



Appeal Decision

Inquiry held on 6-9 and 13-14 June 2023

Site visit made on 6 June 2023

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 8th August 2023

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

Land to the rear of The Hollies Nursing Home, Reading Road,
Burghfield Common, RG7 3LZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr Richard Barter, T A Fisher against the decision of West Berkshire District Council.
 - The application Ref: 22/00244/FULEXT, dated 31 January 2022, was refused by notice dated 1 June 2022.
 - The development proposed is the erection of 32 dwellings including affordable housing, parking and landscaping, with access via Regis Manor Road.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 32 dwellings including affordable housing, parking and landscaping, with access via Regis Manor Road at Land to the rear of The Hollies Nursing Home, Reading Road, Burghfield Common, RG7 3LZ in accordance with the terms of the application Ref: 22/00244/FULEXT, dated 31 January 2022, subject to the conditions set out in the schedule in attached Annex A.

Preliminary Matters

2. The appellant has submitted an executed Unilateral Undertaking to secure 40% (13) on-site affordable housing units, 70% (9) of which are for social rent. This affordable provision would accord with Policy CS6 of the CS and the West Berkshire Planning Obligations Supplementary Planning Document. The Council confirms that this satisfactorily provides for affordable housing and so addresses the first reason for refusal, which I accept. I will address the **UU's** compliance with the Community Infrastructure Levy Regulations 2010 (CIL Regulations) and the National Planning Policy Framework (the Framework) later in this decision.

Main Issues

3. The main issues in this case are:
 - The effect of the proposal on the safety and wellbeing of future residents of the proposed development, and the wider public, with regard to the proximity of the Atomic Weapons Establishment site at Burghfield (AWE B);
 - The effect of the proposal on the future capability and capacity of AWE B to operate effectively; and

- The effect of the proposed development on the character and appearance of the area, with particular reference to local tree cover.

Reasons

Settlement, population and emergency planning context

4. The appeal site comprises several tree and hedge-lined paddocks, and the Regis Manor Road access road. It is part of the 'Land to the rear of The Hollies Nursing Home' housing site, allocated under Policy HSA 16 of the Housing Site Allocations Development Plan Document (2006-2026) (HSA) which was adopted in 2017. The appeal site makes up the remaining undeveloped, south-western part of this housing allocation. It adjoins various residential developments along Reading Road. These include the recently constructed and occupied 28 dwellings on Regis Manor Road, that form the other part of HSA 16 housing site allocation, and other relatively new houses on Oak View.
5. The majority of the appeal site that is shown as Developable Area in the HSA 16 housing site allocation is located within Burghfield Common's settlement boundary. Burghfield Common is categorised in the District Settlement Hierarchy of Area Delivery Plan Policy (ADDP)1 of the West Berkshire Core Strategy (2006 - 2026) (CS) as a Rural Service Centre. As set out in ADDP1, as a Rural Service Centre Burghfield Common has the following. It has a range of services and reasonable public transport provision, including bus services to and from Reading. Also, it has opportunities to strengthen its **role in meeting surrounding communities' requirements**. And as set out in CS Policy ADDP6, Burghfield Common is one of the two Rural Service Centres to be the focus for housing development in the East Kennet Valley area.
6. The appeal site is located approximately 2km from AWE B. AWE B is one of the nuclear licenced sites in West Berkshire District. Under the requirements of the Radiation (Emergency Preparedness and Public Information) Regulations 2019 (REPP19), West Berkshire District Council determined the detailed emergency planning zone (DEPZ) for AWE B. The DEPZ is the zone around AWE B, for which the local authority prepares an off-site emergency plan (OSEP). The OSEP sets out protective actions to be implemented in the event of a radiation emergency at AWE B. The appeal site and Burghfield Common are located within the DEPZ for AWE B.
7. Based on the number of existing residential units in sectors L-N of the DEPZ for AWE B¹, multiplied by an average 2.4 residents per dwelling, Burghfield Common and the nearby small village of Burghfield together have an existing population of around 1,500 people, the majority of whom live in Burghfield Common. Should the permitted 'Pondhouse Farm' housing development² located approximately 100m from the appeal site, be built and occupied this would take the population of Burghfield Common and its immediate environs to around 1,700 people. This is within the context of a population in the whole of the DEPZ that would increase to up to around 24,300³, were other housing developments with planning permission in the DEPZ to be constructed and occupied.

¹ As per CD 11.8, table under paragraph 9.14.

² Planning Application Ref: 22/00325/RESMAJ, granted permission in July 2022.

³ As per CD 11.8, paragraph 7.12.

Residents' safety and wellbeing in relation to AWE B

8. Policy CS8 of the CS seeks to protect public safety through the following. In the inner land use planning consultation zone (ICZ) of AWE B, residential development that the Office for Nuclear Regulation (ONR) advises against is **'likely'** to be refused. Proposed development **in Policy CS8's consultation zones** other than residential development in the ICZ will be considered in consultation with the ONR, having regard a range of factors that I shall return to later in this decision.
9. Policy CS8 states the distances from AWE B for the land use planning consultation zones in this Policy. These are 0 to 1.5km for the ICZ, 1.5 to 3km for the middle land use planning consultation zone (MCZ), and 3 to 5km for the outer land use planning consultation zone (OCZ). Also, **Policy CS8's footnote 60** qualifies that **consultation zones in the Policy are 'as defined by the ONR and shown on the West Berkshire Proposals Map'**. Paragraph 5.44 of the explanatory text supporting Policy CS8 envisages the possibility of change to consultation zones 'as a result' of 'a less restrictive approach being taken by the ONR' and **application of a 'less constraining population density'**.
10. As such, **Policy CS8's footnote 60** does not provide for land use planning consultation zone distances stated in the Policy to be changed by re-definition unless such change is shown on the West Berkshire Proposals Map. Which in this case it is not. Furthermore, Policy CS8 states the dimensions of its land use planning consultation zones, the possibility of change to which is only envisaged in supporting text as being *less restrictive*, with *less constraint* on population density. By contrast, the DEPZ covers an area around more than five times larger than the ICZ stated in CS8. Also, **judging by the ONR's stated concern about 'any' new development in the DEPZ⁴**, there is a strong possibility of their objection to such development proposals. Consequently, to substitute the DEPZ for the ICZ in Policy CS8, as suggested by the Council would mean a substantially more restrictive approach to housing development in the East Kennet Valley area of the district.
11. As such, the suggested substitution of the DEPZ for the ICZ in Policy CS8 would alter the wording of this development plan policy, and be contrary to its qualifying footnote and explanatory text such that it would fundamentally change this adopted **Policy's** meaning and intent. Therefore, I cannot agree that Policy CS8 can accommodate substitution of the DEPZ for the ICZ. Thus, I take the stated consultation zones in Policy CS8, including the ICZ and MCZ to stand in application of this development plan policy.
12. With the appeal site located approximately 2km to the south-west of AWE B, the proposal is for a residential scheme that sits in the MCZ, outside the ICZ. Thus, the appeal proposal falls to be considered under the second sentence of Policy CS8. This means that the development proposal is to be considered in consultation with the ONR, having regard to a range of factors. These are the scale and location of the proposed development, **the area's** population distribution, the impact on public safety including how the development would impact on 'Blue Light Services' and the OSEP in the event of an emergency at AWE B, and as well as other planning criteria.

⁴ As set out in CD 1.24, paragraph 14.

13. Policy SP4 of the emerging West Berkshire Local Plan Review (LPR) proposes a future approach that any new development which could increase population in the DEPZ of AWE B is likely to be refused planning permission, especially when the ONR and Ministry of Defence (MOD) advise or object against it. As such, I anticipate that the forthcoming examination of the emerging LPR will provide **opportunity to review the Council's future approach to housing proposals in the DEPZ**. Examination of the LPR is at an early stage and the LPR, including any potential future policy on this aspect, is some way from being finalised and adopted. As such, at this stage emerging LPR Policy SP4 as drafted cannot be taken to be a certain future approach. Therefore, I attach limited weight to emerging draft LPR Policy SP4.
14. AWE B undertakes activities associated with assembly, disassembly, handling and storage of nuclear warheads **in support of the UK's Continuous At Sea Deterrent**. Within this context, an explosive release of an invisible plume of inhalable plutonium particles from AWE B is the type of potential radiation emergency whose effect on residents of the proposed development and its locality is to be considered in this appeal case.
15. The proposed development would add 32 homes, and an estimated 77 **residents to Burghfield Common's population**. **AWE's evidence**⁵ indicates that in the event of plutonium plume from AWE B passing over a locality, inhalation of it by people would be the main intake pathway, while the plume passes over and during the subsequent passive release period. Also **judging by AWE's evidence**⁶, people around AWE B would for up to two days potentially be exposed mainly to inhalation of the plutonium plume with, to a lesser extent, inhalation from resuspended particulate deposited from the plume, and external radiation during passage of the plume.
16. After this, during a passive release phase of up to around one year, people around AWE B would potentially be exposed to longer term inhalation of plutonium particles after resuspension from ground contaminated by the initial plume, long term external radiation from ground contamination, and ingestion of food crops contaminated by the initial plume. As set out in the OSEP⁷, exposure to alpha radiation from plutonium may result in increased risk of developing cancer in the future.
17. **Judging by the recommendations in AWE's Consequences Report for AWE B**⁸ in 2019, people in Burghfield Common and the wider DEPZ would need prompt instruction to take cover in the nearest available suitable building, with windows and doors shut, for a period of up to 2 days or less until the initial contaminated plume passed. There is well-established provision in the area under the OSEP for notifying residents in Burghfield Common and the wider DEPZ should this occur, and ongoing communications by the Council, including for example a public information booklet⁹. Also, a telephone landline in all the appeal dwellings for, among other things, emergency notification of occupants, can be secured by planning condition to further strengthen radiation emergency notification provision at the proposed development.

⁵ As per CD 13.34, paragraph 10.1.3.

⁶ CD 13.43, paragraphs 5.17 and 8.4.2.

⁷ CD 11.8, Appendix 4, paragraph 26.

⁸ CD 11.6.

⁹ CD 7.76.

18. That said, the possibility of exposure of up to around 77 of the proposed **development's** future residents to inhalation and external radiation from a plutonium plume from AWE B cannot be ruled out. And the precise nature of an emergency, and the location and circumstances of the **development's future** residents in such an event cannot be predicted with absolute certainty. Given this combination of factors, adverse impact on their health arising from such potential exposure, including from increased risk of future cancer, could occur.
19. Also, in the event of a radiation emergency at AWE B, anxiety, confusion and fear about potential contamination and decontamination of property, and potential separation and evacuation from, and return to properties may well contribute to societal stress, including for residents of the proposed development, for some time after a radiation emergency is declared. As such, I anticipate that it would likely take residents of the appeal site and locality more than the one or two hours suggested by the appellant¹⁰ to emerge from shelter and return to normal life after an alarm was raised about a radiation emergency at AWE B.
20. For the above combination of reasons, I find that the appeal proposal could result in adverse impacts on the safety and wellbeing of future occupants of the proposed development.
21. That said, the adversity of these impacts on future residents of the proposed development would be moderated by the following combination of factors. Under REPP19, AWE B is subject to a rigorous 'defence-in-depth' approach to nuclear safety, through the provision of multiple independent barriers to fault progression. It is undisputed that the likelihood of a radiation emergency at AWE B is very low.
22. Furthermore, even if such a radiation emergency did occur at AWE B, the likelihood of a plume of inhalable plutonium particles passing over the appeal site would be lessened by the following combination of factors. The appeal site is located approximately south-west of AWE B, around 2km away. As such, the appeal site is some distance away from AWE B, and **judging by the appellant's** wind conditions evidence¹¹, in approximately the opposite direction from the **area's** prevailing wind direction. This indicates that potential contamination from AWE B is more likely to blow away from the appeal site than towards it. The estimate **by the appellant's nuclear physicist emergency** planning witness of a 1 in 1,000 million years risk of harm to people living at the proposed development site from AWE B¹² provides an indication of its very low level of likelihood. Given the above combination of factors, I anticipate that it is very unlikely that a plutonium plume would pass over the proposed appeal development.
23. Moreover, while the envisaged potential release from AWE B has not changed in the light of REPP19, the definition of the expanded DEPZ area was informed by a wider range of potential weather conditions than previously assessed. This included addition of Pasquill Stability Category F weather **conditions, which typically occur in the locality on cold winter's** nights.

¹⁰ In CD 10.2, paragraph 156.

¹¹ In CD 10.2, paragraph 132.

¹² CD 10.2, paragraph 133.

24. Within this context, in the event of an explosive release of a plume of inhalable plutonium from AWE B occurring during a working shift there during Category F weather conditions **on a cold winter's night**, the following would likely result. Should a plutonium plume pass over the proposed housing development in these weather conditions, the combination of winter season and night time would likely encourage its residents and those in the neighbourhood to have their doors and windows shut and be indoors, compared to other more temperate seasons with longer daylight hours.
25. Furthermore, I find as follows regarding the proposal's population increase. With or without potential construction and occupation of as yet unbuilt dwellings with planning permission on other sites in the DEPZ, the appeal proposal would entail around 4-5% population increase in Burghfield Common village and its immediate environs. These additional residents would be living in 32 new dwellings, located next to and accessed via an existing residential development in a Rural Service Centre village. These dwellings would be relatively accessibly located off the Reading Road spine route that runs through Burghfield Common. Also, the 32 proposed dwellings would increase the population of the DEPZ as a whole by only around a third of one per cent.
26. As such, the scale of population increase from the appeal development would be relatively small in both its immediate village and the wider DEPZ contexts. Moreover, judging by existing OSEP provision around AWE B, sufficient emergency services and facilities already exist to assist a population of up to approximately 1,700 in this Rural Service Centre village and its immediate environs, and up to around 24,300 people of the DEPZ as a whole, in the event of a radiation emergency. Also, the **proposal's** relatively modest number of 77 extra residents would be within relatively easy reach of existing village population and infrastructure. Thus, **the proposal's** population increase would be relatively small, and these people would be similarly accessible to emergency services providers as the existing population who, the existing OSEP indicates, they are already prepared to serve.
27. **The analysis of the appellant's nuclear physicist emergency planning witness of likely dose levels as within the range commonly experienced by members of the public, points to a lower end of scale of risk to the health of the proposed development's future occupants, arising from its location at the appeal site.**
28. Also, Burghfield Common and nearby Burghfield are apparently already a popular place to live, even with various **residents'** clearly expressed awareness of their proximity to AWE B. This is indicated by the presence of the approximately existing 1,500 people already resident there, including those at the recent housing developments that adjoin the appeal site. Together these factors indicate a local community who are relatively well informed about and comfortable with their proximity to AWE B. I see no reason to expect that the additional 77 future residents, including with their emergency telephone landlines secured by planning condition, would not be similarly well-informed about and comfortable with their proximity to AWE B.
29. I anticipate that the above combination of factors would likely moderate anxiety-related impact on future residents of the proposed development and the wider public, even if the appeal development was implemented and a radiation emergency at AWE B did occur.

30. **I accept the ONR's** expert view that there are lessons to be learnt from the recent ALDEX-23 exercise to test the OSEP, and improvements to be made to ensure **the latter's** robustness including in relation to alternative accommodation, and monitoring. That said, it is undisputed that the existing OSEP is adequate to ensure public safety in the DEPZ in the event of an AWE B radiation emergency. Notwithstanding this, the Council, AWE, the MOD and ONR have expressed concern about potential for new housing in the DEPZ to undermine the adequacy of the OSEP.
31. However, no substantive tipping point assessment is presented, comprising for example scenario testing of the impact of potential population step change scenarios in the DEPZ on the adequacy of future emergency response services provision in the event of an AWE B radiation emergency. This constitutes a lack of quantification to underpin the suggestion that the proposed addition of 32 homes and around 77 new residents to the existing Rural Service Centre village of Burghfield Common would tip the OSEP into a state of being inadequate to ensure public safety in the DEPZ. Also, in the very unlikely event that a radiation emergency at AWE B were to occur, I anticipate that **the proposal's** population increase would be relatively small, and these people would be similarly accessible to emergency services providers as the existing population covered by the OSEP.
32. I therefore find that the adequacy of emergency services response levels for the population of Burghfield Common village and its immediate environs would not appreciably diminish as a result of the proposed development. Also, given the separation between settlements in the DEPZ, the proposed development of an additional 32 homes in Burghfield Common is unlikely to appreciably alter emergency services response levels in other settlements in the DEPZ.
33. Given my finding that the proposed development would not result in appreciable diminution of emergency services response levels in the area, I expect that the appeal proposal would not incrementally harm the capacity of these services to protect local residents' safety. As such, I anticipate that this relatively modest scale of 32 dwelling development in an established Rural Service Centre village is unlikely to tip the OSEP over the edge of adequacy.
34. Given the above combination of factors, I find as follows. In terms of residual risk to the safety and wellbeing of future residents of the proposed development, this would be limited given the identified moderating factors. And in respect of the safety and wellbeing of other residents of the DEPZ beyond the appeal site, and the capacity of emergency services providers to respond in the DEPZ, the proposed appeal development would have a neutral effect.
35. Therefore, I conclude that while the proposal would not harm the safety and well-being of the wider public, it would result in limited harm to the safety and wellbeing of future residents of the proposed development. As such, it would conflict with Policy CS8 of the CS which seeks to ensure that development protects public safety.

Operational capability and capacity of AWE B

36. AWE B is the only site in the UK which can undertake its combination of activities associated with assembly, disassembly, handling and storage of nuclear warheads. It is undisputed that these activities are essential in the support of **the UK's** Continuous At Sea Deterrent.

37. In the event that the OSEP was deemed by the Council as inadequate to protect public safety in the DEPZ, such that the Council could not demonstrate to the ONR that the OSEP was adequate, for example as a result of excessive strain on emergency services arising from increased population of the additional residential development, the following is possible, **judging by AWE's evidence**¹³. Under Regulation 10(4) of REPP19, AWE would be unable to continue to carry out work with ionising radiation. This would prevent AWE B from meeting the **MOD's requirements in support of** the Continuous At Sea Deterrent. Also, concerns from an increased population in the DEPZ about the safety of AWE B might affect regulatory permissions such that AWE B's future operational flexibility and expansion plans might be constrained.
38. As such, I cannot rule out the possibility that population increase in the DEPZ, to which the appeal proposal would contribute, would increase potential for **future constraints on AWE B's future operational flexibility and capacity**, with associated significantly adverse implications for **the UK's** Continuous At Sea Deterrent capacity and national security.
39. That said, the degree of adversity of impact on **AWE B's** future capability and capacity to operate effectively that would arise from the proposed development is moderated by the following combination of factors. As I have found under the first main issue, residual risk to the safety and wellbeing of future residents of the proposed development would be limited by the identified moderating factors. And the proposed development would not harm the safety and well-being of the wider population. Also, there is no evidence presented that the ONR has, for example written to AWE to raise a REPP19 regulation 10(4) concern if this appeal were to be allowed. Nor has a recently granted planning permission for a residential development with more (49) dwellings, elsewhere in the DEPZ, in Wokingham Borough¹⁴, tipped the OSEP into inadequacy.
40. Also, even if concern about increased population pressure on the OSEP arising from the proposed development led AWE and the Council to be unable to provide relevant assurances and improvements in respect of public safety, REPP19 regulation 25(2) provides opportunity for the Secretary of State for Defence to potentially consider invoking the exemption on restriction of operations at AWE B, to re-establish OSEP adequacy, in the interests of national security. Albeit, I cannot predict with certainty that this exemption would be invoked should the OSEP be deemed inadequate by the relevant authorities.
41. The above together limits the likelihood that the OSEP would lead to AWE B being shut down, voluntarily or otherwise. Considering the serious adverse national security consequences of potential constraint of AWE B's operations, but the very limited likelihood of the relatively modest scale of the development in the existing Rural Service Centre village of Burghfield Common causing such constraint, I conclude that the proposed development would result in very limited harm to the operational capability and capacity of AWE B. Nevertheless, even this very limited harm would result in conflict with paragraph 97 of the Framework which seeks, among other things, to ensure that the operation of defence and security sites is not adversely affected by other development in the area. I address the weight to be given to this conflict in the overall balance below.

¹³ CD 13.43, section 11.2.

¹⁴ CD 11.2: Appeal Ref: APP/X0360/W/22/3304042, decision dated 31st January 2023.

Character and appearance

42. The appeal site comprises tree and hedge-lined meadow, and the Regis Manor Road access. Existing suburban-style housing is located to the south and east, including relatively new houses on Regis Manor Road and Oak View. Beyond the flatter top end of the appeal site, its meadow-covered slopes noticeably run down from behind **adjacent houses'** rear gardens to ancient woodland located to the north-west of the appeal site. **The site's area of** strikingly sloping topography, with level changes of between around 11m and 13m from the top to the foot of slope, draws the eye down the meadow to the woodland beyond.
43. This topographical variety and interest, together with **the site's lush meadow**, framed by a noticeable mix of oak and ash trees within mature hedge lines, and adjacent ancient woodland results in a quietly charming, verdant green character to this part of the north-eastern end of the village.
44. The residential development of this site would result in loss of its quiet pasture character, reduction of its verdancy and openness and increased 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. 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.
45. That said, the impact of this localised change to character would be moderated by the endurance of the majority of trees on and adjoining the site, and the screening effect of sloping ground and remaining vegetation in the locality. Also, there are no public rights of way crossing or adjoining the appeal site from which to notice the changes. Furthermore, a landscaping scheme, to be secured by planning condition, would provide a suitably sympathetic mix of new shrub and tree planting to help soften the appearance of the proposed housing development.
46. The perception of change to character would further be tempered to some degree by the **site's** established status as part of an allocated housing site in the local development plan, and the presence of other recently developed housing in the vicinity, including on the adjoining part of this housing site allocation. Also, there is design logic to the proposed running of the internal access road along the flatter top end of the site, given the more challenging sloping topography elsewhere.
47. Moreover, the proposed scheme would provide the required buffer of 15m to the areas of ancient woodland to the north-west of the site. And the proposed naturalistic open space in the northern part of the site would provide a relatively sympathetic transitional landscape area in relation to the protected woodland.
48. 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.

Other Matters

49. I have considered the UU against the requirements in Regulation 122 of the CIL Regulations and paragraph 57 of the Framework. I consider that all the measures as detailed in the UU are necessary, directly related to the development and fairly and reasonably related in scale and kind to the development. Therefore, I find that the submitted UU is acceptable and complies with the CIL Regulations and the Framework. I have therefore taken it into account in the overall balance below.
50. Some local residents have expressed other concerns about the proposed development that go beyond the reasons for refusal, which I address as follows. Regis Manor Road is apparently built to an adoptable standard and there is no substantive evidence presented to indicate it could not satisfactorily withstand traffic to and from the appeal development, during and after construction. Furthermore, a Construction Method Statement will be secured by planning condition to help safeguard highway safety and neighbours' living conditions during **the development's construction phase**.
51. Given the separation distances between proposed and neighbouring houses, and existing boundary treatments, **I agree with the Council's view in their Case Officer's Report**¹⁵ that the proposal would not harm neighbours' privacy and outlook. Also, the bin store serving four properties would not be excessive for this residential area, and its enclosed design would help prevent it being obtrusive.
52. Pedestrian users would need to exercise a reasonable degree of care when leaving the proposed new footpath access onto Reading Road and crossing the road. That said, Regis Manor Road provides an alternative pedestrian route with more complete pavement access onto Reading Road. Also, the relatively straight and clear sight lines between motorists and pedestrians along this stretch of road assist highway safety. As such, there would be sufficiently safe pedestrian access to and from the proposed development.
53. Additional residents of the proposed development would provide additional clientele for local health facilities, potentially helping to justify and sustain future provision, and there is no substantive evidence from health service providers that the appeal proposal's additional residents would undermine local provision. Also, a suite of planning conditions covering lighting, construction and environmental management plans, landscaping and biodiversity measures would suitably provide for biodiversity.

Conditions

54. The conditions suggested by the Council have been considered against the tests of the Framework and advice provided by Planning Practice Guidance. They have been found to be reasonable and necessary in the circumstances of this case. I have made modest drafting changes for clarity.
55. A condition is necessary requiring that the development is carried out in accordance with the approved plans, to provide certainty. Conditions regarding tree protection, materials, boundary treatments, spoil and landscaping are necessary to complement the character of the locality. Conditions regarding car

¹⁵ CD 4.1.

parking and carports are required in the interests of highway safety. Conditions covering cycle parking and storage, electric vehicle charging and drainage are necessary in the interests of environmental sustainability. Conditions covering construction management, working hours, bin storage, gradients and floor levels are required to safeguard the living conditions of residents. Conditions covering lighting, environmental management, bird nesting and biodiversity enhancement measures are necessary to safeguard biodiversity. Conditions covering contamination, telephone lines and a development-specific emergency plan **are required to safeguard residents' and employees' safety.**

Planning Balance and Conclusion

56. It is undisputed that the district has more than five years supply of deliverable housing sites, which for the purposes of my decision I take to be in the region of 6.4 years supply¹⁶. That said, there is a pressing affordable housing need in the district, as **indicated by more than 1,000 applicants on the Council's Housing Register**, of whom more than 200 have expressed an interest in living in Burghfield.
57. Within this context, the proposed development would provide the following benefits. It would contribute 32 dwellings to local housing supply. This would include 19 market houses ranging from 2 to 4+ bedrooms. Also, it would provide 13 affordable homes with 2 or 3 bedrooms, which would be a mix of social rented, first homes and shared ownership dwellings. These affordable homes would contribute **to meeting the area's** pressing affordable housing need. Also, this new housing of various size and tenure would contribute to the supply of local accommodation for, among others, those working in the area, with associated workforce wellbeing and productivity benefits. Such employees could well include those working for AWE B, who are an important local employer investing substantially in infrastructure at this site, for example the £1.8 billion Project MENSA warhead assembly/disassembly facility.
58. Moreover, **the development's** socio-economic benefits to the area during and after construction would include patronage of this Rural Service Centre **village's** local facilities, businesses and services, including public transport, which would contribute towards sustaining them. Furthermore, the appeal scheme would contribute to delivering **the district's strategic objective**, identified in CS Policy ADDP1, of strengthening the role of **West Berkshire's** Rural Service Centres in meeting their **surrounding communities' requirements**. The above together amounts to a substantial combination of benefits.
59. Furthermore, paragraph 15 of the Framework requires the planning system to be genuinely plan-led. **I agree with the Inspector's** point in recent Appeal Decision Ref: APP/Z0116/W/22/3308537 on another site that for this to mean something, an applicant must be able to rely on specific site allocations in adopted Development Plans. As established earlier, the appeal site is part of an allocated housing site in the local development plan, the locational sustainability credentials of which relatively recently commended its allocation. Part of the allocated site has recently been developed for housing, and completing the development of the remainder of this allocated housing site would contribute positively to supporting a plan-led system. This is a compelling material consideration in favour of the proposed development.

¹⁶ As indicated in CD 11.1, paragraph 5.30.

60. I appreciate the intention of the parties opposing the appeal scheme to help ensure public safety through, among other things, constraining new housing development in the DEPZ, in pursuit of keeping risks as low as reasonably practicable. Nevertheless, given a) my planning balance in this case, b) that each development proposal is to be assessed on its own merits, and c) the LPR process will provide an opportunity to review and set future housing planning policy for West Berkshire District including in the East Kennet Valley area in the light of the currently designated DEPZ, I am satisfied that permitting this appeal proposal would not set an undesirable precedent.
61. The proposed development would result in limited harm to the safety and wellbeing of the future residents of the proposed development, very limited harm to the operational capability and capacity of AWE B, and limited, localised harm to the character and appearance of the area, with the associated conflict with identified policies. However, section S38(6) of the Planning and Compulsory Purchase Act 2004 sets out that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. While the proposal would conflict with Policies ADPP1, CS8, CS14, CS18 and CS19 and paragraph 97 of the Framework, the substantial weight that I give to the benefits of the scheme is a material consideration of sufficient weight to outweigh the level of harm identified in relation to the main issues. This is a material consideration sufficient to justify determining the appeal other than in accordance with the development plan.
62. For the above reasons I conclude that, subject to conditions, the appeal be allowed.

William Cooper

INSPECTOR

ANNEX A: SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved drawings: LP Rev B Site Location Plan; 01 Rev B Colour Site Layout; 02 Rev B Site Information Plan; 03 Rev A Proposed Plots 1-5; 04 Rev A Proposed Plots 6-8; 05 Rev A Proposed Plots 9-11; 06 Proposed Plots 12 & 13; 07 Proposed Plot 14; 08 Proposed Plot 15; 09 Proposed Plot 16; 10 Proposed Plots 17 & 18; 11 Proposed Plots 19 & 20; 12 Proposed Plot 21; 13 Proposed Plots 22 & 23; 14 Rev A Proposed Plots 24 & 25; 15 Proposed Plots 26 & 27; 16 Proposed Plot 28; 17 Proposed Plot 29; 18 Proposed Plot 30; 19 Proposed Plot 31; 20 Proposed Plot 32; 21 Proposed Garages/Carports Plots 15 & 16; 22 Rev B Proposed Bin and Cycle Store (Plots 1-5); 23 Proposed Street Elevations; 1730-KC-XX-YTREE-TPP01 Rev A Tree Protection Plan; 100 Rev E Landscape Strategy.
- 3) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority: (a) a detailed schedule of tree works. This shall include timing and phasing of operations; (b) confirmation of appointment of a project arboriculturist. The project arboriculturist shall supervise and verify implementation of tree protection and tree works.

The development shall be carried out in accordance with the approved details.

- 4) Protective fencing shall be implemented and retained intact for the duration of the development in accordance with the tree and landscape protection scheme identified on approved drawing 1730-KC-XX-YTREE-TPP01 Rev A Tree Protection Plan (TPP). Within the fenced areas shown on the TPP, there shall be no excavation, storage of materials or machinery, parking of vehicles or fires.
- 5) No building operations above ground level shall take commence until there shall have been submitted to and approved in writing by the local planning authority a schedule of the materials to be used in the construction of the external surfaces of the proposed development. Samples of materials shall be made available to the local planning authority on request. The development shall be carried out in accordance with the approved details.
- 6) Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order with or without modification), no gates, fences, walls or other means of enclosure which would otherwise be permitted by Schedule 2, Part 2, Class A of that Order shall be erected, constructed, or materially altered without planning permission being granted by the local planning authority on an application made for that purpose. This restriction excludes any development expressly permitted by this permission, and does not prevent repairs or replacements (in full or in part) that do not materially affect the external appearance of any gate, fence, wall or other means of enclosure.

- 7) No dwelling shall be occupied until the approved vehicle parking and turning spaces for the dwelling have been completed in accordance with the approved plans, including any surfacing arrangements and marking out. Thereafter the parking and turning spaces shall be kept available for parking and manoeuvring of the private cars at all times.
- 8) The car port(s) hereby permitted shall be kept available for parking of the private cars at all times. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order with or without modification), no physical alterations shall be made to the car port(s), including enclosing the sides/installed doors) unless permission has been granted by the local planning authority as a result of an application being submitted for that purpose.
- 9) No dwelling shall be occupied until cycle parking/storage facilities for that dwelling have been provided in accordance with the approved drawings. Thereafter the facilities shall be maintained and kept available for that purpose at all times.
- 10) No dwelling shall be first occupied until electric vehicle charging points for that dwelling has been provided on site in accordance with the approved plans. Thereafter, the charging points shall be maintained, and kept available and operational for electric vehicles at all times.
- 11) No development shall take place until there shall have been submitted to and approved in writing by the local planning authority a Construction Method Statement (CMS). Thereafter the demolition and construction works shall incorporate and be undertaken in accordance with the approved CMS. The CMS shall include measures for: (a) a site set-up plan during the works; (b) parking of vehicles of site operatives and visitors; (c) loading and unloading of plant and materials; (d) storage of plant and materials used in constructing the development; (e) erection and maintenance of security hoarding including any decorative displays and/or facilities for public viewing; (f) temporary access arrangements to the site, and any temporary hard-standing; (g) wheel washing facilities; (h) measures to control dust, dirt, noise, vibrations, odours, surface water run-off, and pests/vermin during construction; (i) a scheme for recycling/disposing of waste resulting from demolition and construction works; (j) hours of construction and demolition work; (k) hours of deliveries and preferred haulage routes; (l) an emergency plan providing policies and procedures for the preparedness and response to an incident at AWE Aldermaston or Burghfield during demolition and construction work.
- 12) No demolition or construction works shall take place outside the following hours, unless otherwise agreed in writing by the local planning authority: 7:30am to 6:00pm Mondays to Fridays; 8:30am to 1:00pm Saturdays; no work shall be carried out at any time on Sundays or Bank Holidays.
- 13) If any previously unidentified contaminated land is found during demolition and/or construction activities, it shall be reported immediately in writing to the local planning authority (LPA). Appropriate investigation and risk assessment shall be undertaken, and any necessary remediation measures shall be submitted and approved in writing by the LPA. These

submissions shall be prepared by a competent person (a person with a recognised relevant qualification, sufficient experience in dealing with the type(s) of pollution or land instability, and membership of a relevant professional organisation), and conducted in accordance with current best practice. The remediation scheme shall ensure that, after remediation, as a minimum, the land shall not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990. Thereafter, any remediation measures shall be carried out in accordance with the approved details. Unless otherwise agreed in writing by the LPA, the development shall not be occupied until any approved remediation measures have been completed and a verification report to demonstrate the effectiveness of the remediation has been submitted to and approved in writing by the LPA.

- 14) No dwelling shall be first occupied until a Lighting Strategy (LS) has first been submitted to and approved in writing by the local planning authority. The LS shall: (a) identify any areas on the site that are particularly sensitive to bats; (b) show how and where external lighting will be installed to avoid light spill into existing areas of woodland, and so that it can be clearly demonstrated that illuminated areas will not disturb or prevent use of the site by bats; (c) include an isolux diagram of the proposed lighting.

All external lighting shall be installed in accordance with the specifications and locations set out in the approved LS, and maintained thereafter.

- 15) No dwelling shall be occupied until a storage area for refuse and recycling receptacles, and collection areas if necessary, has been provided for that dwelling in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 16) The gradient of private drives shall not exceed 1 in 12.
- 17) No development on any dwelling shall take place until details of the finished floor levels of that dwelling in relation to existing and proposed ground levels of adjoining dwellings have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved levels.
- 18) No development shall commence (including demolition, ground works, vegetation clearance) until there shall have been submitted to and approved in writing by the local planning authority a Construction Environmental Management Plan (CEMP). The CEMP shall include the following: (a) risk assessment of potentially damaging construction activities; (b) identification of biodiversity protection zones; (c) practical measures, both physical measures and sensitive working practices, to avoid or reduce impacts during construction (these may be provided as a set of method statements); (d) the location and timing of sensitive works to avoid harm to biodiversity features; (e) the times during construction when specialist ecologists need to be present on site to oversee works; (f) responsible persons and lines of communication; (g) the role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person; use of protective fences, exclusion barriers and warning signs.

The approved CEMP shall be adhered to and implemented throughout the construction period, strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

- 19) No development shall take place until details of how all spoil arising from the development will be used and/or disposed have been submitted to and approved in writing by the local planning authority. These details shall: (a) show where any spoil to remain on the site will be deposited; (b) show the resultant ground levels for spoil deposited on the site, compared to existing ground levels; (c) include measures to remove all spoil from the site (that is not to be deposited); (d) include timescales for the depositing/removal of spoil.

All spoil arising from the development shall be used and/or disposed of in accordance with the approved details.

- 20) No demolition, or site/vegetation clearance shall take place during the bird breeding season (March to August inclusive) unless carried out under the supervision of an experienced ecologist, who will check the habitat to be affected for the presence/absence of any birds' nests. If any active nests are found then works with the potential to impact on the nest must temporarily stop, and an appropriate buffer zone shall be established until the young birds have fledged and the nest is no longer in use.

- 21) No development shall take place until there shall have been submitted to and approved in writing by the local planning authority details of sustainable drainage measures to manage surface water within the site. These details shall: (a) incorporate the implementation of Sustainable Drainage methods (SuDS) in accordance with the Non-Statutory Technical Standards for SuDS (March 2015), the SuDS Manual C753 (2015) and West Berkshire Council local standards, particularly the WBC SuDS Supplementary Planning Document December 2018; (b) include and be informed by a ground investigation survey which establishes the soil characteristics, infiltration rate and groundwater levels. Any soakage testing should be undertaken in accordance with BRE365 methodology; (c) include attenuation measures to retain rainfall run-off within the site and allow discharge from the site to an existing watercourse at no greater than 1 in 1 year Greenfield run-off rates; (d) include construction drawings, cross-sections and specifications of all proposed SuDS measures within the site; (e) include run-off calculations, discharge rates, infiltration and storage capacity calculations for the proposed SuDS measures based on a 1 in 100 year storm +40% for climate change and an additional 10% increase of paved areas over the lifetime of the development (Urban Creep); (f) include pre-treatment methods to prevent any pollution or silt entering SuDS features or causing any contamination to the soil or groundwater; (g) ensure any permeable paved areas are designed and constructed in accordance with manufacturers guidelines; (h) include details of how the SuDS measures will be maintained and managed after completion. These details shall be provided as part of a handover pack for subsequent purchasers and owners of the property/premises; (i) apply for an Ordinary Watercourse Consent in case of surface water discharge into and other works on or adjacent to a watercourse (i.e stream, ditch etc); (j) show that attenuation storage measures have a 300mm freeboard above maximum design water level. Surface conveyance features must have a 150mm

freeboard above maximum design water level; (k) provide details of how surface water will be managed and contained within the site during any construction works to prevent silt migration and pollution of watercourses, highway drainage and land either on or adjacent to the site; (l) provide a verification report carried out by a qualified drainage engineer demonstrating that the drainage system has been constructed as per the approved scheme (or detail any minor variations thereof), to be submitted to and approved by the Local Planning Authority on completion of construction. This shall include: plans and details of any key drainage elements (surface water drainage network, attenuation devices/areas, flow restriction devices and outfalls) and details of any management company managing the SuDS measures thereafter.

Thereafter the development shall be carried out in accordance with the approved details.

- 22) The development shall not be first occupied until a telephone land line has been fixed in each house. This landline must be maintained in perpetuity in the dwelling in question in a working order.
- 23) A) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority the soft and hard landscaping scheme for the site. The landscaping scheme shall include: (i) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas and written specifications (including cultivation and other operations associated with plant and grass establishment i.e. depth of topsoil, mulch etc); (ii) seed mixes; (iii) details of existing trees and hedgerows to be retained as well as any to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation; and (iv) details of hard landscaping, including hard surfaced areas including pavements, pedestrian areas and steps.
- B) Planting design and species mix shall be sympathetic to its context within the development, including being tailored to reflect the open space's proximity to the woodland edge, and the more compact residential garden character of housing plots.
- C) The approved landscaping scheme shall be implemented no later than the end of the first planting season following completion of the development. The scheme shall be maintained for a period of 5 years from the completion of the development. Any trees and/or shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority agrees any variation in writing.
- 24) No dwelling shall be occupied until a Landscape and Ecological Management Plan (LEMP) (also referred to as a Habitat or Biodiversity Management Plan) has been submitted to and be approved in writing by the local planning authority. The content of the LEMP shall include the following: (a) description and evaluation of features to be managed; (b) ecological trends and constraints on site that might influence management; (c) aims and objectives of management; (d) appropriate management options for

achieving aims and objectives; (e) prescriptions for management actions; (f) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period); (g) details of the body or organization responsible for implementation of the plan; (h) ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

- 25) The development shall be carried out in accordance with the biodiversity enhancement measures set out at Paragraph 5.13 of the Pro Vision Ecological Assessment dated November 2021. No dwelling shall be occupied until the measures related to that dwelling have been installed/constructed in accordance with the approved detail.
- 26) No development shall take place until a comprehensive Emergency Plan (EP) has been submitted to and approved in writing by the local planning authority in relation to the construction phase of the development. The EP shall provide policies and procedures for the preparedness and response to an incident at AWE Burghfield. The plan shall include but not be limited to the following aspects: (a) details about the site; (b) preparations in advance of any incident; (c) how the site will be notified of an AWE Incident; (d) actions to take on notification (set out on a flow chart and/or check list); (e) actions to do to shelter for up to 48 hour period; (f) actions to have in place in relation to preparing for evacuation; (g) recovery.

ANNEX B: CORE DOCUMENTS REFERENCED IN THIS DECISION

- CD 7.76 AWE Public Information Booklet (2020)
- CD 10.2 Summary Proof of Evidence - Emergency Planning - Dr Keith Pearce
- CD 11.1 Appeal Statement of Case - West Berkshire Council
- CD 11.2 Appendix 1 - Land west of Kingfisher Grove - APP/X0360/W/22/3304042
- CD 11.6 AWE Burghfield Consequences Report (Issue 1, November 2019)
- CD 11.8 Proof of Evidence - Emergency Planning - Ms Carolyn Richardson
- CD 13.43 Proof of Evidence - Person AW

ANNEX C: CORE DOCUMENTS SUBMITTED AT THE INQUIRY

- ID 1 **Appellant's Opening Submissions**
- ID 2 **Council's Opening Submissions**
- ID 3 **First Rule 6 Party's Opening Submissions**

- ID 4 **Second Rule 6 Party's** Opening Submissions
- ID 5 AWE B Approved sites not yet built out as at 13 June 2023
- ID 6 **Appellant's** Closing Statement
- ID 7 **Council's** Closing Statement
- ID 8 **First Rule 6 Party's** Closing Statement
- ID 9 **Second Rule 6 Party's** Closing Statement

ANNEX D: DOCUMENTS SUBMITTED AFTER THE INQUIRY

1. Planning Obligation by Deed of Agreement, dated 14 June 2023, received 16 June 2023.

ANNEX E: APPEARANCES

FOR THE APPELLANT

Andrew Tabachnik of King's Counsel

He called

Jago Keen *MARborA MICFor*

Katherine Miles *MRTPI*

Keith Pearce *FEPS MSRP*

Keen Consultants

Director, Pro Vision

Katmal Limited

FOR THE LOCAL PLANNING AUTHORITY (WBDC)

Christiaan Zwart of Counsel

He called

Bryan Lyttle *MRTPI*

Carolyn Richardson *CIEH MEPS*

Matthew Shepherd

Jon Thomas

Planning Policy Manager, WBDC

Emergency Planning Service Manager,
WBDC et al

Senior Planning Officer, WBDC

Senior Tree Officer, WBDC

FOR THE FIRST RULE 6 PARTY (AWE PLC AND THE MINISTRY OF DEFENCE)

Rose Grogan of Counsel

She called

Person AW

Person MD

Sean Bashforth *MRTPI*

AWE

MOD

Senior Director, Quod

FOR THE SECOND RULE 6 PARTY (OFFICE FOR NUCLEAR REGULATION)

Michael Fry of Counsel

He called

Eamonn Guilfoyle

Emergency Planning and Response
Workstream Lead, ONR

Grant Ingham

Policy and International
Workstream Lead, ONR

Ian Rogers

Nominated Site Inspector, ONR

INTERESTED PARTIES

Chris Pearce

Local resident