

**Land to the rear of The Hollies Nursing Home, Reading Road, Burghfield Common**

**LPA ref: 22/00244/FULEXT**

**PINS ref: APP/W0340/W/22/3312261**

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**APPELLANTS' OPENING SUBMISSIONS**

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- 1 This Appeal concerns a proposal for 32 new homes (of which 40% would be affordable) comprising what is in effect Phase 2 of a site allocated for such development in the Development Plan (HSA16), and lying within the settlement boundaries of Burghfield Common. The Appeal Site is locationally sustainable for the scale of development proposed, and a high quality scheme in a verdant and attractive setting is achievable. Phase 1 has been consented, built out and occupied. As the Inspector is aware, this Appeal falls to be redetermined, the last Inspector's grant of consent having been quashed by the High Court on reasons grounds.
- 2 There are 3 reasons for refusal.
- 3 The **first** relates to a s106 obligation to secure the proposed affordable housing. The s106 obligation from the last Inquiry has been updated, and it is understood that its terms are not in dispute.
- 4 On that basis, reason for refusal 1 will fall away, and the Appeal Scheme's contribution to the Council's affordable housing needs will be secured. Such needs are a weighty material consideration in circumstances where:
  - 4.1 West Berkshire is (per the Council's submitted draft Local Plan [CD7.12, p71]) "an area of high property prices and many local people have difficulty gaining access to suitable housing on the open market. Provision of affordable housing is seen as a priority as housing has wide implications on health, education and employment opportunities".
  - 4.2 The Council's own predictions are that, in the envisaged Local Plan period to 2041, there will be a deficit of **4080** in the number of new affordable homes provided (a need of 6270 and a supply of 2190): Miles §§6.11-6.14. That is a disturbing position, which is not alleviated by recognizing that there are currently a very large number of households (**3947**) living in unsuitable conditions within the District (**778** in the Eastern Area): see §4.32 of the

SHMA Update [CD7.62]. The inevitable knock-on psychological and well-being issues from living in unsuitable accommodation can be addressed for 13 households through the Appeal Scheme.

4.3 There are 1037 applicants on the Council's Housing Register, of whom 223 have expressed an interest in living in Burghfield: Miles §§6.17, 6.19. Both figures have increased from the Inquiry last year. Further, it would seem that notwithstanding the AWE(B) facility and the revised DEPZ, of which people are obviously aware, there remain substantial numbers who would like to live in Burghfield Common – and no doubt they have good reasons for wanting to do so.

5 It can also be noted that the Council's general land supply position has softened from the time of the last Inquiry. Taking into account policy changes which are clearly on their way (deletion of NPPF 226 and re-introduction of a 5% buffer), the Council does not have the requisite supply of deliverable homes for 2024-29. These factors add material weight to the planning benefits of the 19 proposed market units too. This is without considering the implications of possible changes to the standard method, or possible future requirements for the Council to embark on an immediate review once the eLP is adopted.

6 The **second** reason for refusal relates to the proximity of AWE(B) and the fact that the DEPZ (with consequential need for emergency planning) washes over the Appeal Site (and embraces the Inspector's main issues 1 and 2). There will be extensive evidence on these issues, and little point would be served seeking to summarise the Appellants' detailed positions on the matters arising at this stage.

7 It may assist, however, to make some brief observations on the planning policy context and how decision-making in this case falls to be addressed:

7.1 The Council and AWE firmly root their objections in the first sentence of Core Strategy policy CS8, and contend that this sets up a very strong presumption against the Appeal Scheme (as well as resulting in non-compliance with the Development Plan). But on any fair reading, the first sentence of policy CS8 is not engaged. It is absolutely clear from the policy structure and wording (as well as footnote 60's reference to "Consultation Zones as defined by the ONR and shown on the West Berkshire Proposals Map") that the "inner zone" to which the first sentence relates does not encompass the Appeal Site. The Council's / AWE's interpretation results in impermissibly attempting to re-write the policy, or substituting words – in breach of the Supreme Court's injunction that planning authorities "cannot make the development plan mean whatever they would like it to mean". There is nothing surprising about CS8 being construed such that the very strong presumption against envisaged by the first sentence (when engaged) only applies to the specific area to which it expressly relates (rather than an area of land 5-6 times larger). Nothing in policy CS8 allows for some sort of automatic increase in coverage. It is

properly a matter for the next Local Plan examination (considering draft policy SP4) to resolve whether such a very strong presumption can be justified in respect of the enlarged area. Draft policy SP4 carries no material weight at this time, the examining Inspector having issued no ruling which assesses the in principle objections to the policy. Requests for parties to clarify the drafting so it can be understood with precision what is proposed are not akin to a rejection of objections.

7.2 The rest of policy CS8 addresses consultation arrangements for proposals beyond the defined “inner” zone; creates no presumption for any particular outcome; imports a full planning balance (see the reference to “other planning criteria” at the end of the second sentence); and is not offended by a proposal on an allocated site contained in a subsequent DPD.

7.3 None of this is to suggest that the matters raised in reason for refusal 2 are irrelevant. The Appellant makes no such submission, and has never done so. But these matters have to be put in their proper place, in order to facilitate structured decision-making as set out in s38(6) of the 2004 Act. The reason for refusal 2 issues are potential “material considerations”. Thus, the essential question on reason for refusal 2 is whether the array of matters raised amount to “material considerations” which outweigh the HSA16 allocation and indicate that the decision should be otherwise than in accordance with the Development Plan. It puts the cart before the horse to say that the weight of the allocation is reduced by REPP19 (etc). The correct analysis is that there is an indisputable allocation of the Appeal Site for residential development in a relatively recent DPD which is supported not just by the statutory presumption in s38(6) but also by the fundamental precept of planning policy that development should be “genuinely plan-led” (NPPF §15). The allocation is therefore the strong starting-point and as NPPF §15 intends it should be accorded full weight. Cogent and compelling reasons must be expected to override an allocation – especially one that was not objected to by AWE, ONR or the Council’s emergency planners. For reasons set out in the Appellants’ evidence, the “material considerations” on which opposing parties rely do not indicate that a decision should be taken other than in accordance with the Development Plan.

7.4 Importantly, the Appeal Site is the only allocated site in the DEPZ which does not already have planning permission. While every case turns on its own facts, that is a very significant fact for this case. The various “floodgates” arguments pursued by opposing parties ignore this reality, and do not arise on this Appeal.

8 The **third** reason for refusal raises concerns about the loss of trees and general impact on the character and appearance of the area. The last Inspector essentially accepted the evidence of the Appellant’s arboricultural expert (Mr Keen) and these judgments are common ground for present purposes. In particular, Mr Keen’s evidence [CD10.3]

explained that it is not practical to retain the 4 TPOd oaks which lie within the “developable area” shown on the HSA16 plan (very significant slopes on the Site make this unrealistic), and that the many other (retained) trees means that the 4 to be lost make only a limited contribution to the character of the area, with their removal barely noticeable off-site. In the final analysis, the Appeal Scheme accords with the expectations of the allocation, and its impacts on character do not extend beyond what was envisaged by policy HSA16.

- 9 For these summary reasons, at the conclusion of this Inquiry, the Inspector will respectfully be invited to allow the Appeal and grant planning permission.

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