

STATEMENT OF COMMON GROUND (PLANNING)

APPEAL REFERENCE APP/W0340/W/17/3177099 & APP/W0340/W/16/3158306

DATE OF INQUIRY 19th September 2017

SITE ADDRESS AND DESCRIPTION OF THE DEVELOPMENT

Land North of Irish Hill Road, Kintbury, West Berkshire.

Appeal 1 (APPIWO340/W/17/3177099): Outline application for the erection of up to 32 dwellings and associated access.

Appeal 2 (APP/W0340/W/16/3158306): Outline application for the erection of up to 72 dwellings and associated access.

APPELLANT: Endurance Estates Strategic Land Ltd

LOCAL PLANNING AUTHORITY West Berkshire Council

1 Parties to the Statement

1.1 This Statement of Common Ground has been prepared relating to the site on Land to the north of Irish Hill Road, Kintbury, West Berkshire.

1.2 This Statement of Common Ground is between the following:-

- **NIKO GRIGOROPOULOS**

Planning Consultant acting on behalf of West Berkshire Council (the Local Planning Authority); and

- **NATHAN McLOUGHLIN**

of McLoughlin Planning acting on behalf of Endurance Estates Strategic Land Ltd (the Appellant).

2 Purpose of Statement

2.1 This Statement identifies the various procedural and planning matters that are agreed between these two parties, as well, as the areas of dispute, relating to the two conjoined appeals above, which are pursuant to the two refused outline planning applications for:

- i) 32 dwellings (appeal 1) (LPA Ref 17/00756/OUTMAJ)
- ii) 72 dwellings (appeal 2) (LPA Ref 15/03446/OUTMAJ)

respectively at Land North of Irish Hill Road, Kintbury, West Berkshire. It is agreed however that the Council's evidence refers to the two appeals as B and A respectively.

2.2 A separate Statement of Common Ground on Highway matters was agreed between the two parties on 6th September 2017.

2.3 **Plans:** It is agreed that the Plans for the Appeals are as follows:

2.4 Appeal 1

Pegasus Planning Plans

Site Location Plan E.0174_18-1 Rev B

Masterplan Access Location Plan E.0174_39-1 Rev A

Indicative Masterplan (Reduced Scheme) E.0174_44-1 Rev B

PBA Plans

Preliminary Four Arm Mini Roundabout Access Option 37787/2001/001 Rev P5

2.5 Appeal 2

Pegasus Planning Plans

Site Location Plan E.0174_39-1

Indicative masterplan E.0174_43-1A

PBA Plan

37787/2001/001 Rev P1

For ease of reference for all parties, these plans are included in Plan Pack. Appended to this SOCG.

Also to assist the running of the Inquiry, the following plans are also appended for information purposes only.

PBA Plan – 37787/5501/001 Rev A

Extract from page 20 of the DAS – Local Facilities Plan

3 Reasons for Refusal

3.1 Planning application (appeal 1 – 32 units) was refused on 24 May 2017 for the following reasons:-

1. *The applicant has failed to complete a s106 planning obligation which would deliver the required 40% affordable housing on site [13 units] in accord with policy CS6 in the West Berkshire Core Strategy. In addition an appropriate s278 agreement has not been completed to ensure the necessary off site highways works identified in the application submission to be completed on occupation of the housing scheme. In addition no commuted sum has been provided for the proposed public open space on site in accord with saved policies RL1 and RL2 in the WBDLP 1991 to 2006. The application is thus contrary to policies CS5 and CS6 in the West Berkshire Core Strategy 2006 to 2026 and the advice in the NPPF and the para 122 of the 2010 CIL Regulations as amended. It is thus unacceptable.*

2. *The application site lies on a prominent elevated site on the north east sector of Kintbury. It also lies in the North Wessex Downs AONB. The development of substantial built form on this greenfield site, notwithstanding the existing conifer buffer strip to the north and the east, will demonstrably harm the nature, character, and existing urban edge of the village at this location. It will also harm the wider special landscape character and quality of the AONB, in this locality. Accordingly the application is contrary to policies ADPP5 and CS19 in the West Berkshire Core Strategy 2006 to 2026, and the advice in paras 115 and 116 of the NPPF. It is thus considered to be unacceptable.*

3. *The application, if permitted, will require the removal of a significant length of hedgerow to obtain forward visibility splays at the proposed new vehicle access onto the mini roundabout. Having regard to the impact this will have upon the local quasi rural street scene, the setting of the local Kintbury Conservation Area, the impact on local biodiversity and the impact on the loss of local green infrastructure, the application is contrary to policies CS17, CS18 and CS19 in the West Berkshire Core Strategy of 2006 to 2026. In addition, it is considered that the introduction of built form in close proximity to the present soft edge of the village adjacent to the present conservation area, will be harmful visually to that setting. Accordingly the application will be clearly contrary to policy CS19 in the Core Strategy and the advice in the NPPF regarding the protection of designated heritage assets and their settings. It is thus unacceptable.*

4. *The proposed development would result in the introduction of a fourth arm to an existing mini-roundabout, where there would be insufficient expectation of the need to give way on all approaches. This lack of expectation fails to comply with the criteria for introducing a fourth arm on an existing mini-roundabout, which would adversely affect road safety and the flow of traffic, contrary to Policy CS13 of the West Berkshire District Core Strategy 2006 to 2026, and the advice in para 32 of the NPPF. It is thus unacceptable.*

5. *The proposal would generate additional traffic, cyclist and pedestrian movements on Newbury Street which is sub-standard in respect of carriageway and footway widths, exacerbated by parking on both the carriageway and footways, which would adversely affect road safety and the flow of traffic. The application is thus contrary to policy CS13 in the West Berkshire Core Strategy of 2006 to 2026, and the advice in para 32 of the NPPF of 2012.*

6. *The proposed development would result in the increased use of the Newbury Street / Station Road junction which is sub-standard in respect of visibility for vehicles turning right (north) from Newbury Street on to Station Road, which would adversely affect road safety and the flow of traffic. The development is accordingly contrary to Policy CS13 of the West Berkshire District Core Strategy 2006 to 2026, and the advice in para 32 of the NPPF. It is thus unacceptable.*

7. *Further to the harm caused by the proposed development to interests of acknowledged importance identified above, the development of this unallocated greenfield site in the countryside adjacent to the recently reviewed and adopted Kintbury Settlement Boundary is unacceptable and inappropriate. The applicants have not demonstrated exceptional need for a housing development of this size in the AONB at this location, especially as the policy requirement for housing provision in the AONB area is a maximum one (up to 2000 dwellings for the 20 year period to 2026 and the Council is on course to meeting that level of housing delivery). The proposal is contrary to the West Berkshire Core Strategy (2006-2026) spatial strategy policies ADPP1 and ADPP5 and core policy CS1, as well as to the Housing Site Allocations Development Plan Document policy C1 and the relevant NPPF policies.*

3.2 Planning application (appeal 2 - 72 units) was refused on 11 March 2016 for the following reasons:-

1. *The applicant has failed to complete a s106 planning obligation which would deliver the required 40% affordable housing on site [29 units] in accord with policy CS6 in the West Berkshire Core Strategy. In addition an appropriate s278 agreement has not been completed to ensure the necessary off site highways works identified in the application submission to be completed on occupation of the housing scheme. Finally the applicant has not completed a s106 planning obligation to achieve the public open space commuted sums identified to*

maintain the on-site open space and LEAP. The application is thus contrary to policy CS5 in the West Berkshire Core Strategy 2006 to 2026 and the advice in the NPPF and the para 122 of the 2010 CIL Regulations as amended. It is thus unacceptable.

2. The development of housing on this greenfield site outside any defined settlement boundary in the Council Local Plan as saved, is clearly contrary to policy C1 in the Council HSADPD of November 2015 as submitted and saved policy HSG1 in the West Berkshire District Local Plan 1991 to 2006 [September 2007]. In addition, the applicants have failed to demonstrate the exceptional housing need for this level of housing at this location in Kintbury, having regard to the Council's 5 year housing land supply as identified in the HSADPD of November 2015. Accordingly it is considered that the application does not accord with policies CS1 and ADPP5 in the West Berkshire Core Strategy 2006 to 2026, nor the advice in para 14 of the NPPF, nor the advice on housing land supply as noted in the NPPG of 2014. It is thus unacceptable.

3. The proposal would generate additional traffic, cyclist and pedestrian movements on Newbury Street which is sub-standard in respect of carriageway and footway widths, exacerbated by parking on both the carriageway and footways, which would adversely affect road safety and the flow of traffic, contrary to Policy CS13 of the West Berkshire District Core Strategy 2006 to 2026, and the advice on highways safety in the NPPF. It is thus unacceptable.

4. The proposed development would result in the increased use of the Newbury Street / Station Road junction which is sub-standard in respect of visibility for vehicles turning right (north) from Newbury Street on to Station Road, which would adversely affect road safety and the flow of traffic, contrary to Policy CS13 of the West Berkshire District Core Strategy 2006 to 2026.

5. The application site lies on a prominent elevated site on the north east sector of Kintbury. It also lies in the North Wessex Downs AONB. The development of substantial built form on this greenfield site, notwithstanding the existing conifer buffer strip to the north and the proposed buffer planting to the east, will demonstrably harm the nature, character, and existing urban edge of the village at this location. Accordingly the application will be contrary to policies ADPP5 and CS19 in the West Berkshire Core Strategy 2006 to 2026, and the advice in para 115 of the NPPF. It is thus considered to be unacceptable.

6. The application, if permitted, will require the removal of a significant length of hedgerow to obtain forward visibility splays at the proposed new vehicle access onto Newbury Street. Having regard to the impact this will have upon the local quasi rural street scene, the setting of the local Kintbury Conservation Area, the impact on local biodiversity and the impact on the loss of local green infrastructure, the application is contrary to policies CS17, CS18 and CS19 in the West Berkshire Core Strategy of 2006 to 2026. It is accordingly unacceptable.

4 “Procedural” matters agreed between the two parties, arising from and following the conjoining of the two appeal cases

- 4.1 The emergence of appeal 1 and its conjoining with appeal proposal 2, gave rise to the need for clarification, rationalization and/or agreement of a number of matters on both sides, including the reasons for refusal, adjustments to the proposals and matters to be agreed and not pursued further at the Inquiry. The appellants and WBC have discussed and agreed all those issues as set out below in sections 5 to 10 of this statement (SOCG).

5 Kintbury Conservation Area Setting

- 5.1 The appellants acknowledge that the Council is concerned that the introduction of built form in close proximity to the present soft edge of the village adjacent to the present conservation area, would be harmful visually to that setting (although this matter is disputed by the Appellant). Whilst this was set out in reason for refusal 3 of the 32 unit scheme (appeal 1), it did not form part of reason for refusal 6 of the 72 unit scheme (appeal 2). The appellants acknowledge that despite the omission in reason for refusal 6 of the 72 unit scheme, the Council will invite the Inspector to consider both applications in the same context.
- 5.2 In this respect both parties agree that the Council asks the Inspector that the reason for refusal 6 of appeal 2 (72 units) (as set out in §3.1 above) should instead read as below, to reflect and be consistent with reason for refusal 3 of appeal 1 (32 units):-

Amended reason for refusal 6 (appeal 2):- *The application, if permitted, will require the removal of a significant length of hedgerow to obtain forward visibility splays at the proposed new vehicle access onto the mini roundabout. Having regard to the impact this will have upon the local quasi rural street scene, the setting of the local Kintbury Conservation Area, the impact on local biodiversity and the impact on the loss of local green infrastructure, the application is contrary to policies CS17, CS18 and CS19 in the West*

Berkshire Core Strategy of 2006 to 2026. In addition, it is considered that the introduction of built form in close proximity to the present soft edge of the village adjacent to the present conservation area, will be harmful visually to that setting. Accordingly the application will be clearly contrary to policy CS19 in the Core Strategy and the advice in the NPPF regarding the protection of designated heritage assets and their settings. It is thus unacceptable.

- 5.3 The Appellants agree that they will not seek to recover costs from the Council on the grounds of unreasonable behaviour in respect of this particular matter.
- 5.4 Notwithstanding it should be noted that the two parties disagree as to the alleged level of harm to the conservation area, which will be argued at the Inquiry and is therefore one of the areas of dispute as set out in section 17 below.

6 Major Development in AONB - NPPF §116

- 6.1 Both parties agree that the 72 unit appeal 2 proposal is a major development in the AONB for the purposes of NPPF §116. Although §116 was not explicitly cited in reason for refusal 5, it is still accepted by both parties that the NPPF §116 applies to proposal A and should be considered as such at the Inquiry.
- 6.2 The two parties however disagree over the relevant merits of appeal 2 in this respect and this again is one of the areas of dispute as set out in section 17 below.
- 6.3 At the same time and notwithstanding the reference in reason for refusal 2 of appeal 1, WBC has reconsidered the issue of major development in the AONB, reviewed previous decisions and reconsidered the specifics of the proposal in the context of the Kintbury settlement.
- 6.4 The two parties agree that on balance in this case the appeal 1 proposal is not considered to be a major proposal within the AONB for the purposes of NPPF §116. As such the exceptional circumstances test in terms of appeal B will not be pursued any further.

7 “Wheatcroft” consultation – Additional reason for refusal Re:- New Access

7.1 The appeal 1 32 dwelling proposal incorporated a new access onto the existing mini-roundabout. The appellants indicated that they wished the 72 dwelling proposal (appeal 2) also to be considered on the basis of this access and provided amended illustrative drawings and carried out a “Wheatcroft” consultation with the local community in this respect. The appellants advised that they no longer wished the original access at the south western corner of the site to be considered in relation to appeal 2. The Council agreed to accept the requested substitution of the proposed access arrangements accordingly for consideration at the Inquiry, while the appellants agreed to give the Council the opportunity to assess and set out its views on the revised access proposal for appeal 2.

7.2 Following an informal assessment by officers / consultants for the council of the additional information that the appellants provided, the revised mini-roundabout access was considered unacceptable to the Council on highways grounds. The appellants agreed that WBC should be able to raise the matter as an additional reason for refusal/main issue at the Inquiry. The wording, of what is effectively an additional “reason for refusal 7” in relation to appeal 2, reflects reason for refusal 4 of appeal 1, as follows:-

Additional reason for refusal 7 (appeal A):- *The proposed development would result in the introduction of a fourth arm to an existing mini-roundabout, where there would be insufficient expectation of the need to give way on all approaches. This lack of expectation fails to comply with the criteria for introducing a fourth arm on an existing mini-roundabout, which would adversely affect road safety and the flow of traffic, contrary to Policy CS13 of the West Berkshire District Core Strategy 2006 to 2026, and the advice in para 32 of the NPPF. It is thus unacceptable.*

- 7.3 Accordingly this now forms an area of dispute between the parties at the Inquiry as set out in section 17 below.

8 Hedge and biodiversity

- 8.1 The proposed access in respect of both appeals will result in the loss of a length of hedge along the road frontage. Notwithstanding the mentioning of “the impact on local biodiversity” in reasons for refusal 6 of appeal 2 and 3 of appeal 1 as a result in this respect, it is agreed that the biodiversity measures of the appeal proposals would on balance compensate any resulting harm sufficiently in mitigation.
- 8.2 WBC has agreed not to pursue any further the issue of the “*impact on local biodiversity*” at the Inquiry, in relation to the loss of hedge for the proposed access referred to in reason for refusal 6 of appeal 2, and reason for refusal 3 of appeal 1.

9 Infrastructure matters

- 9.1 It is agreed that the matters relating to infrastructure requirements set out in reason for refusal 1 on both appeals can be addressed by way of planning obligations in S106 Unilateral Undertakings that the appellants have now finalized and engrossed, as well as a relevant S278 highways agreement and planning conditions in the event of approval. These are without prejudice to the Council’s concerns and objections of the appeal proposals. It is agreed therefore that reason for refusal 1 of both appeal will not be contested by WBC at the Inquiry as matters for which planning permission should be refused per se.

10 No costs applications / awards on agreed matters above

- 10.1 Both parties agree that they will not make any applications for costs at the Inquiry and that they invite the Inspector not to make any awards of costs, solely in relation to these agreed matters set out in the above sections 4 to 9 of this SoCG, which rationalise and clarify commonly agreed positions. PINS was advised of these matters on 27th July 2017.

11 The Appeal Site(s) and Kintbury Village

- 11.1 Both parties agree that Kintbury Village has a range of services and facilities:-
- Train Station connecting the village to London, Reading and Newbury. The shortest route from within the site measures a distance of approximately 800m along Newbury Street and Station Road, which are main roads within the village carrying two-way traffic, nevertheless with a number of stretches along this route lacking any pavement on both sides of the road. There are some cycle parking facilities at the station.
 - A number of local shops including post office/village shop and butcher.
 - Three public houses.
 - A doctor's Surgery.
 - Primary School.
 - Indoor recreation spaces: the Coronation Hall (Village Hall) and the Jubilee Sports Centre. The latter is a volunteer run sports centre, funded by donations following the withdrawal of LPA funding in February 2016.
 - Sports field.

11.2 In terms of the public transport links:_

- i) the rail service provides connections to Newbury and Reading with approximately hourly train services during the week and reduced two-hourly service on Sundays), providing access to the wider network; and
- ii) an approximately two hourly bus-service during the week on the Newbury to Hungerford Line No 3 (5xbuses a day in each direction) and none on Sundays.

11.3 A Plan showing the location of the site relative to the village and the services and facilities is appended to this SOCG.

12 Agricultural Land Quality

12.1 It is agreed that the Natural England Land Classification Map for London and the South East (ALC007) shows the site as being Grade 3 agricultural land. There is no sub-division on whether it is grade 3A or 3B.

12.2 It is also agreed that agricultural land quality is not referred to in the Council's reasons for refusal of either application.

13 Objectively Assessed Need (OAN)

13.1 Both parties agree that the figure of 525 dwellings per annum, referred to in Core Strategy Policy CS1 as the OAN, is out of date.

13.2 Both parties agree that the figure of 665 dwellings per annum, derived from the "Berkshire (including South Bucks) Strategic Housing Market Assessment 2016" (SHMA), is the OAN for the purposes of this Inquiry.

14 Housing Land Supply

- 14.1 Both parties agree that 665 is the OAN figure, against which to calculate the West Berkshire 5 Year Housing Land Supply.
- 14.2 The appellants do not dispute, and both parties agree, that West Berkshire District Council has a 5 Year Housing Land Supply (5YHLS)

15 Breakdown of Housing in the AONB

- 15.1 Both parties agree the breakdown of housing in the AONB (and district-wide) is as set out in table 1 §3.26 of Mrs Amorelli's proof of Evidence and reproduced below:-

Housing supply position - July 2017	AONB	West Berkshire District
Completions to March 2016	1,230	5,012
Sandleford Park Strategic Site	0	1,000
Commitments including prior approval sites at March 2016	260	3,063
Identified sites permitted since March 2016	0	755
HSA DPD sites	385	1,655
Prior approvals since March 2016	3	298
Windfall permissions 16/17	42	164
Windfall allowance 17/18 - 21/22	71	284
Total including windfall allowance	1,991	12,231

Table 1: Housing Supply Position July 2017 (Source: West Berkshire Council)

16 Other Matters

16.1 In relation to the Kintbury Village Design Statement (1989) (CD14.6 &7) both parties agree that:-

- 1 - it is not a development plan document.
- 2- it has not been adopted as supplementary planning guidance.
- 3 - it is not a conservation area statement.
- 4 - it pre-dates the 1990 TCPA.

16.2 Both parties agree that references in the Council witnesses' proofs of evidence to Core Strategy policy CS14, relate solely to landscape and conservation area issues.

17 Areas of Dispute

17.1 The weight to be afforded to development plan policies, including the housing supply policies.

17.2 The extent of harm of the impact of both appeal proposals in terms of:-

i) the AONB, including major development within the AONB in relation to appeal 2;

ii) the setting of the Kintbury Conservation Area;

iii) the hedge (Green Infrastructure);

iv) landscape, character and visual considerations; and

v) highway matters such as the free flow of traffic and highway safety, access, as well as pedestrian and cyclist safety.


17.3 The Planning Balance.

This Statement of Common Ground is agreed between the following:-

Signed 

Dated 14.9.2017

• NIKO GRIGOROPOULOS
Planning Consultant acting on behalf of West Berkshire Council (the Local Planning Authority); and

Signed 

Dated 15-9-17

• NATHAN McLOUGHLIN
of McLoughlin Planning acting on behalf of Endurance Estates Strategic Land Ltd (the Appellant).