

COLD ASH 15/01949/ OUTMAJ Pins Ref 3144193	Land West Of Heath Lane And North Of Bowling Green Road, Thatcham. Croudace Strategic	Outline planning application for up to 265 residential dwellings (Class C3) with associated vehicular, pedestrian and cycle accesses, public open space including allotments, community orchard, sports pitch and pavilion, ecology meadow, parkland, trim trail and children's play areas. Provision of a GP surgery and flood alleviation ponds as part of the wider Thatcham Surface Water Management Plan - Matters to be considered - Access.	Refusal	Dismissed 27.7.17
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**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
 APPEAL MADE BY CROUDACE HOMES LTD LAND AT HENWICK PARK, WEST OF HEATH
 LANE AND NORTH OF BOWLING GREEN ROAD, THATCHAM, BERKSHIRE
 APPLICATION REF: 15/01949/OUTMAJ**

1. I am directed by the Secretary of State to say that consideration has been given to the report of John Chase MDC, Dip Arch, RIBA, MRTPI, who held a public local inquiry between 15 November and 7 December 2016 into your client's appeal against the decision of West Berkshire Council ("the Council") to refuse your client's application for planning permission for up to 265 dwellings (class C3); with associated vehicular, pedestrian and cycle accesses; public open space including allotments, community orchard, sports pitch and pavilion, ecology meadow, parkland; trim trail and children's play areas; provision of a GP surgery and flood alleviation ponds as part of the wider Thatcham Surface Water Management Plan in accordance with application ref: 15/00296/OUTMAJ, dated 17 December 2015.

2. On 1 April 2016, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed and outline planning permission be granted subject to the conditions set out in Annex 3 of the Inspector's Report (IR).

4. For the reasons given below, the Secretary of State disagrees with the Inspector's recommendation, dismisses the appeal and refuses planning permission. A copy of the IR is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

5. Following submission of the appeal, the appellants prepared revised proposals for a reduced scheme of 225 houses, in order to address some of the grounds of refusal. The Council do not resist the substitution and have notified local residents of the new scheme, giving them time for responses.

6. The Secretary of State does not consider that the reduced scheme of 225 houses raises any matters that would require him to refer back to the parties for further representations prior to reaching his decision on this appeal. He is satisfied that no interests have thereby been prejudiced and has determined the appeal on that basis.

Matters arising since the close of the inquiry

7. Following the close of the original inquiry, the Secretary of State received representations from the Council which were sent to the Planning Inspectorate on 10 April 2017. These included information on an updated five year housing land supply (HLS) and the Inspector's Report for the Housing Site Allocations Development Plan Document (DPD) dated 6 April 2017 which was due to be adopted on 9 May 2017. The Secretary of State also received representations from your company on behalf of your clients on 23 March 2017 and Barton Willmore on 29 March 2017.

8. On 3 May 2017 the Secretary of State wrote to the parties to afford them the opportunity to comment on the additional information referred to in paragraph 7 above. The Secretary of State has

taken the representations received into account in reaching his decision. A list of representations received is at Annex A.

9. On 9 May 2017 the Housing Site Allocations DPD was formally adopted by West Berkshire Council.

10. On 17 May 2017, the Secretary of State wrote to the parties to afford them the opportunity to comment on the implications, if any, of the Supreme Court judgment on the cases of Cheshire East BC v SSCLG and Suffolk DC v SSCLG which was handed down on 10 May 2017. These representations were re-circulated to the main parties who were invited to comment on the representations of other parties. These additional representations were re-circulated. A list of representations received is at Annex A.

11. Copies of all the correspondence referred to above can be obtained upon request to the address at the bottom of the first page of this letter.

Policy and statutory considerations

12. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

13. In this case the development plan consists of saved policies from the West Berkshire District Local Plan (2002); the Core Strategy (2012); and the Housing Site Allocations DPD which was adopted on 9 May 2017. The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR175. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance'), as well as the Community Infrastructure Levy (CIL) Regulations 2010 as amended.

Main issues

14. The Secretary of State agrees with the Inspector that the main issues are those set out at IR 146-147, taking account of the subsequent adoption of the Site Allocations DPD.

Housing Land Supply Assessment of Need

15. The Secretary of State has carefully considered the Inspector's analysis of assessment of need at IR150, including the finding that the Strategic Housing Market Assessment (SHMA) assessed a need of 665 dwellings per annum (dpa) in West Berkshire.

16. With regard to the demographic assessment, for the reasons given at IR151, the Secretary of State agrees that the similarity of outcome between different methodologies diminishes the extent to which the alterations sought by the appellants would have a material effect on the assessment of demographic need. For the reasons given at IR152-153, the Secretary of State agrees that it has not been shown that the SHMA has failed to take account of relevant factors, nor that its methodology is fundamentally flawed in respect of demographic assessment.

17. He further agrees, for the reasons set out by the Inspector, that the evidence falls short of proving that the SHMA has significantly underestimated the level of in-migration (IR154).

18. The Secretary of State, for the reasons given at IR155-158, agrees that the evidence falls short of proving that the basis of the SHMA employment estimate is unduly pessimistic in its approach. Similarly, he agrees that the alternative evidence does not prove that the SHMA is wrong on the source and quality of data to set activity rates, commuting ratios and whether double jobbing should be taken into account.

19. For the reasons set out by the Inspector at IR159, the Secretary of State agrees the SHMA assesses need throughout the Housing Market Area, and it is not counter to the Guidance if appropriate adjustments are made between authorities.

20. The Secretary of State agrees, for the reasons given at IR160-161, that the proposed uplift in response to market signals does not seem unreasonably low.

21. With regard to affordable housing, the Secretary of State, for the reasons set out by the Inspector at IR162-164, agrees that the Council has addressed the need for affordable housing, and the evidence does not show that the criteria used are either so adrift of normal practice, or that the expectations of the level of delivery are so unrealistic, as to justify rejecting the SHMA figure on those grounds.

22. For the reasons given at IR165-166, the Secretary of State agrees with the Inspector that with regard to the report to Government of the Local Plans Expert Group (LPEG), it is not possible to give substantial weight to the relevant LPEG proposals.

Conclusions on Housing Need

23. The Secretary of State agrees that while the SHMA has not been tested at a Local Plan Examination, there were opportunities for third party involvement while it was being drawn up. He further concludes that the representations of the appellant fall short of proving that the SHMA is fundamentally flawed in its methodology or results. While some of the data is now of some age, he concludes, in agreement with the Inspector, that any variation is not of such significance as to invalidate the results. The Secretary of State thus agrees with Inspector's conclusions at IR167-168 that there are grounds to consider that 665 dpa is an adequately realistic measure of the objectively assessed need in West Berkshire, and he has used this as his starting figure.

Land Supply

The Buffer

24. The Secretary of State has carefully considered the Inspector's analysis of the buffer at IR169-172 and carefully considered the Inspector's conclusion that there are grounds to consider that there is a record of persistent under delivery and that a buffer of 20% is now justified. However, the Secretary of State disagrees with the Inspector's conclusions. In coming to this conclusion, the Secretary of State has had regard to report into the West Berkshire Housing Site allocations DPD and the DPD Inspector's conclusions (DPD IR134) that the housing supply situation is satisfactorily monitored with no reasons to conclude that there is any significant threat to the delivery of housing in West Berkshire. The Secretary of State also concludes that while there has been an undersupply in 6 of the past ten years, this has been in part due to the influence of the recession. As such he finds that a 5% buffer is appropriate.

25. It is common ground between the parties that there is a shortfall of 417 dwellings. As such the Secretary of State concludes that net housing need is 3,742 $[(665 \times 5) + 417]$, to which he adds a 5% buffer, to give an overall housing need of 3,929 units.

Deliverable Housing Land

26. The Secretary of State has carefully considered the Inspector's analysis of deliverable housing land at IR 173-179. With regard to Sandleford Park, the Secretary of State has considered the Inspector's conclusions, and had regard to the representations of the parties, and agrees with the Inspector that it should be removed from the figures for deliverable sites given doubts as to whether it will deliver within the 5 year period.

27. The Secretary of State has gone on to consider the Core Strategy site at Newbury Racecourse (IR175). Given the revised trajectory of February 2017 from the developer, and noting that units on the site are selling well and that development is now under way on the third phase of the site, the Secretary of State concludes that it is realistic to deduct only 102 sites from the delivery figures, to give a total of 873 dwellings at the site.

28. With regard to the J&P Motors site, the Secretary of State notes that there is no indication of any legal impediment to the use of the land for housing, there is an implemented planning permission, and there is recent evidence of the involvement of the developer (IR176). As such he agrees with the Inspector that this site will deliver housing within the five year period. With regard to the Lakeside site in Theale, the Secretary of State disagrees with the Inspector, given the uncertainty as to whether the

site will begin to deliver within the five year period, he has excluded the site from his calculations, disagreeing with the Inspector.

29. The Secretary of State has also excluded 160 units on land off Faraday and Kelvin Road from his calculations, given that the lease situation means that it is not certain that the site will deliver within the five year period.

30. The Secretary of State has had regard to the Inspector's analysis at IR178 on the Market Street site, and notes that the s106 Agreement has now been signed and planning permission granted. For that reason, and for the reasons set out by the Inspector, that delivery of 232 units from this site within 5 years is not an unreasonable expectation. He further agrees, for the reasons set out by the Inspector, that there is not a substantial reason to exclude the Pound Lane Depot site from his calculations.

31. The Secretary of State has had regard to representations concerning the Land adjacent to Hilltop site. However, given that planning permission has now been granted following appeal, he concludes that it is reasonable that 200 units will be delivered within the five year period.

32. With regard to Land adjacent Pondhouse Farm; Land at Poplar Farm; 72 Purley Rise; and Field between A340 and The Green; and Land adjacent to Lynch Lane, the Secretary of State has taken into account representations on reducing the figure of deliverable dwellings, and those representations of the Council (Annex 2) stating that the sites are available, and early delivery is expected.

33. With regard to South East Newbury (2); and South East Newbury (3), the Secretary of State has had regard to the representations on reducing the figure of deliverable dwellings, and the representations of the Council stating that the sites are available, and delivery is expected in the later phase of NEW047.

34. The Secretary of State has also had regard to the Inspector's analysis of DPD allocations at IR177. In addition he has had regard to the fact that the DPD has now been adopted. The Secretary of State has taken into account the DPD Inspector's conclusions that that the housing supply situation is satisfactorily monitored and that there are no reasons...to conclude that there is any significant threat to the delivery of housing in West Berkshire. For those reasons, and those given by the Inspector, he concludes that there is insufficient evidence to conclude that these sites will not deliver within the five year period.

35. As such the Secretary of State concludes that 873 dwellings can be taken into account at Core strategy sites (Newbury Racecourse), and 1,076 from DPD allocated sites. He includes 443 dwellings at permitted sites under 10 units, and 1,175 dwellings at larger permitted sites. He includes 279 sites without planning permission, and 261 units on sites allocated through the prior approval process. To this figure he adds a windfall allowance of 192 dwellings.

Conclusion on housing land supply

36. The Secretary of State thus concludes that the Council can deliver a total of 4,299 dwellings within the five year period. Setting this against a 5 year requirement of 3,929 dwellings, as set out above, the Secretary of State concludes that there is a surplus of 370 dwellings, or a 5 year supply of 5.47 years.

37. As such, for the reasons set out above the Secretary of State disagrees with the Inspector and concludes that in his judgement the local planning authority can now demonstrate a 5 year supply of deliverable housing sites.

Development Plan Policy

Whether the proposal complies with the development plan

38. The Secretary of State has gone on to consider the Inspector's discussion regarding the development plan (IR181-186) in the context of the Council now being able to demonstrate a 5 year HLS.

39. The Secretary of State has had regard to Core Strategy Policy CS1 and considers that the proposal does not comply with any of the identified 4 categories of land. The appeal site is not one of the sites which has been chosen in the Site Allocations DPD. However, the Secretary of State considers that the wording is not wholly prohibitive of development outside these categories (IR182).

40. The Secretary of State agrees with the Inspector at IR183 that the location of the appeal site would meet a number of the criteria in Core Strategy Policy ADPP1. For the reasons given at IR178, the Secretary of State agrees with the Inspector that the land falls below the settlement hierarchy. As the appeal site lies within land composed of agricultural fields with the characteristics of open countryside, the proposal is subject to the final bullet point of Core Strategy Policy ADPP1, which allows only limited development which addresses identified needs and maintains a strong rural economy. The Secretary of State therefore agrees with the Inspector that the proposal would not comply with this aspect of the development plan (IR184).

41. The Secretary of State has given careful consideration to the Inspector's discussion regarding Core Strategy Policy ADPP3 at IR185. Policy ADPP3 indicates that approximately 900 homes are to be provided in Thatcham during the plan period. For the reasons given at IR185, the Secretary of State agrees with the Inspector's conclusion that 900 homes should not be viewed as a ceiling, and the wording of ADPP3 does not directly restrict development to this level.

42. The Secretary of State agrees with the Inspector at IR186 that Policy C1 in the Site Allocations DPD includes a presumption against new residential development outside settlement boundaries.

The weight to be attributed to policies

The Site Allocations DPD

43. The Secretary of State has carefully considered the Inspector's comments at IR190, and agrees that the relevant policies for the supply of housing are CS1, ADPP1, ADPP3 and C1.

44. The Secretary of State has given careful consideration to the Inspector's analysis at IR188-190, but disagrees with his conclusions. He agrees that the intention to protect rural areas by restricting development outside settlement boundaries is not inconsistent with the Framework. He further agrees that the site allocations DPD amends the settlement boundaries to allow more land for housing. While he agrees that the DPD is based on the Core Strategy, which was not based on an objective assessment of need, he notes that Policy CS1 treats housing numbers as a minimum, allowing for their review and update over time to reflect housing need. He thus concludes, in the context of the Council demonstrating a 5 year housing land supply, that the housing policies of the Local Plan are consistent with the Framework and that the application of paragraph 14 of the Framework is not triggered.

45. For the reasons given at IR191, the Secretary of State agrees that the proposal would be in conflict with policies ADPP1 and C1.

Other Matters

46. For the reasons given at IR193-194, the Secretary of State agrees with the Inspector that there is no reason to conclude that the land cannot be satisfactorily drained, and that a planning condition would enable scrutiny of the details of the scheme.

47. For the reasons given at IR195-196, the Secretary of State agrees with the Inspector that there is no indication that the development would have a harmful effect on the setting of the Area of Outstanding Natural Beauty. He further agrees with the Inspector that the scheme would avoid an unduly harmful visual impact.

48. For the reasons given at IR197, the Secretary of State agrees with the Inspector that there are not substantial grounds to challenge the conclusions of the Transport Statement of Common Ground. He further agrees that the evidence does not prove that the housing could not be adequately served by local facilities and infrastructure. He further agrees that the scheme would lead to some disturbance of wildlife, but the retention of open space, and measures to protect and enhance habitats, would help to minimise any harm.

49. The Secretary of State agrees with the Inspector's conclusion at IR198 that these matters raised at IR193-197, and the other matters raised.

Planning conditions

50. The Secretary of State has given consideration to the Inspector's analysis at IR140-144, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal and refusing planning permission.

Planning obligations

51. Having had regard to the Inspector's analysis at IR199-200, the planning obligation dated 2 December 2016, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR 199-200 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework and is necessary to make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and kind to the development. However, the Secretary of State does not consider that the obligation overcomes his reasons for dismissing this appeal and refusing planning permission.

Planning balance and overall conclusion

52. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with Core Strategy policies CS1, CS 14, CS19, ADPP1, ADPP3 and DPD Policy C1, and is therefore not in accordance with the development plan overall. The Secretary of State concludes that, as the Council can demonstrate a 5 year housing land supply, the application of paragraph 14 of the NPPF is not triggered, and as such the proposal should be determined in accordance with the development plan unless material considerations indicate otherwise.

53. The Secretary of State considers that the addition of up to 225 homes in an accessible location would contribute to the Council's housing supply, and meet some of the objectives identified in the SHMA, including increased affordability, and accommodation for a workforce to support economic growth, and he affords this benefit moderate weight. He also finds that the development would contribute to local investment during the construction phase, and a market for local goods and services thereafter, to which he affords moderate weight. Up to 90 affordable homes would meet a need for lower cost housing in the area, which attracts significant weight. The Secretary of State also considers that there would be the wider benefits of additional investment in flood control within the context of the town's surface water scheme, and the provision of public open space, to which he grants moderate weight.

54. The Secretary of State considers that there is no clear reason to conclude that local services and infrastructure would not be able to accommodate the additional housing. He also finds that the additional development would provide the opportunity for greater investment in local infrastructure, and he affords this benefit moderate weight.

55. Against this the Secretary of state weighs the conflict with policies CS1, ADPP1, ADPP3 and DPD Policy C1, and he affords this conflict substantial weight in the context of a 5 year housing land supply and a now made DPD.

56. The Secretary of State also weighs against the proposal the replacement of agricultural land with suburban development which would lead to a change in character of the land. However, the Secretary of State considers that the impact of this change would be limited, not out of keeping with the present character of the area, and without having an unduly damaging effect on the setting of either Thatcham or Cold Ash. As such he gives this conflict moderate weight.

57. Having regard to the conflict with the development plan as a whole and taking account of the policy set out in paragraph 196 of the Framework, and the other harms, the Secretary of State therefore concludes that there are no material considerations sufficient to indicate that the proposal should be determined other than in accordance with the development plan. He concludes that the appeal should be dismissed and planning permission refused.

Formal decision

58. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for up to 225 dwellings (class C3); with associated vehicular, pedestrian and cycle accesses; public open space including allotments, community orchard, sports pitch and pavilion, ecology meadow, parkland; trim trail and children's play areas. Provision of a GP surgery and flood alleviation ponds as part of the wider Thatcham Surface Water Management Plan in accordance with application ref: 15/00296/OUTMAJ, dated 17 December 2015.

Right to challenge the decision

59. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

60. A copy of this letter has been sent to West Berkshire Council and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Philip Barber

Authorised by Secretary

DC