DEPZ"), as well as to prepare and implement plans to deal with an off-site emergency. The MoD, in turn, has the responsibility for determining the Outline Planning Zone ("OPZ"), for both AWE Burghfield and Aldermaston.
8. The purpose of the DEPZ is to set a zone around a site where it is proportionate to pre-define and implement arrangements for protective actions which can then be implemented without delay in the event of a radiation emergency. The purpose of the OPZ is to identify protective actions at a more strategic level and to enable emergency responders to provide for arrangements in the OPZ for extremely unlikely but more severe events (rather than have them in place ready to mobilise without delay). The Council's offsite emergency plan covers both the DEPZ and OPZ.

9. REPIR 2019 required AWE to prepare a consequences report for AWE Burghfield and Aldermaston in 2019, which recommended to the Council the minimum distance to which 'urgent protective actions' may need to be taken, and the minimum geographical extent from AWE Burghfield that requires detailed off-site emergency planning. The consequences report recommended a 3160m radial distance from the AWE Burghfield site centre location for urgent protective actions and an OPZ of 12 km, as set by the MoD.
10. The Council determined the current DEPZ for AWE Burghfield and Aldermaston in May 2020.
11. This is a greater distance for detailed off-site emergency planning than that which was calculated under the previous REPIR regime. The increase in distance is due to changes in the evaluation and assessment required under REPIR 2019, not because of changes to the inventory of materials or operations at AWE Burghfield. These changes were introduced to improve public protection standards¹. The change in legislation reflects important lessons learned from the Fukushima Daiichi incident, as well as updates to relevant standards agreed at the International Atomic Energy Agency (IAEA) and International Commission on Radiological Protection (ICRP).
12. Hazard evaluation and consequence assessment is required to be kept under continual review by AWE and the assessment criteria will also be kept under review by the regulators. However, it is worth nothing that, contrary to supporting paragraph 5.44 of the Core Strategy adopted in 2012, when these criteria are updated they are likely to get more, not less, stringent, going forward. This, in itself, supports a precautionary approach to new development in the DEPZ.

DEPZ as a Material Planning Consideration

13. Since May 2020 when the current DEPZ was determined, the proposed development site is within the DEPZ, the inner ONR consultation zone and the urgent protective action area, as defined above. The DEPZ is therefore a significant material planning consideration to in considering and providing pre-application advice in relation to this proposal.
14. For the reasons set out in this letter, the Council is urged to attribute great weight to the DEPZ as a material planning consideration when assessing and providing pre-application advice on this proposal, as it did when considering this development proposal in June this year.

Development Plan

15. The Council has existing development plan policies that address proposed developments within the DEPZ. The Council is proposing a similar policy within their emerging Local Plan. The current policy is summarised below:

Policy CS8 (Nuclear Installations – AWE Burghfield and Burghfield) of the Council's Core Strategy (2012), provides that all development proposals in the consultation zones:

... will be considered in consultation with the ONR, having regard to the scale of the 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.

It is our view that the development is in conflict with this policy, by virtue of the location of the development site, the population increase attributable to the development and its impacts on public safety, emergency services, the effective operation of the Council's off site plan as well as other criteria set out in national planning policy. Our reasoning is set out below, organised under headings that engage with the objectives of Policy CS8 as well as the objectives of national planning policy, as examined further below.

¹¹ [The Radiation \(Emergency Preparedness and Public Information\) Regulations 2019 - Explanatory Memorandum \(legislation.gov.uk\)](https://www.legislation.gov.uk)

National Planning Policy Framework

16. The development proposals also come into conflict with policies in the National Planning Policy Framework (NPPF) which seek to protect the ongoing needs of operational defence sites.

Safeguarding security and defence capability

17. Paragraph 97 of the NPPF imposes a requirement to safeguard “wider security and defence requirements”, to ensure that AWE Burghfield (and Aldermaston) are “not affected adversely by the impact of other development proposed in the area.” Importantly, Paragraph 130 confirms that this safeguarding obligation bites “not just for the short term but over the lifetime of the development”. The temporal range (long term nature) of the obligations in Paragraphs 97 and 130 is therefore highly material to the Council’s consideration of this development proposal and highlights that the emergency planning consequences of development in the DEPZ – whilst critically important - are not the only material planning consideration informing the Council’s decision-making.

Agent of change

18. Pursuant to the “agent of change” principle in Paragraph 187 of the NPPF, all new development should be “integrated effectively with existing business and community facilities”, which “should not have unreasonable restrictions placed on them as a result of development permitted after they were planned.”
19. It is our view that any additional residential development in the DEPZ creates significant challenges in terms of effective integration and is likely to result in unreasonable restrictions being placed on AWE’s operations, in conflict with Paragraph 187. Our reasoning is set out below.

Reasons the development proposal is inappropriate

Unacceptable constraints on current and future operations

20. The MoD has consistently sought to ensure that any constraints on delivery of the sustained capabilities at AWE Burghfield (and Aldermaston) now and in the future are minimised, in the interests of national security and international defence capability.
21. The proposed residential development represents a potential constraint to both current and future operations at AWE Burghfield, in direct conflict with the MoD’s objectives and the agent of change principle in Paragraph 187 of the NPPF.
22. AWE will be unable under REPIR 2019 to work with ionising radiation if, amongst other matters, the Council is unable to comply with its duties in connection with the off-site emergency plan². This means that if in the future the Council is judged to have an inadequate off-site emergency plan, then this could potentially close the operations at the AWE Aldermaston and Burghfield sites.
23. It is therefore imperative the Council’s Emergency Planning Team is supported to ensure the ongoing adequacy of its off-site emergency plan. Allowing inappropriate increases in the residential population within the DEPZ, alongside any consequential impacts for example traffic management and emergency services response, adds to the Council’s burden in this regard.
24. Schedule 7 Part 1 of REPIR 2019 sets out the principles to which emergency plans must have regard. This includes but is not limited to:
 - a. *“the necessity to optimise protection strategies to ensure that the proposed response, as a whole, is predicted to do more to mitigate the radiation emergency and facilitate transition from that*

² Regulation 10(4)(b) of REPIR 2019

emergency to an existing exposure situation than to increase its duration or consequences, taking into account—

- i. the health risks arising from exposure to ionising radiation as a result of the radiation emergency, in both the long and the short term;*
- ii. the economic consequences of the radiation emergency;*
- iii. the effects of the disruption, both on the premises and the area immediately surrounding it, and on the public perception of the effects of the radiation emergency;”³ and*

b. *“the necessity of avoiding, so far as possible, the occurrence of serious physical injury to any person”⁴*

25. The necessity to avoid the occurrence of serious physical injury so far as possible supports MoD’s in principle objection to this development as it is increasing the population density of an area within the DEPZ. This is increasing the risk of exposure to personal injury to more people in the event there is a radiation emergency and this should be avoided so far as possible.

26. In addition, it is relevant to consider economic consequences of a radiation emergency. Increasing the population density within the DEPZ increases the potential for personal injury claims, property damage and other losses to be incurred. AWE as operator is responsible for such matters under the Nuclear Installations Act 1965 and is also responsible for the Council’s costs under REPIR 2019⁵. MoD is responsible for AWE’s costs so these losses would fall entirely on the public purse.

27. Further, the nature of the surrounding environment to AWE Burghfield is relevant to how AWE Burghfield itself is operated from a health and safety point of view. Changes to the wider environment (such as additional members of the public being resident in the immediate surroundings), can have the potential, without limitation, to:

- limit AWE’s ability to make and sustain, without additional external limitation or impediment, the best use of the AWE Burghfield site and to fully implement the current consolidation, development and modernisation programme;
- restrict operations in certain facilities due to potential conflicts with current and future nuclear licensing arrangements;
- require the implementation of additional engineering safeguards to facilities and/or possible relocation of facilities - with consequential disruption, delay and additional cost to defence and the public purse, along with significant uncertainty; and
- hamper the ability to manage any future changes in health and safety legislation.

Public safety

28. Paragraph 97 of the NPPF provides that planning decisions should promote public safety, as well as taking into account wider security and defence requirements. It is also a requirement of local Policy CS8 that potential threats to public safety are comprehensively surveyed and evaluated.

29. Given the geographic proximity of the proposed development to AWE Burghfield, a substantial radiological dose is possible for anyone within the proposed development site in the event of a radiation emergency. Whilst such an emergency is remote, this risk weighs against locating this development in the DEPZ and at such close proximity to AWE Burghfield.

³ Paragraph 1(b) of Schedule 7 Part 1 REPIR 2019

⁴ Paragraph 1(c) of Schedule 7 Part 1 REPIR 2019

⁵ Regulation 16 of REPIR 2019

Site specific emergency plans

30. Whilst site specific emergency plans are not currently required for residential development, the developer asks the Council to consider whether a site specific emergency plan and legal agreement to secure such plan, would overcome the Council's objection to residential development, in this location.
31. Even if a site specific emergency plan could be secured under section 106 of the Town and Country Planning Act 1990, as per the Tadley example at paragraph 5.18 of the Planning Statement it would not, in our view, be capable of securing mitigation measures which are sufficiently effective and deliverable for the Council to give them weight in their reasons for grant. For example, one of the obligations in the precedent section 106 agreement supplied provides that:

In the event of an incident, offer all occupants reasonably suitable temporary accommodation as soon as possible and within 72 hours of being made aware of an incident – the accommodation is to be made available until such time as residents can return to their homes

32. This obligation is highly problematic. We are not clear what justification there is for maintaining that 72 hours is an adequate time to provide relocation facilities – the number seems arbitrary and based on commercial, not emergency planning, drivers. We are also not clear how a developer can commit to make accommodation available for an uncertain time. This would require unconstrained access to a large housing stock, network of hotels or other accommodation providers, which is unrealistic in the case of most housebuilders. Furthermore, it is not even clear whether this is a valid planning obligation as it is a positive obligation relating to the use of unknown/unspecified land other than the development site itself, which is not itself bound by the terms of the agreement.
33. These specific points help illustrate the more general point which is that planning conditions and section 106 obligations to secure site specific emergency measures and plans are unlikely to make the Council's offsite emergency plan capable of accommodating new development in the DEPZ. The offsite emergency plan is comprised of a number of interdependent variables, including strategic transport and emergency services resourcing considerations which cannot be cured by site specific mitigation measures.
34. This is not a full survey of the potential emergency planning impacts of TA Fisher & Sons Limited's development proposal. The Council would need to work very closely with the AWE to understand the full range of impacts and resource pressures introduced by development proposal. It gives a flavour of the range and magnitude of emergency planning and other planning impacts which helps evidence, reason and support our belief that the proposed development cannot be safely situated in the DEPZ.
35. Fundamentally, an emergency plan does not make appropriate, a development which is otherwise inappropriate. Whilst the developer here seeks to underscore that the determinative question for the Council is whether the emergency plan can accommodate the development, we would like to take this opportunity to highlight that this is clearly not the only question given the national defence safeguarding and agent of change principles enshrined in the NPPF.

Other planning considerations

36. In our view, the Council is correct to distinguish this development proposal from the planning decisions considered at paragraph 3.2 to 3.10 of the developer's Planning Statement, which were made before the REPPiR 2019 changes. Similar considerations apply to the 2017 site allocation DPD. The considerations informing the allocation of this site for 60 residential dwellings, as set out at paragraph 4.9⁶ have been superseded by changes to the regulatory framework.
37. The developer is clearly aggrieved by the fact that reserved matters have been approved by the Council for residential development, after these changes to the regulatory framework. However, the Council's decisions, in this context, from the fact that the principle of development was approved before these changes to the regulatory framework. As per the officer report in connection with reserved matters

⁶ ONR did not object to 800 new dwellings in the 2017 allocations DPD or the particular allocation for 60 dwellings on this site

application ref 22/00325/RESMAJ, “since planning permission was granted prior to the new DEPZ being agreed, the Council cannot object to the development”.

38. The developer argues that the Council applied the wrong test and should, instead, have considered whether the emergency plan can accommodate the additional population. We understand the Council’s position to be that, in line with *Proberun Ltd. v. Secretary of State for the Environment* [1990] 3 P.L.R. 79, the range of matters that can be re-opened at the reserved matters stage are very limited. For similar reasons, it is not open at the reserved matters stage for the Council to question the legality of how emergency planning issues were dealt with at the time the governing permission was granted. We see no error in the Council’s approach.
39. The developer seeks to rely on the precedent value of a decision, by an adjoining authority, for 6 new dwellings on land at Tadley Hill, a site closer to AWE Burghfield than the current development site and in a more densely populated sector. Our view is that the Council is not bound by the decisions of other planning authorities, which are, in any event, decided on their own facts. Furthermore, the Tadley Hill development is substantially smaller than the current development proposal, giving rise to population increase of approximately 19 rather than 75 new residents. Consistent with the points being made in this letter, we note that in response to that development, the emergency planning team confirmed that “the application increases the number of houses which add a significant burden to the local requirements for support”.
40. The developer also seeks to rely on the precedent value of a decision by the Council to grant permission for a temporary café building (application ref 22/00535/FUL) in the DEPZ. We do not consider this decision carries any such value. Not only is this a permission for a commercial land use, it is for a single and (importantly) temporary unit, so gives rise to far fewer long-term emergency planning issues.

Reliance on site to meet strategic housing target

41. Finally, the Planning Statement points out that the emerging Local Plan takes this development site into account as contributing to the Council’s strategic housing target. Whilst not directly relevant to this pre-app consultation response, our response to that point is that the Council should review its approach before publication of the Regulation 19 draft Local Plan – ideally identifying alternative sites outside of the DEPZ to help meet the Council’s strategic housing target.

Precedent value of approving this development, in this location

42. For the reasons set out in this letter, we consider that new residential development within the DEPZ and this close to AWE Burghfield would set an unacceptable and dangerous precedent and that the proposals should be refused, for this reason.

Conclusion

43. The AWE Burghfield site is of national strategic importance for the UK’s defence and delivery of the UK’s international defence commitments. If the site activities were to stop or be impeded, or the site had to reduce its operations or was not able to evolve and develop alongside the required technological advance – in the manner set out in this letter – this would threaten the support to the UK’s CASD programme and national nuclear security. The potential operational impacts of the proposal and potential uncertainty this brings are unacceptable.
44. It is our view that proportionate, effective and deliverable steps which reduce vulnerability, increase resilience and preserve public safety and security would be difficult to secure in connection with a new residential development in the DEPZ. The benefits of the development do not outweigh the disadvantages of permitting it.
45. For the reasons outlined in this letter we have no option but to raise an **objection** to the TA Fisher & Sons Ltd **residential development** proposal.