

Item No.	Application No. and Parish	16 Week Date	Proposal, Location and Applicant
(1)	14/02480/OUT MAJ  Shaw-Cum-Donnington	26 <sup>th</sup> January 2015	Outline application for mixed use scheme on 23.1ha of land, comprising up to 401 dwellings on 11.35ha of land. A 400m <sup>2</sup> local centre (Use Classes A1/A2/D1/D2 - no more than 200m <sup>2</sup> of A1) on 0.29ha of land, one form entry primary school site on 1.71ha of land, public open space, landscaping and associated highway works. Matters to be considered: Access.  Land adjacent to Hilltop, Oxford Road, Donnington, Newbury  CEG Land Proms Ltd, Mrs G E Mather, and BLG Reads Trust Co Ltd

To view the plans and drawings relating to this application click the following link:

<http://planning.westberks.gov.uk/rpp/index.asp?caseref=14/02480/OUT>

**Recommendation Summary:** To **DELEGATE** to the Head of Planning and Countryside to **REFUSE PLANNING PERMISSION**

**Ward Member(s):** Councillor Paul Bryant  
Councillor Marcus Franks

**Reason for Committee Determination:** Referred to committee by the Development Control Manager.

**Committee Site Visit:** 19<sup>th</sup> November 2015

#### Contact Officer Details

**Name:** Bob Dray  
**Job Title:** Senior Planning Officer  
**Tel No:** (01635) 519111  
**Email:** BDray@westberks.gov.uk

## 1. INTRODUCTION

- 1.1 This application seeks planning permission for a residential - led development in Shaw Cum Donnington. The application is submitted in outline, with all matters reserved except for access. The full description of the development is:

*Outline application for mixed use scheme on 23.1ha of land, comprising up to 401 dwellings on 11.35ha of land. A 400m<sup>2</sup> local centre (Use Classes A1/A2/D1/D2 - no more than 200m<sup>2</sup> of A1) on 0.29ha of land, one form entry primary school site on 1.71ha of land, public open space, landscaping and associated highway works. Matters to be considered: Access.*

- 1.2 The site comprises mostly agricultural land on both the eastern and western sides of the A339. As a consequence the proposed development is split into two parcels.
- 1.3 The western parcel is bound by Oxford Road to the west, Love Lane to the south, the A339 to the east, and open agricultural fields to the north. Vehicular access is proposed from the A339 / Vodafone roundabout. Pedestrian and cycle access is also proposed onto Love Lane and Oxford Road, and a restricted access is also proposed for buses onto Love Lane.
- 1.4 The eastern parcel is bound by the A339 to the west, open countryside and woodland to the north and east, and Vodafone HQ to the south. Vehicular access is proposed from The Connection, the private un-adopted road owned by Vodafone that connects to the A339 roundabout. Pedestrian and cycle access is proposed to the western parcel via an underpass that crosses the A339. Pedestrian access is also available to the south via a public footpath that encircles the Vodafone HQ and connects to Love Lane.
- 1.5 A new primary school (1 form entry) is proposed in the southern part of the western parcel. A local centre is also proposed in the western parcel in close proximity to the A339 roundabout. Public open space is proposed throughout the development, mostly along the periphery of the site, forming a landscaped buffer between the proposed development and surrounding area.
- 1.6 According to the West Berkshire Core Strategy, the application site is located in open countryside within the Newbury / Thatcham Spatial Area.
- 1.7 The application is supported by an Environmental Report, which has been taken into account in this report and recommendation.

## 2. PLANNING HISTORY

- 14/02018/OUTMAJ Outline application for mixed use of scheme on 22.82 ha of land, comprising up to 401 dwellings on 11.47 ha of land. A 400 m<sup>2</sup> local centre (use classes A1/A2/D1/D2 - no more than 200m<sup>2</sup> A1) on 0.29 Ha of land, a safeguarded 1.73 ha primary school site or up to 60 dwellings, public open space, landscaping and associated highway works. Matters to be considered Access. Invalid, 06/08/2014.

### **3. PUBLICITY**

- 3.1 The application has been accompanied by an Environmental Statement, pursuant to the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. As a consequence, the proposal must be considered as EIA development.
- 3.2 The Town and Country Planning (Development Management Procedure) (England) Order 2015 (DMPO) requires in the case of an application for planning permission for development which is an EIA application accompanied by an environmental statement, does not accord with the provisions of the development plan, or would affect a right of way to which Part 3 of the Wildlife and Countryside Act 1981 applies, the application shall be publicised by giving requisite notice:
- (a) by site display in at least one place on or near the land to which the application relates for not less than 21 days; and
  - (b) by publication of the notice in a newspaper circulating in the locality.
- 3.3 The DMPO further requires in the case of an application for planning permission for major development, the application shall be publicised by giving requisite notice:
- (a) by site display in at least one place on or near the land to which the application relates for not less than 21 days; or by serving the notice on any adjoining owner or occupier; and
  - (b) by publication of the notice in a newspaper circulating in the locality.
- 3.4 The application has been publicised in accordance with the above legal requirements, and in accordance with the West Berkshire Council Statement of Community Involvement.
- 3.5 The National Planning Policy Framework (NPPF) says local planning authorities should approach decision-taking in a positive way, and look for solutions rather than problems. Accordingly, the Council has accepted a number of amendments to the application following negotiations with officers and consultees. Full public consultation has been undertaken on the amendments, the latest of which followed a submission in October 2015.

### **4. CONSULTATION**

#### **4.1 Statutory and non-statutory consultations**

Shaw Cum Donnington Parish Council:	Object on grounds of access, traffic and flooding.
Speen Parish Council:	Object on grounds of infrastructure and no identified need for site.
Newbury Town Council:	No objections contingent to satisfactory discussion regarding flooding and transport plans.
Cold Ash Parish Council:	No objections.
The Newbury Society:	No objections, subject to resolving access and flooding issues, and establishing a working relationship with Vodafone.

National Planning Casework Unit:	No comments.
Planning Policy:	Object as contrary to policy and can demonstrate five year housing land supply. Site has not been allocated in the HSA DPD.
Highways Authority:	Object on grounds of insufficient road capacity on A339, and access by sustainable modes of travel.
Highways England:	No objection.
Transport Policy:	No objections to travel plan.
Landscape Architect Consultant:	Conditional permission.
North Wessex Downs AONB:	No objections.
Education:	No objections, subject to planning obligation for primary school.
Waste Management:	Concern regarding access to eastern parcel for collections.
Natural England:	No objections, standing advice applies to protected species and biodiversity enhancements.
Ecology:	Conditional permission.
Trees:	Conditional permission.
BBOWT:	No objections, subject to conditions/planning obligation.
Countryside:	No objections, subject to conditions/planning obligation.
Rights of Way:	Requests for enhancements and connections.
West Berkshire Ramblers:	Object on grounds of impact on walking routes, flooding, timing.
West Berkshire Spokes:	Support.
Thames Valley Police:	Object on grounds of crime prevention and community safety.
Royal Berkshire Fire and Rescue Service:	Conditional permission.
Housing:	No objections, subject to planning obligation.

Adult Social Care:	Contributions requested (before adoption of CIL).
NHS:	No response.
Archaeology:	Conditional permission.
Conservation:	No objections.
Environment Agency:	Conditional permission.
Lead Local Flood Authority:	Conditional permission.
Environmental Health:	Conditional permission, additional information required on air quality and noise mitigation.
Libraries:	No objections.
Access Panel:	Queries regarding amount of affordable and lifetime homes, and comments regarding inclusive access.
Fisher German LLP (pipelines):	Apparatus would be affected.
Thames Water:	Conditional permission.

## 4.2 Public consultation

Total: 150      Object: 147      Neutral/comments: 3

### Summary of comments:

- Flooding – sewage and ground water. Historically problems within the locality.
- Concerns for access onto Love Lane near to traffic calming measures
- Concerns for school drop off on Love Lane and road safety.
- Concerns for access from the A339 and traffic congestion
- Pressure on local infrastructure
- Loss of countryside
- Impact on rare wildlife
- Site not shortlisted within the Site Allocation s DPD
- Contrary to parish Plan and Local Plan
- Village character destroyed.
- Isolated housing estate
- No need for additional housing, and sites identified elsewhere
- Gas pipeline runs through the site
- Proposal will double the size of Donnington & Shaw
- Impact on Snelsmore Common, Greenham Common, Donnington Castle
- Loss of green gateway into Newbury
- Area of historical significance – archaeological works with bronze age significance
- Concern that part of a larger phase
- Impact on AONB

- Loss of farming land
- Should not be developed in piecemeal fashion
- Proposed access on Love Lane contrary to Shaw-cum-Donnington Parish Plan
- Site forms an important gap between Newbury and M4
- Few employment opportunities in the locality
- Impact on nearby listed buildings.
- Impacts during construction.
- Loss of village character and identity
- Impact on Snellsmore Common
- Phase 1 of larger scheme
- Future occupiers reliant on the car
- Should follow plan led approach to new development
- Impact on visual character of the area
- Site not included in DPD
- Impact on footpaths and footpaths must remain
- National Grid gas pipeline cuts through the site
- Concern for bus drop off on Love Lane
- Not enough schools
- Contrary to parish plan
- People to direct development, engage locals – NPPF policy
- Borders AONB
- Lack of infrastructure (doctors, roads, schools, sewerage, water, transport infrastructure)
- Love Lane should not be degraded into a service road to make the development viable
- 'Kiss and drop' area will release Vodafone from their agreement not to use Love Lane for this purpose
- Impact on Vodafone, in terms of traffic and flooding
- Provision of cycle route should be considered
- Consideration of allotments
- New rights of way provided
- Impact on new local centre on village hall in Shaw-cum-Donnington
- Noise pollution
- Understood that allowance of Vodafone meant no further development on the northern side of the town
- Loss of greenbelt land
- Brownfield land should be developed first
- Impact on property value
- Ponds are of no value and danger next to school
- Area is of historical significance
- Impact on biodiversity
- Three storey development inappropriate
- Funding of school unclear
- Empty homes should be occupied first, instead of building more
- Second homes should be limited
- Immigration increasing UK population
- Previous three applications already refused
- Development would be soulless
- Recent cut to buses reduces availability of public transport

## **5. PLANNING POLICY**

- 5.1 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 comprises:
- The West Berkshire Core Strategy (2006-2026)
  - The West Berkshire District Local Plan 1991-2006 (Saved Policies 2007)
  - The Replacement Minerals Local Plan for Berkshire (2001)
  - The Waste Local Plan for Berkshire (1998)
- 5.2 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).
- 5.3 The West Berkshire Core Strategy (2006-2026) is the first development plan document (DPD) within West Berkshire's new 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 application:
- NPPF Policy
  - ADPP1: Spatial Strategy
  - ADPP2: Newbury
  - CS1: Delivering New Homes and Retaining the Housing Stock
  - CS4: Housing Type and Mix
  - CS5: Infrastructure Requirements and Delivery
  - CS6: Provision of Affordable Housing
  - CS11: Hierarchy of Centres
  - 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
- 5.4 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 application:
- OVS.5: Environmental Nuisance and Pollution Control
  - OVS.6: Noise Pollution
  - 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

- 5.5 According to the NPPF (paragraph 216), decision-takers may also give weight to relevant policies in emerging plans. The Housing Site Allocations Development Plan Document (HSA DPD) is the second DPD of West Berkshire's new 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 following policies from the HSA DPD are relevant to this application:
- Policy C1: Location of new housing in the countryside
- 5.6 Other material considerations include:
- The Ministerial Statement Planning for Growth (23 March 2011)
  - DfT Manual for Streets
  - Local Transport Plan for West Berkshire (2011-2026)
  - West Berkshire Planning Obligations SPD
  - West Berkshire Quality Design SPD
  - Thames Valley Police Compendium of Crime Prevention & Reduction in the Planning System (Secured by Design)

## **6. APPRAISAL**

### **6.1 Legal and policy context**

- 6.1.1 To the extent that development plan policies are material to an application for planning permission the decision must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (see section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004).
- 6.1.2 The National Planning Policy Framework (NPPF) sets out planning policies for England and how Government expects these to be applied. The NPPF is a material consideration in planning decisions. The NPPF stresses the importance of having a planning system that is genuinely plan-led. At the heart of the NPPF is a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with the development plan without delay, and therefore conversely refusing permission for proposals that conflict with the development plan, unless material considerations indicate otherwise.
- 6.1.3 Where the development plan is absent, silent or relevant policies are out-of-date, the presumption in favour of sustainable development means planning permission should be granted unless:
- any adverse impacts on doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
  - specific policies in the Framework indicate development should be restricted, including sites protected under the Birds and Habitats Directive, Sites of Special Scientific Interest, Local Green Space, AONB, designated heritage assets, and locations at risk of flooding.
- 6.1.4 As a consequence, it is therefore necessary to establish whether the development plan is up-to-date insofar as it relates to this application, and therefore whether the



primacy of the development plan can be relied upon to make a decision on this application.

- 6.1.5 The proposed development is predominantly housing of such a scale for it to be considered “strategic” in relation to development in West Berkshire. Whether housing policies are to be considered up-to-date relies primarily on paragraph 49 of the NPPF, which states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
- 6.1.6 In order to conclude on this matter, it is necessary to: understand the status of the current West Berkshire planning policies; consider current housing land supply; and consider the implications of the emerging HSA DPD

Planning policy background

- 6.1.7 The Core Strategy (CS) was found sound in July 2012. The Inspector examining the Core Strategy committed the Council to producing a Strategic Housing Market Assessment (SHMA) within three years of adoption as the housing requirement within the Core Strategy was based on the number from the South East Plan rather than an NPPF compliant objectively assessed housing need.
- 6.1.8 The Inspector required the Council to take two steps to deal with this issue. First, there would need to be a review of needs and demands for housing to inform the appropriate scale of housing to be met in the District. This would be achieved through an update to the SHMA, to be completed within 3 years and produced in co-operation with the other local authorities in the HMA, to accord with the Framework. For the second stage, if the updated SHMA indicated that housing provision within the District needed to be greater than is currently planned, a review of the scale of housing provision in the CS would need to be undertaken.
- 6.1.9 The SHMA was carried out in partnership with the other Berkshire authorities and the Thames Valley Berkshire Local Enterprise Partnership and has now been completed, setting out an objectively assessed housing need for the District. The Council is now working in partnership across the Housing Market Area (HMA) on capacity work to inform the eventual distribution of the housing across the HMA before taking forward a revised requirement through a new Local Plan. The Council is therefore in conformity with the Inspector’s approach. It is therefore concluded that having regard to the exceptional circumstances relating to the preparation of the CS, and the approach supported by the CS Inspector, the need for an objectively assessed need (OAN) does not undermine the housing policies within the Development Plan at the current time.
- 6.1.10 The applicant claims in their planning statement that “the Core Strategy policies are considered to be out of date as their preparation is not NPPF Compliant”. This is incorrect. The Inspector’s Report confirms that the Core Strategy complies with national policy. The Core Strategy was adopted in July 2012, four months after the NPPF was published. The NPPF therefore formed the policy framework with which the Core Strategy had to comply in terms of meeting the tests of legal compliance.

- 6.1.11 The NPPF was published during the Examination of the West Berkshire Core Strategy. The Inspector invited comments from interested parties via an 'Inspector's Note'. The note states that:

*"Comments can be made on whether the NPPF or Policy for Travellers Sites materially change national policy compared with the policy they replace in so far as is relevant to the soundness of the Core Strategy and the main issues I have identified in this Examination."*

- 6.1.12 A discussion on this issue was then held at a hearing session on 17 May 2012 which examined the "implications for the soundness of the Core Strategy of the NPPF". The Inspector therefore explored this issue in full during the examination process, finding the Core Strategy sound. Consequently, the policies of the Core Strategy should be given full weight in the decision making process.

## **6.2 Housing supply**

- 6.2.1 Local planning authorities are required to identify and maintain a continuous five year supply of sites to deliver the housing requirement. The Council published its latest Annual Monitoring Report and Housing Land Supply document in January 2015. This document demonstrates a supply of deliverable sites which would meet both the Core Strategy requirement and also the demographic need projected in the latest official government household projections.
- 6.2.2 The Council has recently made public the conclusions from the Berkshire Strategic Housing Market Assessment (SHMA) on the objectively assessed need (OAN) for housing. The study concludes that the OAN over the period 2013 – 2036 is an average of 665 dwellings per annum for West Berkshire. A new housing requirement will be set through the new Local Plan following additional work on constraints and opportunities for development, carried out in cooperation with the other authorities within the housing market area (HMA). There will also be a period of consultation and ultimately any revised requirement will be tested through the examination of the new Local Plan. The Council's approach to the HSA DPD has always been that the allocations will meet the first part of the OAN by bringing forward sites in a plan-led way at the earliest opportunity, boosting the supply.
- 6.2.3 Following the conclusions of the SHMA and the publication of the HSA DPD, the five year supply will shortly be updated as part of the annual monitoring exercise. The Council is currently considering the weight to attach to the OAN in determining the starting point for the five year requirement.
- 6.2.4 The majority of the sites recommended for allocation in the HSA DPD are expected to deliver early and to be included within the five year housing land supply, meeting the objective of the DPD to allocate sites to boost housing supply in the short to medium term and to maintain a five year supply of deliverable housing sites. The DPD contains a trajectory that reflects this. Following the adoption of the DPD, a new Local Plan will be prepared. This will allocate the rest of the new housing requirement for West Berkshire and look longer term to 2036.
- 6.2.5 As the Council can currently demonstrate a five year housing land supply, the housing policies of the development plan are up-to-date in accordance with

paragraph 49 of the NPPF. This decision can therefore be taken by relying on these development plan policies.

### **6.3 Compliance with development plan**

- 6.3.1 The Core Strategy is the first development plan document (DPD) within West Berkshire's new 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 Core Strategy provides an overall framework for the more detailed policies and site specific proposals to be contained in other documents of the Local Plan. Some of the policies contained in the previous Local Plan have been saved and will remain in force until replaced by new policies through the HSA DPD or the new Local Plan.
- 6.3.2 The Core Strategy includes an NPPF policy, which gives the presumption in favour of sustainable development the weight of the development plan. Section 6.2 of this report demonstrates that the housing policies of the development plan are up-to-date and therefore the development plan primacy can be relied upon.
- 6.3.3 The spatial strategy for the Core Strategy states, in paragraph 4.2 that "...in accordance with the outcomes of Options for Delivering Homes, a combination of strategic urban extensions and smaller sites are identified either through the Core Strategy or within the Site Allocations and Delivery DPD".
- 6.3.4 Area Delivery Plan Policy 1 (Spatial Strategy) sets out that West Berkshire's main urban areas will be the focus for most development and defines the district's settlement hierarchy, which includes Newbury as an urban area. The policy states that there are two strategic urban extensions at Newbury and that 'additional non-strategic scale sites in Newbury and Thatcham will be allocated in the Site Allocations and Delivery DPD.'
- 6.3.5 Area Delivery Plan Policy 2 (Newbury) of the Core Strategy sets out in more detail the delivery strategy for Newbury. The policy states for housing that there will be two urban extensions to the town and that "...other development will come forward through the implementation of existing commitments together with infill development and the allocation of smaller extensions to the urban area..."
- 6.3.6 Core Strategy policy CS1 (Delivering New Homes and Retaining the Housing Stock) requires new housing development to be located in accordance with the settlement hierarchy and Area Delivery Plan Policies. New homes will primarily be developed on suitable previously developed land within settlement boundaries, other suitable land within settlement boundaries, strategic sites and broad locations identified in the Core Strategy, and land allocated for sites within subsequent DPDs. Policy CS1 also sets out that the Council will be updating the Strategic Housing Market Assessment.
- 6.3.7 The North Newbury site is greenfield land outside of the settlement boundary of Newbury. The policies of the Core Strategy as set out above make it clear that any allocations of land beyond the settlement boundaries should take place through the Local Plan process rather than through speculative planning applications.

- 6.3.8 There are other policies within the Core Strategy that are generally applicable to all developments, and relate to various planning considerations. These policies are addressed in the relevant sections in the remainder of this report.
- 6.3.9 Saved Policy HSG.1 of the Local Plan states that new housing development will normally be permitted within settlement boundaries, subject to a number of criteria. Outside settlement boundaries, development will only be acceptable in exceptional circumstances. In accordance with paragraph 215 of the NPPF, this policy attracts due weight according to its degree of consistency with the NPPF. The policy to constraint new development to within existing settlement boundaries identified by the former Local Plan is inconsistent with the NPPF insofar as the Council is looking to allocate sites outside the settlement boundaries to deliver housing in line with the NPPF. The settlement boundaries do, however, continue to attract significant weight as they will be retained (albeit revised) within emerging policies. The other elements of the policy are also considered consistent with the NPPF. Policy HSG.1 therefore attracts significant weight for the purposes of this decision. The development conflicts with Policy HSG.1 in terms of its location outside the defined settlement boundary. Policy HSG.1 will be replaced by Policy C1 of the HSA DPD. In terms of Policy C1, as the site is outside the settlement boundary and in the open countryside, development is only acceptable in exceptional circumstances. The site does not meet any of the identified exceptions.
- 6.3.10 Overall, the development conflicts with the housing supply policies of the development plan, namely Core Strategy Policy ADPP1, ADPP2 and CS1, Local Plan Policy HSG.1, and emerging HSA DPD Policy C1.

## **6.4 Compliance with emerging policies**

### Strategic Housing Land Availability Assessment (SHLAA)

- 6.4.1 The SHLAA identifies sites with potential for housing and makes an assessment of their developability. The SHLAA is a technical background document; it does not set policy or make recommendations on which sites should be allocated but summarises the issues that affect any future development of the site. Allocation comes later through the plan-led system.
- 6.4.2 The site was submitted to the Council and included in the December 2013 SHLAA (sites NEW031 (A) and NEW031 (B)). The site is one of a basket of sites which has been assessed as potentially developable. It is from this basket that the most appropriate for development have been selected as 'preferred options' through the DPD. The selection of sites has been based on evidence collected, technical assessments, the SA/SEA and the outcomes of public consultation. This process is well underway.
- 6.4.3 The site has been assessed as 'potentially developable' within the SHLAA, but this does not mean that the site will automatically be allocated for housing; rather it indicates that it is available for development, forming one of a basket of sites from which suitable sites will be selected for allocation. Development, such as this, should come forward as a result of allocation through the plan-led system. The site has been assessed on a consistent basis with other potentially developable sites in the SHLAA which has assessed which are the most suitable for allocation. North Newbury has not been selected as one of these sites.

### Housing Site Allocations Development Plan Document (HSA DPD)

- 6.4.4 The Council is preparing a Housing Site Allocations Development Plan Document (HSA DPD) under the framework of the Core Strategy, to allocate the remainder of the minimum 10,500 housing requirement.
- 6.4.5 In terms of the context to the Council's approach, section 19 (2) (h) of the 2004 Planning and Compulsory Purchase Act provides that a local planning authority preparing a DPD must have regard to any other relevant Local Development Documents, so, in this case, the Council must have regard to the Core Strategy when preparing a subsequent DPD.
- 6.4.6 The selection and allocation of sites in the Housing Site Allocations DPD has been based on evidence, technical assessments, the SA/SEA and the outcomes of public consultation. The Draft Submission DPD has now been published for a statutory period of consultation and is scheduled to be submitted to the Secretary of State in Spring 2016.
- 6.4.7 Two strategic allocations at Newbury were made through the Core Strategy. The role of the HSA DPD is to allocate a number of non-strategic sites in and around Newbury. The site at North Newbury was considered and rejected as an option. The objective of the DPD is to allocate the most sustainable non-strategic sites based on the technical evidence and the SA/SEA and in accordance with the housing distribution as set out in the spatial strategy of the Core Strategy that has been found sound and is adopted policy.
- 6.4.8 The proposed submission version of the DPD was approved by Council on 5th November 2015. The plan is now at a formal regulatory stage of the process; at this stage the plan represents the plan that the Council intends to submit to the Secretary of State for Examination. This emerging plan is a material consideration; consideration must be given to the weight that can be attached to these emerging policies, and the compliance of the proposed development to the emerging plan.

### Weight of emerging HSA DPD

- 6.4.9 Paragraph 216 of the NPPF states that decision-takers may give weight (unless material considerations indicate otherwise) to relevant policies in emerging plans according to:
- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
  - The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
  - The degree of consistency of the relevant policies in the emerging plan to the policies in the Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).
- 6.4.10 The Proposed Submission Version of the HSA DPD was approved by Council on 5th November 2015. A formal regulatory consultation is being undertaken which will end on 24 December 2015, prior to submission to the Planning Inspectorate for

Examination in Public. The emerging DPD is now at an advanced stage of preparation, increasing the weight that can be applied.

- 6.4.11 In total, over 8000 representations have been received in response to the consultation on Preferred Options. The Proposed Submission Version is the plan which the Council considers sound having taking into account all of the representations made in the preparation process as well as all of the evidence, increasing the weight that can be applied.
- 6.4.12 The first core planning principle of the NPPF is that planning should be genuinely plan-led, empowering local people to shape their surroundings. The HSA DPD is being prepared in the context of the NPPF, and therefore the plan-making process should be fully consistent with the policies therein.
- 6.4.13 Overall, taking into account the current stage of preparation, the unresolved objections, and the degree of consistency with the Framework, the emerging HSA DPD attracts significant weight. Granting planning permission for the proposed development would demonstrably undermine this emerging plan.

#### Prematurity

- 6.4.14 According to the Planning Practice Guidance, in the context of the NPPF and in particular the presumption in favour of sustainable development, arguments that an application is premature are unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the NPPF and any other material considerations into account. Such circumstances are likely, but not exclusively, to be limited to situations where both:
- a. the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or Neighbourhood Planning; and
  - b. the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.
- 6.4.15 Refusal of planning permission on grounds of prematurity will seldom be justified where a draft Local Plan has yet to be submitted for examination. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process.
- 6.4.16 In this specific instance, there are strong reasons why prematurity in advance of the HSA DPD justifies refusing planning permission.
- The development is of such a scale as to be considered strategic in relation to its size and likely impact on the surrounding area, including the infrastructure requirements arising from the site. As it has previously been promoted as a larger site for up to 2,000 dwellings, it also has the potential to come forward at a larger scale over time. The Core Strategy has already allocated two strategic

sites, and that further development is expected to include smaller extensions, rather than those of a strategic nature.

- The Core Strategy and emerging HSA DPD provide a planned approach for the sustainable growth of Newbury, taking into account the in-combination effects of the plan-led development to provide appropriate mitigation and infrastructure provision. This site has not been selected as a preferred option; other sites in Newbury have been assessed as preferable, based on the outcomes of a technical evidence base and the SA/SEA process.
- To allow this proposal of up to 401 dwellings would therefore predetermine the location of a significant proportion of new housing for the Newbury area. This would seriously compromise the ability of the local community to determine where growth should take place, and would conflict with the Core Strategy spatial vision. If developed in addition to preferred options for Newbury, it would also undermine the policy decision about the overall scale and phasing of development for Newbury. The development would therefore undermine the plan-making process.
- The emerging plan is at an advanced stage and is the outcome of the site selection process and public consultation. At this stage, the plan represents what the Council considers to be a sound plan.

6.4.17 This amounts to strong grounds for refusing planning permission on prematurity grounds in advance of the emerging HSA DPD.

## **6.5 Planning history**

6.5.1 Application 14/02018/OUTMAJ was found to be invalid after it was registered and during public consultation. The Council was therefore unable to determine the application, and the current application was subsequently submitted. Otherwise, there is no relevant history of planning applications.

## **6.6 Representations**

6.6.1 According to the Planning Practice Guidance, it is important that local planning authorities identify and consider all relevant planning issues associated with a proposed development. Consultees may be able to offer particular insights or detailed information which is relevant to the consideration of the application. Consultation responses (statutory, non-statutory and public) are summarised in Section 4 of this report.

6.6.2 Following the public consultation, there have been some 150 contributors submitting representations to the application. Shaw Cum Donnington Parish Council and the adjacent Speen Parish Council have both objected to the application. Such objections show public opinion, and this is a factor in decision making attracting weight.

6.6.3 Whilst the following sections address many of the comments made in the representations, some matters raised are not material considerations. A material planning consideration is one which is relevant to the decision whether to grant or refuse an application for planning permission. The scope of what can constitute a

material consideration is very wide and so the courts often do not indicate what cannot be a material consideration. However, in general they have taken the view that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property or loss of private rights to light could not be material considerations. The loss of a view to an individual property is not material because it is a private interest. Legal covenants on land are similarly not a material consideration because they represent a private interest. The granting of planning permission does not, however, alter a covenant which may still be capable of enforcement by the offended party.

## **6.7 Highway matters**

- 6.7.1 The highway matters of this development include access, accessibility, traffic generation, public transport provision and parking. The accessibility issues raised by this development are interrelated with design considerations, which are dealt with separately under section 6.8.
- 6.7.2 According to the NPPF, all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Decisions should take account of whether:
- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
  - safe and suitable access to the site can be achieved for all people; and
  - improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
- 6.7.3 According to Core Strategy Policy CS13, development that generates a transport impact will be required to:
- Reduce the need to travel.
  - Improve and promote opportunities for healthy and safe travel.
  - Improve travel choice and facilitate sustainable travel particularly within, between and to main urban areas and rural service centres.
  - Demonstrate good access to key services and facilities.
  - Minimise the impact of all forms of travel on the environment and help tackle climate change.
  - Mitigate the impact on the local transport network and the strategic road network.
  - Take into account the West Berkshire Freight Route Network (FRN).
  - Prepare Transport Assessments/Statements and Travel Plans to support planning proposals in accordance with national guidance.
- 6.7.4 According to saved Local Plan Policy TRANS.1, The transportation needs of new development should be met through the provision of a range of facilities associated with different transport modes including public transport, walking, cycling and parking provision.
- 6.7.5 The Local Transport Plan for West Berkshire is a statutory requirement of the Transport Act 2000 that sets the framework for the delivery of all aspects of



transport and travel for West Berkshire. It is an important material consideration, which contains a number of relevant policies. These include: LTP AT1 (Walking), LTP AT2 (Cycling), LTP K2 (Minimising Congestion), LTP K6 (Air Quality), and LTP K13 (New Development).

- 6.7.6 The application has been accompanied by a Transport Assessment (TA) which relates to the proposed development. A separate TA is also included within the Environmental Statement for a larger development of up to 533 dwellings and associated development. The TA has been subject to updates following negotiations with the Council, including submission of Transport and Access Supplementary Statements by the Applicant's consultants.

*Eastern parcel access onto 'The Connection'*

- 6.7.7 Access to the eastern land parcel for vehicles is proposed via 'The Connection', an un-adopted private road owned by Vodafone. The Connection is built to adoptable standard, but has never been adopted and remains private land. The applicants purport rights of access across The Connection. These access rights are under consideration and need to be further explored. The outcome will be reported in the Update Report.
- 6.7.8 Whilst The Connection is capable of providing suitable vehicular access, it does not provide a 'safe and suitable access for all people' (NPPF paragraph 32). This is because the access does not provide safe and attractive opportunities for travel on foot or by bicycle. There is no public footpath along the A339 and, whilst cyclists are legally entitled to use the A339, the busy nature of this dual carriageway does not provide an attractive option which would encourage sustainable travel from the site.
- 6.7.9 The public highway cannot therefore be relied upon to provide safe and suitable access to the eastern parcel for pedestrians and cyclists. The only other means of access are via Footpath 4 or the underpass.

*Footpath 4*

- 6.7.10 There are public footpaths which run through the site, connecting to the north-west and around the east and west of Vodafone's Headquarters to the south. These public footpaths are rural in nature, not overlooked and not illuminated, making them unattractive for day-to-day trips to and from a development area of this type, particularly during hours of darkness which can include peak hours during winter months. The footpaths around Vodafone's Headquarters to the south pass through a tunnel of vegetation with no overlooking and little means of escape; this is likely to increase the likelihood and fear of crime for residents of the development using these footpaths, particularly during hours of darkness.
- 6.7.11 These public footpaths do not provide a legal route for cyclists to to/from the eastern land parcel. The applicant indicates they would be willing to support the Council in the conversion of the public footpath to the west of Vodafone into a route that can legally be used by cyclists through a financial contribution within a Section 106 Agreement. The applicant has suggested that section 26 of the Highways Act 1980 or the Cycle Tracks Act 1984 could be used. Either mechanism could be used to undertake improvements to the existing footpath, but there is no certainty

with either approach that the improvements would be successfully achieved. Public consultation would be required to allow cyclists to use this route, which includes the right to public objection.

- 6.7.12 For the reasons set out above, the Highway Authority does not have surety that this route for cyclists will actually be delivered in practice. These options therefore cannot be relied upon to provide safe and suitable access for all.

#### Underpass Connection

- 6.7.13 The applicant proposes improvements to an existing underpass under the A339 between the eastern and western land parcels as a means of providing a shared cycle and pedestrian route from the eastern land parcel to the western land parcel and onwards to the wider area. This underpass would also serve as the only connection for sustainable modes of travel between the eastern and western land parcels and would provide the route for residents of the eastern land parcel to access local facilities, school and bus stops located within the western land parcel.
- 6.7.14 Highway officers have expressed concern with the proposed underpass throughout the consideration of the application. Indicative improvements to the underpass design have been presented in a revised Design and Access Statement and section drawings. This additional information sought to demonstrate an acceptable level of surveillance from surrounding houses.
- 6.7.15 Following careful consideration, the Highway Authority remains in opposition to the sole link for cyclists between the eastern and western land parcels being via an underpass. Manual for Streets (DfT and DCLG, 2007) notes that “It is difficult to design an underpass or alleyway which satisfies the requirement that pedestrians or cyclists will feel safe using them at all times” (paragraph 4.5.1). The current proposal is considered to poorly provide for cyclists and pedestrians, resulting in an environment that would increase fear of crime and would be likely to result in predominantly car-borne trips from the eastern land parcel.

#### Overall accessibility and provision for pedestrians and cyclists for eastern parcel

- 6.7.16 Without safe and suitable pedestrian and cycle connections between the eastern and western land parcels, the scheme would effectively result in the parcel of land east of the A339 being isolated from the proposed primary school, local centre, allotments and bus stop within the western parcel and only accessible by pedestrians using the public footpaths around Vodafone, which would not be conducive to encouraging walking during hours of darkness particularly during winter months when this could include peak hours.
- 6.7.17 Given the lack of alternatives and the scale of the development in the eastern parcel, it would be necessary to improve Footpath 4 and the underpass to a sufficient standard and design to facilitate safe and suitable access for all people (NPPF paragraph 32) to make the development acceptable. In accordance with paragraphs 176 and 177 of the NPPF, the development should not be approved if the measures required to make the development acceptable cannot be secured through appropriate conditions or agreements.

Lack of emergency access to eastern parcel

- 6.7.18 The Highway Authority has also outlined its concerns regarding the inability of the eastern parcel to provide an emergency access in the event that the main access or private road 'The Connection' is closed. To date, no further solution has been put forward by the applicant in this regard. The Council does not, however, have any policies or highway design guidance to support an objection on this basis.

Primary Vehicular Access from A339 to western parcel

- 6.7.19 Access to the western parcel for vehicles is proposed via a new fourth arm onto the west of the A339 / 'The Connection' roundabout. This access is onto the adopted road network and the applicant has demonstrated that appropriate visibility can be provided. Similar to the eastern site access, the main vehicular access does not provide a 'safe and suitable access for all people' (NPPF paragraph 32) as the access does not provide safe and attractive opportunities for travel on foot or by bicycle. However, in the case of the western parcel, appropriate accesses for pedestrians, cyclists and public transport have been proposed elsewhere onto the wider highway network, as set out below.

Love Lane access – restricted use

- 6.7.20 The applicant proposes a priority T-junction access onto Love Lane opposite Northern Avenue. This would provide vehicular access to school pick-up and drop-off areas, a bus gate, and for emergency vehicles. There would be no through route for general traffic to either the development or to the A339, preventing rat-running from the A339 through the development to Love Lane. This access would also provide a route for pedestrians and cyclists to Love Lane for onward travel to education, employment and Newbury Town Centre.
- 6.7.21 Associated with the Love Lane access works is a need to move the existing pedestrian crossing build-out to the west of Northern Avenue westwards. This would require provision of an interconnecting section of footway from Northern Avenue and formalisation of the existing hard-strip to the north of the service road to the east of Northern Avenue as footway (opposite numbers 9 to 11), including appropriate footway surfacing and full-height kerb up-stands. The applicant has assessed the swept paths of vehicles accessing driveways and found this to be acceptable with the footway provided. The Highway Authority has sought clarification from West Berkshire Council's Legal Services team about the intended purpose of this hard-strip and whether this was intended to be provided use as footway, for vehicle turning, or for parking. A 'shared space' treatment for the service road and hard strip could be considered if this area cannot be made solely footway use. A shared space would be appropriate for the service road considering the low level and slow speed of traffic, but the nature of surfacing across the carriageway of the service road would be needed.
- 6.7.22 Additional investigation and clarification will be required before the proposed footway link and relocation of the build-out can be undertaken. A Stage 1 Road Safety Audit of the Love Lane access proposals will also need to be undertaken. There is, however, sufficient certainty at the outline stage that these matters can be addressed by planning conditions or at reserved matters stage.

### Oxford Road pedestrian and cycle access

- 6.7.23 Highway officers have set out the preferred position in terms of comprehensive provision for pedestrians and cyclists in this area. The applicant has subsequently proposed a simpler scheme, taking into account the predicted low usage of this access point. The simpler scheme proposed comprises a pedestrian build-out, with associated passive-safe keep-left bollard for the southbound vehicle approach, and an advisory 'H-bar' marking in order to deter parking across the pedestrian and cycle access into the development. Whilst the Highways Authority would have preferred to see a more comprehensive scheme for provision for pedestrians and cyclists in this location, the simpler scheme proposed is considered acceptable considering the predicted low usage of this access point, subject to a Stage 1 Road Safety Audit. There is sufficient certainty at the outline stage for this matter to be addressed by a planning condition.

### Traffic generation

- 6.7.24 The Newbury VISSIM model has been used by the Highways Authority to assess the development. The results are presented in the Highways Memorandum dated 17 August 2015. The results highlight the overall network increases in 'delay per arriving vehicle', 'total delay' and 'total travel time' along with results for 'junction delay', 'journey times' and queue lengths.
- 6.7.25 It is demonstrated that the proposed development would result in:
- a severe impact on delay at the Robin Hood gyratory during the PM peak hour with an average increase in delay of 21.1 seconds (+28%) per vehicle;
  - a severe impact on journey times for routes which use the Robin Hood gyratory, particularly during the PM peak hour. The impact on route 2 (B4009 → A339 → St John's Road) southbound is predicted to be an increase of 3 minutes 41 seconds (+27%). The impact on route 4 (Market St → A339 → A4 London Road) eastbound is predicted to be an increase of 6 minutes 19 seconds (+20%);
  - increases in queue lengths at the Robin Hood gyratory, with queues increasing on most arms during the PM peak hour, up to +47m on B4009 approach; and
  - increases in delay and queues on the A339 approaches to the A339 / St John's roundabout, particularly during the AM peak hour. This is likely to increase tailpipe emissions with the Air Quality Management Area on the A339.
- 6.7.26 No proposed mitigation or improvement scheme has been submitted to the Local Highway in order to resolve the severe impacts predicted by the VISSIM model as a result of the proposed development.

### Parking

- 6.7.27 Ensuring adequate parking provision is a matter that would be assessed in detail at the reserved matters stage. The assessment would be based on the parking standards applicable at that time. The illustrative information provided at this outline stage does not raise any concerns with the capability of the development to provide appropriate parking levels.
- 6.7.28 The current parking standards are contained within Appendix 5 of the Local Plan. According to saved Local Plan Policy TRANS.1, the level of parking provision will depend on the availability of alternative modes, having regard to the maximum standards adopted by West Berkshire Council. Standards below the maximum level may be applied in more accessible locations.
- 6.7.29 The emerging HSA DPD includes new residential parking standards that are consistent with the Written Statement to Parliament – Planning Update March 2015 and paragraph 39 of the NPPF which states: If setting local parking standards for residential and non-residential development, local planning authorities should take into account:
- the accessibility of the development;
  - the type, mix and use of development;
  - the availability of and opportunities for public transport;
  - local car ownership levels; and
  - an overall need to reduce the use of high-emission vehicles.
- 6.7.30 It is likely that the residential parking standards in the HSA DPD will be the relevant standards by the time that any reserved matters application is submitted.
- 6.7.31 Provision of cycle parking would be a matter that would be addressed in detail at reserved matters stage. The assessment would be based on the cycle parking standards applicable at that time. The current standards are set out in West Berkshire Council Cycle and Motorcycle Advice and Standards for New Developments (November 2014). The illustrative information provided at this outline stage does not raise any concerns with the capability of the development to provide appropriate cycle parking.

### Public Transport

- 6.7.32 The applicant has provided a 'Transport and Access Supplementary Statement' dated June 2015 which sets out a proposed new bus route between the development and the town centre and railway station via Love Lane, Oxford Road, Oxford Street, London Road, Parkway, Wharf Street, Bear Lane and Cheap Street. The following frequencies are proposed:

#### Monday to Friday

- 06:30 – 09:00 – 30 minute frequency
- 09:00 – 17:00 – 60 minute frequency
- 17:00 – 19:00 – 30 minute frequency

#### Saturday

- 08:00 – 18:00 – 60 minute frequency

Sunday

- 10:00 – 16:00 – 120 minute frequency

- 6.7.33 A fully DDA compliant 29 seater bus with low floor, wheelchair and buggy area and seat belts is proposed. The 'Transport and Access Supplementary Statement' states that this bus service would be funded for 5 years and secured through an appropriate legal agreement.
- 6.7.34 In a 'Response to WBC on Sustainable Strategy' dated on 28 August 2015 the applicant's highway consultant provided a drawing that shows walking distance contours through the development to bus stops. This indicates that the majority of the western land parcel is within the recommended 400m walking distance set out in the CIHT document 'Planning for Public Transport in Developments'. Around a quarter of the dwellings in the eastern land parcel are outside the recommended 400m walking distance, and all of the eastern parcel would only have access to bus stops via the underpass. The Highway Authority's objection to the reliance on the underpass is set out above.

### Conclusion

- 6.7.35 The Highway Authority objects to the development due to insufficient road capacity of the A339 and lack of proposed mitigation measures. The proposal is contrary to Government advice contained within the National Planning Policy Framework, Core Strategy Policies CS5 and CS13, and Local Transport Plan Policies LTP K2 and LTP K6.
- 6.7.36 The Highways Authority also objects to the development because the sustainable transport measures proposed fail to provide safe and suitable access to the site for all people. Appropriate access to all areas of the site using sustainable modes of travel has not been demonstrated. This, combined with the ease of movement between the site and the Strategy Road Network by car, indicates that the proposal is not balanced in favour of sustainable modes of travel; would not give people a real choice about how they travel; would not improve and promote opportunities for healthy and safe travel; and would not create safe environments which address crime prevention and community safety. The proposal is therefore contrary to Government advice contained within the National Planning Policy Framework, Core Strategy Policies CS13 and CS14, and Quality Design SPD.

## **6.8 Design**

- 6.8.1 The NPPF attaches great importance to the design of the built environment, and securing high quality design is one of the core planning principles of the Framework. Core Strategy Policy CS14 states that new development must demonstrate high quality and sustainable design. The Council has adopted Quality Design SPD which gives detailed design guidance. Part 1 in particular provides design guidance, including key urban design principles. The Planning Practice Guidance explains that planning should promote safe, connected and efficient streets, and address crime prevention.
- 6.8.2 The application is submitted in outline, therefore much of the information has been provided on an illustrative basis. The parameter plans would be approved at outline stage; the illustrative masterplan shows one way the development could be carried

out, but this could change at the reserved matters stage. As a consequence the reserved matters stage is the point at which the detailed design can be assessed, but it is essential to ensure that the design principles are acceptable at the outline stage.

- 6.8.3 The submission includes a Design and Access Statement (D&A) against which general conformity could be conditioned. Access is to be considered at the outline stage, so full consideration must be given to accessibility and connections to the surrounding area. The landscape and visual impacts of the development are addressed in Section 6.12.
- 6.8.4 The Design and Access Statement includes a review of local character, which would be expected to follow-through to the detailed design of the reserved matters stage. The illustrative internal layout indicates a good level of continuity and enclosure, meaning that public and private spaces can be clearly distinguished. This, together with the overall quality of the public realm, ease of movement, legibility, adaptability and diversity of the development would be assessed at reserved matters stage.

#### *Movement and connections*

- 6.8.5 According to the Quality Design SPD, the structure of a site and its relationship to surrounding areas are fundamental to the layout and design of all new development. The objective should be to ensure that the structure is well integrated with surrounding streets, in order to provide for the optimum variety of journeys, to promote more sustainable forms of movement and to ensure maximum safety and security of users. The quality of a route will also often determine people's choice of transport mode and people are more likely to walk or cycle if the street is safe, visually interesting and lively.
- 6.8.6 The Quality Design SPD also emphasises that easy walking access to local services and public transport from new development reduces the need to use the car and helps to ease congestion and pollution problems. Such proximity to public transport also helps to make new homes and facilities accessible to those who do not have a car. Furthermore, new development should attempt to link up to the existing cycle network.
- 6.8.7 The illustrative masterplan presents two parcels of development either side of the A339 which have a generally permeable layout, meaning the developed areas allow convenient walking and cycling routes through. The access points to the surrounding neighbourhoods are, however, limited. Pedestrian and cycle access to the western parcel is provided onto Love Lane and Oxford Road. Whilst more points of access would be preferable, on balance there is adequate access proposed to the western parcel.
- 6.8.8 The eastern parcel is relatively isolated, and is disconnected from the surrounding area by the A339 and Vodafone HQ. The eastern parcel relies on the A339 underpass and Footpath 4 as its only means of pedestrian and cycle access.
- 6.8.9 There are concerns with both of these access arrangements. Section 6.7 outlines the concerns of the Highway Authority, which are focused on promoting sustainable modes of transport. This section elaborates on the design concerns. Thames

Valley Police has objected to the development because the proposed layout would create a neighbourhood where crime and disorder, and the fear of crime, would undermine quality of life and community cohesion.

#### Underpass

6.8.10 The Highways Authority and Thames Valley Police object to the design of the underpass. Overall, the following concerns relate to the underpass:

1. Surveillance: The underpass lacks surveillance from surrounding buildings. It is off-set from the nearest dwellings and it appears that sightlines will be affected by deviation in direction of travel (public footpaths entering at 90 degrees) and changes in surface levels. The proposed landscaping (height of hedge/trees) within the splayed entrance/egress is likely to have a significant negative impact on natural surveillance opportunities. This combined with the restrictive access and movement through the underpass, and the opportunity for anti-social behaviour gathering at either end, would serve to create an environment that could attract crime, increase the fear of crime, and reduce the quality of life of the community.
2. Access and movement: The underpass is too narrow and low. This combined with its necessary length is likely to create an enclosed, confined feel to the environment, and create possible conflict between pedestrians and cyclists travelling in opposite directions.
3. Activity: The indicated design showing wall structures defining the space either side of the underpass raises concerns because it could give opportunities for individuals to hide. Such areas can be problematic in terms of anti-social behaviour, raise the fear of crime, and deter residents from using the underpass.

6.8.11 Further improvements could be made to the underpass in terms of lighting, CCTV, and re-designing of the areas either side. Concerns relating to the depth, height and size ratio of the underpass, and the surface levels either side are, however, fundamental. Furthermore, the proposed layout either side, with only a small number of buildings potentially capable of providing surveillance at tight angles, does not allow a high level of surveillance through the underpass.

6.8.12 The design of the underpass is critical to the overall acceptability of the development layout. The whole eastern parcel relies on this area for pedestrian and cycle access to the surrounding area and public transport links. The development is contrary to the NPPF, Core Strategy Policy CS14, the Quality Design SPD, the Manual for Streets, and Secure by Design in this respect. The poor design therefore weighs heavily against the application.

#### Footpath 4 to Love Lane

6.8.13 The Highways Authority objects to the partial reliance on Footpath 4, around Vodafone HQ to Love Lane, for pedestrian and cycle access. Overall, the following concerns relate to Footpath 4:

1. Length: The footpath is approximately 500 metres long between The Connection and Love Lane.



2. Winding nature of the route: There are numerous blind corners and no inter-visibility between either ends of the route.
3. Tree cover: There is dense and mature tree cover on both sides of the path that restricts visibility out from, or over the footpath. Combined with the winding nature of the route, this would lend the route to anti-social behaviour and people wishing to walk along the footpath would enter 'blind'.
4. Lack of any alternative routes: There are a couple of access points into private property (Vodafone HQ), and a stile leading to a track up the bank onto Love Lane, but these are not viable escape routes, especially for less mobile users. The lack of alternative routes would engender a fear of crime.

6.8.14 The cumulative effect of the above attributes means that it is not an attractive route for pedestrians (or cyclists, if improvements are made). As the only alternative pedestrian route to the eastern parcel in addition to the underpass (for which there are also serious concerns), these limitations weigh heavily against the application.

6.8.15 The applicants have stated that they would be willing to support the Council in the conversion of the public footpath to the west of Vodafone into a route that can legally be used by cyclists through a financial contribution within a Section 106 Agreement. However, for the reasons detailed in Section 6.7 of this report, there is no certainty that such improvements could be delivered.

### Conclusion

6.8.16 Most design considerations would be subject to assessment at the reserved matters stage. However, given that the A339 underpass and Footpath 4 are critical for pedestrian and cycle access to the eastern parcel, it is clear at this stage that their limitations would result in a layout that would create a neighbourhood where crime and disorder, and the fear of crime, would undermine quality of life and community cohesion. The development would therefore fail to achieve a high standard of design in terms of movement, connections, safety and security.

6.8.17 The application is therefore contrary to the National Planning Policy Framework, the Planning Practice Guidance, Policies CS13 and CS14 of the West Berkshire Core Strategy (2006-2026), the DfT Manual for Streets, the Thames Valley Police Secured by Design Compendium, and the West Berkshire Quality Design SPD.

## **6.9 Education**

6.9.1 The NPPF seeks to balance land uses, and particularly for larger scale residential developments ensure that a mix of uses provides opportunities for undertaking day-to-day activities on site. Where practical, particularly within large-scale developments, key facilities such as primary schools should be located within walking distance of most properties.

6.9.2 According to paragraph 72 of the NPPF, the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to

development that will widen choice in education. They should give great weight to the need to create, expand or alter schools; and work with schools promoters to identify and resolve key planning issues before applications are submitted.

- 6.9.3 The Core Strategy Spatial Vision sees the population of the district increasing, but the infrastructure to support this growth being delivered, including good access to education mostly within walking or cycling distance. Policy CS5 says the Council will work with infrastructure providers and stakeholders to identify requirements for infrastructure provision and services for new development and will seek to co-ordinate infrastructure delivery.
- 6.9.4 The proposed application of 401 dwellings (not the larger ES scheme) has been assessed using the methodology set out within the Education Topic Paper of the Planning Obligations SPD. The dwelling mix provided in the application documents has been used to determine the impact by phase of education. This indicates that the development would require a single form entry primary school.
- 6.9.5 The development site is within the catchment area of Shaw-cum-Donnington Primary School. This school is a small village school that currently is at capacity and therefore is not able to accommodate additional pupils generated by the development. The school has 98 places providing education from Reception through to Year 6 (4 to 11 year olds). Due to the site constraints this facility has no scope to expand to mitigate the impact of the development.
- 6.9.6 The small numbers of pupils generated in Early Years, Secondary, and Special Educational Needs provision by the development would necessitate incremental increases in school capacity. In accordance with Planning Obligations SPD, any incremental increases in school capacity will be funded through the CIL. The Council is satisfied that the increasing demand on these facilities can be accommodated on this basis.
- 6.9.7 Based on the number of primary level pupils likely to be generated by the development, the Council anticipate that a new single form entry primary school would be required to mitigate the impact of the development. This new provision would ideally be located on the development site and would serve these dwellings only. As a new school required directly as a result of new development, provision must be secured through a Section 106 legal agreement. The development is large in scale and impact on the Education infrastructure.
- 6.9.8 An Education Strategy has been supplied by EFM Ltd, on behalf of the applicants. This sets out a proposed strategy for mitigating the impact on primary education. The proposed primary solution accords with the Council's position. The development is therefore capable of complying with the NPPF and local policies, subject to site suitability, detailed design and provision being adequately secured.
- 6.9.9 The specification and level of accommodation has been subject to consideration by the Council to ensure that the size of the internal and external spaces meet the standards set out in the Department for Education's Building Bulletin 103. The proposed school site is considered acceptable at a high level, having undertaken a review of the site constraints and likely planning requirements. Further consideration of the detailed matters would be required if the Council were to grant planning permission.

- 6.9.10 The proposed school has been reduced in size during the consideration of this application, from a 2 form entry (FE) to a 1 FE. Only a 1 FE is directly necessary as a result of the development. It should be noted that the shape and small size of the school site would limit future opportunities for expansion to a 2 FE. It is likely that any expansion would require a two storey building, which may have adverse landscape impacts.
- 6.9.11 Whilst the school site is considered acceptable in principle, it has not yet been determined by what mechanism the school would be provided. Depending on phasing, a temporary education provision may also be required. Following a resolution to grant planning permission, the Council Members would need to reach agreement on whether the Council constructs the school or requires the developer to do so. This process could run in parallel to the S106 drafting process. If suitable agreement was not reached, the application could be brought back to committee for a new resolution.
- 6.9.12 Subject to the completion of a suitable planning obligation as detailed above, the education impact of the development is capable of being mitigated. On this basis, the proposed development would comply with the NPPF, Core Strategy Policies ADPP1, ADPP2 and CS5, and Planning Obligations SPD in respect of education provision.

## **6.10 Open space**

- 6.10.1 According to the NPPF (paragraph 73), access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area.
- 6.10.2 Core Strategy Policies CS5, CS14 and CS18 all seeks to ensure good quality open space within development. Saved Local Plan Policies RL.1, RL.2 and RL.3, together with the Planning Obligations SPD, provide a clear framework for delivering open space within major developments that is consistent with the NPPF.
- 6.10.3 The Council's minimum standard is 3 hectares of public open space per thousand population. The total amount of public open space proposed is 6.97 hectares. This includes attenuation areas within the open space, but not the school grounds or playing field which would not be publically accessible. The total public open space, excluding attenuation areas, is 6.55 hectares.
- 6.10.4 According to the 2011 census, the average occupancy rate in West Berkshire is approximately 2.4 persons per household. On this basis the public open space is adequate. The application is accompanied by an indicative tenure of the development, and based on this more detailed assessment the proposed public open space is also adequate.
- 6.10.5 The applicant has indicated that the site management company could be responsible for future maintenance of the open space. Alternatively, the space

could be adopted by the Council. Such arrangements can be secured under a S106 legal agreement. Subject to a legal agreement, the development is therefore capable of complying with the aforementioned planning policies.

## **6.11 Social infrastructure**

- 6.11.1 A number of representations explain that the local doctor surgeries are at capacity and suggest that the development will place further pressure on these facilities. According to the Planning Obligations SPD, extensions and/or new doctors surgeries required directly as a result of a development should be provided through a planning obligation, whereas increasing capacity at local surgeries should be provided through the CIL.
- 6.11.2 Whilst it is clear that an increase in local population will increase demand for such facilities, there has not been a request from the NHS Clinical Commissioning Group for a new or extended surgery. The impact of the development should therefore be mitigated through the CIL.
- 6.11.3 Similarly, the impact on public libraries, community facilities, recycling/waste facilities, and adult social care would be mitigated through the CIL.

## **6.12 Landscape and visual impact**

- 6.12.1 One of the core planning principles of the NPPF is that planning should take account of the different roles and character of different areas, promoting the vitality of our main urban areas ... recognising the intrinsic character and beauty of the countryside and supporting thriving communities within it. The NPPF advises that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.
- 6.12.2 Core Strategy Policy CS19 states in order to ensure that the diversity and local distinctiveness of the landscape character of the District is conserved and enhanced, the natural, cultural and functional components of its character will be considered as a whole. In adopting this holistic approach, particular regard will be given to, amongst other matters:
  - (a) The sensitivity of the area to change.
  - (b) Ensuring that new development is appropriate in terms of location, scale and design in the context of the existing settlement form, pattern and character.
- 6.12.3 According to Policy CS19, proposals for development should be informed by and respond to:
  - (a) The distinctive character areas and key characteristics identified in relevant landscape character assessments including Historic Landscape Characterisation for West Berkshire and Historic Environment Character Zoning for West Berkshire;
  - (b) Features identified in various settlement character studies including Quality Design SPD, ... and community planning documents which have been adopted by the Council such as Parish Plans and Village Design Statements.
- 6.12.4 The application is accompanied by landscape and visual impact assessments (LVIA). The Council's Landscape Architect Consultant has been engaged since the pre-application stage and has contributed to the scope and baseline for the LVIA.

- 6.12.5 The principle of some development within the application site boundary was accepted by the West Berkshire Local Development Framework: An Integrated Landscape Sensitivity Approach to Settlement Expansion within West Berkshire (2009). The site lies within the Shaw Farm Dipslopes character area (LLCA2F) which was identified as having a medium-low inherent landscape sensitivity and medium wider sensitivity.
- 6.12.6 The principle of some development within the application site boundary was also accepted in West Berkshire Core Strategy: Landscape Sensitivity Assessment of Potential Strategic Development Sites (2009) which included the site within potential strategic development Area 4. The Study concluded that development could be acceptable on Area 4 in the area of the application site provided, in particular, the integrity of Donnington village can be maintained, and that the character of Shaw Farm Road can be protected.
- 6.12.7 The key characteristics of this area which should be respected in any development proposals for the area are:
- The need to protect the contrast between the open countryside and the urban area of Newbury;
  - The value of the land as Grade 2 agricultural land;
  - The prominence of Vodafone and its role as an individual landmark feature;
  - The need to maintain the separate character of the settlement of Newbury, a major urban area, and Donnington, a small historic settlement with ribbon development up Oxford Road;
  - The good landscape and visual links with the adjacent landscape character areas which cover the wooded plateau and hillsides to the east (medium sensitivity) and the settled well treed landscape of the Donnington plateau to the west (medium sensitivity); and
  - Role of the eastern part of the area as a setting to the wooded hillsides.
- 6.12.8 In summary, the principle of some form of development on the application site in landscape and visual terms is accepted. However the form, scale, extent and location of the proposed development should not result in an unacceptable level of harm to the landscape character and appearance and visual amenity of the area. The development should integrate with and respect the built form of north Newbury. These are in particular:
- The open landscape setting to High Wood and Brickkiln Wood;
  - The landscape setting to and settlement character of Donnington and settlement along Oxford Road;
  - The landscape and visual qualities of the important approach to Newbury along the A339;
  - The built form and landscape north of Shaw, including Vodafone;
  - The rural character of the adjacent LLCAs 13A and 14B and views to the wooded skyline in these areas;
  - The landscape setting of Shaw Farm; and
  - Mitigation of views from sensitive visual receptors.
- 6.12.9 A number of amendments have been made to the proposal that addressed detailed landscape and visual impact concerns. These have included reduced building heights and densities, minor changes to size and shape of developed areas, additional structural planting along the site boundaries (particularly western and

northern), improved landscaped buffer zones, the removal of the proposed acoustic fence along the A339, and an increased set back of development to the east of the A339.

- 6.12.10 The Landscape Consultant is satisfied that the development shown in the latest parameters plans and illustrative Landscape Framework, which incorporate the various amendments to the scheme, overcome the concerns raised during the consideration of the application. On this basis, the development is considered to comply with the NPPF, Core Strategy Policy CS19, and the various other documents referred to above, in terms of the landscape and visual impact.

### **6.13 Amenity of existing properties**

- 6.13.1 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 NPPF. According to Core Strategy Policy CS14 new development must make a positive contribution to the quality of life in West Berkshire. Adverse impacts to neighbouring amenity could potentially arise from (but not necessarily limited to) any overlooking or overshadowing of neighbouring land by the development, and any new noise or disturbance (during construction or from approved uses). Guidance on maintaining high standards of amenity for adjoining property is contained in Quality Design SPD (Part 2).
- 6.13.2 The impact on neighbouring amenity is an issue that would need to be examined at the reserved matters stage, giving proper scrutiny to detailed plans. The illustrative layout does not, however, raise any significant concerns at the outline stage, particularly because of the separation distances from indicative buildings and neighbouring properties and the intervening landscaping along the boundaries of the site.
- 6.13.3 The air quality and noise assessments acknowledge that operations are likely to cause disturbance to neighbouring residents. They refer to the need for a 'Construction Environmental Management Plan' and 'Dust Management Plan' to minimise impacts on neighbours. Recommendations are made for these plans including consultation with neighbours and dealing with complaints. Additional restrictions would also be required on working hours and auger piling to minimise disturbance.
- 6.13.4 The Environmental Health Officer is satisfied that such measures would mitigate any adverse impacts to an acceptable level. The prior approval and implementation of these plans could be secured by condition.
- 6.13.5 Owing to the separation distance to existing neighbouring properties, with the intervening proposed landscaping and open space, the development would not result in any significant overlooking, overbearing or overshadowing impact.
- 6.13.6 Subject to conditions, therefore, the development is capable of complying with Policy CS14 in terms of neighbouring amenity.

## **6.14 Amenity of future occupants of development**

- 6.14.1 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 NPPF. According to Core Strategy Policy CS14 new development must make a positive contribution to the quality of life in West Berkshire. According to Local Plan Policy OVS.6, the Council will require appropriate measures to be taken in the location, design, layout and operation of development proposals in order to minimise any adverse impact as a result of noise generated. Adverse impacts to future occupant's amenity could potentially arise from (but not necessarily limited to) the existing noise environment, noise generating uses within the development, overdevelopment, and poor quality outdoor amenity space.
- 6.14.2 The noise assessment highlights high existing noise levels from traffic. Noise levels are unlikely to be a determining factor for the majority of the proposed dwellings, but there are a number of dwellings where unmitigated noise levels are capable of being a determining factor. There are some buildings where windows would need to remain closed to meet internal noise standards, and in these cases additional means of ventilation will be needed.
- 6.14.3 To the east of the A339, it is now proposed that the buildings front the A339 along the length of the development, with dwellings used to screen private gardens. The proposals also allow for a minimum 25m strip of public open space along the east of the A339. There are no longer any proposals for an acoustic fence.
- 6.14.4 To the west of the A339, the Design and Access Statement identifies proposed amenity space or parking for apartment blocks (Section DD, page 37) close to the A339. Noise levels in this area are predicted to be LAeq 63-72dB (day time) and LAeq 57-66dB (night time). This is not identified as public open space and levels are well above standards for amenity space detailed in BS8233, LAeq 50-55dB. Contrary to the suggestion in the Environmental Statement (paragraph 18.34), it is not accepted that the noise impact on amenity space is insignificant compared to the benefit of an amenity space in an urban environment. Environmental Health instruct that further consideration should be given to this matter to ensure the amenity of residents living in proposed apartments are protected in the same manner as residents living in proposed houses. For example, redesign of the layout could use buildings to screen amenity space from traffic noise as east of the A339. This issue would need to be addressed at the reserved matters stage.
- 6.14.5 It is also important to ensure that future residents do not suffer excessive noise from plant installed in relation to the non-residential uses within the local centre. This could include, for example, chillers and ventilation systems. The prior approval of such plant and equipment can be secured by condition.
- 6.14.6 The application is made in outline, and if approved would be subject to the later approval of reserved matters. The accompanying masterplan is illustrative and therefore does not necessarily show how the site would eventually be developed. As such, detailed consideration cannot be given to possible overdevelopment or inadequate outdoor amenity space at this stage. Having regard to the proposed density, it is unlikely that the parameters of the outline application would unduly constraint a high standard of design at the reserved matters stage.

- 6.14.7 Subject to the resolution of the above issues at reserved matters stage, or by condition, the development is capable of complying with the aforementioned policies.

## **6.15 Waste collection**

- 6.15.1 Waste Management have raised concerns regarding the ability to provide a waste and recycling collection service to houses in the eastern parcel because The Connection is not public highway. As detailed in Section 6.7, the rights of access over The Connection are pending further consideration. This matter will be addressed in the Update Report.

## **6.16 Affordable housing**

- 6.16.1 Core Strategy Policy CS6 states that in order to address the need for affordable housing in West Berkshire a proportion of affordable homes will be sought from residential development. The Council's priority and starting expectation will be for affordable housing to be provided on site in line with Government policy.
- 6.16.2 On development sites of 15 dwellings or more 40% provision will be sought on greenfield land. This application proposes up to 401 dwellings, which equates to a requirement for 160 affordable units (160.4 rounded down).
- 6.16.3 According to Policy CS6, in determining residential applications the Council will assess the site size, suitability, and type of units to be delivered. The Council will seek a tenure split of 70% social rented and 30% intermediate affordable units, but will take into consideration the identified local need and the site specifics, including funding and the economics of provision. The Housing Officer therefore requires 112 of the units for social rent and 48 of the units as shared ownership.
- 6.16.4 Following welfare reform and the introduction of social sector size criteria (bedroom tax) the Housing Officer advises that the Council now requires smaller properties for affordable housing, predominantly 1 and 2 beds, although there is still a need for some three bedroom homes. There is also a preference for houses as opposed to flats, but any mix in property type should be reflective of the overall development.
- 6.16.5 The mix has been amended during the application to reflect the identified local affordable need. The proposal now provides 56 no. one bed flats, 36 no. two bed flats, 36 no. two bed houses, 24 no. three bed houses, and 8 no. four bed houses.
- 6.16.6 According to Policy CS6, the affordable units will be appropriately integrated within the development. The Council will expect units to remain affordable so as to meet the needs of both current and future occupiers. The Planning Obligations SPD provides detailed policies on the layout, design and integration of affordable housing.
- 6.16.7 According to the Planning Obligations SPD, a Section 106 agreement will be required to cover the following issues:
- Arrangements for, and cost of transfer of affordable units;
  - Methods of securing affordability in perpetuity;
  - Proportion, mix of types and tenure of affordable dwellings;
  - Design and construction standards;



- Creation of small groups of dwellings and ‘pepper potting’ to ensure full integration;
- Inclusion of environmental design features;
- Arrangements for special needs dwellings.

6.16.8 Subject to the completion of a suitable Section 106 agreement that is in full compliance with these policies, the development is capable of complying with Core Strategy Policy CS6 and the Planning Obligations SPD in terms of affordable housing provision.

## **6.17 Local centre**

6.17.1 The development includes a 400 square metre area for a ‘local centre’ adjacent to the A339 access to the western parcel. This is defined on the Land Use Parameters Plan as ‘ground floor mixed use, residential above, with surface parking’. The ground floor units could include any mix of the following uses: A1 (shops), A2 (financial/professional services, e.g. banks), D1 (non-residential institutions, e.g. clinics, places of worship) and D2 (assembly and leisure, e.g. gymnasiums).

6.17.2 The NPPF seeks to balance land uses, and particularly for larger scale residential developments ensure that a mix of uses provides opportunities for undertaking day-to-day activities on site. Where practical, particularly within large-scale developments, key facilities such as local shops should be located within walking distance of most properties. For larger scale residential developments in particular, planning policies should promote a mix of uses in order to provide opportunities to undertake day-to-day activities including work on site.

6.17.3 In this policy context, the provision in this small area of a local centre containing uses such as those described above, is considered proper planning and proportionate to the scale of the overall development.

6.17.4 Notwithstanding (and without prejudice to) the overarching concerns regarding the accessibility of the eastern parcel, the proposed location for the local area would be well suited to enable use by the majority of the new community.

## **6.18 Flood risk**

6.18.1 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 also outside of any designated Critical Drainage Area. It is therefore suitable for residential development in terms of flood risk.

6.18.2 Following the receipt of additional information, the Environment Agency has withdrawn an initial objection subject to conditions. The development is therefore capable of compliance with the aforementioned planning policies.

## **6.19 Sustainable drainage**

- 6.19.1 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 Planning Practice Guidance is more specific; it advises that whether a sustainable drainage system should be considered will depend on the proposed development and its location, for example whether there are concerns about flooding. New development should only be considered appropriate in areas at risk of flooding if priority has been given to the use of sustainable drainage systems. Additionally, and more widely, when considering major development, as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015, sustainable drainage systems should be provided unless demonstrated to be inappropriate.
- 6.19.2 The decision on whether a sustainable drainage system would be inappropriate in relation to a particular development proposal is a matter of judgement for the local planning authority. In making this judgement the local planning authority will seek advice from the relevant flood risk management bodies, principally the lead local flood authority, including on what sort of sustainable drainage system they would consider being reasonably practicable.
- 6.19.3 In light of the above Planning Practice Guidance, sustainable drainage is clearly necessary for this scale of development. Generally, the aim should be to discharge surface run off as high up the following hierarchy of drainage options as reasonably practicable:
- (a) into the ground (infiltration);
  - (b) to a surface water body;
  - (c) to a surface water sewer, highway drain, or another drainage system;
  - (d) to a combined sewer.
- 6.19.4 The application is accompanied by a Flood Risk Assessment, which proposed a drainage strategy for the development. The proposals include a large attenuation area in the eastern parcel, and smaller attenuation areas in the western parcel. A culvert is also proposed through the underpass.
- 6.19.5 Overall, the Lead Local Flood Authority is satisfied in principle with the proposals for sustainable drainage. Detailed points have been raised, but these fall within the scope of pre-commencement conditions. Within the context of an outline planning application, the development is therefore capable of compliance with the aforementioned planning policies.

## **6.20 Ecology**

- 6.20.1 According to Core Strategy Policy CS17, biodiversity and geodiversity assets across West Berkshire will be conserved and enhanced. The application is accompanied by an Ecological Mitigation Strategy.
- 6.20.2 The Council's Ecologist has considered the implications of this application against The Conservation of Habitats and Species Regulations 2010 and advised that, subject to conditions and a planning obligation, the actions authorised by this application would not be detrimental to the maintenance of the species concerned at a Favourable Conservation Status in their natural range.

- 6.20.3 Subject to conditions and planning obligations, the development is therefore capable of compliance with the NPPF and Policy CS17.

## **6.21 Trees**

- 6.21.1 According to the Council's Arboricultural Consultant, the trees on the site are of relatively poor quality, with the exception of a group of trees to the west which are subject to a tree preservation order (TPO). These TPO trees will not be impacted by the development, neither will a mature and important Walnut to the east, adjacent to Shaw Farm. No concerns have been raised by the Arboricultural Consultant in relation to the proposed access points to the site.
- 6.21.2 Subject to the prior approval and implementation of a tree protection scheme, the development would not adversely affect any important trees within or around the site. A comprehensive landscaping scheme would be expected at reserved matters stage to ensure that any minor impacts to existing trees are fully mitigated with replacement planting. The development is therefore capable of compliance with the relevant policies of the NPPF, and Core Strategy Policies CS14, CS17, CS18 and CS19.

## **6.22 Contaminated land**

- 6.22.1 According to the NPPF (paragraph 121), planning decision should ensure that the site is suitable for its new use, taking into account pollution arising from previous uses. After remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990.
- 6.22.2 The application is accompanied by a desktop study and preliminary site investigation, which concluded that there is no evidence to suggest that the site had suffered any significant contamination in the past. However, Environmental Health advises that possible contamination could have arisen from previous uses on the site, including agricultural use, allotments and car parking. Environmental Health highlight that one sample contained elevated levels of benzo(a)pyrene at 0.2m below ground level in made ground.
- 6.22.3 The contamination statement also advises that it is impossible to categorically define the extent of any contamination on site at this preliminary stage due to the discreet number of sampling locations. There will be a need for further testing of soils on site to make sure all gardens and open spaces are suitable for use.
- 6.22.4 Whilst there are substantive grounds for suspecting contaminated land, the investigations to date have not revealed any significant cause for concern. It is therefore necessary and proportionate for detailed investigations, and the prior approval of a remediation scheme, to be secured by condition. Subject to such conditions, the development is capable of compliance with the aforementioned policy.

## **6.23 Air quality**

- 6.23.1 According to the NPPF (paragraph 124), Planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas (AQMA) and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan.
- 6.23.2 The A339/Queens Road/St Johns Road roundabout in Newbury is designated as an AQMA. The highway modelling undertaken by the Council indicates additional queuing at this junction. The development may therefore have an adverse effect on this area. Environmental Health also advises of elevated pollutant levels on part of the Robin Hood Gyratory that could potentially result in this area being designated as an AQMA. The development would also have an adverse impact in this area.
- 6.23.3 Environmental Health Officers are satisfied at this stage that any adverse effects are capable of mitigation, and do not raise a specific objection on air quality grounds. Any impacts and mitigation would need to be determined through modelling, taking into account allocated development in Newbury. Environmental Health Officers are satisfied that suitable mitigation could be agreed by pursuant to a condition.
- 6.23.4 Otherwise, the air quality assessment which accompanies the application predicts a negligible impact on levels of NO<sub>2</sub>, PM<sub>10</sub> and PM<sub>2.5</sub> from this development. Modelling predicted likely air quality levels in 2026, the opening year of the development. There were no predicted exceedences of any air quality objective at the development site.

## **6.24 Agricultural impacts**

- 6.24.1 Paragraph 112 of the NPPF states local planning authorities should take into account the economic and other benefits of the best and most versatile (BMV) agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. The NPPF defines best and most versatile agricultural land as land in grades 1, 2 and 3a of the Agricultural Land Classification.
- 6.24.2 The Council's Agricultural Land Classification ALC records indicate most of the western parcel and the very south of the eastern parcel to be Grade 2 agricultural land. The majority of the eastern parcel and the eastern half of the western parcel north of the underpass is shown as Grade 3. The development would therefore involve the sterilisation/loss of BMW agricultural land.
- 6.24.3 Chapter 16 of the Environmental Statement relates to land use, soils and agriculture. It reports the findings of a specific ALC survey of the application site. According to the ES, it is predicted that the development would result in the loss of:
- Approximately 5.6 ha of agricultural land classed as Grade 2
  - Approximately 7.9 ha of agricultural land classed as Subgrade 3a
  - Approximately 18.3 ha of agricultural land class as Subgrade 3b

- 6.24.4 No mitigation is proposed for the loss of agricultural land (i.e. the land use will be changed). The ES does include proposals to mitigate the effects of the development on soils as part of the construction process, which could be secured by condition.
- 6.24.5 Overall, the loss of 13.5 ha of BMV agricultural land without mitigation weighs against the proposed development.

## **6.25 Public rights of way**

- 6.25.1 According to the NPPF (paragraph 75), planning policies should protect and enhance public rights of way and access. Local authorities should seek opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails. Core Strategy Policies CS14, CS18 and CS19 are consistent with the NPPF in terms of protecting the amenity of public rights of way.
- 6.25.2 Footpath 4 runs through the centre of the proposed development. The development would inevitably change its character from a rural to urban for much of its length. The impact would be reduced by the location of public open space, which would provide a small buffer between the footpath and the development, but the development would result in overall adverse effect.
- 6.25.3 There are no indications at this stage that Footpath 4 would need to be diverted to accommodate the development. However, possible improvements to the southern extent of Footpath 4 are discussed in Section 6.7.

## **6.26 Historic environment conservation**

- 6.26.1 Core Strategy Policy CS19 states in order to ensure that the diversity and local distinctiveness of the landscape character of the District is conserved and enhanced, the natural, cultural and functional components of its character will be considered as a whole. In adopting this holistic approach, particular regard will be given to, amongst other matters, (c) the conservation and, where appropriate, enhancement of heritage assets and their settings (including conservation areas, listed buildings, and other heritage assets recorded in the Historic Environment Record), and (d) accessibility to and participation in the historic environment by the local community.
- 6.26.2 The Heritage Impact Assessment accompanying the application relates to a wider area than the application site itself, is thorough and draws attention to a number of surrounding heritage assets. However, as far as the actual application site and immediate surrounds are concerned the Council's Conservation Officer advises that there is no direct impact on any listed buildings, conservation areas or registered parks and gardens, nor on the setting of any of these.
- 6.26.3 The outline application is, however, of some archaeological interest. Fieldwalking and archaeological evaluation have identified several areas of archaeological activity within the development area, including the site of a Bronze Age barrow, areas of possible prehistoric settlement and Roman industrial activity. The proposed development is also within the area of the Civil War Second Battle of

Newbury. All of these represent heritage assets that are likely to be impacted on by the development, and will thus require archaeological mitigation.

- 6.26.4 Paragraph 141 of the NPPF states local planning authorities should make information about the significance of the historic environment gathered as part of plan-making or development management publicly accessible. They should also require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.
- 6.26.5 In accordance with the NPPF, the developer should be required to commission a programme of archaeological investigation and supervision prior to, and during the excavation of any foundations and related groundworks for the development. This can be secured by condition.

## **6.27 Sustainable construction**

- 6.27.1 Core Strategy Policy CS15 requires new residential development to meet a minimum standard of construction of Level 4 in the Code for Sustainable Homes and all non-residential development to meet a minimum standard of BREEAM Excellent. Policy CS15 also requires a 20% reduction in carbon dioxide emissions from the use of renewable energy or low/zero carbon energy generation on site or in the locality. As matter of detailed design, this is a consideration for the reserved matters stage, which can be ensured by condition.

## **6.28 Pipelines**

- 6.28.1 An oil pipeline passes through the southern portion of the western parcel of the development. Fisher German LLP (CLH Pipeline System Land Agent) has confirmed the development would be affected. It has been confirmed that the applicant's solicitor is liaising with Fisher German LLP. A wayleave is incorporated into the layout of the development. Apart from this spatial limitation, the protection of the CLH Pipeline is provided for under separate statutory processes, and it is not the purpose of the planning system to duplicate such controls.

## **6.29 Minerals**

- 6.29.1 The Minerals and Waste Planning Officer has confirmed the presence of surrounding gravel deposits, but advised that these would be very thin and by the edges of the development. The minerals sterilisation policies of the Replacement Berkshire Minerals Plan (Policies 1 and 2) are therefore not engaged, and the Minerals and Waste Planning Officer does not object to the development.

## **6.30 Planning obligation**

- 6.30.1 According to the NPPF (paragraphs 203-204), local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a

planning condition. Planning obligations should only be sought where they meet all of the following tests:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

- 6.30.2 According to the NPPF (paragraphs 176-177), where safeguards are necessary to make a particular development acceptable in planning terms (such as environmental mitigation or compensation), the development should not be approved if the measures required cannot be secured through appropriate conditions or agreements. It is equally important to ensure that there is a reasonable prospect that planned infrastructure is deliverable in a timely fashion.
- 6.30.3 The Planning Obligations SPD provides the local policy framework for negotiating planning obligations to mitigate the impact of development on local infrastructure, in the context of Core Strategy Policies CS5 and CS6.
- 6.30.4 Notwithstanding the principle objections to the development, a planning obligation would be necessary to make the development acceptable in planning terms. As a minimum this includes: provision of affordable housing; provision and transfer of public open space; highway works; and ecological mitigation.
- 6.30.5 Given the overriding objections to the development, the applicant has not been invited to provide a planning obligation. Should the Council resolve to grant planning permission, it should be delegated to the Head of Planning and Countryside, and subject to the completion of a satisfactory planning obligation.

## **7. CONCLUSION**

### **7.1 Sustainable development**

- 7.1.1 According to the NPPF, the purpose of the planning system is to contribute to the achievement of sustainable development. There are three dimensions to sustainable development: economic, social and environmental. These roles should not be undertaken in isolation, because they are mutually dependent.
- 7.1.2 At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For decision-taking this means approving development proposals that accord with the development plan without delay; and proposed development that conflicts should be refused unless other material considerations indicate otherwise.
- 7.1.3 The development plan contains relevant and up-to-date housing supply policies, and can therefore be relied upon for decision taking in this instance. Notwithstanding this, the development does not amount to sustainable development as defined by the NPPF.
- 7.1.4 The benefits of the development would include the provision of housing, together with the associated benefits to the local economy from increased population; and employment opportunities, both during construction and in relation to the local

centre. Infrastructure provision can be secured in many respects, with the exception of the highway impacts on the A339, for which no mitigation has been proposed. In describing the economic role of development, the NPPF refers to development in the right places at the right time. For the reasons detailed in this report, the development fails in this respect, thus undermining these economic benefits.

- 7.1.5 The development would provide social benefits in terms of providing affordable housing and new public open space which would be available to the wider community. It is capable of mitigating its impact in terms of school provision and impacts on other social infrastructure. However, because of the design and accessibility concerns, the development would fail to create a “strong, vibrant and healthy community with a high quality built environment”. It would therefore have an overall negative social effect.
- 7.1.6 The site is capable of accommodating the development in landscape, visual, flooding, drainage, and the ecological terms, subject to mitigation. The development would, however, have an adverse effect on the local road network, increasing congestion on the A339. It would therefore have an overall negative environmental effect.
- 7.1.7 Overall, the proposal does not amount to sustainable development.

## **7.2 Conclusion**

- 7.2.1 The West Berkshire Council meeting of the 5<sup>th</sup> November 2015 resolved to approve the Proposed Submission Version of the Housing Site Allocations Development Plan Document (HSA DPD). This plan will allocate housing sites within West Berkshire to meet the district’s housing supply requirements for the remainder of the Core Strategy Period up to 2026. The application site has been promoted as a site for this plan, but has not been chosen for allocation by the Council. The development of this site for housing is therefore contrary to the development plan for West Berkshire and would undermine the emerging HSA DPD.
- 7.2.2 In addition to this principle reason for objection, the Highways Authority has recommended refusal on the basis that the A339 has insufficient capacity to accommodate the development without severe impacts on the local road network.
- 7.2.3 The Highways Authority has also objected to the proposal because its design fails to promote travel by sustainable means. Specifically, the pedestrian and cycle access to the eastern parcel, via either the underpass or public footpaths, are inadequate.
- 7.2.4 The reliance on the underpass and public footpaths also raises broader concerns in terms of accessibility and the quality of design that the development of the site is capable of achieving. Thames Valley Police have objected to the development because it would create a neighbourhood where crime and disorder, and the fear of crime, would undermine the quality of life and community cohesion.
- 7.2.5 Giving due weight to the development plan policies and other material considerations, there are clear and demonstrable reasons why granting planning



permission cannot be justified. The application is therefore recommended for refusal.

## **8. FULL RECOMMENDATION**

**DELEGATE** to the Head of Planning & Countryside to **REFUSE PLANNING PERMISSION** for the following reasons:

### **1. Contrary to planning policy, undermining emerging plan**

The Council can currently demonstrate a five year housing land supply, based on the 2012 Household Projections published by the Department for Communities and Local Government in February 2015. The position will shortly be updated through the annual monitoring report, taking into account the outcomes of the SHMA.

The Core Strategy, in accordance with the advice within paragraph 49 of the National Planning Policy Framework, provides an up to date framework for development planning in West Berkshire and is being supplemented by the preparation of a Housing Site Allocations Development Plan Document (HSA DPD) which allocated non-strategic sites to fulfil the spatial strategy of the Core Strategy.

The application site is located outside of the defined settlement boundary of Newbury, an Urban Area within the Newbury/Thatcham Spatial Area of the Core Strategy. The site comprises greenfield agricultural land within open countryside, where new development is strictly controlled. The development of this site for up to 401 dwellings and associated development fails to comply with the National Planning Policy Framework, Policies ADPP1, ADPP2 and CS1 of the West Berkshire Core Strategy (2006-2026), Policy HSG.1 of the West Berkshire District Local Plan 1991-2006 (Saved Policies 2007), and Policy C1 of the emerging HSA DPD with respect to the location of new development.

The National Planning Policy Framework advises that planning should be genuinely plan-led. An application of this size is considered to be premature in light of the forthcoming Housing Site Allocations DPD, which were it to be approved would undermine the plan-making process by predetermining decisions about the scale, location and phasing of new development in Newbury. Such decisions should be made through the plan-making process. The proposal is therefore contrary to the guidance within the National Planning Policy Framework and Planning Practice Guidance.

### **2. Insufficient road capacity on the A339 and lack of mitigation measures**

The Newbury VISSIM model has been used to assess the proposed development; this modelling has indicated that the A339 has insufficient spare capacity during peak periods to accommodate the traffic which would be generated by this proposal. This would result in a severe impact on delay on the local road network (in particular at the Robin Hood Gyratory during the evening peak hour) and additional queuing of vehicles within the Air Quality Management Area around the A339/A343/Greenham Road roundabout. The application does not include appropriate measures to mitigate the traffic impact from the development, which could be undertaken within the transport network and which cost effectively limit the significant impacts of the development. The proposal is therefore contrary to

the National Planning Policy Framework, Policies CS5 and CS13 of the West Berkshire Core Strategy (2006-2026), and Policies LTP K2 and LTP K6 of the Local Transport Plan for West Berkshire (2011-2026).

### **3. Access by sustainable modes of travel**

The sustainable transport measures proposed fail to provide safe and suitable access to the site for all people. Appropriate access to all areas of the site using sustainable modes of travel has not been demonstrated (specifically the development to the east of the A339). This, combined with the ease of movement between the site and the Strategy Road Network by car, indicates that the proposal is not balanced in favour of sustainable modes of travel; would not give people a real choice about how they travel; and would not improve and promote opportunities for healthy and safe travel. The proposal is therefore contrary to the National Planning Policy Framework, Policies CS13 and CS14 of the West Berkshire Core Strategy (2006-2026), Policies LTP AT1, LTP AT2, and LTP K13 of the Local Transport Plan for West Berkshire (2011-2026), and West Berkshire Supplementary Planning Document “Quality Design”.

### **4. Design – movement, connections, safety and crime prevention**

The A339 underpass and Shaw Footpath 4 are the only pedestrian and cycle connection between the development on the eastern side of the A339 and the surrounding area. The development is therefore reliant on these routes to provide safe and suitable access to pedestrians and cyclists.

Owing to its length, width and height, lack of surveillance, and the design of the immediate surrounding area, the underpass would not provide a safe and attractive route for pedestrians and cyclists. Owing to its length, winding nature, tree cover, and lack of alternative routes, Footpath 4 would also not provide a safe and suitable access to pedestrians (and potentially cyclists), particularly after dark.

The development would therefore fail to achieve a high standard of design in terms of movement, connections, safety and crime prevention. Thames Valley Police has objected to the development because the layout would create a neighbourhood where crime and disorder, and the fear of crime, would undermine quality of life and community cohesion.

The application is therefore contrary to the National Planning Policy Framework, the Planning Practice Guidance, Policies CS13 and CS14 of the West Berkshire Core Strategy (2006-2026), the DfT Manual for Streets, the Thames Valley Police Compendium of Crime Prevention & Reduction in the Planning System (Secured by Design), and the West Berkshire Supplementary Planning Document “Quality Design”.

### **5. Lack of planning obligation**

The development fails to provide a planning obligation to deliver necessary infrastructure, mitigation and enabling works (on and off site), including: affordable housing, travel plan, highway works, public open space, public footpath upgrades, and a primary school. The application is therefore contrary to the National Planning Policy Framework, the Planning Practice Guidance, Policies CS5, CS6

and CS13 of the West Berkshire Core Strategy (2006-2026), and the West Berkshire Supplementary Planning Document "Planning Obligations".  
DC