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Your Ref: 23/00682/15UNAU
Our Ref: APP/W0340/C/24/3351139
Further appeal references at foot of letter

Zoe Cullen
West Berkshire District Council
Planning And Transport Strategy
Council Offices
Market Street
Newbury
Berks
RG14 5LD

17 December 2024

Dear Zoe Cullen,

Town and Country Planning Act 1990
Appeals by Mr J Slater

Site Addresses: Land south of Brimpton Lane and west of Blacknest Lane,
Brimpton Common, Reading, RG7 4RS and Land Approximately 150 Metres

Please find attached received from a third party who intends to attend the Inquiry. The documents have been accepted and are being shared now so that each party can take them into account and respond to them at the Inquiry, and so that Inquiry time is used effectively.

Yours sincerely,

Amy Booth
Amy Booth

<https://www.gov.uk/government/publications/planning-inspectorate-privacy-notice>

Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - <https://www.gov.uk/appeal-planning-inspectorate>

Linked cases: APP/W0340/W/24/3346878

The Planning Inspectorate
Room 3B
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Sent via email

Date: 13th December 2024
Ref: AWE_W_0014 – 291124
Your Ref: APP/W0340/W/24/3346878 and APP/W0340/C/24/3351139

Dear Sir/Madam,

Appeals by Mr J Slater

Site Address: Land South of Brimpton Lane and West of Blacknest Lane, Brimpton Common, Reading, RG7 4RS

I write on behalf of AWE plc (AWE) and the Ministry of Defence (MOD) with regards to the following appeals relating to the above site:

- Appeal pursuant to section 78 of the Town and Country Planning Act 1990 against refusal of planning application for “*change of use of land to Gypsy/Traveller site comprising the siting of 1 mobile home and 1 touring caravan*” (the Proposed Development) (reference APP/W0340/W/24/3346878) (Appeal A); and
- Appeal pursuant to section 174 of the Town and Country Planning Act 1990 against an enforcement notice alleging “*without planning permission, the material change of use of the land by the stationing of a mobile home for residential use*” (reference APP/W0340/C/24/3351139) (Appeal B).

AWE and MOD objected to the planning application which is the subject of Appeal A on 31 January 2024 on the basis that the Proposed Development would comprise new residential habitation inside the Detailed Emergency Planning Zone (DEPZ) that is required by law (under the Radiation (Emergency Preparedness and Public Information) Regulations 2019 (REPPiR)) around the AWE Aldermaston site. Consequently, the Proposed Development would be in conflict with the adopted development plan, emerging development plan and National Planning Policy Framework (NPPF).

AWE does not propose to participate in the inquiry as a formal Rule 6 party but requests the opportunity to make oral representations at the inquiry following the opening statements of the main parties (as per paragraph 35 of the Inspector’s Inquiry Case Management Summary Note dated 29 October 2024).

This letter is submitted for the benefit of the inquiry in order to summarise and reconfirm AWE and MOD’s objection to the Proposed Development and Appeal A. It also brings to the attention of the inquiry a number of recent appeal decisions relating to development within the DEPZ which are considered to be highly material to Appeal A and which do not appear to have been currently referenced by the other parties participating in the inquiry or included within the Core Documents.

AWE and MOD note that although Appeal B was submitted on the basis of grounds (a), (b) and (g) of section 174(2), an appeal on the basis of ground (a) is barred by virtue of section 174(2A). We note that this has been confirmed in paragraph 5 of the Inspector’s Note dated 4 December 2024. Consequently, this letter principally

focuses on Appeal A although for completeness it should be noted that AWE and MOD consider that ground (a) of Appeal B should have been dismissed for the same reasons had it not been barred as a matter of statute.

Background to AWE

AWE is a Non-Departmental Public Body wholly owned by the MOD and operator of two nuclear licensed sites at Aldermaston (AWE A) and Burghfield (AWE B). These sites are critical to UK defence and the delivery of the Continuous At Sea Deterrent (CASD). They are the only sites in the UK which design, manufacture, maintain, and when required, disassemble our nuclear warheads. They are unique and irreplaceable sites and their long-term operability must be ensured.

MOD has consistently sought to ensure that constraints on delivering this nationally and internationally important capability are minimised. The success of the UK's defence nuclear enterprise remains a critical national endeavour, requiring significant and sustained investment and support from HM Government.

The demands placed on the AWE A and AWE B sites by MOD are not static. The risks that CASD must respond to are dynamic, and the sites must be capable of responding to MOD's evolving requirements of them. The Government's commitment to investing in AWE has been consistently set out since 2005 and this position has not changed. This commitment was most recently detailed in the March 2024 Command Paper published by the Secretary of State for Defence entitled "Delivering the UK's Nuclear Deterrent as a National Endeavour"¹.

The investment programme at AWE A includes, but is not limited to, new builds along with refurbishment, consolidation and modernisation of existing key facilities. The significance of CASD, and the irreplaceable nature of AWE A and AWE B in delivering it, inform the precautionary approach that must be applied in the case of all planning applications and appeals for development which would impact or potentially impact AWE's operations.

REPPIR and the DEPZ

REPPIR requires AWE to assess the likelihood and impact of a radiation emergency to the public and provide West Berkshire Council (WBDC) (as the relevant local authority with the statutory responsibility under REPPIR for off-site emergency planning for AWE A and AWE B) with the required information to establish the DEPZ around AWE A and AWE B.

The DEPZ is the area where WBDC is required to have planned in detail how they, the emergency services and other organisations would respond in the unlikely event of a radiation emergency arising from AWE. This emergency planning is formalised in an off-site emergency plan (OSEP) which clearly defines the key actions that should be taken in the event of an incident. A key principle of REPPIR is that the person responsible for preparing the OSEP must consider the "*necessity of avoiding, so far as possible, the occurrence of serious physical injury to any person*"². In line with REPPIR, new development should where possible be located outside of the DEPZ. This is supported by the precautionary approach and is also in line with the nuclear safety concept of 'Defence-in-Depth'³.

While WBDC currently has an adequate OSEP in place, the Office for Nuclear Regulation (ONR), as the statutory regulator responsible for the enforcement of REPPIR as it applies to UK nuclear sites, is concerned the OSEP is under significant strain. ONR wrote to WBDC in November 2023 informing them that the ONR will carry out a series of "targeted formal regulatory interventions" to ensure the necessary improvements to the OSEP are made. Enforcement action against WBDC is possible if improvements are not effectively achieved and sustained. If improvements are not able to be achieved by WBDC and the OSEP is deemed inadequate, ONR may look to AWE to restrict operations until such time that WBDC can address their concerns or, in an absolute worst-case scenario, stop AWE from working with ionising radiation. Such restrictions would pose an intolerable impact to AWE's operations, CASD, and as a consequence, national security.

¹ [Delivering the UK's Nuclear Deterrent as a National Endeavour](#)

² REPPIR, Schedule 7, para 1(c).

³ [Defence in Depth in Nuclear Safety | IAEA](#)

Policy CS 8

Policy CS 8 of the West Berkshire Core Strategy (2006-2026) adopted in July 2012 is the key development plan policy concerning development within the vicinity of AWE A and AWE B. The appeal site is located just outside the boundary of the inner land use planning consultation zone defined by Policy CS 8 and the West Berkshire Proposals Map and therefore would be treated as being within the middle consultation zone if the policy is taken at face value.

However, the consultation zones referred to in Policy CS 8 were defined prior to the introduction of REPPiR in 2019 (which replaced the previous REPPiR legislation dated 2001). REPPiR was introduced in 2019 as part of an international and national response to the meltdown of three reactors at the Fukushima Daiichi nuclear power plant in Japan in March 2011 following an undersea earthquake. One of the primary changes resulting from this incident was the introduction of a more conservative approach to risk assessment and emergency planning, taking account of events which have a low likelihood of occurrence but a high impact should they occur. REPPiR led to a reconsideration of the minimum geographical areas around the AWE A and AWE B nuclear sites which require detailed emergency planning, which in turn led to WBDC introducing a significantly expanded DEPZ around AWE B following a detailed process involving AWE, MOD, ONR and other key stakeholders.

AWE and MOD's position is therefore that Policy CS 8 should be read such that the inner consultation zone is replaced by the DEPZ, given that the DEPZ has effectively replaced the inner consultation zone as the area under REPPiR which is particularly sensitive to *any* increase in residential population. Policy CS 8 specifically acknowledges in footnote 60 that the consultation zones are "*as defined by the ONR*" and the intention of this footnote is explained in supporting paragraph 5.44 which notes that "*the consultation zones may change*". While paragraph 5.44 is drafted in terms of noting that the ONR may take a less restrictive approach during the plan period, the clear intention is that the consultation zones could change in response to external factors. Given that the overarching goal of Policy CS 8 is to maximise public safety it would make no sense for the policy to be capable of becoming less restrictive but not *more* restrictive in response to a clear international and national drive to enhance safety standards.

In any event, even if a site is treated as being in the middle or outer consultation zone and falling below the relevant threshold for consultation with the ONR, there is nothing preventing WBDC from consulting ONR in appropriate circumstances. The ONR's position on issues relating to nuclear safety should clearly be given considerable weight. A development proposal which falls below the relevant consultation thresholds in Policy CS 8 but which the ONR has advised against should still be treated as being contrary to Policy CS 8.

Emerging policy SP4

AWE and MOD note that the interpretation of the overall intention of Policy CS 8 is reflected in draft Policy SP4 of the emerging West Berkshire Local Plan Review 2022-2039. Consultation on the Inspector's proposed main modifications to the Local Plan Review were published on 6 December 2024 and include, amongst other things, a clear statement within Policy SP4 that "*development within the DEPZ is likely to be refused planning permission where the ONR, as regulator of the nuclear licensed sites, advise against the proposed development*".

AWE and MOD note that the Appellant, WBDC and Brimpton Common Residents Group have prepared an (undated) Statement of Common Ground in relation to Local Planning Policy Changes. In this, the Appellant and WBDC record their agreement that the Local Plan Review, incorporating the Main Modifications, has limited weight.

AWE and MOD respectfully request that the Inspector for the current appeals should give greater weight to emerging Policy SP4. Having regard to the criteria in paragraph 48 of the NPPF, the Local Plan Review is now very well-advanced and is likely to be adopted early in 2025. Policy SP4 was included in the submission version and the Inspector has recommended strengthening it in order to ensure soundness. Furthermore, Policy SP4 (as subject to the main modifications) is wholly consistent with the strong national policy protection for existing defence sites provided for in paragraphs 102 and 200 of the NPPF (see below). It is consequently very unlikely that the adopted Local Plan Review will contain a version of Policy SP4 that is materially watered down compared to the main modifications version.

AWE and MOD therefore consider that emerging Policy SP4 should be given at least moderate weight.

NPPF

Paragraph 102 of the NPPF states that:

*“Planning policies and decisions should promote public safety and take into account wider security and defence requirements by [...] (b) recognising and supporting development required for operational defence and security purposes, and **ensuring that operational sites are not affected adversely by the impact of other development proposed in the area**” (emphasis added).*

This paragraph does not include any qualifications (for example, a reference to “materially affect” or “unduly affect”) and therefore any adverse effect on a defence site should be treated as being contrary to the NPPF.

Furthermore, paragraph 200 of the NPPF states that:

“Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.”

Appeal decisions

The cumulative adverse impact of relatively small-scale development inside the DEPZs for AWE A and AWE B has been recognised by a number of planning inspectors in recent planning appeals relating to residential development. AWE and MOD note paragraph 30(g) of the Inspector’s Inquiry Case Management Summary Note (29 October 2024) which cautions against volumes of appeal decisions being referenced without a clear explanation of why they are relevant. In this instance, AWE and MOD consider that the previous decisions are highly relevant and must be brought to the Inspector’s attention in order to ensure consistency of decision-making. Copies of the most relevant decisions are appended to this letter and an explanation of their relevance provided below, as requested by the Inspector.

1-9 Shyshack Lane, Baughurst (APP/H1705/W/23/3326959) (Appendix 1)

This appeal related to the refusal by Basingstoke and Deane Borough Council of a planning application for the erection of three new residential dwellings c.500 metres from the boundary of AWE A and within the DEPZ for AWE A. The Inspector refused the appeal on 8 December 2023.

The main issue in the appeal (which AWE and MOD participated in) was the impact of the proposed development on the OSEP for AWE A. The Inspector’s decision is helpful in explaining how even a relatively small-scale development could adversely impact the OSEP (see paragraphs 15, 16, 17, 25 and 26 in particular). Paragraph 12 of the decision also addresses the cumulative impact point as follows:

“The suggestion that individual development could be justified on the basis that it alone would be small in scale and have a negligible, if any, effect on the preparation and delivery of the OSEP is an argument that could be easily repeated. This approach would result in incremental development that would over time significantly erode the effective management of the land use planning consultation zones surrounding the AWE to the disbenefit of public safety. The proposed development would place a greater burden on the OSEP, which is already under pressure based on the comments of the ONR.”

Benhams Farm, Hollybush Lane, Burghfield Common (APP/W0340/W/24/3342596) (Appendix 2)

This appeal related to the refusal by WBDC of a planning application for nine custom build houses within the DEPZ for AWE B, within the outer consultation zone defined under Policy CS 8. The Inspector refused the appeal on 23 August 2024.

Again, the impact of the proposed development on the DEPZ and OSEP was one of the key issues at the appeal (which again AWE and MOD participated in) and is dealt with in detail in paragraphs 5 to 21 (inclusive). It is worth reviewing the Inspector's reasoning in detail but we would highlight the following points in particular.

First, paragraph 10 in which the Inspector effectively dismissed the Appellant's attempts to discount the ONR's consultation response on the basis that the appeal scheme fell below the threshold for consultation set out in Policy CS 8. The Inspector noted that there was nothing in Policy CS 8 that prevented the ONR from being consulted on applications which fell below the applicable thresholds.

Second, paragraph 19 includes a clear acknowledgment from the Inspector that notwithstanding the relatively small scale of the development *"the absolute and cumulative impacts [on the OSEP] cannot be understated"* and therefore the objections of WBDC, the ONR, AWE and MOD should be afforded significant weight.

132 Recreation Road, Burghfield Common (APP/W0340/W/24/3344580) (Appendix 3)

This appeal related to the refusal by WBDC of a planning application for a new, detached dwelling within the DEPZ for AWE B, within the outer consultation zone defined under Policy CS 8. The Inspector refused the appeal on 27 August 2024.

Again, the impact of the proposed development on the DEPZ and OSEP was the main issue at the appeal (which again AWE and MOD made representations in respect of). The issue is addressed at paragraphs 6 to 15 of the Inspector's decision. We note in particular paragraph 13 in which the Inspector noted that:

"the appellant's suggestion that the appeal proposal can be justified due to its small scale, and subsequent negligible effect on the OSEP, is one that could be easily repeated throughout all areas of the DEPZs. This would result in cumulative development that would significantly erode the effective management of the consultation zones surrounding the AWEs, contrary to the interests of public safety."

Paragraph 3 of the decision also notes that WBDC in that appeal considered the status of emerging Policy SP4 to have *"minor weight (i.e. more than limited weight)"* (in contrast to WBDC's stated position in respect of the current appeal, notwithstanding that the Local Plan Review has now reached a more advanced state).

Land to the rear of the Hollies Nursing Home, Reading Road, Burghfield Common (APP/W0340/W/22/3312261) (Appendix 4)

This appeal related to the refusal by WBDC of a planning application for 32 new dwellings within the DEPZ for AWE B. The appeal was initially allowed by an Inspector on 8 August 2023 but was subsequently quashed by the High Court following a challenge brought by AWE (supported by MOD, WBDC and ONR) pursuant to section 288 of the Town and Country Planning Act 1990. The inquiry was re-convened with a new Inspector who allowed the appeal on 18 November 2024.

Again, the impact of the proposed development on the DEPZ and OSEP was one of the key issues at the appeal. This appeal proceeded by way of a public inquiry with AWE/MOD, ONR and WBDC all putting forward expert witnesses on the likely impact of the development. The appeal is particularly notable as it represents the first time that AWE, MOD and the ONR have participated in a planning inquiry of this nature, underlining the seriousness of its concerns regarding the proliferation of development in the DEPZ.

Although the appeal was ultimately allowed, the Inspector's analysis of the public safety position (at paragraphs 12 to 39) warrants careful reading. The Inspector notes at paragraph 30 that he considers that the addition of new

residents would not in itself have a material impact on the overall emergency response. However, in paragraph 31 he goes on to state that he accepts:

“that the OSEP is not infinitely scalable and that incremental, unplanned development could, over time, erode the effective management of the land use planning consultation zones and be detrimental to public safety. In that sense, I agree with the Inspectors in the Shyshack Lane appeal, the Benham’s Farm appeal and the 132 Recreation Road appeal. However, such concerns do not arise in the present case due to the fact that the appeal site is the only remaining allocated site within the DEPZ. As such, the circumstances of this appeal are unlikely to be repeated elsewhere in the DEPZ.”

It is therefore clear that the Inspector accepted the overall concerns raised by WBDC, AWE, MOD and ONR regarding the impacts of cumulative development within the DEPZ but concluded that the risk of cumulative development in this particular instance was limited given that The Hollies site represented the last allocated site within the DEPZ; the clear implication is his decision may well have been different had the site been unallocated. The Inspector ultimately concluded that the significant weight to be attached to the delivery of market and affordable housing on an allocated site outweighed the adverse impacts on the operational capability and capacity of AWE B.

Sunnyside Village Stores, Reading Road, Burghfield Common (APP/W0340/W/24/3343072) (Appendix 5)

This appeal related to WBDC’s refusal of a planning application for the erection of two new dwellings within the DEPZ for AWE B, in the outer consultation zone for the purposes of Policy CS 8. The appeal was refused on 2 December 2024.

Again, the impact of the development on the DEPZ and OSEP was a key issue and is dealt with at paragraphs 4 to 16 of the Inspector’s decision. Similar to the approach taken in the Benhams Farm appeal, the Inspector concluded that the thresholds set out in Policy CS 8 did not preclude consultation with the ONR. Again, the Inspector expressed concern regarding the cumulative impacts of development, noting at paragraph 8 that:

“Whilst the impact of the proposal may be modest, it would incrementally increase pressure upon the resources available to implement the OSEP in the event of a radiation incident. The argument that the impact would be small could be made for any individual development, but the cumulative effect of numerous proposals, over time, could significantly undermine the effectiveness of the off-site emergency planning arrangements, which would be harmful to the interests of public safety.”

The Inspector therefore concluded that the proposal would conflict with Policy CS 8, as well as paragraphs 102 and 200 of the NPPF.

Analysis

The Proposed Development is located inside the AWE A DEPZ. The Proposed Development would add to the population within the DEPZ and, significantly, would add to the population of vulnerable persons inside the DEPZ as residents inside caravans and mobile home are required to be treated as vulnerable in accordance with REPIIR and the Approved Code of Practice⁴.

As noted above, AWE and MOD’s position is that the inner consultation zone identified in Policy CS 8 should be replaced with the DEPZ. The ONR has advised against the proposed development and therefore the proposed development is contrary to Policy CS 8 as well as emerging Policy SP4. Even if the Inspector in the current appeal disagrees with AWE and MOD’s argument, such that the appeal site is treated as being in the middle consultation zone, AWE and MOD contend that the ONR’s consultation response should still be afforded significant weight notwithstanding that the Proposed Development falls below the relevant consultation threshold (as per the Inspector’s decision in Benhams Farm and Sunnyside Village Stores).

⁴ [The Radiation \(Emergency Preparedness and Public Information\) Regulations 2019 Approved Code of Practice and guidance](#)

While it is acknowledged that the Proposed Development comprises two new dwellings and associated development, and as such, is unlikely to have a material impact on the OSEP in isolation, AWE and MOD's concerns relate to the cumulative impact of similar developments coming forward within the DEPZ, each of which individually would arguably not have a material impact.

The concern is the additional pressure this and other consented developments will have on the ability for the OSEP (which as noted above is already under significant pressure) to cope during a radiation emergency. There are no exceptional circumstances associated with this Proposed Development that should allow additional vulnerable groups to be located within the DEPZ.

The clear direction of travel from the recent appeal decisions discussed above is that new residential development should be treated as being wholly exceptional given the very real concerns about the cumulative impact of a proliferation of relatively small-scale developments within the DEPZ. While The Hollies appeal was allowed, it is clear that the Inspector accepted the concerns raised about cumulative impacts and was significantly influenced by the fact that the site was the last allocated site in the DEPZ for AWE B.

By contrast, the current appeal concerns a proposed development which is not an allocated site in either the adopted or emerging West Berkshire Local Plan and is therefore considered to be contrary to West Berkshire Local Plan Policy CS1 (Delivering New Homes and Retaining the Housing Stock) of the adopted Local Plan. The Proposed Development is also contrary to Policy SP12 (Approach to Housing Delivery) and SP14 (Sites Allocated for Residential & Mixed Use Development in the Eastern Area) of the Emerging Local Plan (2022 – 2039).

Significant negative weight should be given to the non-compliance with development plan policy.

Furthermore, significant negative weight should be given to the adverse impact of the Proposed Development on the OSEP and the consequential impact on AWE. AWE should not be affected adversely by the impact of new development (as supported by paragraphs 102 and 200 of the NPPF). The impact of the proposed development on the OSEP and AWE is not one that can be mitigated in the way envisaged by paragraph 200, and in any event the Appellant has not sought to offer any such mitigation.

A precautionary approach must be taken to the assessment of evidence of this impact. The Inspector in the Hollies at paragraph 37 of the decision noted there was no evidence of a direct impact on AWE from the development; such as consideration by AWE of curtailing activities or pressure from ONR to do so. AWE and MOD strongly argue this is not the correct approach. If such evidence of impact of one development on AWE's operations were to exist, the threat to AWE's operations would have already materialised and it is imperative to avoid reaching this point given the national and international importance and irreplaceable nature of the AWE sites.

Impact should be considered cumulatively across the whole of the DEPZ and in light of AWE's enduring mission and in the knowledge that environmental and health and safety laws and standards can change over time so a precautionary approach is required to ensure AWE's future operability.

Cumulative impacts of other developments within the DEPZ on the OSEP must be considered and not just the impact of one development. The impacts of cumulative development may not always be immediately apparent and it is not possible to evidence a tipping point where an OSEP which is adequate becomes inadequate. Cumulative development, by whatever means (except for the purposes of development of the AWE sites and facilities themselves), within a DEPZ leads to a rise in population within the DEPZ and a proportionate increase in the consequence should a radiation emergency occur.

Conclusion

In conclusion, significant negative weight should be given to:

- the Proposed Development's non-compliance with adopted development plan policy (in particular Policy CS 8);

- the Proposed Development's non-compliance with national policy (in particular paragraphs 102 and 200 of the NPPF);
- the ONR's advice that the Proposed Development should be refused planning permission;
- the cumulative impacts of the Proposed Development on the operation of the OSEP and associated risks to public safety; and
- the cumulative impacts of the Proposed Development on the current and future operations of AWE A

Furthermore, moderate negative weight should be given to the Proposed Development's non-compliance with emerging development plan policy (in particular Policy SP4).

While not necessarily a material consideration in its own right, we would also highlight that AWE, MOD and the ONR have over the past couple of years consistently sought to object to development within the DEPZs for AWE A and AWE B, expending significant time, money and resource. This only serves to underscore the seriousness and importance of the issues at stake.

The Appellant is ultimately asking the Inspector to adopt an approach that is wholly inconsistent with that taken by five Inspectors in recent appeals and the Inspector examining the current Local Plan Review. While every appeal must be assessed on its own merits, there is nothing in the current appeal that justifies or warrants a different approach to that taken elsewhere.

Appeal A should therefore be dismissed for the reasons set out above. To the extent that ground (a) of Appeal B is not barred by statute, it should also be dismissed for the reasons set out above.

Yours faithfully,

Andrew Dale

Andy Burnett-Dale
Head of Estate Strategy & Planning
AWE plc



Appeal Decision

Hearing held on 21 November 2023

Site visit made on 20/21 November 2023

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 December 2023

Appeal Ref: APP/H1705/W/23/3326959

Land at 1-9 Shyshack Lane, Baughurst, Tadley, RG26 5NH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Riseley Heritage Holdings Ltd against the decision of Basingstoke and Deane Borough Council.
 - The application Ref 22/02905/FUL, dated 21 October 2022, was refused by notice dated 7 June 2023.
 - The development proposed is the erection of 3no. detached dwellings and associated access and parking.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on public safety, with particular regard to the Aldermaston Atomic Weapons Establishment (AWE) off-site emergency planning arrangements.

Reasons

3. The site comprises a large field to the rear of existing housing, with some parts extending towards Shyshack Lane. The proposal is to erect three dwellings to the rear of housing, creating a backland development within a residential area.
4. Policy SS7 of the Basingstoke and Deane Local Plan 2011-2029 [adopted 2016](LP) requires development in the land use planning consultation zones surrounding the AWE to be managed in the interests of public safety. The policy only permits development where the Off Site Nuclear Emergency Plan (OSEP) can accommodate the needs of the population in the event of an emergency. The policy states that consultation replies from the Office for Nuclear Regulation's (ONR) Directorate will be considered having regard to the following: (a) the proposed use, (b) the scale of development proposed, (c) the location of the development, and (d) the impact of the development on the functioning of the emergency plan through appropriate consultation with the multi agencies who have duties under the Radiation Emergency Preparedness and Public Information Regulations (REPPIR).
5. The REPPIR states that the OSEP should be designed to secure, so far as is reasonably practical, the restriction of exposure to ionising radiation and the health and safety of persons who might be affected by such reasonably foreseeable emergencies as identified in that assessment. The REPPIR plan recommends sheltering within buildings during an event as the primary method

- of protection to human health. A building (with closed doors and windows) acting as a barrier would afford the greatest and most immediate and accessible type of protection in the event of the type described above. Measures for potential evacuation, are also advised either during or after the event, although this may not be necessary if the public is advised to shelter-in-place.
6. The proposal would introduce three additional dwellings around 468 metres from the AWE site boundary. The site is between Sectors K and L, which are densely populated sectors within the DEPZ, and are adjacent to other comparatively densely populated areas.
 7. West Berkshire Council (WBC) is required to produce an OSEP for a zone around the site that the regulations define as a Detailed Emergency Planning Zone (DEPZ), and for it to be able to implement this plan effectively. I am cognizant that the ONR has 'advised against' the development on the basis that there is uncertainty that the OSEP can accommodate further housing as it stands.
 8. ONR has advised that further development may have the potential to impact upon the adequate implementation of the OSEP. It has arrived at this view following assessment of evidence collected through its regulatory oversight under REPPiR, modular exercises, a live test and wider engagements with WBC. The live test confirmed shortfalls that were identified through the previous exercises and suggests uncertainty that a population increase can be accommodated by the OSEP as it stands. I understand that the ONR's position predates the current appeal scheme as in August 2021 it contacted the affected local councils expressing this concern.
 9. The objection of the ONR is consistent with the position expressed by WBC. WBC's Emergency Planning Officer has been unable to give assurance that the additional households proposed could be accommodated within the existing OSEP. It has explained that the AWE area presents a complex situation in the event of an emergency event and the OSEP is at a "cliff edge" when considering its ability to accommodate additional households.
 10. WBC identifies that the proposed scheme would result in an increase of total dwellings within the DEPZ to 7321 dwellings, and a population increase of around 7 residents. Although such an increase would be comparatively small, it is recognised that the plan is not infinitely scaleable. An increase in population would increase the need for, and demand placed upon, emergency responders, reception centres, rest centres and radiation monitoring exacerbating the difficulties of delivery emergency care in a complex multi-agency emergency. Given the specific area of expertise of the WBC's Emergency Planning function, its concern with respect to the deliverability of the OSEP carries considerable weight.
 11. Although relatively small-scale, the proposal would increase demand on the resources available to implement the OSEP in the event of a radiation emergency. This demand would be above the needs of existing people requiring assistance in the event of an evacuation and would put increased pressure on rest centres. Furthermore, increased demand would increase the requirement for any long-term accommodation required for evacuated members of the public. Therefore, placing people in an area where there is a known risk would contribute to the complicated response required from

emergency services. Increased demand on services, at such a time, could jeopardise the effectiveness of the plan as a whole in contradiction of the objective of policy SS7.

12. The suggestion that individual development could be justified on the basis that it alone would be small in scale and have a negligible, if any, effect on the preparation and delivery of the OSEP is an argument that could be easily repeated. This approach would result in incremental development that would over time significantly erode the effective management of the land use planning consultation zones surrounding the AWE to the disbenefit of public safety. The proposed development would place a greater burden on the OSEP, which is already under pressure based on the comments of the ONR.
13. The National Risk Register [2023] identifies that the risk of a radiation emergency at a Civil Nuclear Site is less than 0.2%, but if an emergency were occur, the impact would be 'catastrophic'. Although the Aldermaston AWE is not a Civil Nuclear Site, the evidence suggests that the identified likelihood and impact would be similar. As stated by WBC's Emergency Planners, the likelihood of an incident remains credible and would have an adversely high impact on the public. I concur with this view and, even if unlikely to occur, such an emergency would require extensive resources and create significant effects in the local area.
14. Dr Pearce explained that radiation causes an ionisation of chemicals in the body, causing injury and cancer, with millisieverts (mSv) being a measure of the harm to an organism. His evidence states that daily background levels are around 1.3 mSv, increasing to 7.8 mSv in Cornwall¹ due to the predominance of granite which releases radon. The REPPIR explains, at appendix 2, that doses in the range of 1-10 mSv as "minor" with minimal health and safety effects. If an incident were to occur at the AWE, a person at the appeal site might be exposed to a radiation dose of 7.5 mSv, in shelter this would be reduced by around 3 mSv. Accordingly, Dr Pearce was content that even if a major incident were to occur the effects would be within the range commonly experienced by members of the public in everyday life.
15. Consequently, the chance of a release of radioactive material is low and if it were to happen the level of exposure would also be low. However, whilst comforting, this does not take into account the key purpose of the REPPIR to reduce exposure during a radiation emergency through the effective deployment of the OSEP. Furthermore, it is noted that ONR identifies that "there must be robust emergency preparedness and response arrangements in place for radiological emergencies, however unlikely they may be"².
16. Also, these points do not account for the effect of an emergency event to the emergency services and the local population. The demands on emergency resources would be substantial creating short term and possibly long-term efforts to effectively manage such an emergency. This would need to take into account social, economic and environmental affects, that could require the local environment and community many years to fully recover. Furthermore, the anticipated low emission and exposure effects of any release would not diminish the statutory requirement for a robust OSEP to be in place, or the

¹ Appeal Statement by Dr Pearce, para 70

² Office for Nuclear Regulation, Statement, para 64

need for such a plan to be of sufficient rigor to ensure it can be delivered effectively in the interests of protecting public safety.

17. Accordingly, I find that the proposal would adversely impact on the functioning of the OSEP contrary to the interests of public safety. Hence, it would conflict with LP policy SS7 and paragraph 97 of the National Planning Policy Framework (the Framework) which, among other matters, states that planning decisions should promote public safety and take into account wider security and defence requirements.

Other Matters

18. The Appellant asserts that the size and shape of the DEPZ is arbitrary, and the OSEP could be more effectively delivered if a smaller population was affected by its measures. The Council has informed that boundary lines were decided taking into consideration community boundaries to assist in evacuation and sheltering strategies. The size of the DEPZ is dictated by legislation and it is for the responsible authority to adjust this if required by taking into account local geographic, demographic and practical implementation issues. Moreover, the definition of the area of the DEPZ is not straight forward and its conception includes an extensive consultation process, involving a range of specialist stakeholders. It is reviewed every three years, and this review process presents an appropriate forum to make any required adjustments. Therefore, it is not the place of this appeal to interrogate the size or shape of the DEPZ.
19. An appeal was allowed, in November 2022, for 49 houses within the DEPZ of Burghfield AWE at Kingfisher Grove. I have limited details of this scheme, but I have noted from the Decision Letter that the scheme was for affordable dwellings and was within the jurisdiction of Wokingham Borough Council. Also, the site was a substantially greater distance from the AWE, at around 2.8 kilometres. As such, this was subject to different policies and had different characteristics to the scheme proposed in this appeal. For these reasons, whilst each case must be considered on its own merits, the appeal decision at Kingfisher Grove describes a scheme with bespoke circumstances that cannot be readily applied elsewhere.
20. The Council has also submitted a range of planning appeals that have been dismissed for open market dwellings where siting within the DEPZ have been factors in their dismissal. As such, these are of greater relevance to the proposal before me and attract more weight. My approach is broadly consistent with those decisions.
21. The Council cannot demonstrate it has a 5-year Housing Land Supply, as identified in the Council's Authority Monitoring Report [2023] demonstrating it has a supply of 4.7 years. This figure has been subsequently reduced by the Council following an appeal decision, where the Inspector found a supply of 4.1 years. This was further reviewed by the Council to 4.2 years given the release of more recent affordability data.
22. Based on the evidence submitted I see no reason to disagree with this position. Where a local planning authority is unable to demonstrate a 5-year supply of deliverable housing sites, footnote 8 of paragraph 11 of the Framework, indicates that relevant policies for the supply of housing should not be considered up-to-date. Paragraph 11 of the Framework explains that where relevant policies are out-of-date permission should be granted, unless any

adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Planning Balance and Conclusion

23. The Framework seeks to boost the supply of housing and highlights the important contribution small sites can make. The proposal would deliver three family houses, making a modest contribution to the housing needs of the district. These could be delivered relatively quickly, making a rapid positive contribution to the local supply of housing in the settlement. The appeal site is within the defined settlement of Baughurst and has good access to goods and services. There would be some economic benefits during the construction phase when the development would provide jobs and opportunities for local companies and once occupied when future residents support services in Baughurst and the surrounding area. The proposal would introduce new planting that would provide enhanced biodiversity benefits. These benefits are of modest weight in favour of the proposal.
24. Weighed against these benefits is the issue that the appeal scheme would not comply with the Council's policy with respect to development close to nuclear installations. The weight to be given to this conflict should be reduced by the Council's inability to demonstrate it has a 5-year supply of deliverable housing sites, although three new houses would only make a limited contribution to the district's housing supply.
25. Nonetheless, the proposal has failed to demonstrate that the OSEP can accommodate the proposal without compromising the needs of the existing and extended population within the DEPZ. The additional burden would place pressure on the delivery of the Emergency Plan within a site which is close to the centre of the DEPZ and in an area that is densely populated. The additional demand for emergency services, at the time of an incident, would exacerbate an Emergency Plan already under tension resulting in substantial threat to its delivery affecting the safety of the public. This conflict accords with the objectives of the Framework for planning decisions to promote public safety and take into account wider security and defence requirements by, among other matters, proportionate steps to increase resilience and ensure public safety and security.
26. Therefore, the adverse impact of the development on the delivery of an effective OSEP would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole and therefore the presumption in favour of sustainable development does not apply.
27. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, that would outweigh that conflict. Therefore, the appeal is dismissed.

Ben Plenty

INSPECTOR

APPEARANCES

For the Appellant:

Mr Neil Davis - Planning Consultant
Dr Keith Pearce - Principal Consultant, Katmal Limited

For the Council:

Miss Bethan Wallington - Senior Planning Officer, Basingstoke and Dean Council
Mr Stuart Fox - Head of Emergency Planning, Hampshire County Council
Mrs Carolyn Richardson - Emergency Planning, West Berkshire Council
Mr Eamonn Guilfoyle - Office for Nuclear Regulation
Mr Sean Bashforth - Planning Consultant, Quod, acting for the MOD and Aldermaston AWE

Interested parties:

Ms Jacky Berry - Resident
Mr Ian Jackson - Resident

Additional documents

Doc A: Council's suggested additional condition



Appeal Decision

Hearing Held on 20 August 2024

Site visit made on 19 August 2024

by Mr Cullum Parker BA(Hons) PGCert MA FRGS MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 23rd August 2024

Appeal Ref: APP/W0340/W/24/3342596

**Benhams Farm, Hollybush Lane, Burghfield Common, Reading,
West Berkshire RG7 3JS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr J Atkinson of Charlesgate Homes Limited against the decision of West Berkshire Council.
 - The application Ref 23/02105/FULMAJ, dated 6 September 2023, was refused by notice dated 19 January 2024.
 - The development proposed is described as: *Phased application for 9 custom build houses with associated triple garages including new access road from Oakley Drive and relocation of existing double garage to number 7 Oakley Drive to enable new access road.*
-

Decision

1. The appeal is dismissed.

Main Issues

2. A pre-hearing note was issued before the Hearing opened. This set out four main issues. The fourth main issue related to planning obligations. For ease this has been incorporated into the second main issue. The main issues are:
 - (i) Whether or not the proposal would accord with policies which seek to minimise the potential impact on public safety and emergency services in relation to the Aldermaston Atomic Weapons Establishment (location AWE B) Burghfield, Detailed Emergency Planning Zone (DEPZ) and associated Off-Site Emergency Plan (OSEP); and,
 - (ii) Whether or not the proposed development would represent an efficient use of land given the proposed density and the acceptability or not of the proposal on a greenfield site; and,
 - (iii) The effect of the proposal on drainage and/or flood risk within the locality.

Reasons

Background

3. The appeal site is approximately 2.5 hectares in size. It is mainly formed of agricultural land, enclosed on two boundaries by extensive existing established

trees. The rear of the site faces onto privately owned open fields that are not accessible to the general public. The principal view into the site from the public realm is from with Oakley Drive; which is an unadopted road that currently serves as access to numbers 1-7 Oakley Drive. The proposal seeks permission for the erection of 9 custom build houses with associated triple garages, as shown on the submitted drawings.

4. The planning history for the site, and the adjacent Oakley Drive, are briefly provided within the Appellant's Appeal Statement. This refers to Nos 2 and 3 Oakley Drive being built after permission was granted at appeal. It also indicates that Nos 4 to 7 Oakley Drive were allowed on appeal in 2016 for four self-build houses.

Public safety

5. The main parties agree, within the agreed *Statement of Common Ground* (SOCG), dated 2 and 4 July 2024 respectively, that the appeal site lies within the *Detailed Emergency Planning Zone* (DEPZ) of AWE Burghfield¹. It is also agreed between them that the site lies in the 'outer zone' of the current WBDC Policy CS8². It is also agreed between the main parties that that the DEPZ has increased in size from when Policy CS8 was adopted in 2012³. Lastly, the main parties agree that the *2020 AWE Burghfield Consequences Report* was prepared as required under *The Radiation (Emergency Preparedness and Public Information) Regulation 2019* (REPPIR 2019)⁴.
6. Written submissions have been made by the Atomic Weapons Establishment (AWE plc) on behalf of themselves and the Ministry of Defence (MOD), and the Office for Nuclear Regulation (ONR). Both AWE (including the MOD) and the ONR object to the proposal. They also had representatives provide oral evidence at the Hearing. Amongst other points, their written submissions indicate that the site at AWE B, which is at Burghfield, is a licensed nuclear site where nuclear warheads for the United Kingdom's Continuous at Sea Deterrence (CASD) programme are assembled and maintained. The representations go on to detail that as a result of working with ionising radiation, AWE must meet the requirements of REPPIR; which were originally a 2001 version replaced by the 2019 version.
7. Under REPPIR, the representations detail, West Berkshire Council have a number of responsibilities including determining the DEPZ and developing an *Off-Site Emergency Plan* (OSEP). The purpose of the DEPZ is to define an area where the Council needs to have a plan that details how they, the emergency services and other organisations, would respond in the unlikely event of a radiation emergency arising from an AWE site. The process to define the DEPZ was last completed in January 2023⁵. Whilst the DEPZ, OSEP and the REPPIR 2019 are not 'planning matters' in the traditional sense, they are an important material consideration in this case.
8. Turning to planning policy, Paragraph 101 of the Framework sets out that planning decisions should promote public safety and take into account wider security and defence requirements by recognising and supporting development

¹ Agreed SOCG, bullet point 13.

² Agreed SOCG, bullet point 12.

³ Agreed SOCG, bullet point 17.

⁴ Agreed SOCG, bullet point 16.

⁵ See written representation by AWE, dated 14 November 2023

required for operational defence and security purposes, and ensuring operational sites are not affected adversely by the impact of other development proposed in the area.

9. Policy CS8 of the *West Berkshire Core Strategy 2006-2026* (WBCS) sets out that:

In the interests of public safety, residential development in the inner land use planning consultation zones of AWE Aldermaston and AWE Burghfield is likely to be refused planning permission by the Council when the Office for Nuclear Regulation (ONR) has advised against that development.

All other development proposals in the consultation zones will be considered in consultation with the ONR, having regard to the scale of development proposed, its location, population distribution of the area and the impact on public safety, to include how the development would impact on "Blue Light Services" and the emergency off site plan in the event of an emergency as well as other planning criteria.⁶

10. Following the above text, the Policy sets out in tabular form the criteria for when ONR will be consulted. The Appellant suggests that ONR only needs to be consulted on applications in excess of 200 units as the site sits in the outer zone of the DEPZ (that is around 3-5km). Be that as it may, the table does not prevent or preclude the Local Planning Authority from notifying parties who may have an interest in the proposal. Furthermore, Paragraph 45 of the Framework, sets out that appropriate bodies can be consulted when considering major hazard sites or development around them.
11. Returning to the policy itself, it broadly has two main 'parts' the first relates to the inner land use planning consultation zone. It has not been suggested that the site lies within this zone, and therefore this part of the policy is not directly applicable to the appeal site.
12. The second 'part' of the policy is clear in that all other development in the consultation zones will be considered in consultation with the ONR, having regard to scale, its location, population distribution, the impact on public safety including blue light services, and the emergency off-site plan as well as other planning criteria. At the Hearing, the Appellant suggested that there was a moratorium on new buildings in the DEPZ. However, whilst I acknowledge that the policy does set a high bar, it does not provide a blanket 'ban' on new buildings within the DEPZ. Rather, that for schemes such as the one in this case, there will need to be regard to various factors.
13. Moreover, this is an entirely rationale 'high bar' where detailed consideration needs to be given where there is a 'controlled' addition to the number of people who may be at risk should an adverse event occur at the nearby AWE B Burghfield site. At the same time, I heard from the Council's Emergency Planning Officer at the Hearing, who explained that they have not objected to small developments within the DEPZ such as extensions to existing houses. Whilst this has the potential to increase the 'at risk' population, this in itself is a fluid figure which will fluctuate throughout the day – as people enter and leave the DEPZ for work, school and other activities, or people passing through the

⁶ From policies provided by the Council. Footnotes are contained in the original text, but have been removed from this excerpt to aid reading the policy. I have also spaced between the two 'parts' of the policy; again for ease of reading.

- area – and throughout the year as friends and family visit each other or children move back home from college or university, or different sized households move into existing dwellings in the DEPZ when moving home.
14. At the Hearing, the Appellant contested the base figures used in the Council's formulation of the OSEP. They suggested that the Council had overestimated the numbers. As a result, the Appellant considers that this provides capability within the OSEP to accommodate further residential dwellings. I note the points made. However, there is little to suggest that the figures used by the local authority, which is based upon the Council's data, and in turn which informs the work of the wider group of around 27 organisations that contribute to the process, is fundamentally flawed. Given the ebb and flow of population within the DEPZ at any given time it would appear entirely sensible to have an approximate figure.
 15. Moreover, even if the figures is higher than the potential population at the time of an incident occurring, then in practical terms this would mean a greater capability for the support work that may need to take place in the aftermath of what would be an extremely serious, and likely deadly, disaster. I heard that this would likely involve people within the DEPZ having to seek shelter within a very narrow window of around 25 minutes to avoid, for example, a plutonium plume, and then staying inside, under cover for around 48 hours whilst emergency services reacted to the disaster. As indicated by the ONR (the UK's independent nuclear regulator for safety, security and safeguards), the DEPZ and OSEP are all part of the statutory framework to, in essence, protect society by securing safe nuclear operations.
 16. I note the Appellant's evidence⁷ provided by Dr Pearce, both at the hearing and in writing before. His evidence suggests there being a low probability '*of an accident leading to a significant release of radioactive material to the atmosphere is low. It is argued that this is below 1 in 10,000 years, probably much lower.*' The report goes on to detail that '*the local authority can provide the ONR with "adequate assurance that the proposed development can be accommodated within their existing off-site emergency planning arrangements (or an amended version)" allowing the ONR to approve the development.*'
 17. The report also indicates that the appeal site is outside the Urgent Protective Zone (UPAZ), and is summarised by stating that '*There are a number of sensible options to redefine the DEPZ such that the development site would be outside it. This would remove all the REPPIR-19 emergency planning requirements except those associated with severe accidents and outline planning.*'⁸
 18. However, even taking into account the above, the ONR, AWE and the MOD maintain their objections to the scheme. As cited in the evidence of AWE/MOD, caselaw⁹ makes clear that the REPPIR places the responsibility for defining the DEPZ with the local authority. The increase or reduction in size, or the reshaping of the DEPZ, is not directly a matter for me to determine. In any case, the main parties agree in the SOCG that the site lies within the DEPZ.

⁷ See *AWE Burghfield emergency planning implications for a proposed development at Benham's Farm, Hollybush Lane, Burghfield Common, Reading RG7 3JS*, dated February 2023, undertaken by Katmal Limited.

⁸ *Ibid.*, Page 15 of 25, Paragraph 101.

⁹ *Objections on behalf of AWE plc and the Ministry of Defence*, dated July 2024 by Quod, Page 6, paragraphs 2.14 to 2.16 inclusive; including footnote 2, *Crest Nicholson & Ors v WBDC [2021] EWDC 289 (admin)*.

19. The proposal in this case would introduce a further nine households into the DEPZ. These would be substantial-sized dwellings of at least four bedrooms, with triple garages located on generously sized plots. Using the Council's suggested ratio of 2.4 persons per property¹⁰, the proposal would likely introduce at least 21 further people into the DPEZ. On its face this is a small number. However, the absolute and cumulative impacts cannot be understated. This would knowingly be another nine households who would need to be informed and supported if a disaster scenario happened, and would put further strain on 'blue light services' and other public bodies such as the Council in implementing the OSEP. In this respect, the objections raised by the Emergency Planning Officer at the Council, and by the ONR and AWE/MOD should be afforded significant weight against the proposal.
20. Whilst I fully respect the views of Dr Pearce and his professional experience, ultimately the responsibility for managing and regulating the potential risks from the AWE B site, and responding to emergencies, lies with the local authority and associated bodies such as the ONR, the AWE, and the MOD. On the basis of the evidence before me, I find that the risks to public safety are adverse effects which weigh against the grant of permission in this case.
21. Accordingly, I find that the proposal would conflict with Policy CS8 of the WBCS, which seeks to minimise the potential impact on public safety and emergency services in relation to the Aldermaston Atomic Weapons Establishment (location AWE B) Burghfield. It would also conflict with Paragraph 101 of the Framework in terms of failing to promote public safety.

Land use

22. The proposal seeks the erection of nine custom build dwellings on a greenfield site located outside, but adjacent to, the settlement boundary. The Appellant has submitted a completed, signed and dated (15 January 2024) unilateral undertaking under s106 of the TCPA, with an obligation that would require the proposed dwellings to only be custom build if permission were granted. This forgoes the need for the site to provide affordable housing in this case. This legal agreement has been taken into account in determining the proposal.
23. Policy CS4 of the WBCS notes that in some cases lower housing densities below 30 units per ha can be acceptable in particularly sensitive locations/non sustainable locations. The Appellant considers that the low density of the appeal scheme in this case [around 3.5 per ha] meets the criteria of the policy, whilst the Council considers that the appeal submission equates to an unacceptably low density and so means a highly inefficient use of land which is considered unacceptable. The Appellant considers it is acceptable given the nature of the area and the type of custom build units required.
24. I saw during my site inspection that the wider area comprises a mixture of dwelling types, with examples of detached, semi-detached and a limited number of short terraces found locally. Moreover, when looking at the submitted drawing titled 'Proposed 9 custom built houses' it is possible to see that both the plot and dwelling sizes proposed would be considerably larger than those on Oakley Drive at Nos 1 to 7, those found on Acorn Gardens, and the dwellings on Bramble Close. In this respect, the density proposed is at odds with the prevailing pattern of development within this area. As such, I do

¹⁰ As advised at the Hearing.

- not find that the proposal makes an efficient use of land as envisaged by Policy CS4 of the WBCS.
25. With regard to the custom build nature of the development, the Council has confirmed that at the current time it is able to demonstrate a five year supply of housing land. My attention has also been drawn to Policies ADDP1 and CS1 of the WBCS, and Policy C1 in the *Housing Site Allocations DPD (2006-2026)* (HSADPD). Put simply, these set out the strategic vision for housing delivery within the area, including a District Settlement Hierarchy. On their face, as the proposal seeks to develop an unallocated greenfield site where there is an adequate housing land supply (insofar as required by the adopted development plan) the proposal would conflict with these policies.
26. However, at the Hearing the Council conceded that there are no relevant development plan policies specifically relating to custom build dwellings within its adopted development plan. Accordingly, Paragraph 11 of the Framework is engaged. I see no reason to disagree with this, and I consider this further in the overall planning balance.
27. I also heard at the Hearing that there is a need to provide custom build plots within the West Berkshire area, as expressed within the number of people on the register seeking such plots. The proposal would provide nine plots towards a register demand of around 500 plots. The Council's Planning Officer considered that the provision of nine plots proposed should be afforded 'medium' weight in favour of the proposal. Conversely, the Appellant considered that the provision of nine custom-build dwellings should be afforded significant weight. I note that, as agreed in the SOCG, some appeal decisions have applied significant planning weight in recent custom build schemes.
28. The Framework recognises at Paragraph 70, that small and medium sites can make an important contribution to meeting the housing requirement of an area and are often built out quickly. It also indicates that to promote the development of a good mix of sites local planning authorities should seek opportunities through policies and decisions to support small sites to come forward for self-build and custom-build housing. In light of this, I afford the provision of nine custom-build dwellings in this case moderate weight in favour of the proposal. That is because although the proposal would provide for nine custom build dwellings, the density they are proposed at would not make an efficient use of land.
29. I therefore find that the proposed development would not represent an efficient use of land given the proposed density. Furthermore, there is little evidence before me which justifies the inefficient use of greenfield site for housing in an area where there is a five year supply of housing land. Accordingly, I find that the proposal would not accord with Policies ADDP1, CS1 and CS4 of the WBCS, and Policy C1 in the HSADPD, which seek the aforesaid aims.

Drainage and flood risk

30. The appeal site lies within Flood Zone 1. At the application stage, the Appellant did not submit a detailed Flood Risk Assessment (FRA). One was submitted, following the Council's request for one, in December 2023. However, the Council considered that this was too late in the process for it to take it into account before it made its decision on 19 January 2024. Subsequently, it is now evidence before the Hearing, and the Council's Principal Engineer

(Drainage) has provided written and oral evidence (at the Hearing) on this matter. This included raising concerns that there was an absence of baseline data within the FRA, which means that it is not possible to accurately assess the potential flood risk arising from the site or what sustainable urban drainage systems (SUDS) may be required.

31. Paragraph 173 c) of the Framework sets out that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere. Development should only be allowed if it can be demonstrated that it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate.
32. Policy CS16 of the WBCS sets out that an FRA will be required for sites of 1ha or more in Flood Zone 1. It goes on to detail that on all development sites, surface water will be managed in a sustainable manner through the implementation of Sustainable Drainage Methods (SuDS) in accordance with best practice and the proposed national standards.
33. The FRA dated 30 November 2023 summarises that '*The development will increase the risk of surface water flooding elsewhere with the increase in impermeable area and therefore, SuDS should be considered at the detailed design stage in accordance with Part H of the building Regs.*' However, this appears to conflict with national policy set out in the Framework; where it should incorporate sustainable drainage systems. Furthermore, the absence of this incorporation at the early design stage, taken together with the lack of supporting evidence and data on SUDS, means that it is not possible to conclude that the site will not result in increased flooding or risk of flooding elsewhere – or indeed the impacts or effects of the proposal on water quality, habitat and amenity.
34. I therefore find that the proposed development would have an adverse effect on drainage and/or flood risk within the locality. Accordingly, the proposal would conflict with Policy CS16 of the WBSC and Paragraph 173 of the Framework, the aims of which I have cited above.

Other Matters

35. Towards the proposed access to the site is Crofters Cottage, which is a Grade II Listed Building. The Council's Conservation Officer identified less than substantial harm to the setting of this listed building given the proposed change in the character of the field to a residential development. However, in weighing the public benefits arising; which include the contribution to housing supply including custom build, the public benefits are considered to outweigh the less than substantial harm in relation to heritage matters.
36. I am mindful of the duty imposed by section 66(1) of the *Planning (Listed Buildings and Conservation Areas) Act 1990*, as amended, in terms of the desire to preserve listed buildings and their settings. In this case, I concur with the Council's Conservation Officer in terms of the proposal resulting in less than substantial harm to the designated heritage asset. In articulating that harm, given it would not directly affect the fabric of the listed building it would be to the low end of less than substantial harm. I also agree that on this matter, the public benefits in this case would outweigh the less than substantial harm. Overall, therefore, this factor weighs neutrally in the planning balance.

37. My attention has been drawn to the emerging development plan for the area. However, given its unadopted status and the need for further assessment under the local plan process I afford this minimal weight in this instance. In any case, the Council has an adopted development plan and it is those policies, and other material considerations, which the proposal needs to be considered against.

Planning balance

38. As noted within the land use section of this decision, Paragraph 11 of the Framework is engaged as there are no relevant development plan policies in respect of custom build dwellings. Paragraph 11 sets out that where there are no relevant development plan policies granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

39. The benefits in this case include the site's sustainable location on the edge of an existing established settlement with schools, shops and other day-to-day services, and public transport nearby. Other benefits include the provision of nine custom build dwellings in an area where there is a demand demonstrated in the register, and economic, environmental and social benefits which can arise from the provision of housing more generally.

40. Conversely, there are a number of adverse impacts in this case. These include the potential impact on public safety due to the sites location within the DPEZ and associated impact on the OSEP. The inefficient use of land, which itself is a greenfield site, in terms of the proposed density and the adverse effect on drainage and/or flooding locally. These adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Accordingly, Paragraph 11 of the Framework does not indicate that permission should be granted in this instance.

41. The proposed development would not accord with the adopted development plan for the area when considered as whole, and there are no material considerations which indicate a decision otherwise than in accordance with it.

Conclusion

42. For the reasons given above, I conclude that the appeal should be dismissed.

C Parker

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Joe Atkinson	Appellant
Dr K Pearce	Emergency Planning Consultant
Ben Atkinson	Director at Charlesgate Homes Limited

FOR THE LOCAL PLANNING AUTHORITY:

Michael Butler	Principal Planning Officer
Carolyn Richardson	Service Manager, Emergency Planning
Paul Bacchus	Principal Engineer, Drainage

INTERESTED PERSONS:

Eamonn Guilfoyle	Office for Nuclear Regulation (ONR)
Sean Bashford	QUOD Planning on behalf of AWE/MOD
Margaret Baxter	Chair of Sulhamstead Parish Council
Ivan Wise	Parish Councillor, Sulhamstead Parish Council
John James	Local resident



Appeal Decision

Site visit made on 30 July 2024

by R Cahalane BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 August 2024

Appeal Ref: APP/W0340/W/24/3344580

132 Recreation Road, Burghfield Common, Reading RG7 3EN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr N Beales against the decision of West Berkshire District Council.
 - The application Ref 23/01692/FUL, dated 17 July 2023, was refused by notice dated 12 February 2024.
 - The development proposed was described as "Proposed new detached two-storey dwelling."
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has provided an email chain with the appellant that advised that the description of development was added to with the following: "Proposed rear dormer window to existing dwelling." The appellant did not object to this addition and it is also included in the statement accompanying the appeal. I have therefore determined the appeal on this basis.
3. The Council's appeal statement refers to their Local Plan Review (LPR) at examination with hearing sessions scheduled to conclude on 26 June 2024. It quotes its Policy SP4 (AWE Aldermaston and Burghfield) as relevant to the appeal proposal. I therefore sought their comments regarding the current status of the above. The Council has advised that the LPR Inspector raised action points on this policy and has provided copy that includes the proposed main modifications in response to these points. The Council considers the Local Plan Review to be at an advanced stage, with minor unresolved objections to Policy SP4, and that it is consistent with the NPPF. As such the Council considers the status of these policies to have "minor weight (i.e. more than limited weight)."
4. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. The proposed reforms are draft and therefore may be subject to change before the final document is published. The consultation closes on 24 September 2024. I have sought comments from the parties as to whether these proposed reforms have any relevance to the appeal. The Council considers that the proposed draft reforms do not affect the case at hand and the appellant has not provided any comments on this.

Main Issue

5. The main issue is the effect of the proposed development on public safety, with particular regard to the Burghfield Atomic Weapons Establishment (AWE) off-site emergency planning arrangements.

Reasons

6. The appeal site comprises an area of garden land adjacent the semi-detached dwelling of No. 132 Recreation Road. It is within the settlement boundary of Burghfield Common, and also within the AWE Detailed Emergency Planning Zone (DEPZ). The DEPZ is an area defined in legislation¹ for which the Council is required to have detailed emergency plans in place on how it will respond should a radiation emergency arise from one of the two AWE sites within the Council's administrative boundary (AWE Aldermaston and AWE Burghfield).
7. Policy CS8 of the West Berkshire District Core Strategy Development Plan Document 2012 (CSDPD) states that development in the inner land use planning consultation zones of the AWE sites is likely to be refused planning permission when the Office for Nuclear Regulation (ONR) has advised against that development. All other development proposals in the consultation zones will be considered in consultation with the ONR, having regard to the scale of development proposed, its location, population distribution of the area and the impact on public safety, to include how the development would impact on "Blue Light Services" and the emergency off site plan, in the event of an emergency as well as other planning criteria.
8. The Council advises that planning applications are evaluated by emergency planning professionals on their own merits, having regard to the impact the development would have on the adequacy of the AWE Off-Site Emergency Plan (OSEP). A radiation emergency at AWE Burghfield would result in the triggering of the OSEP, which the Council say has been developed to mitigate, so far as is reasonably practicable, the consequences of a radiation emergency.
9. The Council's Emergency Planning Officer (EPO) concludes that the incremental impact of even just one additional dwelling would adversely impact the OSEP, therefore placing public health and wellbeing at risk. The EPO also states that the decision to advise refusal of the proposal was made following consultation with the AWE Off-Site Planning Group and was an on-balance decision, especially in relation to the addition of more people within the existing high population of the Detailed Emergency Planning Zone (DEPZ), and the impact on reassurance monitoring and other response capabilities.
10. The ONR 'advised against' the development, as they were not provided with adequate assurance that the proposed development can be accommodated within their off-site emergency planning arrangements. The ONR raise further concerns during the appeal. Evidence has been provided that the OSEP is under significant pressure and the ONR advises that decision-makers should be doing everything they can to reduce pressure on the OSEP, rather than testing the boundaries of where the OSEP will fail.
11. The above specialist comments have been made having regard to the legal requirements set out in the Radiation (Emergency Preparedness and Public Information) Regulations 2019 (REPPiR 19). The CSDPD predates the 2019

¹ The Radiation (Emergency Preparedness and Public Information) Regulations 2001

REPPIR Regulations and its Policy CS8 refers to inner, middle and outer zones. The appellant contends that the appeal proposal would not increase the risk to public safety and would not affect the AWE sites. This is due to the appeal site being located in the outer zone as defined in the table within Policy CS8, along with the modest size of development and the distance to the AWE sites. However, following the revision of the REPPIR legislation and the 2019 Regulations, the consultation process changed in 2020 to incorporate an extended geographical extent of the DEPZ around AWE Burghfield, and encompassing the appeal site.

12. The proposed LPR policy SP4 details these current zones, as now determined by the regulators. This policy is not yet adopted, which somewhat limits the weight I attach to it. It nonetheless reflects the current DEPZ that the emergency planning services, and other agencies involved in an AWE radiation emergency response, now use to assess the impact of new development on the OSEP. It also indicates the direction of travel of the future planning policies that would continue to govern this issue.
13. The appellant's suggestion that the appeal proposal can be justified due to its small scale, and subsequent negligible effect on the OSEP, is one that could be easily repeated throughout all areas of the DEPZs. This would result in cumulative development that would significantly erode the effective management of the consultation zones surrounding the AWEs, contrary to the interests of public safety. The appeal proposal would place an additional burden on the OSEP, which is already under significant pressure as evidenced in the ONR's texting exercise of the Burghfield DEPZ in April 2023. Furthermore, the appeal site is within Sector M, which is the most densely populated sector within the DEPZ as a whole.
14. The appellant has referred to an allowed appeal decision² and argues that this decision, and other applications, challenged the reason for refusal of the current. However, this cited appeal decision has been quashed in the High Court by a Consent Order³ and the appeal is still being redetermined. As this cited appeal example has not been determined, it cannot have a bearing on the main issue of this appeal. No other specific application details have been provided by the appellant.
15. The submitted evidence, including the ONR's representations, has persuaded me that the appeal proposal would adversely impact the functioning of the OSEP. It would therefore conflict with the purposes of Policy CS8 of the CSDPD. This policy is consistent with paragraph 101 of the Framework which, among other things, states that planning decisions should promote public safety and take into account wider security and defence requirements.

Other Matter

16. The Council has queried in their appeal statement whether the requirement for 10% Biodiversity Net Gain (BNG) now applies to the proposal. Had I been minded to allow the appeal, I would have applied the Planning Practice Guidance which states⁴ that BNG has only been commenced for planning permissions granted for applications made on or after 12 February 2024.

² APP/W0340/W/22/3312261

³ Claim Number: AC-2023-LON-002758, approved on 12 January 2024

⁴ Paragraph: 003 Reference ID: 74-003-20240214

Conclusion

17. As public safety is one of the fundamental principles of the planning system, I conclude that the appeal proposal is contrary to the development plan as a whole. As due weight should be given to existing planning policies according to their degree of consistency with the Framework, I attach significant weight to this conflict.
18. The Government's proposed reforms to the Framework and other changes to the planning system includes the written ministerial statement entitled "Building the homes we need". However, these proposed reforms are still out to consultation and as such, they are only afforded limited weight and do not justify the grant of planning permission. The proposed dwelling would provide a small but positive contribution to the Council's housing supply. This however does not outweigh the conflict with the development plan.
19. For the above reasons, the material considerations before me do not indicate that a decision should be made otherwise than in accordance with the development plan. Therefore, the appeal is dismissed.

R Cahalane

INSPECTOR



Appeal Decision

Inquiry Held on 17 – 19 September, 24 – 26 September and 30 September 2024

Site visit made on 19 September 2024

by Rory Cridland LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 18th November 2024

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

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

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by T A Fisher and Sons Ltd against the decision of West Berkshire District Council.
 - The application Ref 22/00244/FULEXT, dated 31 January 2022, was refused by notice dated 1 June 2022.
 - The development proposed is the erection of 32 dwellings including affordable housing, parking and landscaping, with access via Regis Manor Road.
 - This decision supersedes that issued on 8 August 2023. That decision on the appeal was quashed by order of the High Court.
-

Decision

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

Application for Costs

2. An application for costs was made during the Inquiry by the Council against appellant. The appellant responded in writing following the close of the Inquiry. That application is the subject of a separate decision.

Preliminary Matters

3. An Inquiry into this appeal was held in June 2023 and a decision issued shortly thereafter. However, that decision was subsequently quashed by the High Court on the grounds that the reasons for disagreeing with the Office for Nuclear Regulation (ONR) (as statutory consultee) in relation to the off-site emergency plan were not legally adequate. Accordingly, the matter was referred back to the Planning Inspectorate to be redetermined. I have had regard to that decision and the reasons for it being quashed in determining this appeal.
4. The Ministry of Defence/AWE (MoD/AWE) and the ONR appeared at the Inquiry as Rule 6 parties.

5. The Council, in its decision notice, identified three reasons for refusal. Reason for refusal (RFR) 1 relates to affordable housing. The appellant has submitted an executed Unilateral Undertaking to secure 40% (13) on-site affordable housing units, 70% (9) of which are for social rent. This affordable provision would accord with CS Policy CS6 and the West Berkshire Planning Obligations Supplementary Planning Document. The Council confirmed in its written evidence this addresses its concerns in respect of the first reason for refusal. I consider the UU's compliance with the Community Infrastructure Levy Regulations 2010 (CIL Regulations) and the National Planning Policy Framework (the Framework) later in this decision.

Main Issues

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

Reasons

Planning Policy Context

The appeal site, settlement, population and emergency planning context

7. The appeal site comprises part of the 'Land to the rear of The Hollies Nursing Home', a site allocated for new housing under Policy HSA16 of the Housing Site Allocations Development Plan Document (2006-2026) which was adopted in 2017. It makes up the remaining undeveloped, south-western part of this housing allocation and adjoins various residential developments along Reading Road. These include the recently constructed and occupied 28 dwellings on Regis Manor Road, which form the other part of the HSA16 housing site allocation.
8. It is located approximately 2km from AWE B, within Burghfield Common's settlement boundary - a Rural Service Centre with a range of services and reasonable public transport provision, including bus services to and from Reading. Burghfield Common and the nearby small village of Burghfield together have an estimated population of around 1,500 – 1,700 people, the majority of whom live in Burghfield Common.
9. AWE B is one of the nuclear licenced sites in West Berkshire. Under the requirements of the Radiation (Emergency Preparedness and Public Information) Regulations 2019 (REPP19), West Berkshire District Council determined the detailed emergency planning zone (DEPZ) for AWE B. The DEPZ is the zone around AWE B for which the local authority prepares an off-site emergency plan (OSEP). The OSEP sets out protective actions to be implemented in the event of a radiological emergency at AWE B. The appeal site and Burghfield Common are located within the DEPZ for AWE B. This is within the context of a population in the whole of the DEPZ of around 22,000 – increasing to around 24,000, were other housing developments with planning permission in the DEPZ to be constructed and occupied.

Spatial Strategy

10. Policy ADPP1 of the West Berkshire Core Strategy (2006-2026)¹ (CS) sets out the Council's spatial strategy for West Berkshire – directing development towards the areas existing settlements. As a Rural Service Centre with a range of services and reasonable public transport provision, CS Policy ADDP6 makes clear that Burghfield Common, along with Mortimer, will be the focus of development in the East Kenney Valley Area with some growth planned to help meet the needs of the village communities and to assist with the viability of village shops and services.
11. It also makes clear that the Council will monitor housing completions and population levels in conjunction with the ONR and that residential development within the inner land use planning zone is likely to be refused in accordance with CS Policy CS8.

Public Safety

12. CS Policy CS8 seeks to protect public safety by restricting development in close proximity to the AWE sites. In doing so, it controls development by reference to the ONR's land use planning consultation zones, which, at the time the Policy CS8 was adopted included the inner consultation zone, the middle consultation zone and outer consultation zone. In relation to AWE B, these zones are set at distances of 0 - 1.5km, 1.5 – 3km and 3-5 km respectively². This accords with Paragraph 101 of the NPPF which advises that planning policies and decisions should promote public safety and take into account wider security and defence requirements by, amongst other things, ensuring that operational sites are not affected adversely by the impact of other development proposed in the area.
13. Policy CS8 also makes clear that in the inner consultation zone of AWE B, residential development that the ONR advises against is 'likely' to be refused. All other development in the consultation zones will be considered in consultation with the ONR, having regard to the scale of development proposed, its location, population distribution of the area and the impact on public safety, including its impact on blue light services and the emergency off site plan, as well as other planning criteria.
14. It is common ground that the site, in distance terms, falls within the middle consultation zone. However, the Council and the Rule 6 parties argue that due to changes to the size of the DEPZ³, the appeal site should be treated as falling within the inner consultation zone. They argue that, as a result, there should be a presumption against development within this newly enlarged zone, pointing to the first sentence of Policy CS8 in support of their position.
15. I do not agree. The purpose of Policy CS8 is to protect public safety and more specifically to deal with the risk to public safety posed by the AWE sites. It aims to achieve a balance between that risk and the limited development envisaged in the areas surrounding the AWE sites. It does not create a moratorium on development but instead seeks to provide a clear indication to developers of the approach the Council is likely to take to proposals around these high-risk installations. As the CS Inspector's report makes clear, the policy was subject to a number of modifications

¹ Adopted July 2012.

² In respect of the ICZ, this was the area for which detailed emergency planning was required under the Radiation (Emergency Preparedness and Public Information) Regulations 2001 (REPPiR01).

³ brought about by the introduction of REPPiR19.

- intended to provide reasonable certainty for all interested parties as to the type and scale of development likely to be acceptable in different locations⁴.
16. Even though Policy CS8 gives centre stage to the ONR's advice, it does not prescribe a particular outcome for development proposals in any of the consultations zones. While the first sentence reflects the Council's intention to normally follow the ONR's advice in the inner zone⁵, it is clear that proposals in the other zones are to be considered on a case-by-case basis. It seems to me that applying the policy as written and treating the appeal site as falling within the middle consultation zone, would not disapply the consequences of ONR's consultation advice from a substantial part of the geographic area to which the policy is intended to apply. Indeed, the ONR's advice will form an important part of the consideration of development proposals within any of the consultation zones.
 17. I accept that the changes brought about by REPP19 may require a change to the Council's approach to consultation with the ONR. However, I do not consider this requires a change to the way in which Policy CS8 is applied. Nor do I agree that it would require a finding that detailed emergency planning should only be required in the ICZ. In my view, Policy CS8 is sufficiently flexible to take account of the advice of the ONR on development proposals within any of the consultation zones. Furthermore, the question of whether to consult the ONR in a particular case is a matter for the Council and I see no reason that the Council could not alter its consultation arrangements with the ONR so that they align with the updated zones without affecting the application of Policy CS8. Doing so would enhance the ONR's consultation role and would not undermine public safety or the regulatory rationale on which the consultation zones are based. In the present case, the fact remains that ONR's advice on the proposed development has been sought and will form part of the considerations when applying Policy CS8.
 18. My attention has been drawn to Footnote 60 of the policy and paragraph 5.41 of the explanatory text both of which recognise that the consultations zones are as defined by the ONR and as shown on the proposals map. However, in my view this adds little to the understanding of the policy other than to indicate how the consultation zones have been determined. It does not indicate that Policy CS8 should be applied flexibly in the manner suggested by the Council and the Rule 6 parties. To do so would result in considerable uncertainty in the application of the policy, contrary to one of its key aims.
 19. Policy CS8, when read as a whole and in its proper context, is sufficiently flexible to accommodate the changes brought in by REPP19 without expanding the ICZ so that it aligns with the enlarged DEPZ. Indeed, as the second sentence makes clear, development proposals will be considered in consultation with the ONR having regard to the scale of development proposed, its location, population distribution of the area and the impact on public safety. This includes how the development would impact on blue light services and the emergency off site plan in the event of an emergency as well as other planning criteria. Many of these criteria will also be considered by the ONR when responding to all consultations for planning applications in the DEPZ⁶.

⁴ CD13.35 paragraph 84.

⁵ and thus establishes the mechanism by which the ONR is given influence over land use planning decisions around the AWE sites.

⁶ CS Policy CS8, explanatory text paragraph 5.43.

20. While I note that Policy SP4 of the emerging West Berkshire Local Plan Review (LPR) proposes a more restrictive approach to development within the DEPZ, the examination of the LPR is ongoing and still some way from being finalised and adopted. Furthermore, I understand there are a number of outstanding objections to that policy. As such, while I am mindful that the proposal would be in conflict with the current version of that policy, I attach it limited weight.
21. Overall, while I acknowledge the strong views advanced by the Council and the Rule 6 Parties as to the application of Policy CS8, I consider the suggested substitution of the DEPZ for the ICZ would alter the wording of that development plan policy to such an extent that it would fundamentally change its meaning and intent. It would greatly expand the area within which development proposals are likely to be refused and would result in a far more restrictive development plan policy than that which was intended at the time of adoption. It would also result in considerable uncertainty as to the approach the Council is likely to take to development within the DEPZ.
22. Accordingly, I conclude that the Proposed Development should be considered under the second sentence of Policy CS8.

Resident's safety and wellbeing (in relation to AWE B)

23. The scale of the proposed development is relatively modest. While it falls within the Framework definition of major development, at 32 dwellings it is at the lower end of the scale. Its location on an allocated site in Burghfield Common, a rural service centre located on the outer edge of the DEPZ - an area within which growth is envisaged and one of the more populous parts of the DEPZ - indicates it is in a suitable location from a land use planning perspective. Furthermore, I note the Council accepts that it complies with the spatial strategy set out in CS Policy ADPP1⁷. As such, I consider that the scale and location of the development is acceptable in planning terms.
24. It is not disputed that the risk of a nuclear emergency is low. This is a given in the context of nuclear radiation and emergency planning. Furthermore, even if one did occur, the likely radiation doses that individuals at the appeal site or elsewhere in the DEPZ would experience would also be low. The REPP19 regime, and the requirements it imposes, is precautionary and seeks to mitigate the remote risk of a nuclear incident and its potential to result in harm to the surrounding population.
25. Likewise, I accept that considerations of individual risk at the appeal site are unlikely to be determinative factors in this appeal. Individual risk will be low across the whole of the DEPZ in view of the very low risk of an event occurring. While I acknowledge that the possibility of exposure of the proposed development's future residents to inhalation and external radiation from a plutonium plume from AWE B cannot be ruled out, the individual risks posed to future residents would be tolerable. In many respects, it would be similar to that of many others living within Burghfield Common - with the risk being considerably below the threshold identified by the HSE for refusing planning permission on safety grounds.
26. Furthermore, the changes brought about by REPP19 have not altered the risk to those future residents or anyone else within the DEPZ. It is essentially the same as it was during the time the site was allocated. It is the appetite for risk that has

⁷ Council Closing Para 38.

changed and how the Council should go about planning and preparing for a response to a nuclear emergency. As such, I am satisfied that future residents of the proposed development would not be placed at an unacceptable level of risk or subjected to any materially different risk to other residents in Burghfield Common or the wider DEPZ.

27. Turning then to its impact on the OSEP, the appellant has suggested that the OSEP is not sensitive to population density. I do not agree. While there may be elements that are not, the NPPG makes clear that when considering public safety in planning decisions, account should be taken of the total number of people that are present in the consultation zones and the implications of any increase as a result of a planning decision or policy. Furthermore, it recognises that cumulative development, by whatever means, leads to a rise in population within the consultation zone and a proportionate increase in the consequences should a major accident occur.
28. As such, I agree with the Council and the Rule 6 parties that the addition of up to a further 77 residents to the DEPZ will place an increased burden on emergency responders. Those residents are likely to include vulnerable individuals and others who may require access to a rest or reception centre⁸ and will require the deployment of further resources. It would also increase the burden during the recovery period, including in terms of the potential number of properties to be decontaminated as well as the need for radiation monitoring and alternative accommodation. However, I accept that the quantifiable effect on those resources would be limited and, in itself, is unlikely to materially impact on the effectiveness of the OSEP.
29. Nevertheless, I accept the ONR is best placed to understand the pressures faced by the OSEP and the likely impact of population growth within the DEPZ. Furthermore, I acknowledge its concerns that the additional impact of permitted, but as yet unbuilt, development has placed further strain on an OSEP already under significant pressure. Indeed, it is clear from the results of the ALDEX-23 statutory test that many of the pressures faced by the OSEP following the expansion of the DEPZ have not gone away⁹ and improvements may be required to meet the needs of the existing population and those resulting from consented, but as yet unbuilt, development. As the UK's independent nuclear regulator, the ONR's advice is an important matter to be weighed in the planning balance.
30. However, even taking a precautionary approach, the evidence before me indicates that sufficient resources are available to provide a suitable response to the permanent population of around 22,000, the transient population as well as a potential crowd of 24,000 at the nearby stadium - a figure that I heard could increase substantially in the future. Even though I give significant weight to the expert advice of the ONR, I do not consider that the addition of up to a further 77 permanent residents to the DEPZ would, in itself, have a material impact on the overall emergency response. Similarly, while I accept that the OSEP is under significant pressure, I have seen no robust evidence that the addition of a further 77 residents to the DEPZ would materially affect its adequacy.

⁸ Council's Closing Submissions.

⁹ CD24.7.

31. I do, however, accept that the OSEP is not infinitely scalable and that incremental, unplanned development could, over time, erode the effective management of the land use planning consultation zones and be detrimental to public safety. In that sense, I agree with the Inspectors in the Shyshack Lane appeal¹⁰ the Benham's Farm appeal¹¹ and the 132 Recreation Road appeal¹². However, such concerns do not arise in the present case due to the fact that the appeal site is the only remaining allocated site within the DEPZ. As such, the circumstances of this appeal are unlikely to be repeated elsewhere in the DEPZ.
32. Consequently, while I acknowledge the participation of the Rule 6 parties arises out of genuine concern with regard to the impact of further development on the adequacy of the OSEP, I do not consider the proposed development would place the OSEP at any material risk of failure. Indeed, on the evidence before me it appears that the OSEP is sufficiently flexible to accommodate the relatively minor increase in the population of the DEPZ that would result from the proposed development.
33. Accordingly, having regard to the scale of development proposed, its location, the population distribution of the area and the impact on public safety (including its impact on blue light services and the OSEP) as well as other planning criteria, I do not consider the proposed development would adversely impact on public safety within the DEPZ. As such, I find no conflict with Policy CS8.

Operational capacity and capability of AWE B

34. AWE B is the only site in the UK which can undertake its combination of activities associated with the assembly, disassembly, handling and storage of nuclear warheads. These activities are essential to support the UK's Continuous At Sea Deterrent (CASD).
35. Notwithstanding my findings above, in the unlikely event that the OSEP was found to be inadequate, for example as a result of excessive strain on emergency services arising from increased population, there is a risk that AWE would be unable to continue to carry out work with ionising radiation or have limits placed on how and when it could carry out such activities.
36. While I accept this risk is remote, if it were to arise, it is likely to impact on AWE B's ability to meet the MoD's requirements in support of the CASD. I am also mindful of the potential effect that an increased population in the DEPZ might have on AWE B's future operational flexibility and expansion plans.
37. However, while I cannot rule out the possibility that the population increases in the DEPZ might increase the potential for future constraints on AWE B's future operational flexibility and capacity¹³, it is very unlikely that the addition of a further 77 people located around 2 km away would result such curtailment. Furthermore, there is no evidence to suggest that AWE B is itself considering curtailing its activities or is under pressure from the regulator to do so.

¹⁰ APP/H1705/W/23/3326959.

¹¹ APP/W0340/W/24/3342596.

¹² APP/W0340/W/24/3344580.

¹³ with the associated adverse implications for the UK's Continuous At Sea Deterrent capacity and national security.

38. Taking into account the very serious adverse national security consequences of potential constraint of AWE B's operations, but the very limited likelihood of the relatively modest scale of the proposed development causing such constraint, I concur with the previous Inspector that the proposed development would result in very limited harm to the operational capability and capacity of AWE B.
39. Nevertheless, even this very limited harm would result in conflict with paragraphs 97 and 193 of the Framework which seek, among other things, to ensure that the operation of defence and security sites is not adversely affected by other development in the area and that existing businesses and facilities do not have unreasonable restrictions placed on them as a result of development permitted after they were established. I address the weight to be given to this conflict in the overall balance below.

Other Matters

40. RFR 3 relates to the loss of protected trees and the adverse impact this would have on the character and appearance of the surrounding area. The Council and the appellant have confirmed that they accept the findings of the previous Inspector that the proposed development would result in localised harm to the character and appearance of the surrounding area.
41. No oral evidence on loss of trees or its impact on the character of the surrounding area was presented at the Inquiry. I am therefore content to adopt the findings of the previous Inspector that the proposed development would conflict with Policies ADPP1, CS14, CS18 and CS19 of the CS which together seek to ensure that development respects local character, while making efficient use of land. Nevertheless, it remains the case that the main parties do not agree on the weight to be attributed to this conflict. I consider this matter further in the planning balance.
42. The appellant has suggested that the Council is unable to demonstrate a supply of specific deliverable sites sufficient to provide a minimum of 5 years' worth of housing as required by the Framework. However, it was agreed during the Inquiry that the Council is only required to demonstrate a 4-year supply of deliverable housing sites in accordance with paragraph 226 of the Framework. While I note the government is currently considering consultation comments on its proposed changes to the Framework and has indicated its intention to amend paragraph 226, it is unclear at this time what the final form of those changes will take. I am therefore content that the Council can currently demonstrate the requisite supply of deliverable housing sites and that paragraph 11(d) of the Framework is not engaged.
43. I have had regard to the concerns expressed by local residents and others. While I note the concerns regarding the additional traffic along Regis Manor Road, there is no substantive evidence which would indicate it could not satisfactorily withstand traffic to and from the appeal site either during or after construction. Furthermore, I note that no concerns have been expressed by the Local Highway Authority and a Construction Method Statement will be secured by planning condition to help safeguard highway safety and neighbours' living conditions during the development's construction phase.
44. For similar reasons to those of the previous Inspector, I consider the separation distances between proposed and neighbouring houses, existing boundary

treatments and proposed arrangements for bin storage are sufficient to ensure the proposed development would not harm neighbours' amenity, including outlook and privacy.

45. Likewise, I agree that the relatively straight and clear sight lines between motorists and pedestrians along this stretch of Reading Road assist highway safety. Overall, taking into account the existing and proposed access arrangements, I am satisfied that pedestrian access to and from the proposed development would be acceptable.
46. Additional residents of the proposed development would provide additional clientele for local health facilities, potentially helping to justify and sustain future provision, and there is no substantive evidence from health service providers that the appeal proposal's additional residents would undermine local provision. Also, a suite of planning conditions covering lighting, construction and environmental management plans, landscaping and biodiversity measures would suitably provide for biodiversity.
47. Overall, while I have had regard to all of the other concerns raised by local residents and other interested parties, they do not provide sufficient reason to refuse to grant permission in the present case.

Planning Obligation

48. I have considered the UU submitted by the applicant, which provides for 40% of the dwellings to be affordable in accordance with CS Policy CS6. I agree with the Council that the obligations set out in the UU are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind. As such, they meet the tests within CIL Regulation 122 and those set out in paragraph 57 of the Framework and I am satisfied that the submitted UU is acceptable.

Overall Planning Balance

49. I have found above that there is a risk that the proposed development would result in very limited harm to the operational capability and capacity of AWE B. As I have made clear, even this very limited harm would result in conflict with paragraphs 97 and 193 of the Framework which seeks, among other things, to ensure that the operation of defence and security sites are not adversely affected by other development in the area. However, taking into account the remoteness of this risk, I afford it moderate negative weight.
50. Furthermore, I have found that the loss of protected trees would result in some localised harm to the character and appearance of the surrounding area. As such, it would be in conflict with Policies ADPP1, CS14, CS18 and CS19 of the CS. However, in view of the localised nature of that harm, I afford it only moderate negative weight.
51. However, I have also found that the proposal would generally accord with the spatial strategy as well as the land use allocation in Policy HSA16. Furthermore, it would result in the addition of 19 open market dwellings which, while relatively modest, would nevertheless make a meaningful contribution to market housing in the district. I afford this significant positive weight.

52. Similarly, 40% of the proposed dwellings would be affordable. While I note the appeal decisions referred to me by the Council in support of its position that affordable housing should only be afforded moderate weight¹⁴, both of these decisions were in different locations and there is no evidence which would suggest that their circumstances are sufficiently similar for them to act as any sort of precedent. Increasing the supply of affordable homes is a government priority and I consider the provision of 13 affordable homes in a district with a recognised and pressing need should be afforded significant positive weight.
53. In addition, the proposal would result in a number of other socio-economic benefits both during construction and following completion and would help support local facilities, services and businesses in this Rural Service Centre. However, even taken together, the contribution would be relatively modest and, as such, I afford this only a small amount of positive weight.
54. While I acknowledge that, in adding to the existing population, the proposal would result in an additional burden on emergency responders in the event of a radiological emergency, for the reasons given above, I do not consider this would adversely impact on public safety within the DEPZ.
55. It is established government policy that the planning system should be genuinely plan led and I agree with the previous Inspector that, for this to mean something, an applicant must be able to rely on specific site allocations in an adopted development plan unless there are compelling reasons to indicate that they should be set aside.
56. While I afford significant weight to the views of the ONR, overall, I consider the potential benefits of the proposed development, together with the fact that the proposal is for development on a specific site allocated for housing in the adopted development plan, outweigh the very real but small risks attached.
57. Consequently, while I acknowledge there would be some small conflict with Policies ADPP1, CS14, CS18 and CS19 of the CS and paragraphs 97 and 193 of the Framework, in view of its general accordance with the spatial strategy, its allocation as part of Policy HSA16 and its likely impact on public safety, I consider there are material considerations which indicate permission should be granted.

Planning Conditions

58. The necessary planning conditions are set out in the attached schedule and were discussed in detail at the Inquiry.
59. In addition to the standard commencement condition, I consider a condition requiring the development to be carried out in accordance with the approved plans is necessary in order to provide certainty.
60. Conditions regarding tree protection, materials, boundary treatments, spoil and landscaping are necessary in order to protect the character and appearance of the surrounding area. Conditions regarding car parking and carports are required in the interests of highway safety.
61. I consider conditions requiring the provision of cycle parking and storage, electric vehicle charging and drainage are necessary in the interests of environmental

¹⁴ APP/M2270/W/20/3247977 and APP/B1930/W/20/3260479

sustainability while conditions covering construction management, working hours, bin storage, gradients and floor levels are required to safeguard the living conditions of neighbouring occupiers.

62. Furthermore, I consider conditions covering lighting, environmental management, bird nesting and biodiversity enhancement measures are necessary to safeguard biodiversity.
63. In addition, conditions to address possible contamination, emergency notification systems and a development-specific emergency plan are required to safeguard residents' and employees' safety.
64. As the PPG makes clear, conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity. While I consider it is necessary to restrict physical alterations to car ports in order to ensure they remain available for their intended purpose, I do not consider it is necessary or reasonable in this case to restrict permitted development rights in respect of gates, fences, walls or other means of enclosure as no detailed justification has been provided.
65. Conditions 3 – 9 need to be discharged before work commences on site as they relate to matters which need to be resolved on a fully coordinated basis.

Conclusion

66. For the reasons set out above, and having had regard to all other matters raised, I conclude the appeal should be allowed.

Rory Cridland

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved drawings:

2021/P0162 LP Rev B Site Location Plan
2021/P0162 01 Rev B Colour Site Layout
2021/P0162 02 Rev B Site Information Plan
2021/P0162 03 Rev A Proposed Plots 1 - 5
2021/P0162 04 Rev A Proposed Plots 6 - 8
2021/P0162 05 Rev A Proposed Plots 9 - 11
2021/P0162 06 Proposed Plots 12 & 13
2021/P0162 07 Proposed Plot 14
2021/P0162 08 Proposed Plot 15
2021/P0162 09 Proposed Plot 16
2021/P0162 10 Proposed Plots 17 & 18
2021/P0162 11 Proposed Plots 19 & 20
2021/P0162 12 Proposed Plot 21
2021/P0162 13 Proposed Plots 22 & 23
2021/P0162 14 Rev A Proposed Plots 24 & 25
2021/P0162 15 Proposed Plots 26 & 27
2021/P0162 16 Proposed Plot 28
2021/P0162 17 Proposed Plot 29
2021/P0162 18 Proposed Plot 30
2021/P0162 19 Proposed Plot 31
2021/P0162 20 Proposed Plot 32
2021/P0162 21 Proposed Garages/Carports Plots 15 & 16
2021/P0162 22 Rev B Proposed Bin and Cycle Store (Plots 1 - 5)
2021/P0162 23 Proposed Street Elevations

- 3) No development shall take place until a detailed schedule of tree works has been submitted to and approved in writing by the local planning authority. This shall include:
 - (a) the timing and phasing of operations; and
 - (b) confirmation of appointment of a project arboriculturist who shall supervise and verify implementation of tree protection and tree works.

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

- 4) No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. Thereafter the demolition and construction works shall incorporate and be undertaken in accordance with the approved CMS. The CMS shall include measures for:

- (a) a site set-up plan during the works;
 - (b) parking of vehicles of site operatives and visitors;
 - (c) loading and unloading of plant and materials;
 - (d) storage of plant and materials used in constructing the development;
 - (e) erection and maintenance of security hoarding including any decorative displays and/or facilities for public viewing;
 - (f) temporary access arrangements to the site, and any temporary hard-standing;
 - (g) wheel washing facilities;
 - (h) measures to control dust, dirt, noise, vibrations, odours, surface water run-off, and pests/vermin during construction;
 - (i) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
 - (j) hours of deliveries and preferred haulage routes.
- 5) No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include the following:
- (a) risk assessment of potentially damaging construction activities;
 - (b) identification of biodiversity protection zones;
 - (c) practical measures, both physical measures and sensitive working practices, to avoid or reduce impacts during construction (these may be provided as a set of method statements);
 - (d) the location and timing of sensitive works to avoid harm to biodiversity features;
 - (e) the times during construction when specialist ecologists need to be present on site to oversee works;
 - (f) responsible persons and lines of communication;
 - (g) the role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
 - (h) use of protective fences, exclusion barriers and warning signs.

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

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

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

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

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

- 8) No development shall take place until a soft and hard landscaping scheme for the site has been submitted to and approved in writing by the local planning authority. The landscaping scheme shall include:

- (a) details of the proposed tree and shrub planting including their species, number, sizes and positions, together with grass seeded/turfed areas and written specifications (including cultivation and other operations associated with plant and grass establishment i.e. depth of topsoil, mulch etc);
- (b) seed mixes;
- (c) details of existing trees and hedgerows to be retained as well as any to be felled, including existing and proposed soil levels at the base of each tree/hedgerow and the minimum distance between the base of the tree and the nearest edge of any excavation; and
- (d) details of hard landscaping, including hard surfaced areas including pavements, pedestrian areas and steps.

The approved landscaping scheme shall be implemented no later than the end of the first planting season following completion of the development. The scheme shall be maintained for a period of 5 years from the completion of the development.

Any trees and/or shrubs which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority agrees any variation in writing.

- 9) No development shall take place until a comprehensive Emergency Plan (EP) has been submitted to and approved in writing by the local planning authority in relation to the construction phase of the development. The EP shall provide policies and procedures for the preparedness and response to an incident at AWE Burghfield. The plan shall include but not be limited to the following aspects:
 - (a) details about the site;
 - (b) preparations in advance of any incident;
 - (c) how the site will be notified of an AWE incident;
 - (d) actions to take on notification (set out on a flow chart and/or check list);
 - (e) actions to do to shelter for up to 48 hour period;
 - (f) actions to have in place in relation to preparing for evacuation;
 - (g) recovery.

The Development shall be carried out in accordance with the approved EP.

- 10) If any previously unidentified contaminated land is found during demolition and/or construction activities, it shall be reported immediately in writing to the local planning authority (LPA). Appropriate investigation and risk assessment shall be undertaken, and any necessary remediation measures shall be submitted and approved in writing by the LPA. These submissions shall be prepared by a competent person (a person with a recognised relevant qualification, sufficient experience in dealing with the type(s) of pollution or land instability, and membership of a relevant professional organisation), and conducted in accordance with current best practice. The remediation scheme shall ensure that, after remediation, as a minimum, the land shall not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990. Thereafter, any remediation measures shall be carried out in accordance with the approved details. Unless otherwise agreed in writing by the LPA, the development

shall not be occupied until any approved remediation measures have been completed and a verification report to demonstrate the effectiveness of the remediation has been submitted to and approved in writing by the LPA.

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

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

- 12) No dwelling shall be first occupied until a storage area for refuse and recycling receptacles, and collection areas if necessary, has been provided for that dwelling in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 13) No development on any dwelling shall take place until details of the finished floor levels of that dwelling in relation to existing and proposed ground levels of adjoining dwellings have been submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved levels.
- 14) No development above damp-proof course level of any dwelling shall take place until a scheme for the installation of a notification system within each dwelling has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the system to receive a 'Shelter In Place' alert in the event of a radiation emergency at AWE Burghfield. The system should be installed in accordance with the approved details, and thereafter maintained.
- 15) No development above ground level shall take place until a schedule of the materials to be used in the construction of the external surfaces of the development hereby permitted there has been submitted to and approved in writing by the local planning authority. Samples of materials shall be made available to the local planning authority on request. The development shall be carried out in accordance with the approved details.
- 16) No dwelling shall be first occupied until the approved vehicle parking and turning spaces for the dwelling have been completed in accordance with the approved plans, including any surfacing arrangements and marking out. Thereafter the parking and turning spaces shall be kept available for parking and manoeuvring of the private cars at all times.

- 17) No dwelling shall be first occupied until cycle parking/storage facilities for that dwelling have been provided in accordance with the approved drawings. Thereafter the facilities shall be maintained and kept available for that purpose at all times.
- 18) No dwelling shall be first occupied until an electric vehicle charging point for that dwelling has been provided in accordance with details which have been submitted and approved in writing by the local planning authority. Thereafter, the charging points shall be maintained, and kept available and operational for electric vehicles at all times.
- 19) No dwelling shall be first occupied until a Landscape and Ecological Management Plan (LEMP) (also referred to as a Habitat or Biodiversity Management Plan) has been submitted to and be approved in writing by the local planning authority. The content of the LEMP shall include the following:
- (a) description and evaluation of features to be managed;
 - (b) ecological trends and constraints on site that might influence management;
 - (c) aims and objectives of management;
 - (d) appropriate management options for achieving aims and objectives;
 - (e) prescriptions for management actions;
 - (f) preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);
 - (g) details of the body or organisation responsible for implementation of the plan;
 - (h) ongoing monitoring and remedial measures.
- The LEMP will be implemented in accordance with the approved details.
- 20) The development shall be carried out in accordance with the biodiversity enhancement measures set out at Paragraph 5.13 of the Pro Vision Ecological Assessment dated November 2021. No dwelling shall be occupied until the measures related to that dwelling have been installed/constructed in accordance with the approved details.
- 21) No demolition or construction works shall take place outside the following hours, unless otherwise agreed in writing by the local planning authority: 7:30am to 6:00pm Mondays to Fridays; 8:30am to 1:00pm Saturdays; no work shall be carried out at any time on Sundays or Bank Holidays.
- 22) Protective fencing shall be implemented and retained intact throughout the construction phase of the development in accordance with the tree and landscape protection scheme identified on approved drawing 1730-KC-XX-YTREE-TPP01 Rev A Tree Protection Plan (TPP). Within the fenced areas shown on the TPP, there shall be no excavation, storage of materials or machinery, parking of vehicles or fires.
- 23) The car port(s) hereby permitted shall be kept available for parking of the private cars at all times. Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking, re-enacting or modifying that Order with or without modification), no physical

alterations shall be made to the car port(s), including enclosing the sides/installed doors) unless permission has been granted by the local planning authority as a result of an application being submitted for that purpose.

- 24) The gradient of private drives shall not exceed 1 in 12.
- 25) No demolition, or site/vegetation clearance shall take place during the bird breeding season (March to August inclusive) unless carried out under the supervision of an experienced ecologist, who will check the habitat to be affected for the presence/absence of any birds' nests. If any active nests are found then works with the potential to impact on the nest must temporarily stop, and an appropriate buffer zone shall be established until the young birds have fledged and the nest is no longer in use.

END OF SCHEDULE

APPEARANCES

FOR THE APPELLANT

Andrew Tabachnik KC called:

Miss Katherine Miles BA (Hons) MSc MRTPI	Director, Pro Vision
Dr Keith Pearce BSc BA MBA MSc PhD FEPS	Katmal Limited
Dr Michael Thorne BSc PhD FInstP FSRP CradP	Mike Thorne and Associates Limited

FOR THE LOCAL PLANNING AUTHORITY (WBDC)

Naoemi Byrd of Counsel called:

Carolyn Richardson BSc (Hons) CIEH	Emergency Planning Service Manager, WBDC et al
Matthew Shepherd BSc H(Hons) Msc	Senior Planning Officer, WBDC
Paul McColgan	Director, Icen Projects

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

Rose Grogan of Counsel called:

Person AW	AWE
Tom Bennington	MoD
Sean Bashforth MRTPI	Senior Director, Quod

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

Michael Fry of Counsel called:

Eamonn Guilfoyle	Emergency Planning and Response Workstream Lead, ONR
Grant Ingham	Policy and International Workstream Lead

DOCUMENTS SUBMITTED AFTER THE CLOSE OF THE INQUIRY

Unilateral Undertaking

Confirmation from Council that UU is agreed.

END



Appeal Decision

Site visit made on 15 August 2024

by S Castle BSc Hons MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 December 2024

Appeal Ref: APP/W0340/W/24/3343072

Sunnyside Village Stores, Reading Road, Burghfield Common, RG7 3EG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr M Patel against the decision of West Berkshire District Council.
 - The application Ref is 23/01812/FUL.
 - The development proposed is erection of 2no. dwellings with associated access and curtilage, following the partial demolition of the rear element of the convenience store.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant, during the appeal process, submitted additional plans. The Council is satisfied that those plans address their fourth refusal reason. I see no reason to disagree.

Main Issues

3. The main issues in this case are:
 - Whether or not the proposal would accord with policies which seek to minimise the potential impact on public safety and emergency services in relation to the Aldermaston Atomic Weapons Establishment Burghfield (location AWE B) Detailed Emergency Planning Zone (DEPZ) and associated Off-Site Emergency Plan (OSEP);
 - the effect of the proposal on the living conditions of the occupants of neighbouring properties and whether the scheme would provide for suitable living conditions for future occupants; and
 - whether the proposal would have an acceptable effect on flood risk with specific reference to surface water drainage.

Reasons

AWE

4. The appeal site is located within the Detailed Emergency Planning Zone (DEPZ) of AWE Burghfield. The site also lies within the 'outer zones' for AWE Aldermaston and AWE Burghfield as set out in Policy CS8 of the Core Strategy¹.

¹ West Berkshire Core Strategy (2006 - 2026) Development Plan Document

5. West Berkshire Council have a number of responsibilities under The Radiation (Emergency Preparedness and Public Information) Regulation 2019 (REPIIR 2019), including determining the DEPZ and developing an Off-Site Emergency Plan (OSEP). The purpose of the DEPZ is to define an area where the Council needs to have a plan that details how they, the emergency services and other organisations, would respond in the unlikely event of a radiation emergency arising from an AWE site.
6. Policy CS8 of the Core Strategy sets out that development in the consultation zones will be considered in consultation with the Office for Nuclear Regulation (ONR), having regard to scale, its location, population distribution, the impact on public safety including blue light services, and the emergency off-site plan as well as other planning criteria.
7. Policy CS8 goes on to set out the criteria for when the ONR will be consulted. Notwithstanding these criteria, the policy does not preclude the local planning authority from notifying parties who may have an interest in the proposal. Indeed, paragraph 45 of the Framework states that local planning authorities should consult the appropriate bodies when considering applications for the siting of, or changes to, major hazard sites, installations or pipelines, or for development around them.
8. The proposal would result in an additional dwelling within the DEPZ and within the 'outer zones' identified by Policy CS8. An increase in population would increase the need for, and demand placed upon, emergency responders, reception centres, rest centres, and radiation monitoring, thereby exacerbating the difficulties of delivering emergency care in a complex multi-agency emergency. Whilst the impact of the proposal may be modest, it would incrementally increase pressure upon the resources available to implement the OSEP in the event of a radiation incident. The argument that the impact would be small could be made for any individual development, but the cumulative effect of numerous proposals, over time, could significantly undermine the effectiveness of the off-site emergency planning arrangements, which would be harmful to the interests of public safety.
9. The ONR, the Council's Emergency Planning Team, and AWE have all provided detailed objections to the proposals. Taken together, these objections advise that the development would place the OSEP at risk of being inadequate, and would therefore place the community, both existing and new, at risk in terms of their public health and wellbeing. Given the responsibility for managing and regulating the potential risks from the AWE B site, including responding to emergencies, lies with the local authority and associated bodies such as the ONR, and the AWE, their concerns with respect to the deliverability of the OSEP carry considerable weight.
10. On the basis of the evidence before me, I find that the risks to public safety are adverse effects which weigh against the grant of permission in this case. Consequently, the proposal would conflict with Policy CS8 of the Core Strategy, which seeks to minimise the potential impact on public safety and emergency services in relation to the Aldermaston Atomic Weapons Establishment (location AWE B) Burghfield. It would also conflict with paragraphs 101 and 193 of the Framework in terms of failing to promote public safety.

Living Conditions

11. The Council's Adopted Supplementary Design (SPD) Quality Design: Part 2 Residential Development, 2006, advises that at the rear of a dwelling the expectation of the resident will be that they should experience a high level of privacy and that overlooking windows should be avoided or some distance away. The SPD recommends a distance of 21m as a guideline for an acceptable privacy distance between houses backing onto each other.
12. The main parties advise that the separation distances between the rear elevations of the proposed dwellings and those of nos 18 and 20 Garlands Close would be less than 21m. A previous appeal decision for residential development on this site found that the recommended 21m separation distance should be respected. I see no reason to disagree with that finding. Whilst the shortfall in the recommended separation distances would not be substantial, there would, nevertheless be a detrimental impact on the privacy of the adjoining occupiers at nos 18 and 20 Garlands Close by virtue of the proximity of the facing rear windows.
13. The relationship between the first floor bedroom window on the rear of plot 2 and the windows on the rear of no 1 Park View would be significantly oblique. Given the angled nature of these views, I am satisfied that the proposal would not result in an unacceptable loss of privacy to 1 Park View.
14. The separation distance between the flat to be retained within Sunnyside Stores facing towards the proposed dwellings would, however, be insufficient to prevent a loss of privacy to both existing occupiers of the flat and future of occupiers of the proposed dwellings.
15. The appellant has suggested a landscaping scheme secured by condition could be used to mitigate the detrimental effect of the proposal on privacy. Such landscape screening cannot, however, be guaranteed to survive in perpetuity and would not, therefore, satisfactorily address the harms identified.
16. Overall, the scheme would cause unacceptable harm to the living conditions of the occupants of neighbouring properties through loss of privacy. Furthermore, it would not provide appropriate levels of privacy for future occupants of the development. The proposal therefore conflicts with Policy CS14 of the Core Strategy and relevant guidance contained within the SPD and Framework in this regard.

Flood Risk

17. No detailed surface water drainage details have been submitted in support of the proposals. There are no nearby sewers or watercourses and the Lead Local Flood Authority (LLFA) advises that an infiltration solution may be challenging to implement at the site given the area is identified as having the potential for high groundwater levels and is potentially underlain by clay.
18. Any proposals to use infiltration methods, therefore, need to be submitted with supporting evidence such as ground investigations. Without such information, it is not possible to ascertain whether a suitable drainage strategy could be designed. Given that it may not be technically feasible to install a sustainable drainage system without significant implications for the overall scheme, it is not reasonable to secure drainage details by way of condition.

19. Consequently, the proposal would have an unacceptable effect on flood risk with specific reference to surface water drainage. It therefore conflicts with the Framework and Policy CS16 of the Core Strategy which, taken together, seek to ensure that surface water is managed through the implementation of sustainable drainage methods.

Planning Balance

20. The Framework aims to significantly boost the supply of homes and the proposal would create an additional home. There would be social benefits arising from the provision of an additional dwelling. The proposal would result in economic benefits through the construction phase and as a result of expenditure and revenue from future residents. Overall, given the scale of the development, I attach modest weight to these benefits.

21. Significant weight is, however, given to the harms identified above. The proposal would conflict with the development plan as a whole, and the material considerations, including the Framework, do not indicate that the appeal should be determined other than in accordance with it.

Conclusion

22. Consequently, for the reasons set out above, and having had regard to all other matters raised, the appeal is dismissed.

S D Castle

INSPECTOR