

Item No	Application No. and Parish	8/13 week date	Proposal, Location and Applicant
(1)	18/02121/OUTMAJ Theale	14 November 2018 (extension of time agreed to 5 th December 2018)	Section 73: Removal of condition 31 - Age Restriction, of planning appeal APP/W0340/W/16/3159722 (15/02842/OUTMAJ). Lakeside, The Green, Theale Central Corporation Securities Ltd; Alliance Security

To view the plans and drawings relating to this application click the following link:
<http://planning.westberks.gov.uk/rpp/index.asp?caseref=18/02121/OUTMAJ>

Recommendation Summary: To **DELEGATE** to the Head of Development & Planning to **GRANT PLANNING PERMISSION** subject to the conditions set out in section 8.1 of this report.

Ward Members: Councillor Alan Macro

Reason for Committee Determination: Development Control Manager's call-in

Committee Site Visit: NA

Contact Officer Details	
Name:	Simon Till
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1. Relevant Site History

1.1 Lakeside (whole site)

- 1.1.1 Outline planning permissions for a business park and public open space were granted on appeal in 1989 and 1996, but neither was implemented despite reserved matters approval being gained in respect of the latter. A further outline planning permission was granted by the Council in 2000 for a B1 business park and associated open space (Application 154882). A reserved matters application in respect of this latest outline permission was approved in 2001 (Application 01/01266/RESMAT). It provides for 14,488sqm of B1 floor-space in three 3-storey buildings together with 545 surface car-parking spaces. All the buildings and car-parking would be contained within South Lakeside (excluding the area protected by TPO), and North Lakeside would be landscaped as open space.
- 1.1.2 All pre-conditions applying to the 2000 outline planning permission and the 2001 reserved matters approval have been discharged and material operations have been carried out to begin implementing the permission.
- 1.1.3 Outline planning permission with all matters reserved was applied for reference 15/02842/OUTMAJ. The application description was "Outline application for Residential development of up to 325 houses and apartments (including 70 extra-care units) with associated access, parking, amenity space and landscaping. All matters reserved." This was granted by the Inspector at appeal, reference APP/W0340/W/16/3159722 in a decision dated 15 March 2017. The appeal was against non-determination. A meeting of the Eastern Area Planning Committee was held on 18 January 2017, during which the Committee resolved to support the application subject to conditions and the provision of a legal agreement to secure affordable housing, extension of Theale Primary School, public open space, a travel plan, improvements to the two nearby bus stops, provision of a pedestrian and cycle route and a master plan to secure the phasing of the development. When upholding the appeal the Inspector determined that the contribution towards extension of Theale Primary School failed to meet the relevant legal and policy tests for planning obligations under the CIL Regulations.

2.2 North Lakeside

- 1.2.1 A proposal for 58 dwellings on the whole North Lakeside site was dismissed at appeal in January 2007 (APP/W0340/A/05/1186340). Two subsequent outline applications for residential development on the site were refused by the Council in 2006. The Council then granted planning permission, also in 2006, for one pair of four-bedroom semi-detached residential properties with garages and car parking on part of North Lakeside fronting The Green, next to the access to the appeal site (Application 06/00236/FULD).
- 1.2.2 The Housing Sites Allocation Development Plan Document (HSA DPD) Proposed Submission Version (November 2015) included an allocation in the central parcel of North Lakeside for approximately 15 dwellings (Policy HSA14). As part of this proposed allocation, the banks of the lake and the western and eastern parcels of North Lakeside were proposed to be maintained as open space and a landscape buffer.

- 1.2.3 Subsequently, an appeal was granted for seven dwellings on land south of St Ives Close, which forms the eastern parcel of North Lakeside (Application 14/02195/OUTD). This conflicted with the proposed allocation. In response the Council has elected to delete the proposed allocation policy and simply include the whole Lakeside site within the proposed revised settlement boundary to Theale, whereby the principle of residential development becomes acceptable.
- 1.2.4 Application 16/01846/OUTMAJ sought outline planning permission for 25 dwellings on the remainder of North Lakeside (i.e. the central and western parcels). This application has been appealed for non-determination, and is another item for decision.
- 1.2.5 Outline planning permission for the erection of 25 dwellings with associated access, parking and landscaping works with access to be considered and all other matters reserved was applied for under application reference 16/01846/OUTMAJ. Planning permission was granted by the Inspector on 15 March 2017, appeal reference APP/W0340/W/16/3163215. A meeting of the Eastern Area Planning Committee was held on 18 January 2017, during which the Committee resolved to support the application subject to conditions and the provision of a legal agreement to secure affordable housing, public open space and a condition to restrict vehicular access to the anglers' park at the end of The Green to anglers only.

2.3 South Lakeside

- 1.3.1 An application (04/01219/FULMAJ) for proposed residential development of 350 houses and apartments with associated access, parking, amenity space and landscaping on the land known as South Lakeside was submitted in May 2004. The Council refused planning permission in October 2006 on grounds of density, overdevelopment, landscape, design, lack of on-site public open space, and the lack of a planning obligation. This decision was appealed, and in November 2006 the appeal was recovered for determination by the Secretary of State. An inquiry was held in June 2007, and the Inspector recommended that planning permission be granted subject to conditions. In September 2007 the Secretary of State granted full planning permission.
- 1.3.2 A lawful development certificate (11/00117/CERTP) was approved on 10th June 2011. This certificate confirmed that planning permission 04/01219/FULMAJ was deemed to be lawful by virtue of its implementation prior to the 26th September 2010 (3 years after the grant of permission).

2. Publicity of Application

Site Notice Expired: 06/09/2018

3. Consultations and Representations

3.1 Consultations

Theale Parish Council Objection noting concerns: No evidence as to why age restrictions are requested to be removed, no data to reason why. Units are not yet built so insufficient evidence as to why

they would not sell.

Had evidence been supplied Council's opinions and comments may have been different.

**Englefield
Parish Council
(adjacent)**

No objections.

Housing Officer

The National Planning Policy Framework strongly supports the delivery of affordable housing that meets a recognised housing need in the District. The Council's policy for affordable housing provision is set out in CS6 of the West Berkshire Local Plan 2006-2026. It enables the authority to seek affordable housing either on site or as a financial contribution in lieu of on site provision on sites of 5 units or more. The contribution levels for affordable housing are as follows:

5-9 dwellings: 20%

10-14 dwellings: 30%

15 or more dwellings: 30% on brownfield sites or 40% on greenfield sites

The planning application proposes to deliver 325 dwellings, and it is noted from the planning history of this site that a viability position has already been established, and a provision of 25% of affordable housing has been proposed following discussions with officers. This contribution is rounded up or down to the nearest whole unit and this case is 81 (rounded down).

Any request for a diversion from this policy should be accompanied by an open book viability assessment, but in this case it is understood that the applicant refers to an approved fallback position securing a lesser affordable housing contribution.

The SPD states the affordable housing should consist of 70% social rent and 30% intermediate housing options such as shared ownership. We therefore require 57 units for social rent and 24 units for shared ownership.

I confirm that housing have no objections and support the above scheme, on the grounds that the increase in the amount of the development available for general affordable housing provision.

Correction from case officer: The application proposes 310 dwellings. 25% affordable housing equates to 78 dwellings (rounded up).

Planning Policy

No comments received by date of writing.

**Transport
Policy**

No comments received by date of writing.

Highways	It is proposed to amend the previous proposal to 50 flats, 27 with one bedroom and 23 with two bedrooms. The parking layout submitted is acceptable and complies with the parking standards set in Policy P1 of the Housing Site Allocations DPD. The proposal is therefore acceptable and all other aspects of the development were approved with the original planning application.
Environmental Health	No objections.
Waste Management	No comments received by date of writing.
SuDS	No comments received by date of writing.
Tree officer	No comments received by date of writing.
Public Open Space	No comments received by date of writing.
Ecology	No comments received by date of writing.
Natural England	Natural England currently has no comment to make on the variation of condition 31. Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again. Before sending us any further consultations regarding this development, please assess whether the changes proposed will materially affect any of the advice we have previously offered. If they are unlikely to do so, please do not re-consult us.
BBOWT	No comments received by date of writing.
Archaeologist	No comments received by date of writing.
Royal Berkshire Fire & Rescue Service	Request provision of fire hydrants.
Emergency Planning	No adverse comments.
Office of Nuclear Regulation	The scale and location of the proposed development is such that ONR do not advise against this application unless the emergency planners at West Berkshire Council which is responsible for the preparation of the Aldermaston off-site emergency plan required by the Radiation Emergency

Preparedness and Public Information Regulations (REPPiR) 2001 state that, in their opinion, the proposed development cannot be accommodated within their off-site emergency planning arrangements.

Thames Water No comments received by date of writing.

Environment Agency Did not wish to be consulted on application.

Canal & River Trust This application falls outside the notified area for its application scale. We are therefore returning this application to you as there is no requirement for you to consult us in our capacity as a Statutory Consultee.

3.2 Representations

Total: 0 Object: 0 Support: 0

3.3 Community Infrastructure Levy

3.3.1 The proposed works would be liable for payment of the Community Infrastructure Levy. This would be calculated at the reserved matters phase.

4 Planning Policy

4.1 The statutory development plan include the West Berkshire Core Strategy 2006-2026 and those saved policies within the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007) (WBDLP).

4.2 Other material considerations include government legislation and guidance, in particular:

- The National Planning Policy Framework (March 2018) (NPPF);

4.3 The following policies of the West Berkshire Core Strategy (2006-2026) are relevant to this application:

- ADPP1: Spatial Strategy;
- ADPP6: Eastern Area;
- CS1: Delivering New Homes and Retaining the Housing Stock;
- CS4:Housing Type and Mix;
- CS5: Infrastructure Requirements and Delivery;
- CS6: Provision of Affordable Housing;
- CS13: Transport;
- CS14: Design Principles;
- CS16: Flooding;
- CS17: Biodiversity and Geodiversity;
- CS18: Green Infrastructure;
- CS19: Historic Environment and Landscape Character.

- 4.4 The following policies of the Housing Site Allocations Development Plan Document (DPD) are relevant to this application:
- C1: Location of New Housing in the Countryside;
 - P1: Residential Parking for New Development
- 4.5 The following saved policies of the West Berkshire District Local Plan (1991-2006) Saved Policies 2007 are relevant to this application:
- OVS5: Environmental nuisance and pollution control;
 - OVS6: Noise pollution.
 - TRANS1: Meeting the Transport Needs of New Development.
- 4.6 In addition, the following locally adopted West Berkshire Council policy documents are relevant to this application:
- Supplementary Planning Document, Quality Design (June 2006): Part 2, Residential Development;
 - The West Berkshire Planning Obligations Supplementary Planning Document (2014).

5. Description of Development

- 5.1 The application seeks to remove condition 31 of appeal permission APP/W040/W/16/3159722 (West Berkshire Council planning application reference 15/02842/OUTMAJ), which granted permission for “Outline application for Residential development of up to 325 houses and apartments (including 70 extra-care units) with associated access, parking, amenity space and landscaping. All matters reserved.”
- 5.2 Condition 31 states:
“The proposed ‘extra care’ units shall not be occupied other than by persons over the age of 55 years, and by the spouse, partner, or dependents of such a person.”
- 5.3 The reason given in the agent’s covering letter for removal of the ‘extra care’ units is that this element of the approved development is causing difficulties in marketing the site to developers.
- 5.4 The approved scheme would be altered to provide up to 50 residential flats instead of the approved 70 extra care units. As layout is a reserved matter the application is accompanied by an indicative layout to demonstrate how this element could be incorporated into the site layout.
- 5.5 Alongside the removal of condition 31 a Deed of Variation is sought in order to uplift the level of affordable housing provision on the site from 12% to 25%, and in doing so to remove an overage clause from the agreement that requires a review of viability at the stage that the development of the site has been 90% completed in order to establish whether an additional financial contribution towards off-site affordable housing provision should be made. The agent’s covering letter states that

the element of financial uncertainty associated with the requirements of the overage clause has also caused difficulties in progressing sale of the site to a developer.

6. Consideration of the Proposal

6.1 ENVIRONMENTAL IMPACT ASSESSMENT (EIA)

6.1.1 The application has been considered under the provisions of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) and is not considered to be EIA development.

6.2 Appraisal

6.2.2 The main issues for consideration in the determination of this application are:

- Principle of development;
- Provision of accommodation for over 55 year olds (removal of condition 31);
- Viability and the provision of affordable housing.

6.3 The principle of development

6.3.1 The application site is located in land defined under Policies ADPP1 and C1 as within the settlement boundary. Planning permission 15/02842/OUTMAJ, which was granted at appeal, secured outline permission for development described as "Outline application for Residential development of up to 325 houses and apartments (including 70 extra-care units) with associated access, parking, amenity space and landscaping. All matters reserved." This application seeks to remove condition 31, and to replace the approved 70 extra care units with 55 dwellings. The resultant development would therefore comprise 310 dwellings on the whole Lakeside site.

6.3.2 In this case the principle of residential development of the site has already been established, and while your officer notes that since the appeal decision on the 15th March 2017 the Housing Site Allocations DPD has been adopted and the 2018 NPPF has been published, neither alteration to the policy background significantly alters the considerations in the case of these works. Furthermore the existing planning permission forms a 'fall-back' position for the applicant, under which the applicant could progress with applying for reserved matters permission and the subsequent development of the site, and as such carries material weight in consideration of this application. In light of these considerations the principle of development is accepted by your officer in this case.

6.4 Provision of accommodation for over 55 year olds (removal of condition 31)

6.4.1 The application proposes to remove condition 31 of the Inspector's decision reference APP/W0340/W/16/3159722. Condition 31 states:
"The proposed 'extra-care' units shall not be occupied other than by persons over the age of 55 years, and by the spouse, partner or dependents of such a person."
It is now proposed to replace the 70 extra care units with 55 dwellings. In her covering letter the agent states that this element of the scheme has raised concern with developers with a potential interest in developing the site during marketing exercises undertaken by the applicant. While your officer notes the Parish's

objection to the loss of the extra-care units due to a lack of marketing information submitted with the application it is also the case that there is no policy within the development plan that requires the provision of extra-care units, and the site does not form a preferred area for such accommodation. Neither did officers seek the provision of such extra-care housing either during consideration of the original application or during the subsequent appeal; the proposal for extra-care units was forwarded by the applicant.

- 6.4.2 Your officer notes that the proposed works will result in a relatively small reduction in the number of units on the site, from a maximum number of 325 to a maximum of 305, reducing the density of the housing on this part of the site. This is not considered to be a significant impact on the amount of housing provided, and the benefits in terms of freeing housing on the site from this restriction on occupancy and the removal of this impediment to delivery of the development of the site are taken by officers to significantly outweigh any potential benefit in the provision of extra-care units and the loss of 15 of such dwellings from the scheme.

6.5 Viability and the provision of affordable housing

- 6.5.1 At its meeting on the 11th January 2017 the Committee considered a viability assessment for the proposed development and accepted that in order to secure the viability of the development it would not be possible for the development to provide the full requirement of 40% affordable housing stipulated under Policy CS6 and the Planning Obligations DPD. The Committee therefore accepted that 12% affordable housing should be secured on the site, subject to an overage clause to seek to determine any additional off-site affordable housing contribution payable on development of the site. The Inspector, in reaching his decision on the appeal, accepted a Unilateral Undertaking securing this 12% affordable housing provision level and the associated overage clause which triggers a further viability assessment once the site is 90% built out in order to establish whether an additional off-site contribution should be paid.
- 6.5.2 In the covering letter accompanying the application the agent notes that the overage clause associated with the Unilateral Undertaking has resulted in uncertainty that has prevented sale of the site, thus delaying development of the site. The applicant therefore seeks to secure a Deed of Variation to the Unilateral Undertaking to secure provision of affordable housing without the overage clause. Following discussions with officers the applicant has proposed that the amount of affordable housing provision is increased from 12% to 25%.
- 6.5.3 Officers have considered the amount of affordable housing offered by the applicant, and the uncertainty that has led to the applicant making this offer, and are satisfied that this variation to the legal agreement would secure a significant uplift to affordable housing beyond what would be achieved under the current 12%-plus-overage agreement, more than doubling the guaranteed proportion of affordable housing provided on the site. Further to this, while the variation would provide certainty to the applicant in order to assist with the sale of the site to a developer, it would also provide certainty to the Council that a full 25% of the housing on the site would be affordable, and would remove this obstacle to the delivery of housing on the site.

- 6.5.4 While the housing officer has noted that the level of affordable housing on the site would be still be below the level of policy compliance, she has stated support for the application as it would result in an increase in the level of affordable housing contribution from the agreed 12%, and an increase in the element of housing on site through which generally available affordable housing provision can be provided due to the uplift in units without a restricted occupancy. The affordable housing provision would increase from 39 units to 78.
- 6.5.5 In light of the planning benefits in terms of bringing forward development of the site; providing a significant uplift to, and certainty of, the level of affordable housing on the site; and securing a greater proportion of the units for affordable housing for all sectors of the community the proposal for a Deed of Variation to secure these changes to the legal agreement associated with the appeal permission is supported by officers.

6.6 Other matters

- 6.6.1 Parking provision for the site remains compliant with the requirements of policy P1. The proposed alterations will allow more space for incorporation of shared amenity space for the proposed dwellings. The agent has provided a parameters plan confirming that the proposed flats will be of the same height as the previously approved extra care units.
- 6.6.2 The Inspector's decision on appeal reference APP/0340/W/16/3159722 is included at appendix 1 to this report, a copy of the officer's Committee report for 15/02842/OUTMAJ is included as appendix 2, and a copy of the minutes of the meeting of the Eastern Area Planning Committee on 18 January 2017 is included at appendix 3.

7. Conclusion

- 7.1 The application seeks to secure the removal of the extra care element from the scheme granted permission at appeal reference APP/0340/W/16/3159722. This extra care element was proposed by the applicant and was not sought by the Council. It is noted that the extra care element is not located in an area that is a preferred area for meeting such need, and there is therefore no particular requirement or support for its provision in policy. The proposed inclusion of up to 50 flats to replace it is welcomed by officers as an alternative that would boost general housing availability.
- 7.2 While the proposal to secure a variation to the legal agreement would remove the overage clause on permission APP/0340/W/16/3159722 that was recommended by the Council's independent valuer, it is considered that this overage clause was previously justified in order to secure any potential improvement to affordable housing provision due to the previous incredibly low provision of 12% that was justified by the viability position. By significantly increasing the amount of affordable housing provision to 25% it is considered by officers that sufficient provision has been made for affordable housing on the site to justify removal of the overage clause as it appears to officers to be unlikely that the 12% plus overage secured under the Unilateral Undertaking would result in a betterment of this position above the 25% affordable housing offered.

7.3 In light of the agent's advice that removal of the extra care element and overage clause would provide certainty to future developers, increasing the likelihood of the site being developed, and in consideration of the improvements to the housing and affordable housing offer that are proposed, this application meets with an officer's recommendation of approval subject to the schedule of conditions attached to the appeal decision APP/W0340/W/16/3159722 updated with the removal of condition 31 and the inclusion of the amended parameters and indicative layout plans.

8. Recommendation

Subject to the completion of a Deed of Variation to the legal agreement associated with planning permission APP/0340/W/16/3159722 to secure provision of 25% of the housing on site as affordable housing within three months from the resolution date (or any longer period as agreed in writing and authorised by the Development Control Manager) to **DELEGATE** to the Head of Development and Planning to **GRANT PLANNING PERMISSION** subject to the conditions set out in section 8.1

OR

If a Deed of Variation to the legal agreement associated with appeal permission APP/0340/W/16/3159722 is not completed within the above specified time, to delegate to the Head of Development and Planning to **REFUSE PLANNING PERMISSION** for the reason listed below"

"Refusal Reason S106 Planning obligation

The application fails to provide a Deed of Variation to the Section 106 Planning Obligation associated with permission APP/0340/W/16/3159722 to deliver necessary infrastructure and mitigation measures, including:

- (a) Affordable housing, without which the proposal would be contrary to the NPPF, Policy CS6 of the West Berkshire Core Strategy (2006-2026), and the Planning Obligations SPD."

8.1. Conditions

1) Phasing plan

No development shall take place until a phasing plan, showing how the development is to be divided into phases, has been submitted to the local planning authority and approved in writing. The phasing plan shall also include details of the number of dwellings (including affordable housing units), and the amount of public open space, to be provided within each phase.

Reason: In order to confirm the manner in which development of the site is to be brought forward, in accordance with the National Planning Policy Framework 2018 and Policies CS5, CS13 and CS14 of the West Berkshire Local Plan Core Strategy (2006-2026) 2012

2) Reserved matters

Details of the access, appearance, landscaping, layout, and scale (hereinafter called "the reserved matters"), relating to each phase of the proposed development,

shall be submitted to the local planning authority and approved in writing before any development within that phase takes place. The development shall be carried out in accordance with the details thus approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

3) Reserved matters time limit

Application for approval of the reserved matters, for the first phase of the development, shall be made to the local planning authority not later than 3 years from the 15th March 2017, that being the date of approval of planning permission APP/W0340/W/16/3159722. Application for approval of the reserved matters for all subsequent phases shall be made not later than 5 years from the 15th March 2017.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

4) Commencement of phases

The development of each phase shall be commenced not later than 2 years from the date of approval of the last of the reserved matters for that phase to be approved.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

5) Primary vehicular access details

The first reserved matters application shall include details of the primary vehicular access for the site as a whole, which shall be from the existing access point to the west of No 41 The Green. The access shall be laid out and constructed in accordance with these details.

Reason: In order to ensure that, in the event of a phased development, site access to the whole site is determined from the outset, in the interests of highway safety. This condition is recommended in accordance with the National Planning Policy Framework 2018, Policy CS13 of the West Berkshire Core Strategy (2006-2026), and the Quality Design SPD.

6) Details of scale and layout

The details of scale and layout to be submitted under Condition 2 shall generally accord with the parameters shown in the following submitted plans:

- Building Heights and layout Parameter Plan 30716 A-02-01 Revision P-00 dated November 2018, and;
- Indicative Site Layout – Substitution of 50 x Flats of Extra Care Unit drawing number 30716 A-02-111 P-00 dated November 2018.

Reason: These parameter plans fix the maximum extent and height of the development. Full compliance is necessary to ensure that the development would not have an unacceptable landscape and/or visual impact on the surrounding area,

and to ensure that the development would safeguard the living conditions of neighbouring properties. This condition is recommended in accordance with the NPPF, Policies CS14 and CS19 of the West Berkshire Core Strategy (2006-2026), and the Quality Design SPD.

7) Construction Environmental Management Plan

No work on any phase of the development shall take place until a Construction Environmental Management Plan (CEMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. Thereafter the CEMP shall be adhered to throughout the construction period. The statement shall provide for:

- Temporary construction access arrangements to the site, including any temporary hard-standing and wheel washing facilities;
- Parking arrangements during construction;
- Loading and unloading arrangements for construction plant and materials;
- Storage arrangements for construction plant and materials, including measures to prevent any such storage within 10m from the banks of the lake;
- A signage strategy for a preferred haul route for construction vehicles;
- A lighting strategy for the construction phase;
- Erection and maintenance of security hoardings including any decorative displays and facilities for public viewing;
- Measures to control the emission of dust and dirt;
- Hours of work for construction operations;
- A scheme of precautionary measures to protect reptiles during site clearance works;
- A scheme of ecological and environmental mitigation during construction.

Reason: To safeguard the amenity of adjoining land uses and occupiers, and in the interests of highway safety. The approval of this information is required at this stage because insufficient information has been submitted with the application. This condition is recommended in accordance with the National Planning Policy Framework, Policies CS13 and CS14 of the West Berkshire Core Strategy (2006-2026), and Policies OVS.5, OVS.6 and TRANS.1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

8) Piling method statement

No piling or any other foundation construction using penetrative methods shall take place other than in accordance with a piling method statement, which shall have been submitted to and approved in writing by the Local Planning Authority. Any such method statement shall include:

- details of the depth and type of excavation or penetration, and the method by which this is to be carried out;
- evidence that there would be no resultant unacceptable risk to groundwater, or to any underground water utility infrastructure;
- measures to prevent damage to any subsurface water infrastructure or underlying ground or controlled waters;
- a programme for the necessary works.

Reason: The piling solution has not been given in the Phase II report. Given the potential for some residual hydrocarbon contamination to exist on site, piling can

mobilise these contaminants. Groundwater monitoring is proposed in the report during the piling phase. The EA ask to be consulted on any details submitted in compliance with this condition. This condition is recommended in accordance with the National Planning Policy Framework, and Policy OVS.5 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

9) Off-site highway works

No more than 100 dwellings in total shall be occupied until a scheme of off-site highways works has been carried out in accordance with details to be submitted to the Local Planning Authority and approved in writing. The scheme shall provide for the following:

- Improvements to the two bus stops on The Green, adjacent to the existing site access, including enclosed bus shelters, high kerbing, relocation of the eastbound bus stop, and widening of the footway to the westbound bus stop to 2 metres in width;

- A new pedestrian and cycle route from the south-eastern corner of the site to Station Road, running parallel and adjacent to the A4;

- A new pedestrian crossing facility at Station Road, in close proximity to the end of the aforementioned pedestrian and cycle route.

Reason: In order to secure off site highway works required in order to mitigate the impacts of development on the local highway and public transport network and secure improvements necessary to facilitate sustainable transport associated with the development in accordance with the National Planning Policy Framework 2018, Policy CS13 of the West Berkshire Local Plan Core Strategy (2006-2026) 2012 and Policy TRANS 1 of the West Berkshire District Local Plan (1991-2006) Saved Policies 2007.

10) Implementation of 'Framework Travel Plan'

The 'Framework Travel Plan' dated January 2016, submitted with the application, shall be implemented in full. No dwelling shall be occupied until the date 6 months after a Travel Plan implementation timetable has been submitted to the Local Planning Authority and approved in writing. The implementation timetable shall specify the programme for bringing into effect each of the measures within the Travel Plan, including the appointment of a Travel Plan Co-ordinator, and the arrangements for future monitoring and review. The Travel Plan and implementation timetable shall thereafter be adhered to as agreed.

Reason: To comply with the National Planning Policy Framework 2018 and Policy CS13 of the West Berkshire Core Strategy (2006-2026), which require all developments which generate significant amounts of movement to provide a travel plan. This condition is recommended to ensure the development reduces reliance on private motor vehicles, in accordance with the the aforementioned policies and Policy LTP SC1 of the Local Transport Plan for West Berkshire (2011-2026).

11) Estate roads, footways and turning spaces

The details of access and layout to be submitted under Condition 2 shall include provision for all necessary estate roads, footways, turning spaces, and vehicle parking. No dwelling shall be occupied until these facilities serving that dwelling

have been laid out, surfaced, and brought into use, in accordance with the approved details. The estate roads, footways, turning spaces, and vehicle parking areas shall thereafter be kept available for these purposes at all times.

Reason: In the interests of highway safety, to ensure the development is provided with adequate parking facilities and turning and in order to reduce the likelihood of roadside parking that would adversely affect road safety and the flow of traffic. This condition is recommended in accordance with the National Planning Policy Framework, Policy CS13 of the West Berkshire Core Strategy (2006-2026), Policy TRANS1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007), and Policy P1 of the emerging Housing Site Allocations DPD.

12) Cycle parking/storage

The details of access and layout to be submitted under Condition 2 shall include provision for the parking and storage of cycles. No dwelling shall be occupied until the cycle parking and storage facilities for that dwelling have been provided in accordance with the approved details. The cycle parking and storage facilities shall thereafter be kept available for this purposes at all times.

Reason: To encourage the use of cycles in order to reduce reliance on private motor vehicles. This condition is recommended in accordance with the National Planning Policy Framework, Policy CS13 of the West Berkshire Core Strategy (2006-2026), and Policy TRANS1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

13) Refuse storage

The details of access and layout to be submitted under Condition 2 shall include provision for the storage of household refuse. No dwelling shall be occupied until the refuse storage facilities for that dwelling have been provided in accordance with the approved details. The refuse storage facilities shall thereafter be kept available for this purposes at all times.

Reason: To ensure that there is adequate and safe refuse/recycling facilities within the site. This condition is recommended in accordance with the National Planning Policy Framework, Policies CS13 and CS14 of the West Berkshire Core Strategy (2006-2026), and Quality Design SPD.

14) Contamination risk assessment

No work on any phase of the development shall commence until an assessment of the risks posed by any contamination within that phase shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:

- i) a survey of the extent, scale and nature of contamination;
- ii) the potential risks to:

- human health;
- property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
- adjoining land;
- ground waters and surface waters;
- ecological systems; and
- archaeological sites and ancient monuments.

Reason: To ensure the site is suitable for its new use taking into account ground conditions, including from pollution arising from previous uses. This condition ensures that the implemented remediation measures are effective. The approval of this information is required at this stage because insufficient information has been submitted with the application. This condition is recommended in accordance with the National Planning Policy Framework, and Policy OVS.5 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

15) Contamination remediation

No work on any phase of the development shall take place where (following the risk assessment) land affected by contamination is found within that phase which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out, and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority, before the relevant phase of development is occupied.

Reason: To ensure the site is suitable for its new use taking into account ground conditions, including from pollution arising from previous uses. This condition ensures that the implemented remediation measures are effective. The approval of this information is required at this stage because insufficient information has been submitted with the application. This condition is recommended in accordance with the National Planning Policy Framework, and Policy OVS.5 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

16) Unforeseen contamination reporting and risk assessment

Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These

Reason: To ensure the site is suitable for its new use taking into account ground conditions, including from pollution arising from previous uses. This condition ensures that the implemented remediation measures are effective. This condition is recommended in accordance with the National Planning Policy Framework, and Policy OVS.5 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

17) Monitoring of remediation

No development shall take place until a monitoring and maintenance scheme to demonstrate the effectiveness of the proposed remediation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for reporting on each monitoring stage. The approved scheme shall be implemented, and the reports produced as a result, shall be submitted to the local planning authority in accordance with the agreed timetable.

Reason: To ensure the site is suitable for its new use taking into account ground conditions, including from pollution arising from previous uses. This condition ensures that the implemented remediation measures are effective. This condition is recommended in accordance with the National Planning Policy Framework, and Policy OVS.5 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007).

18) Landscape and Ecological Management Plan

No development shall take place until the following have all taken place:

- (i) a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority;
- (ii) any pre-development requirements within the LEMP have been carried out;
- (iii) and a contract has been let for the management, monitoring, reporting and supervision of the LEMP.

Thereafter, the LEMP shall be fully implemented in accordance with the approved details. The LEMP shall cover all of the land within both the red and blue areas shown on Plan No.30716 A-02-000 (Revision P-00), and as a minimum, shall include the following:

- detailed creation and management prescriptions for the meadows, lake edges, and woodland areas, for a period of 25 years;
- provision for implementing the measures and actions recommended in the following reports, submitted with the application: Section 6 of the Survey of Invertebrate Interest by David Clements Ecology Ltd and dated September 2015; Sections 4.12 & 4.14 of the Ecological Appraisal by Richard Tofts Ecology Ltd and dated September 2015; and Section 4.9 of the Bat and Reptile Surveys by Richard Tofts Ecology Ltd and dated October 2015;
- identify the measures to be taken in the event that any reptiles are encountered during site clearance or construction;
- detailed proposals for the eradication of Japanese Knotweed, including a timetable for implementation of such measures;
- procedures for monitoring, reporting and review, at intervals to be agreed.

Reason: The invertebrate survey report by Davis Clements Ecology Ltd makes clear in paragraph 5.1 that “virtually all the terrestrial habitats which are of value to invertebrates, including all of the present neutral grassland and short-turf vegetation

would be lost". In paragraph 5.5.3 it says that "The proposed layout will inevitably result in the loss of those habitats which are considered to be of greatest value to invertebrates". Mitigation is therefore required, and the land within the blue line can perform this function. This condition is recommended to ensure the protection of species with statutory protection, and in accordance with the NPPF and Policy CS17 of the West Berkshire Core Strategy (2006-2026).

19) Tree felling bat surveys requirement

No tree on the site shall be felled until a further bat survey of that specific tree has been carried out, and a report submitted to and approved by the Local Planning Authority in writing. Thereafter, any such felling shall be carried out only in accordance with those approved details, including any necessary mitigation measures.

Reason: This condition is recommended to ensure the protection of species with statutory protection, and in accordance with the National Planning Policy Framework 2018 and Policy CS17 of the West Berkshire Core Strategy (2006-2026).

20) Biodiversity-related lighting survey

No dwelling shall be occupied until a biodiversity-related lighting strategy for that phase of the development has been submitted to and approved in writing by the Local Planning Authority. The lighting strategy for each phase shall identify those areas that are particularly sensitive for bats, and any measures necessary to minimise and mitigate the impact of lighting on them. All external lighting shall be installed in accordance with the details thus approved, and shall thereafter be maintained in accordance with those details. 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 other external lighting (except that expressly authorised by this permission) shall be installed, without the written approval of the Local Planning Authority.

Reason: This condition is recommended to ensure the protection of species with statutory protection, and in accordance with the National Planning Policy Framework 2018 and Policy CS17 of the West Berkshire Core Strategy (2006-2026).

21) Tree protection

No work on any phase of the development shall take place until tree protection fencing relating to that phase has been erected in accordance with the details shown on drawing no. 8301/02 and in the arboricultural report by Ian Keen reference AP/8301/AP. Notice of commencement shall be given to the Local Planning Authority at least 2 working days after the erection of the protective fencing, and before any development takes place. The fencing shall be retained for the full duration of the building and engineering works within that phase. Within the areas thus protected, there shall be no excavation, alteration to ground levels, storage of materials, or other construction-related activities of any kind, except with the prior written approval of the local planning authority.

Reason: To ensure the protection of the existing trees to be retained during building/engineering operations. The tree protection must be provided before development takes place to ensure that the trees are protected throughout the construction phase. This condition is recommended in accordance with the National Planning Policy Framework, and Policy CS18 of the West Berkshire Core Strategy (2006-2026).

22) Access, roadways, hard surfacing, drainage and services details (tree protection)

No work on any phase of the development shall take place until details of the proposed access, roadways, hard surfacing, drainage and services for that phase have been submitted and approved in writing by the Local Planning Authority. Such details shall show how harm to the tree roots within the protected zones is to be avoided. The development shall be carried out in accordance with these approved details.

Reason: To ensure the protection of the existing trees to be retained during building/engineering operations. This condition is recommended in accordance with the National Planning Policy Framework, and Policy CS18 of the West Berkshire Core Strategy (2006-2026).

23) Arboricultural Method Statement

No work on any phase of the development shall take place until an arboricultural method statement for that phase has been submitted to the Local Planning Authority and approved in writing. The statement shall include details of the implementation, supervision and monitoring of all temporary tree protection and any special construction works within any defined tree protection area. The development shall be carried out in accordance with these approved details.

Reason: To ensure the protection of the existing trees to be retained during building/engineering operations. This condition is recommended in accordance with the National Planning Policy Framework, and Policy CS18 of the West Berkshire Core Strategy (2006-2026).

24) Arboricultural Watching Brief

No work on any phase of the development shall take place until an arboricultural watching brief for that phase has been secured, in accordance with a written scheme of site monitoring, which has first been submitted to the Local Planning Authority and approved in writing. Thereafter, site monitoring shall be carried out in accordance with these approved details.

Reason: To ensure the protection of the existing trees to be retained during building/engineering operations. The watching brief must be secured before development takes place to ensure that the trees are protected throughout the construction phase. This condition is recommended in accordance with the National Planning Policy Framework, and Policy CS18 of the West Berkshire Core Strategy (2006-2026).

25) Surface water drainage scheme

No work on any phase of the development shall take place until a surface water drainage scheme has been submitted to the Local Planning Authority and approved in writing. The scheme shall incorporate 'sustainable urban drainage' (SUDS) methods and attenuation measures, to restrict run-off from the site to no more than the equivalent greenfield rate, based on a 1 in 100 year storm plus 30% for possible climate change. The scheme shall also include measures to prevent any contamination from entering the soil or groundwater. It shall also provide a SUDS management and maintenance plan for the lifetime of the development, and a timetable for implementation. The surface water drainage scheme shall thereafter be carried out as approved, and no dwelling shall be occupied until the relevant surface water infrastructure serving that dwelling has been installed and brought into operation. Thereafter, the surface water drainage system shall be retained and maintained in proper working order.

Reason: To ensure that surface water will be managed in a sustainable manner: to prevent the increased risk of flooding; to improve and protect water quality, habitat and amenity and ensure future maintenance of the surface water drainage system can be, and is carried out in an appropriate and efficient manner. This condition is recommended in accordance with the National Planning Policy Framework, Policy CS16 of the West Berkshire Core Strategy (2006-2026), and Part 4 of Supplementary Planning Document Quality Design (June 2006).

26) Programme of archaeological work

No work on any phase of the development shall be commenced until a programme of archaeological work for that phase has been implemented in accordance with a written scheme of investigation that has been approved by the Local Planning Authority in writing.

Reason: To ensure that any significant archaeological remains that are found are adequately recorded. This condition is recommended in accordance with the National Planning Policy Framework and Policy CS19 of the West Berkshire Core Strategy (2006-2026).

27) Measures to limit externally generated noise

The details to be submitted under Condition 2 shall include any measures necessary to limit externally generated noise to the following maximum levels:

-Rear gardens : LAeqT 55 dB

-Living rooms: LAeqT 35 dB

-Bedrooms: LAeqT 30 dB

LAm_{ax} 45 dB

No dwelling shall be occupied until details showing how these levels will be achieved have been submitted to the Local Planning Authority and approved in writing.

Reason: In order to protect the amenity of future occupants of the development from externally generated noise in the surrounding area. The noise assessment highlights high existing noise levels from traffic associated with the A4 and other road infrastructure, and the need for noise mitigation measures to protect residential

amenity (internal and external areas) and communal open spaces. Nearby industry has also objected to the appeal unless noise mitigation is provided. It is suggested that relevant standards could be achieved by considering the orientation/location of buildings, as well as the installation of acoustic glazing and ventilation, and noise barriers (fences) where appropriate. Standards to be met and mitigation measures will need to be agreed with the LPA prior to commencement of the development. A 'good' standard for bedrooms and living areas (BS8233) is to be encouraged. This condition is recommended in accordance with the National Planning Policy Framework, Policy CS14 of the West Berkshire Core Strategy (2006-2026), and Policy OVS6 of the West Berkshire District Local Plan 1991 to 2006 (Saved Policies 2007).

28) Plant/machinery/equipment associated with new buildings noise restriction

Noise from the use of plant, machinery or equipment, attached to or forming part of any building, shall not exceed a level of 5dB(A) below the existing background level (or 10dB(A) below if there is a particular tonal quality), when measured according to British Standard BS4142, at a point one metre external to the nearest noise sensitive premises.

Reason: In the interests of protecting the local residents from unreasonable noise levels which would be detrimental to the residential character of the area. It is necessary to make sure that residents do not suffer excessive noise from, for example, ventilation systems associated with the extra-care units and apartments. This condition is recommended in accordance with the National Planning Policy Framework, Policy CS14 of the West Berkshire Core Strategy (2006-2026), and Policy OVS6 of the West Berkshire District Local Plan 1991 to 2006 (Saved Policies 2007).

29) Foul water drainage scheme

No work on any phase of the development shall commence until a detailed scheme of foul water drainage has been submitted to the Local Planning Authority and approved in writing. No dwelling shall be occupied until the foul drainage infrastructure to serve that dwelling has been installed and brought into operation in accordance with the approved details.

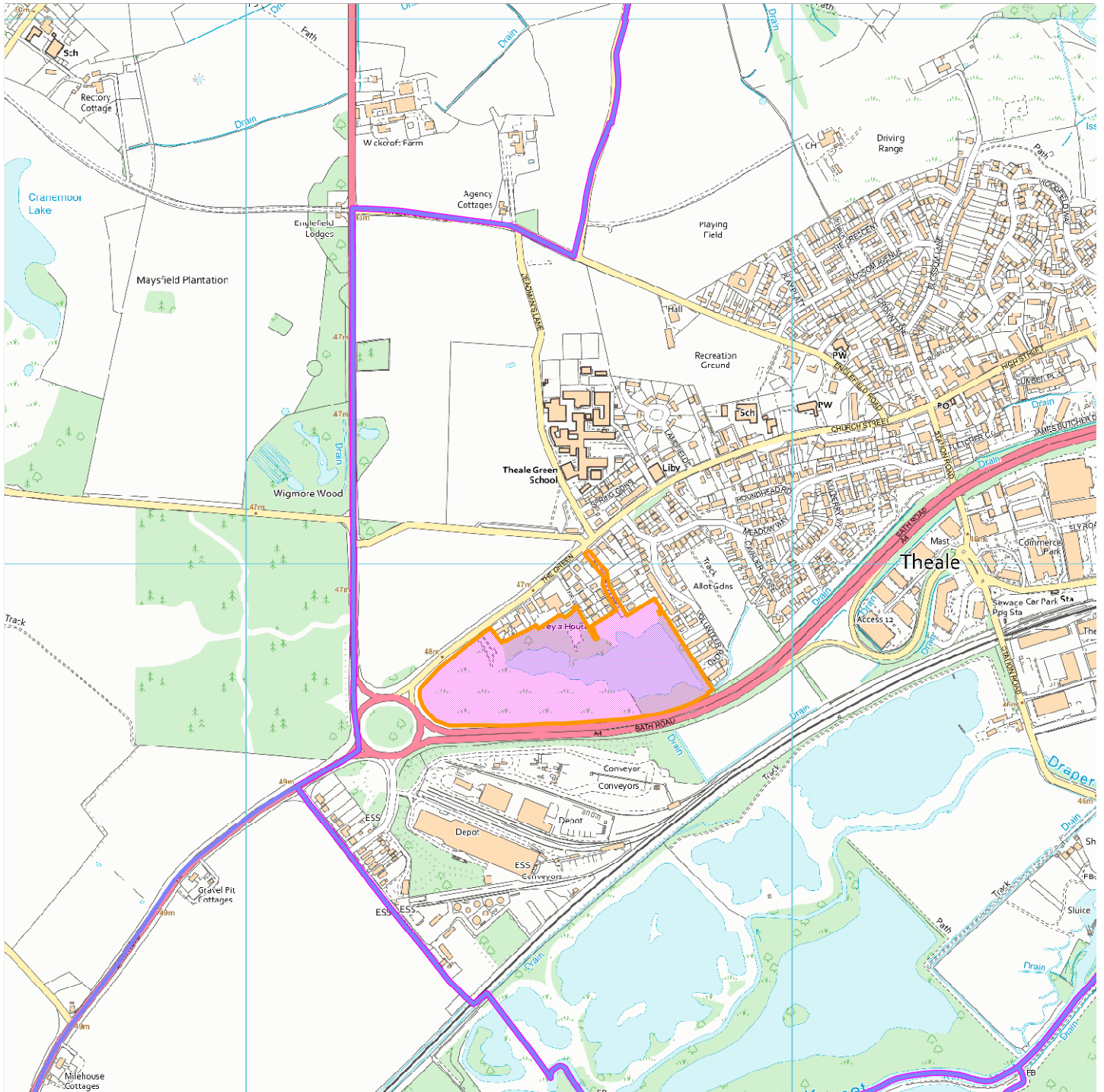
Reason: The development may lead to sewage flooding without a scheme of works to ensure that sufficient capacity is made available to cope with the new development. This condition is recommended at the request of the statutory undertaker, Thames Water, in order to avoid adverse environmental impact upon the community, and in accordance with the NPPF, and Policies CS5 and CS16 of the West Berkshire Core Strategy (2006-2026).

30) Provision of fire hydrants

No dwelling on any phase of the development shall be occupied until fire hydrants to serve that phase have been installed in accordance with details to be submitted to the Local Planning Authority and approved in writing.

Reason: Royal Berkshire Fire and Rescue Service advise that at present there are no available public mains in this area to provide a suitable water supply in order to

effectively fight a fire. RBFRS would therefore request that part of any planning consent terms include the requirement for the applicant to provide suitable private fire hydrant(s), or other suitable emergency water supplies to meet RBFRS requirements. This condition is recommended in the interests of public safety and in accordance with the National Planning Policy Framework.



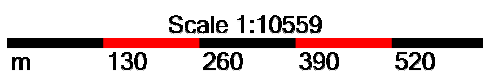
Map Centre Coordinates :

Scale : 1:10558

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Organisation	West Berkshire Council
Department	
Comments	
Date	19 November 2018
SLA Number	0100024151



Appendix 1:

Appeal Decision ref. APP/W0340/W/16/3159722



Appeal Decisions

Hearing held on 9 February 2017

Site visits made on 8 and 9 February 2017

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15th March 2017

APPEAL A: Ref. APP/W0340/W/16/3159722

Land known as 'Lakeside', off The Green, Theale, Berkshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Central Corporation Estates Ltd, Central Corporation Securities Ltd, Alliance Security (The Green) Ltd, and Insistmetal2 Ltd, against West Berkshire Council.
 - The application Ref 15/02842/OUTMAJ, is dated 12 October 2015.
 - The development proposed is: "residential development of up to 325 houses and apartments (including 70 extra-care units), with associated access, parking, amenity space and landscaping".
-

APPEAL B: Ref. APP/W0340/W/16/3163215

Land known as 'North Lakeside', off The Green, Theale, Berkshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Central Corporation Estates Ltd, against West Berkshire Council.
 - The application Ref 16/01846/OUTMAJ, is dated 30 June 2016.
 - The development proposed is: "residential development comprising the erection of 25 dwellings with associated access, parking, and landscaping works".
-

Decisions

1. Appeal A is allowed and planning permission is granted for residential development of up to 325 houses and apartments (including 70 extra-care units), with associated access, parking, amenity space and landscaping, on land known as 'Lakeside', off The Green, Theale, Berkshire, in accordance with the terms of the application, Ref 15/02842/OUTMAJ, dated 12 October 2015, subject to the conditions set out in Schedule 1 to this decision.
2. Appeal B is allowed and planning permission is granted for residential development comprising the erection of 25 dwellings with associated access, parking, and landscaping works, on land known as 'North Lakeside', off The Green, Theale, Berkshire, in accordance with the terms of the application, Ref 16/01846/OUTMAJ, dated 30 June 2016, subject to the conditions set out in Schedule 2 to this decision.

Costs applications

3. At the Hearing, applications for costs were made by the appellants, against the Council, in respect of both appeals. These applications will be the subject of a separate Decision.
-

APPEAL A

Procedural matters

4. The planning application in Appeal A initially sought outline permission with all matters reserved except for access. This was subsequently amended, while the application was still with the Council, so that all matters including access are now reserved.
5. A number of plans have been submitted in support of the application, including 'parameter plans' relating to layout and building heights. Notwithstanding that layout and scale are reserved matters, the parties are agreed that these parameter plans should be incorporated into any permission by way of a condition. The application is also accompanied by indicative plans showing open space, parking, and possible access arrangements, and at the hearing it was agreed that these are purely illustrative.
6. The application originally specified that permission was sought for 325 houses and apartments. The description was subsequently amended to include the words "up to". This change is agreed by both parties.

Planning background

7. The site known as 'Lakeside' comprises about 8.5 ha of former mineral workings. The site has been disused since the 1990s, and the central part is now a lake. It lies on the edge of the village of Theale, a large village with a good range of shops, services, and sustainable transport opportunities, including a railway station. The site has its main frontage to The Green, which was once part of the A4, but has been down-graded since the village was by-passed. The site also has a secondary access from St Ives Close, and a shared boundary with a short private cul-de-sac also known as The Green.
8. The majority of the Lakeside site is covered by three existing planning permissions for residential development, comprising 350 dwellings on the southern part¹, plus 7 dwellings to the rear of St Ives Close², and 2 dwellings adjacent to No 41 The Green³. It is agreed that all three of these permissions remain extant. Together these permissions cover the whole of the present appeal site except for the area to the north of the lake and west of the private cul-de-sac section of The Green. The whole site also benefits from an earlier permission for a business park, on which a lawful start was made under a reserved matters approval granted in 2002⁴.

Relevant policies

9. In the saved policies of the West Berkshire District Local Plan (the WBDLP) adopted in 2002, the appeal site is outside the defined boundary of Theale. WBDLP Policy HSG1 provides that housing development will normally be permitted within settlement boundaries.
10. In the West Berkshire Core Strategy (the WBCS), adopted in 2012, Area Delivery Plan (ADP) Policy 1 states that most development will be within or adjacent to settlements included in the settlement hierarchy. Theale is

¹ Council ref. 04/01219/FULMAJ (appeal ref. APP/W0340/A/06/2030163)

² Council ref. 14/02195/OUTD (appeal ref. APP/W0340/W/15/3033307)

³ Council ref. 06/00236/FULD

⁴ Council ref. 01/01266/RESMAT

identified as a Rural Service Centre, the second tier of the hierarchy. ADP Policy 4 states that the Eastern Area will accommodate 1,400 new homes in order to support the growth of Reading and to sustain services in Theale. A 'broad location' for these homes is identified on the Area Diagram, and the appeal site is within this general area. Policy CS1 provides that new homes will be developed primarily on strategic sites and at the identified broad locations.

11. The draft Housing Site Allocations Plan (the HSAP) has passed through a public examination and proposed main modifications were consulted on in December 2016 to January 2017. The modifications propose that the whole of the appeal site be included within the Theale settlement boundary. This proposed change is not subject to any unresolved objections, and therefore carries substantial weight.

Main issues

12. At a meeting of the Eastern Area Planning Committee in January 2017, it was resolved that the Council would support the grant of planning permission, subject to conditions, and subject to various obligations being entered into.
13. The appellants have subsequently entered into two alternative legal undertakings. Both undertakings contain identical provisions for on-site affordable housing, open space and an education contribution, matching the Council's requirements. These main provisions are acceptable to the Council, but the education contribution is disputed by the appellants. The undertakings are subject to a provision that if the education contribution is found to be unjustified, unnecessary or inappropriate, it shall not take effect, and instead the amount of on-site affordable housing shall be increased.
14. The undertakings also make provision for a possible additional contribution towards off-site affordable housing, based on a revised viability assessment, at the stage where the development is 90% complete. The differences between the two undertakings relate to the methodology for calculating 'overage' in this revised assessment. The parties disagree as to which of these respective methodologies should be adopted. The Council has stated that it is willing to allow one or other of the undertakings to be cancelled, depending on the outcome of this appeal.
15. In the light of these respective positions, and all the submissions made, the main issues in the appeal are therefore:
 - Whether the education contribution specified in the undertakings meets the relevant legal and policy tests for planning obligations;
 - And which of the undertakings is to be preferred, with regard to the alternative methods of calculating the overage.

Reasons for decision

Whether the education contribution meets the tests for planning obligations

Regulation 123

16. The relevant regulations for the purposes of the appeal are those in the Community Infrastructure Levy (CIL) Regulations 2010. Regulation 123(2) states:

"(2) A planning obligation may not constitute a reason for granting planning permission.... [where] the obligation provides for the funding or provision of relevant infrastructure."

17. 'Relevant infrastructure' is defined as:

"(a) Where a Charging Authority has published.... a list of infrastructure projects or types of infrastructure that it intends will be, or may be, wholly or partly funded by CIL, those infrastructure projects or types of infrastructure."

18. In West Berkshire, the CIL regime was brought into effect locally from April 2015. The Regulation 123 List, which came into effect from the same date, lists the 'Projects or types of infrastructure to be funded from CIL receipts', and one of these is 'Education, including: ...Primary and Secondary Education'. In most cases therefore, primary and secondary schools will be 'relevant infrastructure'.
19. In the present case, the contribution sought by the Council, by way of a Section 106 obligation, would be for three additional classrooms at the planned new Theale Primary School. That project clearly falls within the general infrastructure type envisaged under the heading of Primary and Secondary Education. The Regulation 123 List sets out certain specific exclusions, for which funding is to be sought through Section 106 or other statutory provisions, instead of CIL. Three Primary and Secondary Education projects are identified, and these are therefore not 'relevant infrastructure', but Theale Primary School is not amongst these.
20. In addition, the List then specifies certain other exclusions, of a more general nature, and one of these is 'the delivery of facilities or infrastructure required off-site but required solely as a result of any large-scale development'. I accept that large-scale development could be held to include the Lakeside scheme. But since the List does not contain any definition or size threshold, this is not something that can be said with any certainty. The Council states that the question is to be decided on a case-by-case basis, but this merely confirms that there is some element of doubt.
21. If the appeal scheme were judged not to be large-scale, the Council could, if it chose to, fund the additional classrooms at Theale Primary School out of CIL receipts, including the CIL payment which will be due from the appeal scheme itself. The Council says that it would not do this, because of other priorities, but there is nothing in the Regulation 123 List which prevents the project from being paid for wholly or partly in that way. In any event, given the lack of certainty to the contrary, it is difficult to escape the conclusion that the project for which the S.106 payment is required is one which 'may' be either wholly or partly funded by CIL'.
22. In addition, it is salient in the present case that although the S.106 contribution is said to be for the 'expansion' of the new school, this is something of a moot point, because at present the new school itself is still only a future project. From the evidence before me, the school has been planned with an overall capacity for 420 places. The contribution sought from the appeal scheme would directly fund 90 of these places, and would indirectly trigger the fitting out of a further 15, but all of these would be part of the 420 which are planned in total. The potential need for the additional space, arising from the Lakeside development, has been known since 2007 when the original

350 dwelling scheme was permitted. The land needed for the new school, including that for the additional classrooms, is apparently all to be acquired in a single tranche, and was all included for the purposes of gaining planning permission. The land acquisition is to be funded by a contribution already made by the Lakeside development, related to the earlier permission. The school may be built in phases, with the three additional classrooms following after the main building programme, but that remains to be seen, as no firm programme appears to have been defined.

23. It is therefore by no means clear on what basis the additional classrooms for which the S.106 payment is now sought would in fact be a separate project. They could equally be seen as part and parcel of a single project for the new school as a whole. Although the Council says that no part of the school will be funded from CIL, it is nevertheless both a project and a type of infrastructure that falls within the scope of the Regulation 123 List. As such, it may be wholly or partly funded by CIL.
24. I conclude that the purpose of the education contribution sought by the Council would be for the provision of 'relevant infrastructure', as defined in Regulation 123. Consequently, given that a CIL charging regime is also in place, any such contribution under a S.106 obligation cannot lawfully be taken into account in granting planning permission, and it follows that such a contribution cannot properly be required. In this case therefore, the education contribution falls foul of Regulation 123.

Regulation 122

25. Regulation 122 of the same Regulations requires that any planning obligation must be necessary to make the development acceptable in planning terms, and directly related to the development, and fairly and reasonably related to it in scale and kind. These same tests are stated as a matter of national policy in paragraph 204 of the National Planning Policy Framework (NPPF).
26. In the present case, the Council argues that the additional 3 classrooms for Theale School would not be needed but for the Lakeside development, but would become necessary because of it. The existing village school is only 1-form entry (1 FE). Without Lakeside, the Council says it would build the new replacement school as a 1.5 FE, whereas with the development they propose to increase it to 2 FE.
27. In forecasting the need for places, the Council has evidently been hampered by what it sees as an unexplained anomaly in the data on future pupil numbers, which particularly affects the Theale Ward. Due to problems with the external supplier of the data, the Council was unable to obtain clarification. As a result of this, the Council has made some assumptions of its own, and has planned for a continuation of past trends. It has also attempted to corroborate these assumptions through local intelligence. In the circumstances, it may be that there was little more that the Council could have done. But nevertheless, it does seem that the forecasting process has been somewhat compromised. If, despite the Council's suspicions, the data were in fact correct, the future numbers would be significantly lower, and there is no concrete evidence that this is not the case. At the hearing it was acknowledged that the numbers in any area will fluctuate over time, and thus past trends are not necessarily a good guide to the future.

28. In addition, it is acknowledged that Theale School draws significant numbers of pupils from other catchment areas, and the Council has based its forecasts on this inward movement continuing at its present level. The Council defends this on the basis of ensuring that parental choice is maintained, and I appreciate how important a factor that may be to local residents. But nonetheless, it seems to me that the decision to plan new capacity on this basis is a policy choice, rather than an essential need, especially when some other nearby schools are forecast to have spare capacity in excess of their requirements. The decision to accommodate so many out-of-catchment children at Theale is a choice that the Council is entitled to make, but in the evidence currently presented, the effects of that choice are not fully transparent.
29. Putting these two factors together, the Council has not demonstrated that the Lakeside development could not be accommodated without expanding the new school beyond 1.5FE. I have no doubt that, from an educational point of view, the additional accommodation that they are seeking to provide is desirable. The extra space would provide additional choice for parents and increased flexibility for the school. But these are matters for the Council. Merely being advantageous is not the same as being necessary. The Council is perfectly entitled to expand Theale School to 2 FE if it considers the benefits worthwhile, but that does not necessarily mean that it is entitled to recoup the whole cost from this particular development, especially if there is a reasonable possibility that it could be accommodated in a less costly way.
30. Furthermore, according to the Council, the appeal scheme would generate 83 primary school age children. Even if this were correct, this would be less than the number of additional places for which the Council is seeking funding. I appreciate that school places can only be physically provided in classroom-sized increments. But it seems to me that this is precisely why Authorities are encouraged to deal with such matters through the CIL regime, so that developer contributions can be made directly proportionate to the scale of the development. In any event, the payment being sought in the present case is larger than would be needed simply to mitigate the development's own impact.
31. Moreover, the calculation of 83 children ignores the fact that 70 of the new dwellings are proposed to be extra-care units. The argument that the Council could not prevent these from becoming family units strikes me as somewhat disingenuous. Any reserved matters submission which failed to accord with the outline permission would have to be refused. So too is the contention that, even with a condition limiting occupancy to over-55s, there might still be dependent children of primary school age. For all practical purposes, the likelihood of that occurring is small. Taking account of the extra-care element, the pupil yield would only be around 76. This reinforces my concern that the contribution sought by the Council is disproportionate.
32. Finally I turn to the question of double-charging. The Planning Practice Guidance (PPG) makes it clear that requests for obligations should not give rise to what it calls 'double-dipping', either actual or perceived. In the present case, the development would be liable for a CIL charge, which was said to be in excess of £2m. The education contribution now sought by the Council under S.106 is for a further sum of around £1.4m. Irrespective of whether the CIL payment is spent on Theale School, it will be available to spend on primary education in the district. If the development were to make the S.106 payment, then it seems to me that this could justifiably be perceived as a form of double-

charging. The development would not only be paying to mitigate its own educational impact, through S.106, but would also be contributing through CIL to other primary school infrastructure unrelated to the development.

33. I appreciate that the Council's CIL tracking system allows it to ensure that the CIL payment from this development could be directed only to other types of relevant infrastructure rather than education. However, it would still form part of the same 'pot' from which education funding would be drawn. It would thus be contributing twice to the funds available for that purpose.
34. At the hearing, the Council maintained vigorously that double-charging or 'double dipping' can only occur as and when the money collected is actually spent. To my mind this argument is spurious. Self-evidently, double charging is primarily about the cost that falls on the person or company paying the bill. It would therefore occur as soon as money for a particular project or infrastructure type is collected twice from the same development. In the present case this would occur, or be perceived to occur, if the Section 106 contribution were allowed to stand.
35. I have had regard to the Council's supplementary guidance⁵, but I find nothing in this to outweigh the matters that I have set out above.
36. For these reasons therefore, I conclude that the proposed education contribution has not been shown to be necessary to make the appeal scheme acceptable; nor to be directly related to the development; nor to be fairly and reasonably related to it in scale and kind. As such, the contribution would be contrary to Regulation 122, and cannot lawfully be required, or taken into account.

Conclusion on the education contribution

37. For the reasons set out above, I conclude that the proposed education contribution fails to meet the relevant legal and policy tests for planning obligations, as contained in the CIL Regulations, under both Regulations 122 and 123, and in NPPF paragraph 204.
38. Having regard to the terms of the submitted undertakings themselves, the above conclusions mean that the education contribution is unjustified, unnecessary and inappropriate. As such, I have given no weight to it in coming to my decision on the appeal. I also note that this finding triggers the alternative provision for an enhanced level of on-site affordable housing.

The 'overage method' issue

39. The two alternative undertakings differ as to the method of calculating the 'overage', on which the amount of the off-site affordable housing contribution, if any, is to be based. The overage is essentially a measure of the additional profitability that the scheme may achieve over the course of development, beyond the level that was assumed for the purposes of the original viability appraisal, on which the level of on-site affordable housing was based.
40. In the version preferred by the appellants, the overage calculation would be based on a reassessment of the original baseline appraisal, taking account of all actual costs and receipts, including actual land acquisition costs. The

⁵ Planning Obligations Supplementary Planning Document, adopted December 2014

revised appraisal would also include updating the expectations as to developer's profit margin, in the light of any changes to accepted market norms. The alternative version excludes any changes to the land acquisition costs or developer profit.

41. I appreciate that over the life of a large development such as the Lakeside scheme, economic and market conditions may change, and assumptions made some years ago may become out of date. But by and large, these possible future changes are expected to be factored into the original viability appraisal, and the level of risk should thus be reflected in the assumptions made then as to the likely profit margin. Furthermore, viability appraisals, at any stage of a development, are often time-consuming and resource-intensive in nature, for all parties. For this reason, extending their scope beyond what is necessary is not to be undertaken lightly.
42. In the present case, a full viability appraisal has already been carried out and agreed, after fairly lengthy negotiations. There is a risk that revisiting matters that have already been dealt with, in what appears to have been a reasonable and satisfactory manner, would put a disproportionate burden on the planning system.
43. In any event, there is no evidence that widening the scope of the revised appraisal, in the manner sought by the appellants, is necessary to ensure that the development is able to proceed. Indeed, the revised appraisal would only take place when the scheme is nearly complete.
44. In the absence of any compelling evidence either way, I conclude that preference should be given to the second version of the undertaking⁶, which excludes any further review of land costs or developer profit. I understand that both parties have agreed to treat this finding as binding on them, and consequently that the alternative undertaking will be regarded as cancelled.

Other matters

Other matters relating to the undertakings

45. The other obligations contained in the undertakings, relating to on-site open space and affordable housing, are not contested. The affordable housing is less than the level sought by Core Strategy Policy CS6, but this is justified in the light of the previously agreed viability appraisal, and in any event will increase now due to my finding in respect of the education contribution. Based on the evidence before me, I am satisfied that these provisions are fully compliant with all the relevant legal and policy tests for planning obligations, and I have taken them into account accordingly.
46. I note the Council's other concerns with the wording of the undertakings. However, the dispute resolution provisions allow for recourse to the Courts if necessary, and the affordable housing provisions give the Council the right to approve or reject other providers. It is always possible that differences of interpretation could arise over other matters, but the points raised are minor and I see no reason why they cannot be dealt with if and when that occurs.

Matters raised by other interested parties

⁶ Reference 1:\041248\004\Docs\Lakeside_N_&_S_Nos_2_ Uni_Undertakingv01.RSS.docx

47. Based on the parameter plans and indicative plans, the proposed development would be quite intensive over most of the site, with buildings of over 14m high in some parts of the site, and fairly closely spaced in others. However, to the north of the lake, the density and the heights would be lower and more in keeping with the existing properties adjacent to this part of the site. The existing TPO trees and woodland could be retained, and some new open space could be created. The taller buildings would be quite prominent in the landscape, but subject to detailed design, that does not make the development unacceptable, even on a site just outside an AONB, as this is. To my mind, the layout and massing have been worked out with considerable care and skill, creating the basis for an attractive and coherent overall scheme. The development would therefore make good use of land which is otherwise effectively derelict. And although the density is relatively high, the viability appraisal shows that something on this kind of scale is likely to be necessary for the site to be developed at all.
48. Visibility for traffic emerging from St Ives Close is sometimes partly obstructed by parked cars. But planning permission already exists for 7 dwellings with access via this route, and based on the parameter plans for the current proposal, this would not need to change. The majority of the site can be most conveniently served from the main access point, further to the west, and I see no reason to doubt that the Council would be able to resist any greater vehicular use of the Close, on grounds of both highway safety and disturbance to neighbours.
49. The possible use of St Ives Close, or the cul-de-sac section of The Green, by pedestrians would not be likely to cause disturbance on the same scale as vehicles, and any such impact would be partly offset by the benefits of providing good permeability and easy access for future residents. But such matters would be for consideration at the detailed stage. So too would any highway works within the Close itself, or any changes relating to access to or through the existing Anglers' Club car park.
50. I appreciate the points raised by some objectors regarding the living conditions of future residents, especially in those parts of the site closest to the A4 dual carriageway, and the aggregates depot beyond. I particularly note the concerns of one industrial occupier with regard to the potential for complaints. But the extent of any harm will depend on the development's detailed design and layout. And any residual issues can be adequately addressed by conditions.
51. I note the concerns about the existing pressures on doctors' surgeries and other local services. But health services are another infrastructure type which is to be covered by CIL.
52. All other impacts, including on the sewerage network and on wildlife, can be dealt with by conditions.

Conclusion on Appeal A

53. Despite being outside the settlement boundary in the ageing WBDLP, the development would accord with the strategy of the WBCS, embodied in ADP Policy1 and Policy CS1, in so far as these policies support development at Rural

Service Centres and in the identified broad locations. The scheme would therefore accord with the development plan as a whole. The development is also supported by the site's inclusion in the revised boundary in the emerging HSAP, which is at an advanced stage and thus carries substantial weight. And in any event, there are existing permissions for housing on the appeal site, covering most parts of the site and totalling 359 dwellings. Those permissions remain extant, and there is no evidence that they are not capable of being a realistic fallback to the present appeal.

54. The development would bring a large area of derelict land back into use, and would provide a significant number of new homes in a sustainable location. Most of the scheme's potential effects can be adequately mitigated by conditions, and no unacceptable residual impacts have been identified. The two alternative undertakings both make proper provision for open space and affordable housing, and in the circumstances, these add some further weight to the scheme's benefits.
55. Consequently, the proposed scheme's accordance with the development plan is not outweighed by any other considerations, and indeed the overall planning balance strongly favours approval. The Council supports the grant of permission, and in the light of the above, I find no reason to disagree.
56. For the reasons set out in this decision, I have found that the contribution to primary education contained in the undertakings, would not accord with the relevant legal and policy tests for planning obligations. However, I am satisfied that as a result of this finding, such a contribution will not be payable.
57. I have also found that, of the two alternative undertakings, the one which is preferable in planning terms is the version containing the more limited provisions as to the scope of the revised appraisal, as identified earlier in this decision. As a result of my finding on this point, it is this second version of the undertaking that should therefore take precedence over the other.
58. Having taken account of all the other matters raised, I conclude that outline planning permission should be granted, subject to conditions.

Conditions for Appeal A

59. The conditions that I have imposed on the permission granted in Appeal A are set out in Schedule 1 to this decision.
60. A number of draft conditions were proposed by the Council. Due to the large number, my questions on them, and the parties' comments, were dealt with mainly through written submissions after the close of the hearing. Having regard to these submissions, I agree that the majority of the draft conditions are necessary, and meet the other tests in NPPF paragraph 206, although I have edited some in the interests of brevity and clarity.
61. I have imposed a requirement for a phasing plan, to enable a phased approach to the development, and to the discharge of other conditions. A number of the other suggested conditions have also been adjusted to facilitate this approach.
62. Although all detailed matters are reserved, I agree that those details should be guided by the Parameter Plans in respect of building heights and overall layout, to ensure a high standard of development, and to minimise any adverse visual or physical impacts both within and beyond the site. A condition is therefore

- imposed accordingly. However, it is not necessary to include any specific requirement for adherence to the approved location plan, since that plan contains no relevant details.
63. A condition securing the provision of the main site access is imposed for reasons of highway safety. Conditions are also imposed to ensure the provision of internal vehicular areas and footways, and storage for cycle s and refuse. These are necessary to ensure a high quality residential environment for future residents.
 64. A Construction Environmental Management Plan (CEMP) is needed, to control impacts during construction. Amongst other things, this condition includes controls on the hours of work, and on activities close to the banks of the lake, and since these matters can be adequately covered in the CEMP, separate conditions for them are unnecessary.
 65. A requirement for certain off-site pedestrian and cycle improvements is reasonable, in order to promote sustainable transport choices. The implementation of a Travel Plan is also necessary, for the same reason. However, there is no need for the latter condition to require any further details, as the Plan already submitted is adequate.
 66. Conditions relating to contamination are imposed, for reasons of protecting human health, given the site's past use for minerals. In this case, I have substituted the recommended model conditions, for the purposes of clarity and consistency. A separate condition relating to piling is also needed, to prevent contamination of groundwater or water infrastructure.
 67. A Landscape and Ecological Management Plan (LEMP) is needed to manage and mitigate the impacts on wildlife both during construction and afterwards. However, there is no need for this condition to specify the required measures in detail, because in this case they are adequately identified in the submitted ecological reports. I have also modified the suggested wording to make the monitoring requirements less prescriptive. In addition, separate conditions are needed to give specific protection to bats, through controls on tree works and lighting. A number of further conditions relating to trees are also imposed, to give the trees protection during construction, for both their visual and ecological value.
 68. A condition relating to surface water drainage is necessary, to prevent any risk of flooding, and again I have modified the wording to omit unnecessary detail. A further condition relating to foul water drainage is also imposed for similar reasons, and to ensure a good residential environment. A requirement for fire hydrants is necessary, for reasons of public safety.
 69. Conditions relating to noise are imposed, to ensure acceptable living conditions within the new dwellings and private amenity areas. I have modified these to incorporate target noise levels, in the interests of greater precision. A requirement for an archaeological investigation is also reasonable, to ensure that any significant remains are properly recorded.
 70. In addition to the draft conditions on the Council's list, discussion took place at the hearing regarding a possible restriction on the occupancy of the proposed extra-care units. For the reasons given elsewhere in this decision, I consider

that such a condition is reasonable, to ensure that those dwellings are occupied by persons over 55. I have imposed the condition accordingly.

71. However, in the light of the submissions made, I consider that the suggested condition relating to water supply infrastructure is unnecessary as such matters are covered by other legislation. I have therefore not imposed this condition.
72. Appeal A is therefore allowed, subject to the conditions referred to above and set out in full at Schedule 1.

APPEAL B

73. Appeal B relates to a 1.56 ha sector of the larger Lakeside site, being that part which lies to the north of the lake, and west of the private cul-de-sac section of The Green. As such, the Appeal B site is wholly within the site of Appeal A.
74. Access is proposed to be from the existing main access point on The Green, as shown on plan no. 5232.002. All other matters are reserved, but the submitted plans include a parameters plan which shows building heights and distances from existing buildings and from the lake. The parties agree that these should be incorporated into any permission by way of a condition. All the other submitted plans are agreed to be illustrative.
75. The planning policies relevant to the site are identical to those applying in Appeal A. The Appeal B site is not covered by any of the previous permissions for housing, but in view of my decision to allow the larger Appeal A scheme, that distinction is now immaterial.
76. Following a resolution of the Area Planning Committee in January 2017, the Council's position is that planning permission should be granted, subject to various conditions and obligations.
77. A legal undertaking has been entered into, separate from those in Appeal A, which provides for 10 of the proposed dwellings to be affordable, and for the provision of on-site open space. These substantive provisions are not contested by either party. For the same reasons as in Appeal A, I am satisfied that these provisions are acceptable, and should be taken into account.
78. The Council raises some minor concerns in relation to the undertaking's detailed wording, but for the most part these are the same as in Appeal A, and I have addressed these above. A single additional point is raised, regarding references to the 22nd residential unit, but the references in question have not been identified, and in any event, the point does not appear to be of such substance as to change my view that the undertaking is acceptable.
79. The issues raised by other interested persons fall within the scope of those already considered in relation to Appeal A. The majority of these relate to matters that will be considered at the reserved matters stage. For the reasons already given, I do not find any of these to justify a refusal of outline permission on the terms sought in this appeal.
80. Having taken account of all the matters raised, I conclude that outline planning permission should be granted, subject to conditions.

81. The conditions that I have imposed in the case of Appeal B are set out in Schedule 2. For the most part, these conditions are similar to those in Appeal A, and in those cases the reasons for imposing them are identical. Since access is not a reserved matter, I have included a condition requiring the access works to accord with the submitted details. In this respect I consider that the details already submitted are sufficient for the scale of development proposed in Appeal B. A further condition is also necessary, to prevent vehicular access to the site via the private cul-de-sac and the angling car park, for reasons of safety and the living conditions of existing residents.
82. Appeal B is therefore allowed, subject to the conditions set out in full at Schedule 2.

John Felgate

INSPECTOR

SCHEDULE 1: CONDITIONS FOR APPEAL A.

The planning permission hereby granted in respect of Appeal A is subject to the following conditions:

- 1) No development shall take place until a phasing plan, showing how the development is to be divided into phases, has been submitted to the local planning authority and approved in writing. The phasing plan shall also include details of the number of dwellings (including affordable housing units), and the amount of public open space, to be provided within each phase.
- 2) Details of the access, appearance, landscaping, layout, and scale (hereinafter called "the reserved matters"), relating to each phase of the proposed development, shall be submitted to the local planning authority and approved in writing before any development within that phase takes place. The development shall be carried out in accordance with the details thus approved.
- 3) Application for approval of the reserved matters, for the first phase of the development, shall be made to the local planning authority not later than 3 years from the date of this permission. Application for approval of the reserved matters for all subsequent phases shall be made not later than 5 years from the date of this permission.
- 4) The development of each phase shall be commenced not later than 2 years from the date of approval of the last of the reserved matters for that phase to be approved.
- 5) The first reserved matters application shall include details of the primary vehicular access for the site as a whole, which shall be from the existing access point to the west of No 41 The Green. The access shall be laid out and constructed in accordance with these details.
- 6) The details of scale and layout to be submitted under Condition 2 shall generally accord with the parameters shown in the following submitted plans:
 - Building Heights Parameter Plan 30716 A-02-01 Revision P-01; and
 - Layout Parameter Plan 30716 A-02-02 Revision P-01.
- 7) No work on any phase of the development shall take place until a Construction Environmental Management Plan (CEMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. Thereafter the CEMP shall be adhered to throughout the construction period. The statement shall provide for:
 - Temporary construction access arrangements to the site, including any temporary hard-standing and wheel washing facilities;
 - Parking arrangements during construction;
 - Loading and unloading arrangements for construction plant and materials;
 - Storage arrangements for construction plant and materials, including measures to prevent any such storage within 10m from the banks of the lake;
 - A signage strategy for a preferred haul route for construction vehicles;
 - A lighting strategy for the construction phase;

- Erection and maintenance of security hoardings including any decorative displays and facilities for public viewing;
 - Measures to control the emission of dust and dirt;
 - Hours of work for construction operations;
 - A scheme of precautionary measures to protect reptiles during site clearance works;
 - A scheme of ecological and environmental mitigation during construction.
- 8) No piling or any other foundation construction using penetrative methods shall take place other than in accordance with a piling method statement, which shall have been submitted to and approved in writing by the Local Planning Authority. Any such method statement shall include:
- details of the depth and type of excavation or penetration, and the method by which this is to be carried out;
 - evidence that there would be no resultant unacceptable risk to groundwater, or to any underground water utility infrastructure;
 - measures to prevent damage to any subsurface water infrastructure or underlying ground or controlled waters;
 - a programme for the necessary works.
- 9) No more than 100 dwellings in total shall be occupied until a scheme of off-site highways works has been carried out in accordance with details to be submitted to the Local Planning Authority and approved in writing. The scheme shall provide for the following:
- Improvements to the two bus stops on The Green, adjacent to the existing site access, including enclosed bus shelters, high kerbing, relocation of the eastbound bus stop, and widening of the footway to the westbound bus stop to 2 metres in width;
 - A new pedestrian and cycle route from the south-eastern corner of the site to Station Road, running parallel and adjacent to the A4;
 - A new pedestrian crossing facility at Station Road, in close proximity to the end of the aforementioned pedestrian and cycle route.
- 10) The 'Framework Travel Plan' dated January 2016, submitted with the application, shall be implemented in full. No dwelling shall be occupied until the date 6 months after a Travel Plan implementation timetable has been submitted to the Local Planning Authority and approved in writing. The implementation timetable shall specify the programme for bringing into effect each of the measures within the Travel Plan, including the appointment of a Travel Plan Co-ordinator, and the arrangements for future monitoring and review. The Travel Plan and implementation timetable shall thereafter be adhered to as agreed.
- 11) The details of access and layout to be submitted under Condition 2 shall include provision for all necessary estate roads, footways, turning spaces, and vehicle parking. No dwelling shall be occupied until these facilities serving that dwelling have been laid out, surfaced, and brought into use, in accordance with the approved details. The estate roads, footways, turning spaces, and vehicle parking areas shall thereafter be kept available for these purposes at all times.
- 12) The details of access and layout to be submitted under Condition 2 shall include provision for the parking and storage of cycles. No dwelling shall be occupied until the cycle parking and storage facilities for that dwelling have

been provided in accordance with the approved details. The cycle parking and storage facilities shall thereafter be kept available for this purposes at all times.

- 13) The details of access and layout to be submitted under Condition 2 shall include provision for the storage of household refuse. No dwelling shall be occupied until the refuse storage facilities for that dwelling have been provided in accordance with the approved details. The refuse storage facilities shall thereafter be kept available for this purposes at all times.
- 14) No work on any phase of the development shall commence until an assessment of the risks posed by any contamination within that phase shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with *British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice* and the Environment Agency's *Model Procedures for the Management of Land Contamination (CLR 11)* (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
 - i) a survey of the extent, scale and nature of contamination;
 - ii) the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.
- 15) No work on any phase of the development shall take place where (following the risk assessment) land affected by contamination is found within that phase which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out, and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority, before the relevant phase of development is occupied.
- 16) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These

approved schemes shall be carried out before any work on the relevant phase of the development is resumed.

- 17) No development shall take place until a monitoring and maintenance scheme to demonstrate the effectiveness of the proposed remediation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for reporting on each monitoring stage. The approved scheme shall be implemented, and the reports produced as a result, shall be submitted to the local planning authority in accordance with the agreed timetable.
- 18) No development shall take place until the following have all taken place:
- (i) a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority;
 - (ii) any pre-development requirements within the LEMP have been carried out;
 - (iii) and a contract has been let for the management, monitoring, reporting and supervision of the LEMP.
- Thereafter, the LEMP shall be fully implemented in accordance with the approved details. The LEMP shall cover all of the land within both the red and blue areas shown on Plan No.30716 A-02-000 (Revision P-00), and as a minimum, shall include the following:
- detailed creation and management prescriptions for the meadows, lake edges, and woodland areas, for a period of 25 years;
 - provision for implementing the measures and actions recommended in the following reports, submitted with the application: Section 6 of the *Survey of Invertebrate Interest* by David Clements Ecology Ltd and dated September 2015; Sections 4.12 & 4.14 of the *Ecological Appraisal* by Richard Tofts Ecology Ltd and dated September 2015; and Section 4.9 of the *Bat and Reptile Surveys* by Richard Tofts Ecology Ltd and dated October 2015;
 - identify the measures to be taken in the event that any reptiles are encountered during site clearance or construction;
 - detailed proposals for the eradication of Japanese Knotweed, including a timetable for implementation of such measures;
 - procedures for monitoring, reporting and review, at intervals to be agreed.
- 19) No tree on the site shall be felled until a further bat survey of that specific tree has been carried out, and a report submitted to and approved by the Local Planning Authority in writing. Thereafter, any such felling shall be carried out only in accordance with those approved details, including any necessary mitigation measures.
- 20) No dwelling shall be occupied until a biodiversity-related lighting strategy for that phase of the development has been submitted to and approved in writing by the Local Planning Authority. The lighting strategy for each phase shall identify those areas that are particularly sensitive for bats, and any measures necessary to minimise and mitigate the impact of lighting on them. All external lighting shall be installed in accordance with the details thus approved, and shall thereafter be maintained in accordance with those

details. 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 other external lighting (except that expressly authorised by this permission) shall be installed, without the written approval of the Local Planning Authority.

- 21) No work on any phase of the development shall take place until tree protection fencing relating to that phase has been erected in accordance with the details shown on drawing no. 8301/02 and in the arboricultural report by Ian Keen reference AP/8301/AP. Notice of commencement shall be given to the Local Planning Authority at least 2 working days after the erection of the protective fencing, and before any development takes place. The fencing shall be retained for the full duration of the building and engineering works within that phase. Within the areas thus protected, there shall be no excavation, alteration to ground levels, storage of materials, or other construction-related activities of any kind, except with the prior written approval of the local planning authority.
- 22) No work on any phase of the development shall take place until details of the proposed access, roadways, hard surfacing, drainage and services for that phase have been submitted and approved in writing by the Local Planning Authority. Such details shall show how harm to the tree roots within the protected zones is to be avoided. The development shall be carried out in accordance with these approved details.
- 23) No work on any phase of the development shall take place until an arboricultural method statement for that phase has been submitted to the Local Planning Authority and approved in writing. The statement shall include details of the implementation, supervision and monitoring of all temporary tree protection and any special construction works within any defined tree protection area. The development shall be carried out in accordance with these approved details.
- 24) No work on any phase of the development shall take place until an arboricultural watching brief for that phase has been secured, in accordance with a written scheme of site monitoring, which has first been submitted to the Local Planning Authority and approved in writing. Thereafter, site monitoring shall be carried out in accordance with these approved details.
- 25) No work on any phase of the development shall take place until a surface water drainage scheme has been submitted to the Local Planning Authority and approved in writing. The scheme shall incorporate 'sustainable urban drainage' (SUDS) methods and attenuation measures, to restrict run-off from the site to no more than the equivalent greenfield rate, based on a 1 in 100 year storm plus 30% for possible climate change. The scheme shall also include measures to prevent any contamination from entering the soil or groundwater. It shall also provide a SUDS management and maintenance plan for the lifetime of the development, and a timetable for implementation. The surface water drainage scheme shall thereafter be carried out as approved, and no dwelling shall be occupied until the relevant surface water infrastructure serving that dwelling has been installed and brought into operation. Thereafter, the surface water drainage system shall be retained and maintained in proper working order.

26) No work on any phase of the development shall be commenced until a programme of archaeological work for that phase has been implemented in accordance with a written scheme of investigation that has been approved by the Local Planning Authority in writing.

27) The details to be submitted under Condition 2 shall include any measures necessary to limit externally generated noise to the following maximum levels:

- Rear gardens : L_{AeqT} 55 dB
- Living rooms: L_{AeqT} 35 dB
- Bedrooms: L_{AeqT} 30 dB
 L_{Amax} 45 dB

No dwelling shall be occupied until details showing how these levels will be achieved have been submitted to the Local Planning Authority and approved in writing.

28) Noise from the use of plant, machinery or equipment, attached to or forming part of any building, shall not exceed a level of 5dB(A) below the existing background level (or 10dB(A) below if there is a particular tonal quality), when measured according to British Standard BS4142, at a point one metre external to the nearest noise sensitive premises.

29) No work on any phase of the development shall commence until a detailed scheme of foul water drainage has been submitted to the Local Planning Authority and approved in writing. No dwelling shall be occupied until the foul drainage infrastructure to serve that dwelling has been installed and brought into operation in accordance with the approved details.

30) No dwelling on any phase of the development shall be occupied until fire hydrants to serve that phase have been installed in accordance with details to be submitted to the Local Planning Authority and approved in writing.

31) The proposed 'extra-care' units shall not be occupied other than by persons over the age of 55 years, and by the spouse, partner, or dependants of such a person.

SCHEDULE 2: CONDITIONS FOR APPEAL B

The planning permission hereby granted in respect of Appeal B is subject to the following conditions:

- 1) Details of the appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development is commenced.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of 3 years from the date of this permission. The development shall thereafter be carried out in accordance with the details thus approved.
- 3) The development shall be begun before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The site access shall be laid out and constructed in accordance with the approved plan, Stuart Michael Associates Drawing No. 5232.002 (included within the SMA Transport Statement reference 5458.TS, issue 03, dated May 2016). No dwelling shall be occupied until the access has been provided in accordance with these approved details.
- 5) The details of scale and layout to be submitted under Condition 1 shall generally accord with the submitted Parameters Plan, no. 31814, A-02-002, Revision P-01.
- 6) No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the CEMP shall be adhered to throughout the construction period. The statement shall provide for:
 - Temporary construction access arrangements to the site, including any temporary hard-standing and wheel washing facilities;
 - Parking arrangements during construction;
 - Loading and unloading arrangements for construction plant and materials;
 - Storage arrangements for construction plant and materials, including measures to prevent any such storage within 10m from the banks of the lake;
 - A signage strategy for a preferred haul route for construction vehicles;
 - A lighting strategy for the construction period;
 - Erection and maintenance of security hoardings including any decorative displays and facilities for public viewing;
 - Measures to control the emission of dust and dirt;
 - Hours of work for construction operations;
 - A scheme of precautionary measures to protect reptiles during site clearance works;
 - A scheme of ecological and environmental mitigation during construction.
- 7) No piling or any other foundation construction using penetrative methods shall take place other than in accordance with a piling method statement, which shall have been submitted to and approved in writing by the Local Planning Authority. Any such method statement shall include:

- details of the depth and type of excavation or penetration, and the method by which this is to be carried out;
 - evidence that there would be no resultant unacceptable risk to groundwater, or to any underground water utility infrastructure;
 - measures to prevent damage to any subsurface water infrastructure or underlying ground or controlled waters;
 - a programme for the necessary works.
- 8) There shall be no motorised vehicular access to the site from the existing cul-de-sac road known as The Green, except for access to the to the anglers' car park.
- 9) The details of layout to be submitted under Condition 1 shall include provision for all necessary estate roads, footways, turning spaces, and vehicle parking. No dwelling shall be occupied until these facilities serving that dwelling have been laid out, surfaced, and brought into use, in accordance with the approved details. The estate roads, footways, turning spaces, and vehicle parking areas shall thereafter be kept available for these purposes at all times.
- 10) The details of layout to be submitted under Condition 1 shall include provision for the parking and storage of cycles. No dwelling shall be occupied until the cycle parking and storage facilities for that dwelling have been provided in accordance with the approved details. The cycle parking and storage facilities shall thereafter be kept available for this purposes at all times.
- 11) The details of layout to be submitted under Condition 1 shall include provision for the storage of household refuse. No dwelling shall be occupied until the refuse storage facilities for that dwelling have been provided in accordance with the approved details. The refuse storage facilities shall thereafter be kept available for this purposes at all times.
- 12) No work on any phase of the development shall commence until an assessment of the risks posed by any contamination within that phase shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with *British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice* and the Environment Agency's *Model Procedures for the Management of Land Contamination (CLR 11)* (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include:
- i. a survey of the extent, scale and nature of contamination;
 - ii. the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - adjoining land;
 - ground waters and surface waters;
 - ecological systems; and
 - archaeological sites and ancient monuments.
- 13) No work on any phase of the development shall take place where (following the risk assessment) land affected by contamination is found within that phase which poses risks identified as unacceptable in the risk assessment,

until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out, and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority, before the relevant phase of development is occupied.

- 14) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before any work on the relevant phase of the development is resumed.
- 15) No development shall take place until a monitoring and maintenance scheme to demonstrate the effectiveness of the proposed remediation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include a timetable for reporting on each monitoring stage. The approved scheme shall be implemented, and the reports produced as a result, shall be submitted to the local planning authority in accordance with the agreed timetable.
- 16) No development shall take place until the following have all taken place:
 - (i) a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority;
 - (ii) any pre-development requirements within the LEMP have been carried out;
 - (iii) and a contract has been let for the management, monitoring, reporting and supervision of the LEMP.

Thereafter, the LEMP shall be fully implemented in accordance with the approved details. The LEMP shall cover all of the land within both the red and blue areas shown on Plan No.30716 A-02-000 (Revision P-00), and as a minimum, shall include the following:

- detailed creation and management prescriptions for the meadows, lake edges, and woodland areas, for a period of 25 years;
- provision for implementing the measures and actions recommended in the following reports, submitted with the application: Section 6 of the *Survey of Invertebrate Interest* by David Clements Ecology Ltd and dated September 2015; Sections 4.12 & 4.14 of the *Ecological Appraisal* by Richard Tofts Ecology Ltd and dated September 2015; and Section 4.9 of the *Bat and Reptile Surveys* by Richard Tofts Ecology Ltd and dated October 2015;

- identify the measures to be taken in the event that any reptiles are encountered during site clearance or construction;
 - detailed proposals for the eradication of Japanese Knotweed, including a timetable for implementation of such measures;
 - procedures for monitoring, reporting and review, at intervals to be agreed.
- 17) No tree on the site shall be felled until a further bat survey of that specific tree has been carried out, and a report submitted to and approved by the Local Planning Authority in writing. Thereafter, any such felling shall be carried out only in accordance with those approved details, including any necessary mitigation measures.
- 18) No dwelling shall be occupied until a biodiversity-related lighting strategy for that phase of the development has been submitted to and approved in writing by the Local Planning Authority. The lighting strategy for each phase shall identify those areas that are particularly sensitive for bats, and any measures necessary to minimise and mitigate the impact of lighting on them. All external lighting shall be installed in accordance with the details thus approved, and shall thereafter be maintained in accordance with those details. 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 other external lighting (except that expressly authorised by this permission) shall be installed, without the written approval of the Local Planning Authority.
- 19) No work on any phase of the development shall take place until tree protection fencing relating to that phase has been erected in accordance with the details shown on drawing no. 8301/02 and in the arboricultural report by Ian Keen reference AP/8301/AP. Notice of commencement shall be given to the Local Planning Authority at least 2 working days after the erection of the protective fencing, and before any development takes place. The fencing shall be retained for the full duration of the building and engineering works within that phase. Within the areas thus protected, there shall be no excavation, alteration to ground levels, storage of materials, or other construction-related activities of any kind, except with the prior written approval of the local planning authority.
- 20) No work on any phase of the development shall take place until details of the proposed access, roadways, hard surfacing, drainage and services for that phase have been submitted and approved in writing by the Local Planning Authority. Such details shall show how harm to the tree roots within the protected zones is to be avoided. The development shall be carried out in accordance with these approved details.
- 21) No work on any phase of the development shall take place until an arboricultural method statement for that phase has been submitted to the Local Planning Authority and approved in writing. The statement shall include details of the implementation, supervision and monitoring of all temporary tree protection and any special construction works within any defined tree protection area. The development shall be carried out in accordance with these approved details.

Appendix 2:

**Case officer's report to Eastern Area Committee
18th January 2017**

ITEM FOR DECISION

Item No.	Application No. and Parish	13 Week Date	Proposal, Location and Applicant
(3)	15/02842/OUTMAJ Theale	12 January 2016	Outline application for Residential development of up to 325 houses and apartments (including 70 extra-care units) with associated access, parking, amenity space and landscaping. All matters reserved. Lakeside, The Green, Theale Central Corporation Securities Ltd; Alliance Security(The Green) Ltd, Central Corporation Estates Ltd and Insistmetal2 Ltd

The application can be viewed on the Council's website at the following link:
<http://planning.westberks.gov.uk/rpp/index.asp?caseref=15/02842/OUTMAJ>

Recommendation Summary: **DELEGATE** to the Head of Planning & Countryside to make representations at appeal that planning **permission should be granted** subject to conditions and planning obligations.

Ward Member: Councillor Alan Macro

Reason for Committee Determination: Level of objection

Committee Site Visit: 11th January 2017

Contact Officer Details

Name: Bob Dray
Job Title: Principal Planning Officer
Tel No: 01635 519111
Email: bob.dray@westberks.gov.uk

1. INTRODUCTION

- 1.1 This is an item for decision in relation to appeal against non-determination pursuant to planning application 15/02842/OUTMAJ. The application sought outline planning permission for up to 325 houses and apartments on land known as Lakeside, The Green, Theale. All matters are reserved.
- 1.2 The application has been subject to prolonged negotiations in relation to several principle issues including viability, affordable housing, education mitigation, design, and landscape impacts. The applicants exercised their ability to appeal against non-determination of the application, so the decision whether to grant planning permission will be made by the Planning Inspectorate, not the Council. An informal hearing is scheduled for 9th February 2017.
- 1.3 The decision of the Committee on this item will determine the position the Council adopts at the appeal (i.e. whether the Council supports or resists granting planning permission). This decision should nonetheless be made on the basis of compliance with the Development Plan and material considerations.
- 1.4 The outline application was originally submitted with all matters reserved except Access. The Council used its powers under the Town and Country Planning (Development Management Procedure) Order 2015 to “call-in” Layout to be considered at outline stage. Following negotiations on design, the Council withdrew this call-in. The Appellant has subsequently amended the application so that the Access is also reserved for later consideration.

2. PLANNING HISTORY

2.1 Lakeside (whole site)

- 2.1.1 Outline planning permissions for a business park and public open space were granted on appeal in 1989 and 1996, but neither was implemented despite reserved matters approval being gained in respect of the latter. A further outline planning permission was granted by the Council in 2000 for a B1 business park and associated open space (Application 154882). A reserved matters application in respect of this latest outline permission was approved in 2001 (Application 01/01266/RESMAT). It provides for 14,488sqm of B1 floor-space in three 3-storey buildings together with 545 surface car-parking spaces. All the buildings and car-parking would be contained within South Lakeside (excluding the area protected by TPO), and North Lakeside would be landscaped as open space.
- 2.1.2 All pre-conditions applying to the 2000 outline planning permission and the 2001 reserved matters approval have been discharged and material operations have been carried out to begin implementing the permission.

2.2 North Lakeside

- 2.2.1 A proposal for 58 dwellings on the whole North Lakeside site was dismissed at appeal in January 2007 (APP/W0340/A/05/1186340). Two subsequent outline applications for residential development on the site were refused by the Council in 2006. The Council then granted planning permission, also in 2006, for one pair of

four-bedroom semi-detached residential properties with garages and car parking on part of North Lakeside fronting The Green, next to the access to the appeal site (Application 06/00236/FULD).

- 2.2.2 The Housing Sites Allocation Development Plan Document (HSA DPD) Proposed Submission Version (November 2015) included an allocation in the central parcel of North Lakeside for approximately 15 dwellings (Policy HSA14). As part of this proposed allocation, the banks of the lake and the western and eastern parcels of North Lakeside were proposed to be maintained as open space and a landscape buffer.
- 2.2.3 Subsequently, an appeal was granted for seven dwellings on land south of St Ives Close, which forms the eastern parcel of North Lakeside (Application 14/02195/OUTD). This conflicted with the proposed allocation. In response the Council has elected to delete the proposed allocation policy and simply include the whole Lakeside site within the proposed revised settlement boundary to Theale, whereby the principle of residential development becomes acceptable.
- 2.2.4 Application 16/01846/OUTMAJ sought outline planning permission for 25 dwellings on the remainder of North Lakeside (i.e. the central and western parcels). This application has been appealed for non-determination, and is another item for decision.

2.3 South Lakeside

- 2.3.1 An application (04/01219/FULMAJ) for proposed residential development of 350 houses and apartments with associated access, parking, amenity space and landscaping on the land known as South Lakeside was submitted in May 2004. The Council refused planning permission in October 2006 on grounds of density, overdevelopment, landscape, design, lack of on-site public open space, and the lack of a planning obligation. This decision was appealed, and in November 2006 the appeal was recovered for determination by the Secretary of State. An inquiry was held in June 2007, and the Inspector recommended that planning permission be granted subject to conditions. In September 2007 the Secretary of State granted full planning permission.
- 2.3.2 A lawful development certificate (11/00117/CERTP) was approved on 10th June 2011. This certificate confirmed that planning permission 04/01219/FULMAJ was deemed to be lawful by virtue of its implementation prior to the 26th September 2010 (3 years after the grant of permission).

3. CONSULTATION

3.1 Statutory and Non-Statutory Consultations

Theale Parish Council:	Object on grounds of infrastructure (medical, schools), sewerage, affordable housing, building heights, landscaping, highways (St Ives Close, The Green, A4/A340 Roundabout, access and egress)
Englefield Parish Council (adjacent):	Object on grounds of infrastructure (schools, medical, drainage), and that any development on the site

	should be no more than 100 homes.
Sulhampstead Parish Council (adjacent):	No objections, but comments that PC would like there to be no buildings more than 2 storeys high for aesthetic reasons. Due care should be given to existing residents and an alternative solution to using St Ives Close sought.
Planning Policy:	Detailed comments, no objection in principle
Education:	Contribution to primary school extension required
Highways:	No objections subject to conditions and S106
Transport Policy:	No objections subject to S106
Minerals and Waste:	No objections
Housing:	40% affordable housing sought
Waste Management:	Conditional permission
Emergency Planning:	No objections
Archaeology:	Conditional permission
Ecology:	Conditional permission
Countryside (open space):	No objections
Environmental Health:	Conditional permission
Tree Officer:	Conditional permission
Lead Local Flood Authority:	Conditional permission
Environment Agency:	No objections subject to conditions
Thames Water:	Conditional permission
Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust:	Conditional permission
Natural England:	No objections
Royal Berkshire Fire and Rescue Service:	Conditional permission
West Berkshire Spokes:	No response
Health and Safety Executive:	No objections
Office of Nuclear Regulations:	No objections
Canals and Rivers Trust:	Consultation returned (outside remit)

3.2 Public consultation

Total: 12 Support: 1 Object: 11

Summary of support

- Makes use of an area that has been neglected
- Creates an attractive amenity out of the lake
- Upgrades road of St Ives Close

Summary of objection

- Access arrangements
- Traffic and disturbance along St Ives Close
- Loss of amenity to properties on St Ives Close
- Exacerbate impacts on local doctor's surgery
- Insufficient school places available
- Exacerbate existing sewage problems
- Traffic and noise pollution
- Layout and close proximity to neighbouring properties

- Loss of security to neighbouring properties
- Loss of privacy to neighbouring properties
- Overdevelopment
- Excessive scale of development
- Loss of local wildlife habitats
- Inadequate parking provision
- Construction traffic and parking
- Small garden sizes
- Risk to existing trees to be retained
- Conflicts with Policy HSA14 of emerging HSA DPD
- Landscape impacts
- Out of keeping with local character
- Air quality
- Ecological impacts inadequately assessed
- Housing mix inappropriate

4. PLANNING POLICY

- 4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of any planning application must be made in accordance with the Development Plan unless material considerations indicate otherwise. The statutory Development Plan for West Berkshire comprises:
- West Berkshire Core Strategy (2006-2026)
 - West Berkshire District Local Plan 1991-2006 (Saved Policies 2007)
 - Replacement Minerals Local Plan for Berkshire (2001)
 - Waste Local Plan for Berkshire (1998)
- 4.2 The National Planning Policy Framework (NPPF) sets out the Government's planning policies for England and who these are expected to be applied. It is a material consideration in planning decisions. The NPPF is supported by the Planning Practice Guidance (PPG).
- 4.3 According to paragraph 215 of the NPPF, due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given).
- 4.4 The West Berkshire Core Strategy (2006-2026) is the first development plan document (DPD) within the new West Berkshire Local Plan. It sets out a long term vision for West Berkshire to 2026 and translates this into spatial terms, setting out proposals for where development will go, and how this development will be built. The following policies from the Core Strategy are relevant to this development:
- NPPF Policy
 - ADPP1: Spatial Strategy
 - ADPP4: Eastern Area
 - CS1: Delivering New Homes and Retaining the Housing Stock
 - CS4: Housing Type and Mix
 - CS5: Infrastructure Requirements and Delivery
 - CS6: Provision of Affordable Housing
 - CS8: Nuclear Installations AWE Aldermaston and Burghfield

- CS13: Transport
- CS14: Design Principles
- CS15: Sustainable Construction and Energy Efficiency
- CS16: Flooding
- CS17: Biodiversity and Geodiversity
- CS18: Green Infrastructure
- CS19: Historic Environment and Landscape Character

4.5 A number of policies from the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007) remain part of the Development Plan following the publication of the Core Strategy. The following saved policies from the Local Plan are relevant to this development:

- OVS.5: Environmental Nuisance and Pollution Control
- OVS.6: Noise Pollution
- OVS.7: Hazardous substances
- HSG.1: The Identification of Settlements for Planning Purposes
- TRANS.1: Meeting the Transport Needs of New Development
- RL.1: Public Open Space Provision in Retail Development Schemes
- RL.2: Provision of Public Open Space (methods)
- RL.3: The Selection of Public Open Space and Recreation Sites

4.6 According to Paragraph 216 of the NPPF, decision-takers may also give weight to relevant policies in emerging plans according to: (1) the stage of preparation, (2) the extent to which there are unresolved objections to relevant policies, and (3) the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF. The Local Development Scheme (LDS) provides a timetable for the preparation of emerging development plan documents.

4.7 The emerging Housing Site Allocations Development Plan Document (HSA DPD) is the second DPD of new West Berkshire Local Plan. It will allocate non-strategic housing sites and sites for Gypsies, Travellers and Travelling Showpeople, and will provide update residential parking standards and a set of policies to guide housing in the countryside. The Proposed Submission Version of the HSA DPD was published in November 2015 and is currently at examination. According to the LDS, adoption anticipated for Spring 2017. The following policies from the HSA DPD are relevant to this development:

- GS1: General Site Policy
- HSA14: North Lakeside (now deleted)
- P1: Residential Parking for New Development
- Settlement Boundary Review

4.8 The following local policy documents adopted by the Council are material considerations relevant to the development:

- North Wessex Downs AONB Management Plan (2014-2019)
- Quality Design SPD (2006)
- Planning Obligations SPD (2015)

5. APPRAISAL

5.1 Principle of development

- 5.1.1 The West Berkshire Development Plan provides an up-to-date framework for making decisions on the location of new residential development in the District.
- 5.1.2 Policies ADPP1 and ADPP4 provide a spatial strategy for the District and the Eastern Area respectively. Theale is identified as a Rural Service Centre, the second tier of the District Settlement Hierarchy and is expected to accommodate growth in residential development. Policy ADPP1 states that in open countryside (i.e. outside settlement boundaries) only appropriate limited development will be allowed.
- 5.1.3 Core Strategy Policy CS1 states that new homes will be primarily developed on suitable previously developed land within settlement boundaries, other suitable land within settlement boundaries, strategic sites and broad locations identified on the Core Strategy Key Diagram, and land allocated for residential development in subsequent Development Plan Documents.
- 5.1.4 Local Plan Policy HSG.1 permits new residential development within existing settlement boundaries, and its supporting text confirms that new residential development outside settlement boundaries will only be permitted in exceptional cases. Policy HSG.1 is a saved policy of the West Berkshire District Local Plan. The weight to be given to this policy must be considered on a case-by-case basis.
- 5.1.5 Through the Core Strategy and the emerging Housing Site Allocations DPD, the Council is now allocating land outside the existing settlement boundaries, and reviewing these boundaries more generally, to accommodate housing growth within the District. This is necessary to meet the Core Strategy housing requirement and the Government's policy to boost housing supply.
- 5.1.6 The Council is proposing to include the whole Lakeside site within the Theale settlement boundary. Owing to its late stage of preparation, consistency with the NPPF and the absence of any objections to the proposal to incorporate the site within the settlement boundary, the policy changes proposed by the HSA DPD should attract substantial weight in the determination of this appeal. Accordingly, specifically in relation to this site, Policy HSG.1 attracts diminished weight because of the clear direction being taken through the HSA DPD. The HSA DPD views Lakeside as committed development in light of the extant permission, and development on the site is included within the Council's five year housing land supply.
- 5.1.7 The site is located outside but adjacent to the existing settlement boundary of Theale, and a previous appeal decision has established that, despite former operations on the site (such as mineral extraction), the site is not to be regarded as previously developed land.
- 5.1.8 Owing to its location outside the existing settlement boundary, the proposal plainly conflicts with Policy HSG.1. However, viewed as a whole, the proposal complies with the up-to-date framework for housing supply provided by Core Strategy Policies ADPP1, ADPP4 and CS1, and Policy C1 of the emerging HSA DPD, which

includes the revised settlement boundary around the site. Accordingly, the above policies weight heavily in favour of granting planning permission.

5.1.9 Further, the extant planning permissions on the site are important material considerations. They also establish the principle of residential development on most parts of the site. Overall, therefore, the principle of development is considered acceptable.

5.2 Landscape and visual impacts

5.2.1 The site is located on the western edge of Theale, outside of but it close proximity to the boundary of the North Wessex Downs AONB to the west.

5.2.2 The proposed development clearly represents a marked increase in scale and density compared to neighbouring development within Theale. Development of this scale and massing is broadly established through the extant planning permissions on the site. The focus of consideration on this application have therefore been on the differences between the current proposals and the extant permissions. The Council has employed a Landscape Architect Consultant to appraise the application.

5.2.3 The original submissions included a substantial change to the mass, scale and extent of development, and to the maximum heights by comparison to the extant permission. They also made significant changes to the ratio of open space and built form at Lakeside. Subsequent amended parameter plans have responded to the majority of the Landscape Consultant's concerns in terms of the maximum heights and extent of development.

5.2.4 However, the Council's Landscape Consultant maintains concerns in relation to the balance within the site between dense development and open areas, and has sought to keep land at North Lakeside as open as possible to provide a counterbalance to the dense development on South Lakeside. Following the appeal decision which granted outline planning permission for seven houses on land to the south of St Ives Close, the remaining area in dispute is the western-most parcel of land within North Lakeside, which lies to the east of the access from The Green.

5.2.5 According to the Landscape Consultant, this area forms a narrow open gap between the houses on The Green and the development at South Lakeside. It includes a tree group on the water's edge, scrub and an area of perennial growth. The vegetation cover, other than the trees, is of little particular merit but the combination of open space and vegetation cover provides a soft landscape setting and the potential base for a good quality area of landscaped open space immediately north of South Lakeside, which will complement the lake. This end of the Lakeside site as a whole would be particularly developed and urban in character (based on the approved development) and does not benefit from the tree cover and open space, or the wider lake, at the eastern end of the site. The Landscape Consultant considers that it is particularly important that this part of North Lakeside is not developed and is set aside to provide a good sized area of landscape open space in the west and a buffer between the existing houses and South Lakeside.

- 5.2.6 Owing to the relatively small size of this parcel of land, planning officers consider its potential contribution as an open buffer is limited. Moreover, because of the location of this parcel of land, any contribution would be limited to views from within the site; it is not considered that it would have ameliorate the landscape and visual impact from outside the site. As such, the remaining harm arising from the development of this land is considered to attract diminished weight in the overall planning balance.
- 5.2.7 The Landscape Consultant also maintains concern with the inclusion of some private gardens within the 10m buffer that is shown along the northern bank of the lake. However, given that the housing layout is illustrative, and the majority of the buffer is not shown to be encroached by any private land, it is considered that the layout parameters would not prejudice the Council's ability to ensure an appropriate buffer at the reserved matters stage.
- 5.2.8 Overall, the proposed development is broadly acceptable in terms of its landscape and visual impact. Some limited harm has been identified in terms of development on the western parcel of North Lakeside, and some minor encroachments of private gardens into the lake buffer. Planning officers have sought to negotiate improvements on the design prior to the appeal being lodged, and have generally secured an acceptable design in terms of the scale and massing of development. The few remaining areas of harm identified above are considered to attract limited weight in the overall planning balance for the reasons stated.

5.3 Education mitigation

- 5.3.1 The development of 325 dwellings generates the demand for 0.5 form entry (FE) primary school provision. The catchment school is Theale CoE Primary School that has recently obtained planning permission to relocate to a new site. The new school will be built to 1.5FE which will meet its existing demand without development on Lakeside. The existing project for the new school site includes core infrastructure for a 2FE, so the additional need generated by the development relates to the cost of building new classrooms.
- 5.3.2 The total cost of a new project to expand the new 1.5FE primary school by 0.5FE to 2FE, including land and buildings has been calculated by Education Officers. A contribution of £1,439,059 is sought accordingly. The £1,439,059 Education Contribution sought under this application passes the CIL tests (NPPF paragraph 204, CIL Regulation 122) because:
- a. It is necessary to make the development acceptable in planning terms. Without this contribution the new extension for the school could not be funded.
 - b. It is directly related to the development. The 325 dwellings generate the demand for a 0.5FE primary school provision, which this contribution seeks to cover.
 - c. It is fairly and reasonably related in scale and kind to the development. The size of the extension is determined by the pupil generating capacity of the development, based on established formulaic calculations, and seeks no more mitigation than is necessary for the development (i.e. it is not fixing an existing problem).

- 5.3.3 The Regulation 123 list includes a S106 exclusion for “the delivery of facilities or infrastructure required off-site but required solely as a result of any large scale development”. It is considered that the proposed Education Contribution clearly falls within this definition. Moreover, the Planning Obligations SPD states extensions and/or new school buildings required directly as a result of a development will be mitigated through S106, whereas incremental increases in school capacity will be mitigated through CIL.
- 5.3.4 There can be no actual or perceived ‘double dipping’ with developers paying twice for the same item of infrastructure because the proposed Education Contribution clearly falls within the S106 exclusion for off-site infrastructure for large scale development included within the Regulation 123 list.
- 5.3.5 There would be no pooling required, and so CIL Regulation 123 restrictions on pooling are not engaged. This new contribution would be the sole source of funding for the 0.5FE expansion of Theale Primary School on the new site. It is a distinct project from the separate ongoing Council project to relocate the school to a new site, although the Council has positively planned to facilitate the future expansion in light of the information available (i.e. using the already paid contribution to fund the land purchase).
- 5.3.6 The Education Contribution of £1,439,059 for 15/02842/OUTMAJ is therefore justified and consistent with statutory and policy requirements.

5.4 Highways and transport

Access and layout

- 5.4.1 The access from The Green has already mostly been constructed, and no objections have been raised to its continued inclusion.
- 5.4.2 A further access to serve seven houses is also proposed using St Ives Close. This part of the proposal is similar to planning application 14/02195/OUTD, which has been approved at appeal and to which Highway Officers raised no objections. Original proposals for rumble strips along St Ives Close have now been removed as they were unnecessary.
- 5.4.3 Highway Officers have requested a new pedestrian route from the site through to Station Road, running adjacent to the A4. This would provide a direct route for residents making journeys to the railway station and business park.

Traffic generation

- 5.4.4 Page 12 of the transport assessment (TA) considers the peak hours in the morning and evening periods to be 08:00 to 09:00 hours for the AM peak and 17:00 to 18:00 hours for the PM peak, which Highway Officers find acceptable.
- 5.4.5 To project traffic levels for residential the Appellants have followed what is often a standard procedure by referring to the Trip Rate Information Computer System (TRICS) to obtain a rate of traffic generation. TRICS is a UK national database of traffic surveys covering many different land uses. Highway Officers are content that the projected traffic generation is robust as is as follows.

Period	Arrive	Depart	Total
Weekday AM Peak (08.00 to 09.00)	32	88	120
Weekday PM Peak (17.00 to 18.00)	84	46	130

- 5.4.6 The seven house from St Ives Close would be expected to generate four vehicle movements out during the AM peak and four vehicles in during the PM peak.
- 5.4.7 Overall due to the reduction in residential units from the previously approved development, it can be expected that there will be a reduced traffic generation, for instance during the AM peak from 142 to the 120 mentioned in the table above.

Traffic impact

- 5.4.8 Overall the development will have a reduced traffic impact from the previous proposal. However there is one difference being traffic from the development can now turn right from towards Theale centre. This will reduce the traffic impact even further on the A4 / A340 / The Green Roundabout, but will increase traffic towards Theale Centre. Highways Officers are satisfied that this can be accommodated.

Mitigation

- 5.4.9 A travel plan will be required because of the scale of development. This can be secured by a planning condition and planning obligation.
- 5.4.10 The following highway works are also considered necessary to make the development acceptable in planning terms:
- (a) Improving the two nearby bus stops with the provision of fully enclosed bus shelters with high kerbing and relocation of the eastbound bus stop, with the footway to the westbound bus stop widened to 2 metres in width;
 - (b) The provision of pedestrian and cycle route from the site to Station Road (running parallel and adjacent to the A4);
 - (c) Provision of a pedestrian crossing facility within Station Road.
- 5.4.11 As part of the extant permission contributions were also sought towards other local highways schemes. These are now considered to fall within the scope of CIL.
- 5.4.12 Subject to the above mitigation, the proposed development is considered acceptable in highways and transport terms, and the proposal is considered to comply with Core Strategy Policy CS13, Local Plan Policy TRANS.1, and emerging HSA DPD Policy P1.

5.5 Viability and infrastructure provision

- 5.5.1 The development will be CIL liable. The precise liability will only be known at the reserved matters stage because it is calculated based on floor space.

- 5.5.2 Several items of infrastructure have been identified that will require specific planning obligations in addition to the CIL receipts. These include a contribution to enable the extension of the new (to be constructed) Theale CoE Primary School, affordable housing, public open space provision, travel plan, and highway works.
- 5.5.3 In accordance with Core Strategy Policy CS6, 40% of all dwellings on site equates to 130 units which would be the starting expectation for on-site affordable housing. The application sought to provide no affordable housing owing to viability. Accordingly, the application has been subject to lengthy viability appraisal and discussions in order to secure the best possible outcome in planning terms. The Council has appointed viability consultants, the Dixon Searle Partnership (DSP), to independently assess the submitted viability information and advise the Council.
- 5.5.4 During the viability negotiations to date, officers have prioritised the primary education contribution because that is necessary to make the development acceptable in terms of mitigating its primary school impact. Several off-site highway works are also considered necessary to make the development accessible. Thereafter, affordable housing has been treated as the next priority given its importance in planning policy terms.
- 5.5.5 The nature of an outline application is such that values will change over time and with the detailed design. However, DSP has established common ground of the various assumptions, and has now agreed a scenario with the Appellants which they are comfortable recommending to the Council as the best possible option based on the priorities advised by planning officers.
- 5.5.6 A separate confidential report is being finalised for Members of the Eastern Area Planning Committee. This will be provided under separate cover and will include the relevant viability information and commentary. Including all expected planning obligations (including the education contribution and CIL), DSP consider that up to 27 affordable housing units can be provided.
- 5.5.7 DSP are recommending this base position with the inclusion of an overage / clawback scenario, which would allow for a later stage viability review based on parameters fixed at the outline stage.
- 5.5.8 Whilst the 27 units of affordable housing falls considerably short of the 130 unit starting requirement, Policy CS6 makes clear that such levels of provision are subject to the economics of provision. Given that DSP independently consider this level of affordable housing to be the optimum contribution possible, it is considered that this level of provision is justified.

5.6 AWE and hazardous sites

- 5.6.1 There are two licensed nuclear installations located in West Berkshire, the Atomic Weapons Establishment (AWE) in Aldermaston and in Burghfield. In the interests of public safety Core Strategy Policy CS8 provides a framework for determining planning applications in close proximity to either site. This includes consultation with Off-Site Emergency Planning Group via the Council's Civil Contingencies Manager and the Office of Nuclear Regulation (ONR). There are also hazardous industrial sites located to the south, which require consultation with the Health and Safety Executive (HSE), and to which Local Plan Policy OVS.7 applies.

5.6.2 Consultation has been undertaken with the above parties, and no objections have been received. The proposed development is considered to comply with Policies CS8 and OVS.7.

5.7 Layout and design

5.7.1 During the consideration of the application, officers raised concerns with the layout and design of the proposed development. Detailed negotiations were undertaken and numerous options and amendments considered. The concerns related primarily to the constraints imposed by the parameters plans, which have subsequently been amended. The application has also been amended so that all matters are reserved giving greater flexibility at the reserved matters stage. The current illustrative layout is considered to demonstrate that an acceptable layout and design can be achieved at the reserved matters stage.

5.8 Neighbouring amenity

5.8.1 Securing a good standard of amenity for all existing and future occupants of land and buildings is one of the core planning principles of the Framework. Core Strategy Policy CS14 states that new development must make a positive contribution to the quality of life in West Berkshire. SPDQD and SPG04/4 provide guidance on the impacts of development on neighbouring living conditions.

5.8.2 The impact on neighbouring amenity is an issue that would need to be examined at the reserved matters stage. However, at outline stage it is considered that the illustrative layout does not raise any significant concerns in this respect, particularly because of the separation distances from indicative buildings and neighbouring properties.

5.8.3 The proposed layout to the south of St Ives Close is the same as the extant permission. The relationship with neighbouring properties was judged as acceptable by the Planning Inspector.

5.8.4 The proposed layout along the remainder of the northern boundary maintains an acceptable separation distance with neighbouring properties, and is thus considered acceptable.

5.8.5 The retained woodland along the eastern boundary maintains a good standard of amenity for existing residents to the east. The provision of public access along this boundary does not raise significant concerns in terms of noise and disturbance or security.

5.9 Contaminated land

5.9.1 The site is recognised to be contaminated due to previous land uses. Indeed, the level of contamination and need for remediation is a significant factor in the viability of the development. The application included an environmental site investigation. This has been examined by Environmental Health Officers who have raised no objections subject to conditions to ensure appropriate detailed investigation and remediation.

5.10 Flood risk and sustainable drainage

- 5.10.1 The Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. Core Strategy Policy CS16 strictly applies a sequential approach across the district. The application site is located in the Environment Agency's Flood Zone 1, which has the lowest probability of fluvial flooding. It is therefore suitable for residential development in terms of flood risk. No objections have been received by the Environment Agency, subject to conditions.
- 5.10.2 Core Strategy Policy CS16 states that on all development sites, surface water will be managed in a sustainable manner through the implementation of Sustainable Drainage Methods (SuDS). The Council's highways drainage engineers (the Lead Local Flood Authority) raise no objections at this outline stage subject to conditions relating to the detailed design.

5.11 Noise

- 5.11.1 The noise report which accompanied the application indicated the need for noise mitigation to protect future residents from noise from the adjacent A4 dual carriageway. A detailed noise mitigation scheme will need to be submitted at a later stage pursuant to a condition because the noise environment will be partly affected by the layout of the buildings which is a reserved matter. The noise report indicates the likely need for short runs of acoustic fencing along the southern boundary of the site. The precise details would be subject to detailed design. Environmental Health Officer raises no objections subject to conditions.

5.12 Ecology

- 5.12.1 Natural England (NE) has advised that the proposal is unlikely to affect any statutorily protected sites. NE has not offered any bespoke advice in relation to protected species, but refers to standing advice. The standing advice has been taken into account by the Council's Ecologist.
- 5.12.2 The Council Ecologist has reviewed the submitted documents and considered the implications of this application against The Conservation of Habitats and Species Regulations 2010. They consider that, subject to the resolution of an issue relating to invertebrate habitats and the application of the suggested conditions, the actions authorised would not be detrimental to the maintenance of the species concerned at a Favourable Conservation Status in their natural range. The suggested conditions include the prior approval and implementation of a Landscape and Ecological Management Plan (LEMP) and a Construction and Environmental Management Plan (CEMP).
- 5.12.3 Berkshire, Buckinghamshire and Oxfordshire Wildlife Trust (BBOWT) support the comments of the Council Ecologist. They also raise further concerns in relation to the reptile surveys supporting the application as they do not fully comply with best practice. Consequently, BBOWT request expanded terms to the LEMP and CEMP proposed by the Council Ecologist.
- 5.12.4 The invertebrate survey report by Davis Clements Ecology Ltd makes clear in paragraph 5.1 that "virtually all the terrestrial habitats which are of value to

invertebrates, including all of the present neutral grassland and short-turf vegetation would be lost". In 5.5.3 it says that "The proposed layout will inevitably result in the loss of those habitats which are considered to be of greatest value to invertebrates".

5.12.5 The above report goes on to suggest some measures that could be undertaken to mitigate the above effects. However, the area of land available to modify for invertebrates is limited and needs to be balanced against the needs of other species such as bats. The applicant owns a further 0.78ha area of land to the east of the site (outlined blue on the Location Plan). The Ecologist considers it necessary for this area of land to be covered by a Landscape and Ecological Management Plan (together with the application site) so that it can be part of the mitigation for invertebrates.

5.12.6 Overall, it is considered that the proposed development would have an acceptable impact on local biodiversity, subject to mitigation being secured by condition, and thereby comply with Core Strategy Policy CS17.

5.13 Trees

5.13.1 The Council's Tree Officer has raised no objection to the development of the site, subject to conditions. The site is now very overgrown in places with a number of self-set and poor-quality trees, such that a good quality landscaping scheme would readily mitigate the losses of existing trees.

5.14 Open space

5.14.1 The proposal includes LEAPS and LAPS, which together with the retained woodland and lake provide sufficient public open space for the scheme to comply with Local Plan Policies RL.1, RL.2 and RL.3. Provision and transfer of public open space (with Commuted Sum) will need to be secured through a planning obligation.

5.15 Historic environment

5.15.1 The development site is close to the site of a reputed Roman villa, indicated through artefacts uncovered during the late 19th century. However, the actual villa itself was not uncovered. The area was subject to gravel extraction which may have removed any archaeological deposits. However, the applicant has commissioned a desk based assessment by Thames Valley Archaeological Services which came to the conclusion that the extent of gravel extraction could not be determined without further ground investigation, and that there would be a moderate potential for surviving archaeology if areas of river gravel remained in situ.

5.15.2 The applicant has also carried out geotechnical investigations that have shown that areas of river gravel do indeed survive (in some cases at a depth of less than one metre) in areas to the north and south of the existing lake. As such, these areas do have the potential for surviving archaeology in situ (in particular of Roman date), although the extent of this potential is yet to be realised.

5.15.3 As such, the Council's Archaeologist has recommended a programme of archaeological supervision during the excavation of the foundations and any related groundworks for the residential development. This can be secured by a planning condition.

5.16 Water/waste utilities

5.16.1 No objections have been raised by Thames Water subject to conditions.

6. PLANNING BALANCE AND CONCLUSION

6.1 Planning balance

- 6.1.1 Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The proposed development brings a range of benefits, but there is also some harm and some policy requirements that are not fulfilled. A balanced conclusion is therefore required.
- 6.1.2 The West Berkshire Development Plan provides an up-to-date framework for making a decision on this appeal. The principle of development is considered acceptable in light of the relevant housing supply policies and the extant permissions for housing development on the site. Further, the provision of up to 325 new homes in a sustainable location is a significant benefit of proposal. These factors weigh considerably in favour of granting planning permission in the planning balance.
- 6.1.3 The need to provide affordable housing attracts significant weight. Core Strategy Policy CS6 provides expected levels subject to the economics of development. The reduced levels of affordable housing are due to the economic viability of the development, which have been independently assessed by viability consultants instructed by the Council. The Council's viability consultants advise that the proposed provision is reasonable in light of the viability situation. As such, it is considered that the reduced levels of affordable housing weigh significantly against the development, although the benefits of providing affordable housing are clearly limited compared to a full policy compliant provision.
- 6.1.4 Securing a contribution to facilitate a 0.5FE extension to the new Theale Primary School is considered essential in order for planning permission to be granted. The NPPF attributes great weight to ensuring choice of school places is available, and accordingly great weight should be given to the need to secure mitigation – planning permission should be refused if the identified contribution is not secured.
- 6.1.5 The landscape and visual impact, and important considerations given the scale of development and its location close to the North Wessex Downs AONB. The extant planning permissions on site render the overall scale and massing of development acceptable despite a marked increase in scale and density compared to neighbouring development within Theale.
- 6.1.6 The Council's Landscape Consultant maintains concerns in relation to the balance within the site between dense development and open areas, and some minor encroachment into a lake edge buffer. However, for the reasons stated in this report, these remaining landscape concerns are considered to attract limited weight in the overall planning balance.

- 6.1.7 There will be various other benefits associated with the development (e.g. contributions to the local economy), and a number of impacts that require mitigation (e.g. remediation of contaminated land and ecological management). These matters are considered less determinative on the outcome of the balancing exercise.
- 6.1.8 Overall, it is considered that the provision of up to 325 homes in a sustainable location, and in accordance with housing supply policies, is a significant benefit of granting planning permission. This is considered to outweigh the limited landscape harm and the reduced levels of affordable housing. Given the great weight the NPPF gives to providing school places, the proposed primary school mitigation is considered essential in order to grant planning permission. It is therefore concluded that planning permission would be justified subject to securing necessary mitigation through conditions and planning obligations.

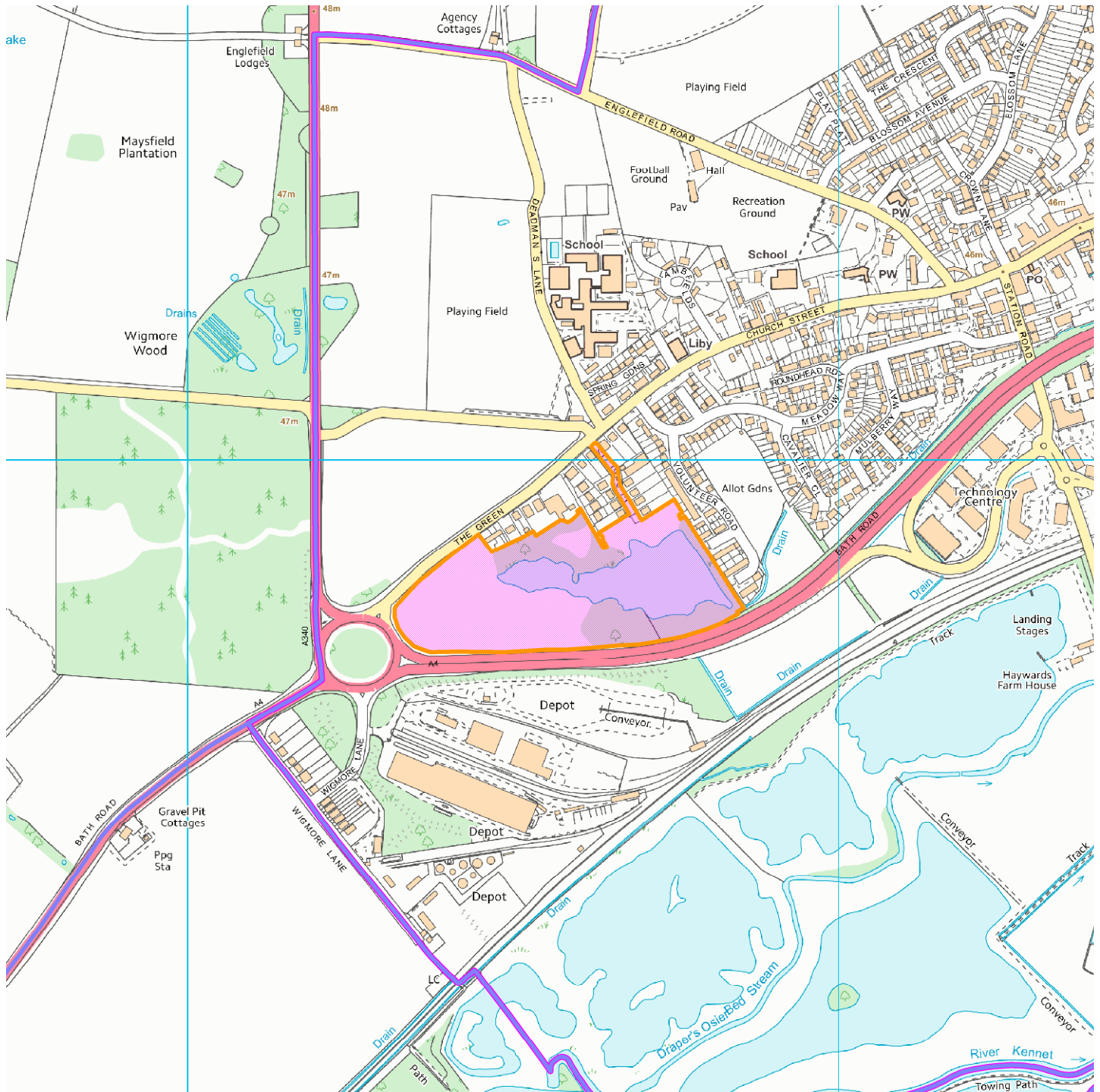
6.2 Recommendation

- 6.2.1 The purpose of this item for decision is not to determine the planning application, but to determine the Council's position at the appeal. For the reasons detailed above, it is recommended that the appeal is supported, subject to securing appropriate mitigation.
- 6.2.2 Irrespective of its position on the planning merits, the Council will provide a list of suggested conditions on a 'without prejudice' basis. Council Officers will negotiate with the Appellant on the wording on the suggested conditions, as well as the contents of any S106 legal agreement.
- 6.2.3 The full recommendation is as follows.

To DELEGATE to the Head of Planning & Countryside to make representations at appeal that planning permission should be granted subject to conditions and planning obligations to secure the following:

- 1. A contribution towards the extension of the new (to be constructed) Theale Primary School to enable the extension of the school by 0.5FE.**
- 2. The provision of on-site affordable housing comprising 27 units of affordable housing, together with an overage clause to trigger a later stage viability review.**
- 3. The provision and transfer to the Council (with commuted sum) of public open space.**
- 4. A travel plan.**
- 5. Improving the two nearby bus stops with the provision of fully enclosed bus shelters with high kerbing and relocation of the eastbound bus stop, with the footway to the westbound bus stop widened to 2 metres in width.**
- 6. The provision of pedestrian and cycle route from the site to Station Road (running parallel and adjacent to the A4).**
- 7. Provision of a pedestrian crossing facility within Station Road.**

To AUTHORISE the Head of Planning & Countryside to enter into a legal agreement under Section 106 of the Town and Country Act 1990 to secure the above Heads of Terms.



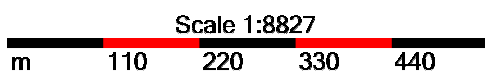
Map Centre Coordinates :

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Organisation	West Berkshire Council
Department	
Comments	
Date	05 January 2017
SLA Number	0100024151



Appendix 3:

**Minutes of Eastern Area Planning Committee Meeting
18th January 2017 (Item ref. 15/02842/OUTMAJ)**

Note: These Minutes have been amended. See Minutes of 8 February for amendments.

EASTERN AREA PLANNING COMMITTEE

MINUTES OF THE MEETING HELD ON WEDNESDAY, 18 JANUARY 2017

Councillors Present: Peter Argyle, Pamela Bale, Graham Bridgman, Keith Chopping (Vice-Chairman), Richard Crumly, Marigold Jaques, Alan Law, Mollie Lock (Substitute) (In place of Alan Macro), Tim Metcalfe, Graham Pask (Chairman), Richard Somner and Emma Webster

Also Present: Jessica Bailiss (Policy Officer (Executive Support)), Stephen Chard (Principal Policy Officer), Sarah Clarke (Acting Head of Legal Services), Gareth Dowding (Senior Engineer), Bob Dray (Principal Planning Officer) and David Pearson (Development Control Team Leader)

Apologies for inability to attend the meeting: Councillor Alan Macro

PART I

72. Minutes

The Minutes of the meeting held on 7 December 2016 were approved as a true and correct record and signed by the Chairman, subject to the following amendments:

Item 65 – Declarations of Interest, final paragraph:

Councillor Emma Webster commented that in relation to Agenda Item 4(2), she would be considering the matter with a fair and open mind, regardless of the debate held and decision taken on this item at the Eastern Area Planning Committee held on 24 August 2016. **It was agreed that this applied to all Members of the Committee.**

Item 66(1) – 16/02273/FULD – Green Gables, Tidmarsh Lane, Tidmarsh – penultimate paragraph, final sentence:

It would not therefore conform with the requirements of the NPPF.

Item 66(2) – 16/02600/FULEXT – Fairwinds, The Street, Mortimer Common – third declaration of interest paragraph (as declaration of interest paragraph above):

*(Councillor Emma Webster commented that in relation to Agenda Item 4(2), she would be considering the matter with a fair and open mind, regardless of the debate held and decision taken on this item at the Eastern Area Planning Committee held on 24 August 2016. **It was agreed that this applied to all Members of the Committee.**)*

Item 66(2) – 16/02600/FULEXT – Fairwinds, The Street, Mortimer Common – fourth paragraph, first sentence:

In terms of the appeal decision referred to, Councillor Bridgman pointed out that the Planning Committee, when it considered **the Crookham House** application, had accepted the Officer view that affordable housing could not be insisted upon.

73. Declarations of Interest

Councillor Emma Webster declared an interest in Agenda Item 4(3), but reported that, as her interest was a personal or an other registrable interest, but not a disclosable pecuniary interest, she determined to remain to take part in the debate.

74. **Schedule of Planning Applications**

(1) **Application No. & Parish: 16/02724/MINMAJ - Veolia Environmental Services, Padworth IWMF, Padworth Lane, Lower Padworth**

Agenda Item 4(1) concerning Planning Application 16/02724/MINMAJ – an application for a change of use to amend approved details to enable receipt of non-recyclable waste at the Household Waste Recycling Facility was deferred post publication of the agenda. This was to allow further time to consider the issues raised in a lengthy letter of objection, received from an interested party post publication of the agenda, and the application would return to Committee at a later date, most likely the next Committee meeting scheduled for 8 February 2017.

(2) **Application No. & Parish: 16/02725/MINMAJ - Veolia Environmental Services, Padworth IWMF, Padworth Lane, Lower Padworth**

Agenda Item 4(2) concerning Planning Application 16/02725/MINMAJ – an application for variation of condition (7) (hours of operation of planning permission 14/01111/MINMAJ) was deferred post publication of the agenda. This was to allow further time to consider the issues raised in a lengthy letter of objection, received from an interested party post publication of the agenda, and the application would return to Committee at a later date, most likely the next Committee meeting scheduled for 8 February 2017.

(3) **Application No. & Parish: 15/02842/OUTMAJ - Lakeside, The Green, Theale**

(Councillor Emma Webster declared a personal interest in Agenda Item 4(3) by virtue of the fact that her employer was a retirement and care home developer (extra care units). She did not however work for the extra care provider associated with this application, but wanted to raise this for clarification purposes. As her interest was personal and not an other registrable or a disclosable pecuniary interest, she determined to remain to take part in the debate.)

The Committee considered a report (Agenda Item 4(3)) concerning Planning Application 15/02842/OUTMAJ in respect of an outline application for a residential development of up to 325 houses and apartments (including 70 extra care units) with associated access, parking, amenity space and landscaping. All matters reserved.

Prior to the Planning Officer's introduction to the report, Councillor Graham Pask made reference to the need for Members to follow the speaking rights procedure outlined in the Council's Constitution. This required the Committee to move directly to representations from Parishes, members of the public etc following the Planning Officer's introduction. Questions to Officers needed to be held until all presentations had completed.

Bob Dray, Planning Officer, then introduced the report and highlighted the following points:

- This was a reserved matters application which required a decision from the Committee on the representations to be made at the planning appeal for this application and not to determine the application.
- The appeal had been lodged by the applicant on the grounds of non-determination of the planning application.
- The site would sit within the revised settlement boundary outlined in the Housing Site Allocations Development Plan Document (HSA DPD).

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- An affordable housing provision of 8.3% of the dwellings had been negotiated and this equated to 27 affordable units. This was satisfactory to the Council's independent viability consultants. While this percentage fell short of the Council's policy requirements, Planning Officers were also seeking a financial contribution to mitigate the impact of the development on education provision, as the development would require an extension to the new Theale Primary School. There was scope on the new school site to accommodate this extension.
- Officers' recommendation was to make representations at the appeal that planning permission should be granted subject to the conditions and planning obligations outlined in the report. These would form the Heads of Terms for the planning obligation.

In accordance with the Council's Constitution, Mr David Wood, Parish Council representative, and Mr Malcolm McPhail, applicant/agent, addressed the Committee on this application.

Mr Wood in addressing the Committee raised the following points:

- Theale Parish Council objected to this proposed huge development. It would increase the population of Theale by around 30%, change the character of the village and have a negative impact on local infrastructure, i.e. add pressure on the GP surgery.
- There were issues with the current sewer system and this would be exacerbated by this development.
- The proposed height of the extra care accommodation was concerning, particularly for an area that was adjacent to the Area of Outstanding Natural Beauty (AONB).
- Local roads already suffered from congestion and poor sight lines were a factor in some areas. Should the application be approved then mitigation measures would be needed to enhance pedestrian safety, i.e. a new pedestrian crossing. The speed limit should be lowered from 40mph to 30mph. The noise level of local roads would increase.
- Mr Wood added the point that the site had a lengthy planning history, but little development had taken place in that time.

In response to a query from Councillor Graham Bridgman, Mr Wood accepted that there was an extant permission on the site for the development of a higher number of houses, but pointed out that the Parish objected to that application also.

Councillor Bridgman then pointed out that as this was an outline application, matters in relation to building height would be considered at the reserved matters stage. This application was only seeking an in principle view. Mr Wood noted these points, but the concern remained in relation to the proposed building height. Councillor Graham Pask commented that the proposed building heights were given as maximum heights within the plans.

Councillor Alan Law made reference to the Heads of Terms outlined in the report. These included at point six the provision of pedestrian and cycle routes from the site to Station Road and Councillor Law queried whether this would resolve the Parish Council's road safety concerns. Mr Wood explained that this was not the area of concern, road safety concerns related to The Green.

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Councillor Tim Metcalfe queried Mr Wood's understanding of the number of extra care units. The report stated this as 70, but a figure of 40 had been mentioned. Mr Wood understood this to be 70, as outlined within the report.

Mr McPhail in addressing the Committee raised the following points:

- The planning history was explained within the planning report and Mr McPhail advised that this had resulted in the applicant seeking residential development. He added that the entire Lakeside site was in the control of a single party.
- The extant planning permission on the site did exist as a fall back position and this was for 350 dwellings. This could be implemented should this planning application be refused at appeal.
- The lower density application before the Committee was the preferred option. It constituted a complete solution for the entire site and included a higher number of family homes and 70 extra care units.
- Mr McPhail made it clear that it was the intention, post obtaining planning consent, to sell the site to a third party developer.
- Information on the viability of affordable housing provision (the 27 units) had been provided to Committee Members together with the view of the Council's consultants on this matter, Dixon Searle. Extensive discussions had been held with Dixon Searle.
- Decontamination costs for the site would be significant.
- In terms of the S106 education contribution being sought, the applicant had commissioned independent experts to consider this. A detailed report had followed and this gave the view that such a contribution would constitute 'double dipping' when considering the previous contributions that had been made for earlier planning applications for the site. CIL contributions would be made.
- The highways impact from this scheme was not significant.
- A landscape buffer was only required for some areas of the site.
- Mr McPhail was delighted to note the recommendation that representations be made at appeal for planning permission to be granted.
- Mr McPhail confirmed the figure of 70 extra care units. These would be located within a single apartment block.

Councillor Alan Law queried why approval of the access was not being sought with this application as with agenda item 4(4). Mr McPhail explained that this was based on the advice of the applicant's planning consultant, it was felt that access routes within the site could be subject to change.

Councillor Tim Metcalfe queried who would be responsible for the lake and its maintenance. Mr McPhail advised that it would be maintained by a management company. He added that the lake would be publicly accessible.

Councillor Mollie Lock read out a statement on behalf of Councillor Alan Macro, Ward Member for Theale, who had given his apologies for the meeting:

- The site was a prominent one on the edge of the village of Theale. It was separated from the North Wessex Downs AONB by the A340. It formed the setting to Theale when approaching from either the A4 from the Newbury direction or from the A340. A development of this edge-of-village location should provide a "soft

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edge” to the village, marking the change from AONB and countryside to the more suburban nature of this end of the village.

- The proposed development was not suitable for this edge-of-village location adjacent to the AONB because:
 - It was of high density.
 - It contained three, four and five storey accommodation blocks that would dominate views from approaches to the village and from the AONB. These multi-storey blocks were required to achieve the number of units in the proposal.
 - The proposed four-storey sheltered housing block would dominate views when approaching from the Newbury direction and from the AONB.
 - The proposed four-storey apartment blocks alongside the Theale bypass (A4) would dominate and block views into the site from this busy road.
 - Its layout was mainly of an unsuitable urban grid-pattern of roads.
- It would not therefore form the required soft edge to the village.
- The lake formed an important part of the site and its setting was very important. The proposed multi-storey apartment blocks on the south side of the lake were inappropriate as they would dominate the landscape and form a high and hard backdrop to views across the lake from the north and east.
- The proposed access to the anglers’ car park would provide a short cut for pedestrians from the proposed development to access The Green (to get to Theale Green School or the library, for example). This would be to the detriment of the amenity of residents of the housing alongside this unmade-up lane.
- Residents of the proposed four-storey apartment blocks adjacent to the Theale bypass would be subject to disturbance by significant traffic noise. Residents of the upper floors of these blocks would look out over the rail depots and associated industry on the other side of the bypass, as their windows would be higher than the trees screening the depots.

Councillor Pask then asked the Planning Officer whether he wished to comment on any of the points made within the presentations. Mr Dray made the following points:

- In terms of access being a reserved matter, the Planning Officer reiterated the points made by the applicant’s agent by stating that the applicant was looking to maximise the level of flexibility, particularly when the site had been sold. Therefore access was a reserved matter.
- The views expressed by the Parish Council in relation to the change that would result to the character of the area and the scale of the development were sympathised with, however it was necessary to compare this proposed development with the extant scheme. He added that the Council’s Landscape Consultant had been consulted on the proposal and their focus had been on making such a comparison.
- He confirmed that 70 extra care units were included in the application.

In considering the above application Members asked a number of questions of Officers.

Councillor Keith Chopping queried the existing permissions on the site. The Planning Officer advised that planning permission was in place for 350 dwellings on South Lakeside, this was approved at appeal by the Planning Inspector in September 2007.

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This permission had been lawfully implemented by virtue of the fact that the access road had been built to the site. A Lawful Development Certificate confirmed its lawful implementation. A development of 350 dwellings could therefore be implemented at any time.

A further permission was in place for seven dwellings on land south of St Ives Close, this formed the eastern parcel of North Lakeside and was again allowed at appeal. This permission was well within its timescale for implementation.

Councillor Bridgman commented that there was scope for details to change at the reserved matters stage from this outline application and the design was only indicative. He sought confirmation that this was correct. The Planning Officer stated that the submitted plans provided an illustrative indication of how the site could be developed, and that the parameters plans would fix the maximum extent of development and overall heights, but that the final design could change provided it did not go beyond those parameters. The Planning Officer added that the extant permission for 350 dwellings was a fixed scheme as this had been considered as a full planning application.

Councillor Bridgman then turned to the matter of viability of the affordable housing and queried whether the applicant would still be committed to this requirement at the full planning stage. He wanted to clarify that should the Planning Committee agree to make representations in support of the application at appeal for the outline application, that this would be based on the expectation that elements of the development, i.e. affordable housing, would be delivered once full planning permission was sought. The Planning Officer clarified that viability would be a material consideration at the reserved matters stage. Costs, i.e. for site works could be taken into account in the detailed design. The Planning Officer added that the current position on viability was based on a number of assumptions.

Councillor Metcalfe queried the parking allocation for visitors to the lake and where this would be positioned. Gareth Dowding advised that this was a reserved matter and detail on this point was unconfirmed. This would however be a consideration at the full planning stage.

Councillor Richard Somner was concerned that there was no guarantee that this outline application would materialise at the reserved matters stage, particularly when considering that implementation by the third party developer could ultimately be phased. The Planning Officer explained that should the development be phased then this would be reflected in conditions. He suggested that, if Members were minded to support the recommendation, an addition could be made to the resolution to request that any phased development be well planned with a master plan in place at the outset (i.e. accompanying the first reserved matters application). This would afford some protection for the development of the entire site in a piecemeal fashion.

Councillor Somner remained concerned as more than one developer could be involved over time. David Pearson sought to assure Members by explaining that Planning Officers had much experience of managing phased developments with different developers. Officers would work to ensure that a phased development was coherent and well managed.

Councillor Law supported the suggestion of a master plan for the site to help manage the phased development.

Sarah Clarke made the point that the Committee, if they accepted Officers' recommendation, would be delegating authority to Officers to secure conditions and this could include a master plan for a phased development.

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Councillor Law opened the debate by commenting that Officers had spent an extensive amount of time in complex negotiations for this site. Extant permission was also in place for 350 dwellings. He therefore proposed acceptance of Officers' recommendation for representations to be made at appeal that planning permission should be granted subject to the conditions and planning obligations outlined in the report, with the additional requirement that a master plan should be provided for the phased element of the development.

Councillor Chopping seconded the proposal. He added his view that the existing permission was not of a high quality and the outline proposal would be a significant improvement. Councillor Chopping felt that it was important that the requirement for an overage clause be included in the resolution text.

Councillor Peter Argyle commented that Theale was a village and the proposed development would alter its character. He sympathised with the concerns expressed by the parish, but the extant permission given by the Planning Inspector was in existence. He was therefore in reluctant agreement with the proposal.

Councillor Webster thanked the applicant's agent for his transparency. She commented that the potential development of this site had been ongoing for some time and it would be pleasing if this could be resolved. She was however disappointed that the decision would be taken at appeal and not determined at this local level. Councillor Webster also gave thanks to Officers for their extensive efforts in working on the development of this site.

Councillor Bridgman advised that he was familiar with this site as a Governor of Theale Green Secondary School. He reiterated the points already made on the importance of mitigating the impact of the development on education. This was a crucial element of the Heads of Terms.

RESOLVED that the Head of Planning and Countryside be authorised to make representations at appeal that planning permission should be granted subject to conditions and planning obligations to secure the following:

1. A contribution towards the extension of the new (to be constructed) Theale Primary School to enable the extension of the school by 0.5FE.
2. The provision of on-site affordable housing comprising 27 units of affordable housing, together with an overage clause to trigger a later stage viability review.
3. The provision and transfer to the Council (with commuted sum) of public open space.
4. A travel plan.
5. Improving the two nearby bus stops with the provision of fully enclosed bus shelters with high kerbing and relocation of the eastbound bus stop, with the footway to the westbound bus stop widened to 2 metres in width.
6. The provision of pedestrian and cycle route from the site to Station Road (running parallel and adjacent to the A4).
7. Provision of a pedestrian crossing facility within Station Road.
8. Secure master planning and phasing of the development at the first reserved matters application.

To authorise the Head of Planning & Countryside to enter into a legal agreement under Section 106 of the Town and Country Act 1990 to secure the above Heads of Terms.

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(4) **Application No. & Parish: 16/01846/OUTMAJ - North Lakeside, The Green, Theale**

The Committee considered a report (Agenda Item 4(4)) concerning Planning Application 16/01846/OUTMAJ in respect of a residential development comprising the erection of 25 dwellings with associated access, parking and landscaping works. Matters to be considered: Access.

Bob Dray, Planning Officer, introduced the report and explained that as with the previous agenda item, this application required a decision from the Committee on the representations to be made at the planning appeal for this application and not to determine the application. The appeal had been lodged by the applicant on the grounds of non-determination of the planning application.

The Planning Officer went on to explain that the proposed affordable housing provision on this site was in accordance with the Council's Core Strategy Policy CS6, with 40% of all dwellings on site being socially rented affordable housing. This equated to ten units.

Officers' recommendation was that representations should be made at appeal that planning permission should be granted subject to conditions and planning obligations.

In accordance with the Council's Constitution, Mr David Wood, Parish Council representative, addressed the Committee on this application.

Mr Wood in addressing the Committee raised the following points:

- Theale Parish Council objected to this application. He questioned this proposal for 25 dwellings as this exceeded the planning policy allocation of 15 dwellings, and an extant permission was already in place for seven dwellings.
- Access to the anglers' car park was another cause for concern. This was also used by pedestrians and it was an unsuitable road for increased traffic.
- Approval of the application would have a negative impact on local amenities, i.e. put additional pressure on the GP surgery.
- The site should be retained as green space.
- The lake was a safety concern that needed to be highlighted.

Mr Malcolm McPhail, applicant/agent, while not listed to speak, requested to do so. He stated that he had made this request within the required timeframe. However, Officers had no record of this at the meeting.

Councillor Graham Bridgman proposed suspension of standing orders to allow Mr McPhail to address the Committee. This was seconded by Councillor Emma Webster.

Members voted in favour of suspending standing orders.

Mr McPhail in addressing the Committee raised the following points:

- In reference to the comments made by the Parish Council, North Lakeside was, at an earlier stage, to be retained as a landscape buffer but this legal requirement had been removed. This was a relatively small area and the potential for a landscape buffer was limited. Open space requirements formed part of the larger 325 dwelling development.
- No policy objections had been raised to residential development in the Planning Officer's report. No highway objections had been raised.
- An extant permission was also in place for this site, but this would be replaced by this planning application (if approved) alongside the 325 dwelling development.

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- Mr McPhail made it clear that it was the intention, post obtaining planning consent, to sell the site to a third party developer.
- As stated in the report, education mitigation for this scheme would be through CIL.
- The application was in compliance with the Council's planning policy for affordable housing.
- Contamination was not a factor on this site.
- Mr McPhail was pleased to note the recommendation that representations be made at appeal for planning permission to be granted subject to conditions and provision of affordable housing. He hoped this would be supported by the Committee.

Councillor Alan Law noted that access was a matter for consideration with this application. He queried whether access to the anglers' car park via The Green would be separate from the access to the additional car park shown within the plans. Mr McPhail clarified that access to the anglers' car park would continue to be via the unadopted road coming off The Green. A separate access would be in place for the additional car park.

Councillor Bridgman sought to clarify whether the combination of this application and the 325 dwelling application was comparable, in terms of density, to the extant permission for 350 dwellings. Mr McPhail confirmed this was the case, but with the addition of affordable housing.

Standing orders were reinstated.

Councillor Mollie Lock read out a statement on behalf of Councillor Alan Macro, Ward Member for Theale, who had given his apologies for the meeting:

- The proposed access to the anglers' car park would provide a short cut for pedestrians from the proposed development to access The Green, Theale Green Secondary School and Theale Library. It would also be used as an access to the lake by non-residents. This would be to the detriment of the amenity of residents of housing alongside this unadopted lane.
- The lane had a rural appearance and the dwellings within it were mainly bungalows or 1.5 storey houses. The proposal sited two storey flats on the other side of this lane. These would be incongruous and out of character with the existing dwellings.

The Planning Officer then responded to the point made by the Parish Council representative in relation to a planning policy allocation of 15 dwellings on this site. This number had been within the emerging Housing Site Allocations Development Plan Document (HSA DPD) and this proposed housing allocation was informed by the advice of the Council's landscape consultant to have landscape buffers in place. However, the Planning Inspector's appeal decision for St Ives Close conflicted with this point which resulted in this proposed allocation being removed from the HSA DPD, the application site being placed within the proposed settlement boundary and thereby the principle of residential development would be regarded as acceptable.

This remained a matter of concern for the landscape consultant, but the Planning Officer advised that harm would be limited and therefore landscape objections were outweighed by the planning benefits of the proposal.

Turning to the matter of the access to the anglers' car park, the Planning Officer confirmed that this was as shown in the plans and could be used by pedestrians and cyclists. However, this was a positive point in some aspects from a planning perspective

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in providing alternative routes for pedestrians and a permeable design. He did not feel, based on its location, that this would be a particular concern when considering disturbance to residents.

Councillor Law queried whether restricted vehicular access to the anglers' car park should be a condition of approval. Officers confirmed that this could be subject to a condition.

Councillor Metcalfe made reference to the permission for seven dwellings at St Ives Close and queried whether the footpath was considered as part of that application. The Planning Officer commented that while the footpath was shown within plans it did not form part of the considerations of that application.

Councillor Pamela Bale referred to the point made as part of the previous agenda item that the lake would be maintained by a management company. She noted, from paragraph 5.14.1 of the report, that provision and transfer of open space (with commuted sum) would need to be secured through a planning obligation and queried whether this applied to the larger application. The Planning Officer explained that inclusion of the lake in the public open space was considered at the previous appeal for the full Lakeside site. While the open space remained a point for reserved matters, there was a requirement on the developer to provide open space due to the number of dwellings proposed and the Council's position was therefore robust on this matter.

Councillor Bridgman agreed with the suggestion that vehicular access to the anglers' car park should be restricted via a coded, gated access which would block any other access.

Councillor Bridgman then commented that he could see the merits of this application and felt there were no planning objections on which permission could be refused. He therefore proposed to accept Officers' recommendation to make representations at appeal that planning permission should be granted subject to conditions and planning obligations. This was seconded by Councillor Webster.

Councillor Law added his support to the proposal. He was pleased with the affordable housing provision.

Sarah Clarke sought to confirm whether Members wanted to add to the proposal a request to negotiate a condition to restrict vehicular access to the anglers' car park via a coded gate to anglers only. Councillors Bridgman (proposer) and Webster (seconder) were content with this addition.

RESOLVED that the Head of Planning and Countryside be authorised to make representations at appeal that planning permission should be granted subject to conditions and planning obligations to secure the following:

1. The provision of on-site affordable housing comprising ten units of affordable housing.
2. The provision and transfer to the Council (with commuted sum) of public open space.
3. The addition of a condition to restrict vehicular access to the anglers' car park at the end of The Green to anglers only.

To authorise the Head of Planning and Countryside to enter into a legal agreement under Section 106 of the Town and Country Act 1990 to secure the above Heads of Terms.

75. **Appeal Decisions relating to Eastern Area Planning**

Members noted the outcome of appeal decisions relating to the Eastern Area.

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76. Site Visits

A date of 1 February 2017 at 9.30am was agreed for site visits if necessary. This was in advance of the next Eastern Area Planning Committee scheduled for 8 February 2017.

The Chairman and Vice-Chairman gave their apologies for both the site visit and the Committee meeting. Councillor Alan Law was nominated to chair the site visit.

The appointment of Chairman for the Committee meeting itself would be the first item of business on the agenda.

(The meeting commenced at 6.30pm and closed at 8.12pm)

CHAIRMAN

Date of Signature