

16 June 2011

Douglas C B Bond
Woolf Bond Planning
The Mitfords, Basingstoke Road
Three Mile Cross
Reading
RG7 1AT

Our Ref: APP/H1705/V/10/2124548
Your Ref:

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77
APPLICATION BY CALA HOMES (SOUTH) LTD
BOUNDARY HALL SITE, ALDERMASTON ROAD, TADLEY, RG26 4QH
APPLICATION REFERENCE: BDB/67609**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Phillip J G Ware BSc DipTP MRTPI, who held a public local inquiry which sat for 14 days between 12 October 2010 and 13 January 2011 into your client's application for *'the demolition of the existing hall, the relocation of the existing substation and redevelopment of the land to provide approximately 945 square metres of B1 commercial space, 115 dwellings, new public open space, car parking, new footpaths, landscaping and 2 new access roads off Almswood Road and improvements to the existing access point off Aldermaston Road'* at the Boundary Hall Site, Aldermaston Road, Tadley, RG26 4QH in accordance with application reference BDB/67609, dated 28 November 2007.
2. On 4 March 2010 the Secretary of State directed, in pursuance of section 77 of the Town and Country Planning Act 1990, that the application be referred to him instead of being dealt with by the relevant planning authority, Basingstoke and Deane Borough Council (the Council).

Inspector's recommendation and summary of the decision

3. The Inspector recommended that planning permission be refused. For the reasons given below, the Secretary of State disagrees with his recommendation, and grants planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

4. In reaching his decision the Secretary of State has taken into account the Environmental Statement (ES) submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. The Secretary of State considers that the ES complies with these regulations and that sufficient information has been provided for him to assess the environmental impact of the application. In coming to this conclusion, the Secretary of State has taken account of the Inspector's comments (IR294) that the extent of a radiation dose that would be received by occupiers of the development arising from a radiation emergency was not directly addressed in the ES. However, he is satisfied that the arguments put forward by the HSE at the Inquiry (IR187) made it clear that a dose of 30mSv would be significantly harmful and that this was not challenged by any other party. The Secretary of State does not therefore consider it necessary to pursue this matter further with the parties before taking account of it in the overall planning balance (see paragraphs 13 and 22 below).

Matters arising after the close of the inquiry

5. The Secretary of State has taken account of the Written Ministerial Statement (WMS) of the Rt Hon Greg Clark MP, dated 23 March 2011, which emphasises that significant weight should be attached to the need to secure economic growth and employment. However, he does not consider it necessary to refer back to the parties to this case on the WMS as he has already addressed economic growth and employment issues (in so far as they relate to this case) in determining this application, and he is satisfied that it raises no new issues which would affect his decision.
6. The Secretary of State has also taken account of a representation dated 9 March 2011 from Mr Brian Spray. As this did not raise any new matters that would affect his decision, he has not considered it necessary to circulate it to all parties, but copies of this representation can be made available upon written request to the address at the foot of the first page of this letter.

Policy considerations

7. In deciding the application, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the 2009 South East Plan (the RS) and saved policies of the 2006 Basingstoke and Deane Local Plan (LP). The Secretary of State agrees with the Inspector that the main relevance of the RS in this case relates to the housing land requirement set out at policies H1 and WCV3 (IR21 and IR23) and that the most relevant saved LP policies are those set out at paragraph 4.4 of the Planning Statement of Common Ground (document 8 listed on IR page 68 under "Documents handed in at the Inquiry").
8. The Secretary of State notes that the Local Development Framework Core Strategy is at a very early stage (IR27), and he attaches very little weight to it. He considers that the Supplementary Planning Guidance and Supplementary

Planning Documents set out at paragraph 4.4 of the Planning Statement of Common Ground are also material considerations.

9. The Secretary of State has made it clear, following the judgment of the Court on 10 November 2010 in *Cala Homes (South) Ltd v Secretary of State for Communities and Local Government and Winchester City Council* [2010] EWHC 2886 (Admin), that it is the Government's intention to revoke RSs, and the provisions of the Localism Bill which is now before Parliament reflect this intention. The Secretary of State has taken the Government's intention to revoke RSs into account in determining this case, although he gives it limited weight at this stage of the parliamentary process.
10. Other material considerations which the Secretary of State has taken into account include: Planning Policy Statement (PPS) 1: *Delivering Sustainable Development* and its Supplement: *Planning and Climate Change*; PPS3: *Housing*; PPS4: *Planning for Sustainable Economic Growth*; Planning Policy Guidance note (PPG) 13: *Transport*; PPG17: *Planning for Open Space, Sport and Recreation*; PPS23: *Planning and Pollution Control*; Circular 11/1995: *Use of Conditions in Planning Permission*; Circular 04/2000: *Planning controls for hazardous substances*; Circular 05/2005: *Planning Conditions*; and the Community Infrastructure Levy (CIL) Regulations. Like the Inspector (IR314-321), the Secretary of State accepts that the policy sources relied on by the HSE have been regularly used in relation to non-reactor sites, and he has therefore taken account of: the 'Fourth Report on Compliance with the Convention on Nuclear Safety Obligations'(IR30); the Statement by the Secretary of State for Energy in March 1988 dealing with demographic criteria (IR30); and the Radiation (Emergency Preparedness and Public Information) Regulations 2001 (REPPPIR), which includes the requirement for the production of an Off Site Plan (IR31).

Main issues

The relationship of the proposal to the development plan

11. The Secretary of State has had particular regard to the saved LP policies referred to in paragraph 7 above. He agrees with the Inspector (IR395) that the site is identified for the type of development currently proposed. He has taken account of the fact that the health consequences of the proximity of the site to the Aldermaston Atomic Weapons Establishment (AWE) were not considered when the LP was adopted, or as part of the 'saving' process (IR264), but he agrees with the Inspector (IR267) that information and evidence emerging after the adoption of a plan may properly be dealt with as a material consideration in dealing with particular proposals, and he has proceeded on that basis in this case. He has also had regard to the general policies in the LP relating to minimising pollution and to environmental well-being.

The effect on human health

12. With regard to the risk of a nuclear accident (IR271-284 and 348-349), while observing that there is no historical evidence of any previous incidents at the AWE site involving the release of material to the open environment, the Secretary of State agrees with the Inspector that it is essential to consider the

possibility of future incidents (IR272). He also agrees with the Inspector (IR276-281 and 284) that, although the REPIR approach towards 'reasonably foreseeable' events does not give a clear definition of the likelihood of an event occurring, it has the benefit of being the tried and tested statutory approach which is applied to the entire nuclear industry. Taking all this into account, the Secretary of State agrees with the Inspector at IR283 that the best description of the risk that an event at AWE would impinge on those living and working outside the site would be 'extremely remote', while acknowledging that some weight should be given to the potential for a "reasonably foreseeable" emergency at AWE.

13. For the reasons given at IR285-298, the Secretary of State agrees with the Inspector's conclusion (IR299 and 350) that the potential for a person to receive a 30mSv dose is an important material consideration (IR299). He also agrees with the Inspector that the fact that the HSE did not object to other housing developments in the area, most notably Kestrel Mead which is located slightly closer to the AWE, adds very little to the applicant's argument in this case (IR297). The Secretary of State further agrees with the Inspector (IR300-313 and 351) that the Off Site Plan is designed to be flexible and extendable and that, while it is possible that the implementation of the application scheme would necessitate changes to the Plan, the evidence does not lead to the conclusion that the Plan would fail (IR351). In coming to this conclusion, the Secretary of State has noted in particular (IR311) that West Berkshire Council (who chair the Off Site Plan Working Group) consider that the Plan could be adapted to allow for the proposed development.
14. The Secretary of State also agrees with the Inspector (IR322-344 and 352) with regard to population density criteria. He agrees that the demographic criteria in national policy are specifically intended to be used only for guidance, and that a breach in the policy and the semi-urban criterion should not, in itself, be a reason to refuse planning permission. However, he agrees with the Inspector that the semi-urban criterion is already breached in this location, and that the breach would be worsened by the proposal (IR341).
15. In conclusion on health matters (IR348-353), the Secretary of State agrees with the Inspector that each application must be treated on its own merits (IR347), that the risk of a nuclear accident at AWE occurring at all is very low and that there is no clear definition of the likelihood of an off-site event occurring (IR349). He accepts (IR350) that if such an event were to occur, the potential that those on the application site could receive a materially harmful dose of the order of 30mSv is an important consideration, but he agrees with the Inspector (IR352) that the evidence does not lead to the conclusion that the Off Site Plan would fail. Therefore, although the Inspector goes on to conclude (IR353) that the HSE's "Advise Against" position is justified, the Secretary of State considers that, whilst it is the specific role of the HSE to advise Ministers - including emphasising the potential implications of an event occurring at AWE - it is his role to weigh that advice in the planning balance against the allocation of the site for housing in the LP and other material considerations.

Other material considerations

The improvement of the site, density and sustainability

16. For the reasons given at IR355-357, the Secretary of State agrees with the Inspector that, while the site is currently visually unattractive and under-utilised, it is clearly sustainable and its development would be in accordance with LP policies D5 and D2 as well as with national policy by making efficient use of previously developed land. He also agrees that both the proposed density of the residential element and the layout and scale of the commercial element would represent an efficient use of the site.

General housing need and supply, affordable housing and dwelling mix

17. For the reasons given at IR358-364, the Secretary of State agrees with the Inspector that the figure set in the RS of a requirement for 945 dwellings per annum for the period 2006-2026 is the only one which has gone through a full needs assessment and has been adopted (IR358). He also agrees that the applicant's assessment of deliverable land supply is more realistic than the Council's (IR362); and that this demonstrates a deficiency in the five year supply regardless of which housing requirement figure is used (IR363). The Secretary of State therefore agrees with the Inspector (IR365) that the proposed scheme should be considered favourably as being in line with national policy. He considers that the lack of a 5 year housing supply is a factor which weighs significantly in favour of development.
18. The Secretary of State also agrees with the Inspector (IR366-372) that there is a significant under-provision of affordable housing locally, with a clearly identified need in Tadley against which the proposal would deliver 46 units (IR368). Therefore, given the lack of evidence of other deliverable and available sites in Tadley (IR369), he agrees that the application would accord with LP policy C2 and the Affordable Housing Supplementary Planning Document (IR366). The Secretary of State also agrees with the Inspector (IR373) that the proposal would create a mixed and inclusive community and would accord with the requirements of LP policy C3, and he gives this significant weight.

Employment floorspace

19. The Secretary of State agrees with the Inspector (IR374) that the employment provided by the scheme would be in a sustainable location, would enhance the existing commercial provision in Tadley, and would be in accordance with LP policy EC4 and the LP site allocation.

Design, layout, open space and footpath improvements

20. The Secretary of State agrees with the Inspector at IR377 that the improvements to the existing footpath along the southern boundary of the site would improve surveillance and the overall quality of the path and would provide access to the proposed open space, thereby complying with LP policy C9. He also agrees (IR378-379) that the scheme complies with the requirements for high quality and inclusive design and that the proposed central

open space would be accessible both to residents of the development and to other local people, thereby accords with LP policy C9 (IR379).

The planning balance

21. Taking account of the Inspector's comments at IR394-403, the Secretary of State agrees with him that, with the exception of those general LP policies dealing with pollution and environmental well-being, the application accords with the development plan including the site being identified in a saved LP policy for the type of development currently proposed (IR395). Furthermore, the site is in a sustainable location, the proposal would make good use of the land in both visual and sustainability terms and would provide planning benefits (IR396) including the provision of affordable housing and the replacement of community facilities (see paragraph 25 below). The Secretary of State also attaches significant weight to the support gained from paragraphs 69 and 71 of PPS3.
22. Against these benefits, the Secretary of State agrees with the Inspector (IR398) that the sole objection relates to the potential effect on human health of a materially harmful radiation dose. However, while he does not seek to minimise the potential impact of any individual dose, the Secretary of State considers that this should be placed in the context of the probability of such a dose arising which, while unquantified, has been described as 'extremely remote' (see paragraph 13 above). Added to this, he has taken account of the fact that there is no evidence that the Off Site Plan for dealing with such emergencies would fail; and he is satisfied that the intensification of population density is not, in itself, a reason to refuse planning permission.
23. The Secretary of State considers that these factors temper the weight to be attached to the risk of a materially harmful radiation dose relative to the benefits of the proposed scheme. No activity can ever be regarded as being risk free, each case has to be considered on its own merits, and the Secretary of State concludes that the potential benefits of this scheme, coupled with the fact that it is generally in accordance with the development plan, outweigh the real, but very small, risks attached.

Conditions

24. The Secretary of State is satisfied that the conditions recommended in the Inspector's schedule (IR380-390) and reproduced at Annex A to this letter are reasonable and necessary and meet the other tests of Circular 11/1995.

Obligation

25. The Secretary of State has considered the executed unilateral planning obligation dated 15 November 2010 and the Inspector's comments at IR391-393. He agrees with the Inspector that the obligation meets the tests set out in Circular 05/2005 and accords with the CIL Regulations; and he considers that the matters contained in the obligation are additional factors which weigh in favour of the proposal. In particular, the Secretary of State agrees with the Inspector (IR376) that the provision of a new Scout Hut facility, or contributions towards it, will be of greater benefit to the community than the retention of the existing building, and that the objectives of LP policy C8 would thereby be met.

Overall Conclusions

26. The Secretary of State concludes that, with the exception of those general LP policies dealing with pollution and environmental well-being, the application accords with the development plan and the Council's Affordable Housing Supplementary Planning Document and that it gains further support from national policy in PPS3. Against this, he attaches significant weight to the risk that those on the application site could receive a materially harmful radiation dose but, having carefully considered all relevant considerations, he concludes that the support from development plan policy and factors which weigh in favour of the proposed development together outweigh the limited conflict with development plan policy and the extremely remote possibility of the type of incident occurring which could give rise to the factors weighing against the scheme. He does not therefore consider that there are material considerations of sufficient weight to justify refusing planning permission.

Formal Decision

27. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby grants planning permission for the *'the demolition of the existing hall, the relocation of the existing substation and redevelopment of the land to provide approximately 945 square metres of B1 commercial space, 115 dwellings, new public open space, car parking, new footpaths, landscaping and 2 new access roads off Almswood Road and improvements to the existing access point off Aldermaston Road'* at the Boundary Hall Site, Aldermaston Road, Tadley, RG26 4QH in accordance with application reference BDB/67609, dated 28 November 2007, subject to the conditions set out in Annex A to this letter.
28. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
29. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.
30. This letter serves as the Secretary of State's statement under regulation 21(2) of the Town and Country (Environmental Impact Assessment) (England and Wales) Regulations 1999.

Right to challenge the decision

31. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

32. A copy of this letter has been sent to Basingstoke and Deane Borough Council.
A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Jean Nowak

Authorised by Secretary of State to sign in that behalf

Conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:

<u>Plan Name/No</u>	<u>Received On</u>
Site Location Plan @ 1:1250	11th December 2007
12D	5th February 2008
29B	5th February 2008
28B	5th February 2008
26A	11th December 2007
27A	11th December 2007
3272-F-106	7th April 2008
11	28th November 2007
13B	5th February 2008
14B	5th February 2008
15B	5th February 2008
16A	5th February 2008
17B	5th February 2008
18A	5th February 2008
19A	5th February 2008
20B	5th February 2008
21A	5th February 2008
22B	5th February 2008
23B	5th February 2008
24B	5th February 2008
30	28th November 2007
31A	11th December 2007
32	28th November 2007
33B	7th April 2008
34	5th February 2008
Elevations 4B, 4C, 4D, 4A, 4, 3B, 3A, 2B, 2C, 3, 2, 2A, and 1, A1.	11th December 2007

- 2 The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 3 No development shall commence on site until samples of all the external materials to be used (including hard surfacing materials) have been submitted to and approved by the Local Planning Authority in writing. Development shall be carried out in accordance with the approved details.
- 4 Notwithstanding the approved plans, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of screen walls/fences/hedges to be erected/planted. The approved screen walls/fences shall be erected and the hedges planted in accordance with the approved details before the relevant buildings hereby approved are first occupied, and shall subsequently be retained.

- 5 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no building, structure or other alteration permitted by Class A, B or C of Part 1 of Schedule 2 of the Order or Class A of Part 2 of Schedule 2 of the Order is permitted.
- 6 No work relating to the construction of the development hereby approved, including works of demolition or site preparation prior to building works, shall take place before the hours of 0730 nor after 1800 on Monday to Friday, before the hours of 0800 nor after 1300 on Saturdays, nor on Sundays or recognised public holidays.
- 7 The approved bathroom windows at first floor level shall be glazed with obscured glass and shall be permanently retained in that condition.
- 8 The dwellings and commercial building hereby permitted shall not be occupied until the relevant vehicle parking and turning space has been constructed, surfaced and marked out, and cycle parking and secure storage constructed in accordance with the approved details. Those facilities shall not thereafter be used for any purpose other than parking, turning, loading and unloading of vehicles and parking/storage of cycles.
- 9 No development shall take place until details of provision to be made for the parking and turning on site of operatives' and construction vehicles during the contract period together with storage on site of construction materials has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be fully implemented before development commences and retained and used only for the intended purpose for the duration of the construction period.
- 10 No works shall take place on site until a measured survey of the site has been undertaken and a plan prepared to a scale of not less than 1:500 showing details of existing and intended final ground and finished floor levels from a specified bench mark has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 11 No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the Local Planning Authority:-
 - (a) a desktop study carried out by a competent person documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS10175:2001; and
 - (b) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as being appropriate by the desk study in accordance with BS10175:2001- Investigation of Potentially Contaminated Sites - Code of Practice; and

- (c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works.

If during any works contamination is encountered which has not been previously identified then the additional contamination shall be fully assessed and an appropriate remediation scheme, including details of its implementation, shall be submitted to and approved in writing by the Local Planning Authority.

- 12 The development hereby permitted shall not be occupied/brought into use until there has been submitted to the Local Planning Authority verification by the competent person approved under the provisions of condition 11(c) that any remediation scheme required and approved under the provisions of condition 11(c) has been fully implemented in accordance with the approved details (unless varied with the written agreement of the Local Planning Authority in advance of implementation). Such verification shall comprise:
 - (a) as built drawings of the implemented scheme; and
 - (b) photographs of the remediation works in progress; and
 - (c) certificates demonstrating that imported and/or material left in situ is free of contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under condition 11(c).

- 13 No deliveries of construction materials or plant and machinery shall take place before the hours of 0730 nor after 1800 on Monday to Friday, before the hours of 0800 nor after 1300 on Saturdays, nor on Sundays or recognised public holidays.
- 14 No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping works which shall specify species, planting sizes, spacing and numbers of trees/shrubs to be planted, and the layout, contouring and surfacing of all open space areas. The works approved shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development whichever is the sooner, in accordance with a phased programme agreed with the Local Planning Authority in writing prior to commencement of planting. Any trees or plants which, within a period of 5 years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 15 The commencement of the development shall not take place until a detailed scheme for protecting the development from road traffic noise has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include full details of noise mitigation measures, including window glazing and room ventilation provisions, of the dwellings which shall be used to

achieve the good internal ambient noise levels within habitable rooms (bedrooms and living rooms) set out in Table 5 of BS8233:1999 and to achieve noise levels in the garden area/outdoor living space not exceeding 55dB(A) (16 hour free field). All works which form part of the approved scheme shall be implemented in full prior to the first occupation of any of the relevant buildings hereby permitted.

- 16 No part of the development shall commence until the details of the highway works in Almswood Road and at the junction of Almswood Road and the A340 as shown coloured yellow on drawing 29 Rev B have been submitted to and approved in writing by the Local Planning Authority. The approved works shall be implemented in full prior to the occupation of the development hereby permitted.
- 17 Development shall not begin until drainage details, incorporating sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, have been submitted to and approved by the Local Planning Authority in writing. The approved scheme shall be implemented in accordance with the approved details before the development is completed.
- 18 Prior to the occupation of the development hereby approved, details of all external lighting and details of the timing of illumination shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out and be thereafter retained in accordance with the approved details and used in accordance with the agreed hours of illumination.
- 19 The commercial building shall be used only for purposes within Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or in any statutory instrument revoking and re-enacting that Order (with or without modification).
- 20 No development shall take place on site until a method statement for works affecting trees (Arboricultural Method Statement) to include a Tree Protection Plan has been submitted to and approved in writing by the Local Planning Authority. The tree protection works shall be carried out before any demolition or building work is undertaken, and shall be retained in situ for the entire construction period.
- 21 Prior to the commencement of development a temporary 2 metre high perimeter fence shall be erected in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The approved fence shall be fully implemented before development commences and retained for the duration of the construction period.
- 22 Details of the width, alignment, gradient and type of construction proposed for the roads, footways, paths and accesses, including all relevant horizontal cross sections and longitudinal sections showing the existing and proposed levels, together with details of visibility splays, signage and the method of disposing of surface water shall be submitted to and approved in writing by the Local Planning Authority before development is commenced. The agreed details

shall be implemented before occupation of the dwellings and commercial building.

- 23 All garages constructed shall not be converted or used for any residential purpose other than as a domestic garage for the parking of vehicles.
- 24 The accesses shall be provided with splays to the highway at an angle of 45 degrees for a distance of 2 metres.
- 25 No gates shall be installed at the accesses from the highway into the site at any time.
- 26 On completion and first use of the approved accesses, the former accesses from Aldermaston Road (west) and Almswood Road shall be permanently closed and reinstated in accordance with details to be submitted to and approved by the Local Planning Authority.
- 27 No pedestrian or vehicular access, other than as shown on the approved plans, shall be formed into the site.
- 28 Prior to the development being brought into use the footway/cycleway fronting the site along the A340 Mulfords Hill, southwards from the Falcon Gyratory to the existing site access, shall be provided with dropped kerbs and tactile paving across the existing access. The works shall be constructed in accordance with drawings that shall be submitted to and approved in writing by the Local Planning Authority.
- 29 The dwellings shall achieve Code Level 3 of the Code For Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.
- 30 15% of the dwellings hereby approved shall be built to Lifetime Mobility standards.

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

Challenges under Section 288 of the TCP Act

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.



Report to the Secretary of State for Communities and Local Government

by Phillip J G Ware BSc DipTP MRTPI

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

Date: 22 March 2011

TOWN AND COUNTRY PLANNING ACT 1990

BASINGSTOKE AND DEANE BOROUGH COUNCIL

BOUNDARY HALL SITE, ALDERMASTON ROAD, TADLEY

APPLICATION BY CALA HOMES (SOUTH) LTD

Inquiry opened on 12 October 2010

Boundary Hall site, Aldermaston Road, Tadley RG26 4QH

File Refs: APP/H1705/V/10/2124548

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Boundary Hall site, Aldermaston Road, Tadley RG26 4QH

- The application was called in for decision by the Secretary of State by a Direction, made under section 77 of the Town and Country Planning Act 1990, on 4 March 2010.
- The application is made by Cala Homes (South) Ltd to Basingstoke & Deane Borough Council.
- The application Ref BDB/67609 is dated 28 November 2007.
- The development proposed is the demolition of the existing hall, the relocation of the existing substation and redevelopment of the land to provide approximately 945 sq.m. of B1 commercial space, 115 dwellings, new public open space, car parking, new footpaths, landscaping and 2 new access roads off Almswood Road and improvements to the existing access point off Aldermaston Road.
- The reason given for making the Direction was that the Secretary of State is of the opinion that the application was one which he ought to decide himself.
- On the information available at the time of making the Direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application:
 - a) The extent to which the proposed development is in accordance with the development plan for the area, having regard in particular to Regional Spatial Strategy for the South East – the South East Plan, published 6 May 2009, and the Basingstoke and Deane Local Plan 1996-2011 (saved policies);
 - b) The extent to which the proposed development is consistent with policies to ensure that any unacceptable risks to human health are identified and properly dealt with;
 - c) Whether there are any other material planning considerations relevant to the Secretary of State’s consideration;
 - d) Whether any permission granted for the proposed development should be subject to any conditions and, if so, the form these should take;
 - e) Whether any planning permission granted should be accompanied by any planning obligations under section 106 of the 1990 Act and, if so, whether the terms of such obligations are acceptable.

Summary of Recommendation: The application be refused.

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Abbreviations	
The Applicant	Cala Homes (South) Ltd
The Council	Basingstoke and Deane Borough Council
The HSE	Health and Safety Executive, Nuclear Directorate
AWE	Aldermaston Atomic Weapons Establishment
C04/00	Circular 04/00 ' <i>Planning controls for hazardous substances</i> '
C11/95	Circular 11/95 ' <i>The use of conditions in planning permissions</i> '
C05/05	Circular 05/05 ' <i>Planning Obligations</i> '
PPS23	Planning Policy Statement 23 ' <i>Planning and Pollution Control</i> '
Planning SOCG	Planning Statement of Common Ground (agreed between the Applicant and the Council)
Population SOCG	Local Population Estimation Statement of Common Ground (agreed between the Applicant and the Council ¹)
DPD	Development Plan Document
CIL	Community Infrastructure Levy
DEPZ	Detailed Emergency Planning Zone
HIRE	Hazard Identification and Risk Evaluation assessment
REPPIR	Radiation (Emergency Preparedness and Public Information) Regulations 2001
The Hansard Policy	Statement by the Secretary of State for Energy, 11 March 1988, dealing with demographic siting criteria for nuclear power stations
Off Site Plan	Atomic Weapons Establishments Off-Site Contingency Arrangements (Version 1/2009)
AGR	Advanced Gas cooled Reactor
ALARP	(Risk) As Low As Reasonably Practicable
mSv	Milli-Sieverts (The unit of measurement of radiation dose)
PDL	Previously Developed Land
NuSAC	Nuclear Safety Advisory Committee

¹ With Council caveats at paras 1.3.3.4 & 1.3.3.5

PROCEDURAL MATTERS

1. The Inquiry sat for 14 days, on 12 – 14 October, 19 – 22 October; 16 – 19 December; 6 December 2010 and 13 January 2011.
2. Unaccompanied visits to the site and the surrounding area were undertaken before the Inquiry opened and on 7 December 2011. In the latter case, guided by requests from all parties, an extensive tour of Tadley and around the AWE boundary was undertaken.
3. On 21 October 2010 a visit was undertaken to the AWE facility itself. This was with representatives of the three main parties. The purpose of the visit was to observe the general layout of the AWE site and its relationship to the application site. As was announced at the Inquiry, a limited amount of evidence was given during this visit. Specifically, the representative of AWE was able (subject to national security constraints) to explain some of the activities which took place on the site within existing buildings and to identify areas of future intended development and the broad nature of the uses which would take place there. This visit was undertaken during the course of the Inquiry and all parties had the opportunity to subsequently comment on this evidence.
4. The proposal is supported by the Council, the Applicant and others who appeared at the Inquiry, and opposed by HSE.
5. This report includes a description of the application site and its surroundings, an outline of the proposal and its history, the relevant policy context, a summary of other agreed facts, and the gist of the representations made at the Inquiry and in writing. The report includes conclusions and recommendation, along with a schedule of conditions to be considered in the event that planning permission is granted.

THE SITE AND ITS SURROUNDINGS²

6. The application site (2.78 hectares) was formerly occupied by Ministry of Defence residential accommodation and is now a substantial area of overgrown scrubland. The only structures on the site are an electricity substation and a former cinema, which is now used as a Scout Hut³.
7. The site is accessed at two points off Aldermaston Road, and from Almswood Road. There are a series of informal paths across the site, and a formal footpath on the southern boundary.
8. The site is within the defined settlement of Tadley, and is bounded by Aldermaston Road (the A340) to the north and northeast⁴. There are residential areas to the west and southwest of the site, and bank premises to the southeast⁵. The Tadley District Centre (including a supermarket) is to the south of the site.

² More fully described in the Planning SOCG Section 2

³ Photographs of the site at APP/12 Annex 4

⁴ Plan APP/4 shows the site in its context, including AWE

⁵ Incorrectly referred to as southwest in the Planning SOCG

9. Immediately beyond the A340, and extending for a considerable distance, is the AWE site. There are comparatively new housing developments on the opposite side of the A340, known as Kestrel Mead and Falcon Fields. These are slightly closer to AWE than the application site.⁶
10. Aside from AWE itself (which employs 5,530 people⁷), the wider area includes other employment uses, most notably at Calleva Business Park further along the A340 to the west. Public transport access to the Business Park, and to Basingstoke to the south, is by way of buses which run along the A340.

RELEVANT PLANNING HISTORY AND THE SITE ALLOCATION⁸

11. The Planning SOCG sets out the detailed planning history of the site. There have been a number of applications which have been withdrawn, including proposals for residential development and a foodstore. There are no extant permissions affecting the site.
12. Following the release of the land by the Ministry of Defence and the demolition of the former residential accommodation, the site was identified for residential development in a Brief adopted in December 1996⁹.
13. Following several years of preparation and consultation, the LP was adopted in July 2006. The site was allocated for mixed residential and employment use¹⁰. This policy was 'saved' by Direction in June 2009¹¹.

THE APPLICATION AND ITS HISTORY¹²

14. The proposal is for the demolition of the electricity substation and the former cinema (now the Scout Hut) and the redevelopment of the site for residential and commercial purposes. The substation would be relocated on the western side of the site, close to Almswood Road¹³. Planning permission was granted¹⁴ in September 2009 for a new scout den off the site in Southdown Road, and this would be implemented under the terms of a Planning Obligation (November 2010) submitted with the current proposal¹⁵.
15. The residential development would comprise 115 dwellings, including 40% affordable housing. The density of the development equates to c.41 dwellings per hectare, and 185 car parking spaces would be provided. The parties agreed that a reasonable assumption was that the resident population would be 268 people, and this figure was used throughout the Inquiry. The access to the majority of the residential element would be by way of two new access roads off Almswood Road.

⁶ Framework Plan at end of LPA/6 bundle shows the extent of AWE, and Opportunities and Constraints Plan shows the location of the new Pegasus project

⁷ HSE/11

⁸ More fully described in the Planning SOCG Section 2

⁹ Core Document 15

¹⁰ Core Document 3 Policy D3.17

¹¹ Core Document 4

¹² More fully described in the Planning SOCG Sections 4 (proposal) and 5 (consideration to date)

¹³ Plan no.189A60 12 D

¹⁴ Core Document 19

¹⁵ Doc 9, Section 10

16. The commercial floorspace would comprise 945 sq.m. of Class B1 accommodation, in the form of a 3-storey linked block, with 26 parking spaces. The access to the commercial development would be from Aldermaston Road, by way of the existing entrance – which would also serve the apartment blocks and some existing uses adjacent to the site.
17. There would be a new public open space (1,600 sq.m.) in the central part of the site and a local area for play (400 sq.m.) The existing footpath along the southern boundary of the site would be upgraded.
18. The application was submitted in November 2007 and registered as valid in the next month. It was reported to the relevant Committee in July 2009, and was recommended for refusal by officers for reasons related to public safety and the absence of a legal agreement related to financial contributions and affordable housing¹⁶. The Committee was minded to approve the application, and notice was duly given to HSE (who had Advised Against the proposal). The Secretary of State issued an Article 14 letter in July 2009, advising the Council that it could not approve the application at that stage.
19. The application was reported back to the Committee in February 2010¹⁷. Officers recommended refusal for essentially the same reasons. The Committee determined that it was minded to approve the application, subject to the completion of a Section 106 agreement covering specified matters. Putative reasons for approval were set out¹⁸.
20. The application was 'called in' for the Secretary of State's decision on 4 March 2010, by a determination under section 77 of the Town and Country Planning Act 1990.

POLICY CONTEXT¹⁹

21. The development plan comprises the South East Plan (2009)²⁰ and the saved policies in the Basingstoke and Deane Local Plan (LP)²¹. During the course of the Inquiry the South East Plan reverted to development plan status following the judgement of the High Court, although the Secretary of State's intention to abolish Regional Strategies is a material consideration. The main relevance of the South East Plan in this case relates to housing land requirement²².
22. Planning policy related to the proposal is reviewed in the Planning SOCG. Along with the allocation of the application site, to which reference was made above, the main policies are summarised below.

¹⁶ Core Document 32

¹⁷ Core Document 32 – NB the reports are dated January 2010, but the meeting was postponed due to bad weather

¹⁸ Planning SOCG para 6.6

¹⁹ More fully described in the Planning SOCG Section 2

²⁰ Core Document 6

²¹ Core Document 4

²² Other South East Plan policies set out in APP/12 Appendix 1

South East Plan

23. The housing land requirement is set out at policies H1 and WCBV3²³ at 945 dwellings per annum for the period 2006-2026. There is no phasing of the delivery of the housing numbers over the plan period.

Basingstoke and Deane Local Plan

24. The LP includes a range of relevant policies dealing largely with uncontentious matters (as will be discussed below)²⁴. The phasing of residential development is dealt with at policy D2, whilst policy D3.17 deals specifically with the application site. Affordable housing and infrastructure contributions are covered largely by policies C2 and C1. Other polices deal with the built environment, community facilities, employment, accessibility, and infrastructure.
25. In relation to the risks to human health, the recommended reasons for refusal put forward by Council officers referred to LP policies E1 and D5. These deal in general terms with the need to minimise pollution and for development to contribute to environmental well-being.

Supplementary Planning Guidance/Documents

26. There are a range of Supplementary documents²⁵, dealing with issues including affordable housing and infrastructure contributions. None of these deal with the health issue, which is the key matter in dispute in this case.

Emerging local planning policy

27. Emerging local planning policy is at an early stage, and the Local Development Framework Core Strategy has yet to reach the stage of a pre-submission draft. There are currently no material policies²⁶, as was accepted by the Applicant and the Council.

Policy and guidance related to hazardous substances

28. It is common ground between the three main parties that PPS23 '*Planning and pollution control*' is relevant. This sets out that the impact on health is capable of being a material consideration, and deals with the commitment to the precautionary principle²⁷.
29. Circular 04/00 '*Planning controls for hazardous substances*' is also directly relevant. Amongst other matters, this sets out consultation arrangements²⁸ and deals with the role of HSE²⁹.
30. HSE placed weight on a number of national nuclear policies. In particular reference was made to the '*Fourth Report on Compliance with the Convention on Nuclear Safety Obligations*³⁰', and the Statement by the Secretary of State

²³ Core Document Sections 7 and 21

²⁴ Planning SOCG paragraph 4.4

²⁵ Planning SOCG paragraph 4.4

²⁶ LPA/9 para 3.6 and LPA/11 para 115

²⁷ Paragraphs 2 and 5

²⁸ Annex A12-A18

²⁹ Annex A1-A9

³⁰ APP 9 Appendix 8 Esp. Paragraph 17.28

for Energy in March 1988 dealing with demographic criteria – the 'Hansard Policy'³¹. The Applicant and the Council both noted that these documents refer to nuclear power stations (as accepted by HSE) and argued that the policies are not directly applicable to sites such as AWE.

31. The Off Site Plan³² sets out the contingency arrangements for a multi-agency response should a radiation emergency occur at AWE and pose a hazard to the public outside the site boundary. The production of this Plan is a requirement of the Radiation (Emergency Preparedness and Public Information) Regulations 2001 (REPPIR).

OTHER AGREED FACTS

32. There are a range of agreed matters between the Council and the Applicant³³. These include the principle of residential/commercial development and the fact that the scheme accords with the LP site allocation, the acceptability of the replacement community facility and the open space provision, noise issues, biodiversity considerations, drainage and flooding issues, sustainability, design and layout, the effect on neighbouring properties, and vehicle and pedestrian access. HSE have also agreed certain planning issues³⁴. There is also agreement (between the Applicant, the Council and HSE) on the factors relating to the derivation and generation of population numbers for the area around the AWE³⁵.
33. There is also agreement³⁶ between the Applicant and the Council on the housing mix and affordable housing provision, along with infrastructure contributions. These matters had formed a reason for refusal as recommended by Council officers, but the issue has subsequently been resolved to the Council's satisfaction by the Unilateral Undertaking³⁷.

THE CASE FOR THE APPLICANT³⁸

Overview

34. The effect on human health is clearly a material consideration. C04/00 states that HSE's role is specific to its area of expertise. It is an advisory role which does not extend to broad planning matters, which are the responsibility of the planning authority and ultimately the Secretary of State³⁹. Its advice is limited to the nature and severity of the risks. However in this case HSE sought to question the Council's evaluation of housing matters – in doing so it exceeded its role.
35. The decision maker must give careful consideration to HSE's advice. If that is done, HSE should consider its role to be discharged. There was detailed consideration of HSE advice at the Inquiry and, despite that, the Council's view

³¹ HSE/21 Appendix A.2

³² Core Doc 33

³³ Planning SOCG paragraphs 7.21 - 7.46

³⁴ HSE/2

³⁵ Population SOCG

³⁶ Planning SOCG paragraphs 7.23 - 7.26, 7.47 - 7.64

³⁷ Doc 9

³⁸ The case given here is an edited version of the closing submissions at APP/13

³⁹ C04/00 Annex A

remained the same - that the advice is not such as to justify refusing planning permission.

36. C04/00 deals with the general principles for development in the vicinity of hazardous installations⁴⁰.

Risk and hazard

37. The relevant risk is the residual risk which remains after all reasonable practicable measures have been taken to ensure that the installation is safe. Specifically, the requirement on AWE is to make the risk as low as reasonably practicable (ALARP).
38. Some HSE witnesses seemed initially reluctant to accept that the current operations at Aldermaston were ALARP, on the basis that improvements to the facility are being considered. But the ALARP obligation is currently met and for the purposes of land use planning the relevant risk is therefore that which remains after ALARP⁴¹.
39. HSE's approach focussed entirely on consequences not risk. HSE accepted that the 'reasonable foreseeability' test was consequence based and not risk based⁴². This is an obvious omission from the advice which HSE has given. It is necessary to consider both the risk of the initiating event and the risk of the consequences of the event. The REPPIR approach is designed to put emergency procedures in place, and should not be confused with the primary consideration of the likelihood of the event.
40. There can be no doubt that the residual risk is a very low one. HSE say the risk of the hazard occurring is a "very low probability.....because of the rigorous safety precautions taken on site"⁴³. AWE state that it is unlikely that there will ever be a major release of radioactivity⁴⁴.
41. There are appreciable risks of various kinds in the environment which contribute to a background level of risk⁴⁵. It is in this context that the very low level of residual risk at AWE should be considered.
42. The risk in this case does not relate to a potentially large number of casualties, but is a remote risk to a small number of people over their lifetime⁴⁶. It is not numbers but the proximity to the installation that is the material consideration⁴⁷. There is nothing vulnerable about the occupiers of the proposed development, other than that they would live close to the installation – they are not a 'vulnerable group' as defined in the Off Site Plan.

⁴⁰ C04/00 Annex A4

⁴¹ Accepted by Dr Highton in XX, although he accepted that this exercise had not been carried out

⁴² Accepted by Dr Highton in XX

⁴³ HSE/18 Paragraph 7.3

⁴⁴ HSE/8 Section 7

⁴⁵ As demonstrated in HSE's publication *Reducing Risks and Protecting People APP/8*

⁴⁶ Dr Lacy in XX

⁴⁷ Mr Saunders in XX

The safety of AWE

43. AWE operates on the basis of the twin approaches of Defence in Depth and the application of the Precautionary Principle. The emergency plans at AWE are approved through the HIRE as adequate to deal with all reasonably foreseeable events⁴⁸. Most identified potential faults at AWE would not result in any release of particulate radioactivity to the air, by virtue of the prevention, mitigation and protection measures in place⁴⁹.
44. Only a major fire engulfing a whole building or areas which store significant quantities of nuclear material would have consequences triggering emergency arrangements off the AWE site⁵⁰. Such fires are within the concept of accidents considered to be "reasonably foreseeable", being initiated by lightning strikes, drops, impacts or human errors. However it is extremely unlikely that there will ever be a major release of radioactivity from AWE⁵¹.
45. The emergency plan has the capacity to deal even with extremely unlikely accidents which could have consequences beyond the boundary of the DEPZ – this is the principle of extendibility. The plan can therefore deal with radiation emergencies that are not reasonably foreseeable⁵².

'The Rules are the Rules'

46. This was a recurring theme of HSE which resulted in paradoxical conclusions.
47. Part of HSE's approach sought to establish a numerical breach of the semi-urban criterion, and HSE put forward the argument that this was, in itself, a sufficient reason for objecting. But this strict quantitative analysis is not the approach that should be adopted, especially as HSE agrees that there is no bespoke Government policy applying to installations like AWE and other legacy sites. It also conflicts with HSE's acknowledgement that the Hansard criteria should be applied flexibly and is only for guidance.
48. HSE uses multiple points of origin for their calculations⁵³. But this makes no sense when there are specific known locations for the existing installations and where future development at AWE would not be located so as to put the existing residents near the site perimeter at a significantly greater risk.

Fear of the unknown

49. HSE knows where the sources of potential radioactive emissions are at present at AWE and where they are likely to be in future, but has not released this information on grounds of national security. It has not chosen to present this evidence in camera as was the case at the Oval Inquiry. He who asserts must prove, and HSE must accept the consequences of not doing so.

⁴⁸ HSE/8 2008 HIRE Page 3

⁴⁹ HSE/8 2008 HIRE Page 11

⁵⁰ HSE/8 2008 HIRE Pages 11/12

⁵¹ HSE/8 2008 HIRE Page 13

⁵² Core Doc 34 Paragraph 8

⁵³ HSE/21 Appendix K

50. A great deal more was known by the end of the Inquiry about the particular location of the nuclear activities at AWE. This was first discovered at the interim site visit both visually and from what AWE willingly disclosed. In addition, planning applications and permissions already in the public domain have revealed more detail.
51. This new information was analysed by the Applicant⁵⁴. Even apart from the fundamental point that the weighted population analysis is not risk informed, the Applicant's supplementary evidence demonstrated that HSE's multiple points of origin approach is wholly unrealistic.
52. In addition, if proposed new installations (especially the Pegasus project) are treated in accordance with Hansard policy, and given that HSE's approach is normally not to allow a new installation to breach those criteria, then HSE must have concluded that the new installations could go ahead without unacceptable risk to the existing population. Any future installations would also have to pass the same safety test. There is an existing population closer to the site than the proposed development and this provides a safety net for any further development.

Evacuation and dosage

53. The evidence is that evacuation might take place up to 400 metres from any breach, but that beyond this the dose drops and would not justify evacuation. It follows that the maximum distance at which one could get 30mSv would be 400 metres, and beyond that distance countermeasures will need to be taken but evacuation would not normally be needed. This is stated in the Off Site Plan⁵⁵.
54. Largely based on the facts obtained from the visit to AWE, the minimum distance between the nuclear area and the proposed development was calculated to be 740 metres. If the maximum effective dose that could be received at 400 metres is 30mSv, the maximum that could be received at 740 metres is 11.9mSv or less. The concern about the 30mSv dose would therefore not apply to the proposed development.

The extent of the DEPZ

55. HSE argued that the Applicant's case was at fault because it cast doubt on the justification for the size of DEPZ. HSE argued that if the Applicant's assertions about dose were correct, this would be at odds with the 3km DEPZ, which they say has been properly set and reviewed with reference to reasonably foreseeable radiation emergencies⁵⁶.
56. However the 3km DEPZ was defined historically and there is no evidence that it was determined by the REPPiR definition of a radiation emergency. The DEPZ was agreed with the Ministry of Defence in 1993 but there is no evidence as to how it was determined. In 2002 a HSE report⁵⁷ stated that there was a clear margin between the foreseeable scenario 5mSv zone and the quoted DEPZ. The

⁵⁴ APP/9 – first and second supplemental proofs

⁵⁵ Core Doc 33 Esp. Paragraphs 3.6.3b; 5.4.1; 5.4.2b

⁵⁶ HSE/20 Second rebuttal Paras 2.24/2.25

⁵⁷ HSE/13

report referred back to 1998 documents which concluded that the DEPZ could be reduced to 1.5km.

57. In any case, the Applicant's position does not depend upon showing that the DEPZ is too extensive, as the DEPZ serves a different purpose and is there to deal with emergency procedures. It does not deal with the probability of the risk. Consequently it is HSE'S case which is dependent on the extent of the DEPZ.
58. Analysis⁵⁸ of a 2008 Review of AWE Accident Fault Sequences⁵⁹ deals with a review of the major off-site releases which could give rise to an off-site dose exceeding 5mSv. The conclusion of that analysis was that the total frequency of reasonably foreseeable events may be substantially higher than once in 100,000 years, but this would be due to the inclusion of events with lower (or negligible) off-site consequences.
59. The largest effective dose that might be incurred 400m downwind of a reasonably foreseeable accident, with a frequency of around once every 100,000 years, is approximately 30mSv. The dose varies with distance⁶⁰. The shortest distances between southernmost points of facilities 1 and 2 and the nearest residence on the proposed development are 606m and 787m – the corresponding doses would be only 16mSv and 11mSv.

Summary of the Applicant's case

60. This sustainably located, LP allocated, previously developed site should be released. The proposed redevelopment would result in very substantial planning benefits, and be entirely in accordance with development plan policy. Without HSE's objection, planning permission would long since have been granted and the development would have been built.
61. The proposal is entirely in keeping with such Government policy as exists regarding siting around a nuclear facility such as AWE. It would:
 - Preserve the general characteristics of the population around AWE.
 - Not infringe any applicable limitations on population density.
 - Not prejudice the operation or effectiveness of the Off Site Plan.
 - Bring very substantial planning benefits.
 - Not create a precedent.

HSE's objection

62. It is Government policy that the general characteristics of the population around a licensed nuclear facility such as AWE should be preserved for the life of the facility.

⁵⁸ Set out in HSE/23 Paragraphs 51-55

⁵⁹ HSE/14

⁶⁰ Table at HSE/23 Page 16

63. This is a broad and generally qualitative objective which does not require the refusal of new development in the vicinity. This broad objective is not infringed in the present case because:
- The site is an infill site within Tadley, whose proposed re-development will be broadly consistent with land use in the immediate area. It previously housed an MoD hostel.
 - Once the reduction in household size over the next few years is taken into account, the application scheme will, at most, result in only a very minor increase in the population of the DEPZ⁶¹ - about 0.5% in the population in this part of the DEPZ. Even this assumes that the other allocated site in Tadley (between Mulfords Hill and Silchester Road) is delivered – but it is not in fact available⁶².
 - The Council's evidence⁶³, which was scarcely challenged, was that the population of the DEPZ has barely changed in the 12 or more years since licensing. The development would result in a very modest increase in population of the total DEPZ population - about 1.5%⁶⁴.
 - Natural growth in the relevant area will lead to an additional 383 people in the period to 2016, which generates a need for an additional 25 or so new homes in each of the 7 years being considered⁶⁵.
 - The site currently accommodates between 30 and 80 people a day – in the form of visitors to the Scout Hut. These people would be relocated more than 500 metres to the south of the site.
 - HSE is correct that the broad objective of preserving general site characteristics would be infringed in the event of what is called 'uncontrolled residential development'⁶⁶. But that is not the historical position or a description of the consequences of the current proposal. The Applicant and the Council agree that the general characteristics of the population around AWE have barely changed since licensing in 1997 and will not materially alter if the development goes ahead.
64. It is important to put the risk which forms the basis of HSE's concerns into context. Once this is appreciated, it is clear that it is grossly disproportionate to suggest that the development would be unsafe. It is common ground that the main safeguards to the public are derived from the design, construction and operation of the relevant nuclear facilities, and that there is no chance at AWE of either a nuclear explosion or a reactor meltdown.

⁶¹ Detailed analysis at HSE/23 Paragraphs 61 (2)

⁶² APP/12 Annex 2 Pages 14/15

⁶³ LPA/7 Appendices 4 and 5

⁶⁴ Details at APP/23 Paragraph 61 (4)

⁶⁵ LPA/7 Paragraph 5.8

⁶⁶ HSE 21 Paragraph 35

65. HSE'S case is based on consequences and does not accept that the level of risk is relevant. HSE hides behind the concept of "reasonable foreseeability". As was accepted⁶⁷, a general benchmark for reasonable foreseeability is an initiating event occurring once in 100,000 years. This is a risk which can be described as miniscule.
66. This miniscule risk is further reduced (to around 1 in 1,000,000 years) when account is taken of prevailing wind direction and mean wind speeds. The consequences of an accidental release would be likely to be experienced elsewhere than at the application site. The prevailing wind blows away from the application site and the mean wind speed is well above the 2 m/s assumed in most calculations. This would increase plume dilution⁶⁸.
67. In addition, the current position of HSE is very different to their approach for many years after licensing, when they took a relaxed view and their consultation criteria only covered applications likely to result in 20 new residents or more. Although proposals were referred to them, none led to a public safety objection. For example, there was no objection to the Kestrel Meads development, which is nearer AWE than the application site.
68. HSE's new stance reflects a review of demographics which it conducted following adoption of the LP⁶⁹. It does not reflect a revised judgement of the safety of AWE, a revised risk profile, or concerns from an emergency preparedness perspective.
69. It is surprising that HSE began to try to distance itself at the Inquiry from the REPPIR leaflets which AWE has been distributing to residents of the DEPZ in recent years. HSE has seen these leaflets and at no time prior to the Inquiry has it sought to suggest that they were inaccurate. In any event the general message in these leaflets – that residents are safe and that there is a very low risk of any harmful event at AWE – was not disputed by HSE⁷⁰.
70. HSE used the "reasonably foreseeable" benchmark in order to characterise the level of risk. But this says nothing about the assumed frequency of an event. "Reasonably foreseeable" is not defined numerically in REPPIR, but it is described as an event "which was less than likely but realistically possible"⁷¹.
71. It is not helpful to attempt to make comparisons about the relative risk of other nuclear installations having regard to the extent of their DEPZs.

Consequences of an incident

72. It would plainly be undesirable for people to receive a 30mSv dose of radiation. However it is important to consider that:
 - The figure assumes that no countermeasures are taken, whereas it is common ground that sheltering will substantially reduce the dose⁷².

⁶⁷ Dr Lacey accepted in xx

⁶⁸ APP/9 Section 5.6

⁶⁹ HSE/21 Paragraphs 13/14

⁷⁰ Dr Lacey in xx

⁷¹ Core Doc 34 Paragraph 50

⁷² APP/5 Page 5

- A dose of 20mSv is the annual legal worker dose limit⁷³.
73. When this is combined with the very low risk of an accident, it is apparent that the risk to an individual living on the site of developing a fatal cancer because of a radiological release from AWE is miniscule in terms of all the carcinogenic exposures of ordinary life⁷⁴. The substantial planning benefits of this proposal clearly outweigh the risks and their consequences.

Population density and the Hansard policy

74. HSE argues that the application should be assessed with reference to the population density criteria set out in the Hansard policy. However this is directed only at nuclear power stations and there is no government statement applying the policy to other nuclear installations. HSE agreed⁷⁵ that there is no specific Government policy dealing with a legacy site such as AWE.
75. HSE misquoted⁷⁶ the Minister's 6 June 1961 letter by substituting the words "a nuclear facility" for "the stations"⁷⁷. This is clear evidence of a belated appreciation by HSE that the alleged sources of Government policy on which they rely in fact relate only to nuclear power stations. In addition, the passage from the Draft National Policy Statement quoted by HSE⁷⁸ only deals with nuclear power stations⁷⁹. Other documents put forward by HSE do not support the use of the Hansard policy in the current case⁸⁰.
76. There are good reasons why it would be unreasonable for the full rigour of the Hansard policy (in particular, the population density criteria) to be applied in the current case. In particular, the consequences of a major accident at a nuclear power reactor would be very considerably worse than the worst accident that can be imagined at AWE. This justifies a less rigorous approach to population densities.
77. In any event there is no proper basis on which it can be said that the application scheme will result in, or exacerbate, a breach of the population density criteria in Hansard. There is no calculation based on a point of origin at the centre of the DEPZ - which was the approach used by HSE in its first consultation responses to the Council, and which was used in relation to the Shyshack Lane appeal⁸¹ - which shows the Hansard criteria being infringed.
78. HSE then changed tack and used a "multiple point of origin" analysis. But there is no Government policy supporting the use of this approach.
79. AWE is entitled to hold radioactive material anywhere within the site boundary and HSE argues that the location of potential radioactive source areas effectively amounts to the whole of the licensed site. However AWE's current and future activities are all subject to limitations imposed through its regulatory

⁷³ APP/5 Page 8

⁷⁴ APP/8 Appendix 4

⁷⁵ Dr Lacey in xx

⁷⁶ HSE/21 Paragraph 28

⁷⁷ Full text at HSE/21 Appendix C

⁷⁸ HSE/21 Paragraph 34

⁷⁹ Full text at HSE/21 Appendix F

⁸⁰ Details at APP/13 Paragraphs 67d-f

⁸¹ Doc 10

licences. Such limitations have no doubt been devised having regard to the location of existing population around the site, and it is impossible to see how development of the application site would alter the approach in any way.

80. In any event the Hansard Policy clearly states that its numerical criteria are “only for guidance” and that “other unquantifiable factors” would also need to be “taken into account”⁸². This type of numerical analysis may be guidance which informs decision making, but it cannot be the single and determinative consideration.

Planning for off-site emergencies

81. The Off Site Plan is fit for purpose and has been endorsed by all the organisations involved – including HSE⁸³. At the Inquiry HSE appeared to distance itself from the Off Site Plan⁸⁴. However HSE is a member of the Off Site Plan Working Group and observes exercises⁸⁵. If the Off Site Plan was inadequate, this would likely contravene both REPPIR and the AWE site licence, both of which HSE is charged with policing.
82. The Off Site Plan is designed for both resident and transient populations within the DEPZ⁸⁶, and would not be compromised by fluctuations in population levels. Accordingly an increase of 268 people will not compromise it⁸⁷. The Plan addresses the “extendibility” scenario whereby an incident might impact on the community beyond the DEPZ⁸⁸. This is accepted by HSE⁸⁹ and the Council⁹⁰, and it is noted that there is no maximum population beyond which the Plan ceases to be functional.
83. A further key consideration on these matters arises from the Applicant’s population counts⁹¹. There is a population of 3,695 people in sector J where the application site is located, and 4,865 in adjoining sector H. The application site is therefore not located in the highest population sector. If the Off Site Plan will work for sector H there is no reason to think that it will not work for a sector which contains materially fewer people.
84. It is common ground that an evacuation would not be called during an active release of radiation⁹². The most effective early counter-measure is to shelter indoors⁹³. Evacuation would normally be considered either prior to any exposure risk⁹⁴ or following the ‘active plume’ phase, once the pollutants have stabilised⁹⁵. In any event there is nothing to show why or how any planned evacuation would be prejudiced by the development.

⁸² HSE/21 Appendix A2

⁸³ APP/10 Paragraphs 3.21 and 4.23

⁸⁴ HSE/20 Paragraphs 3.2.9 and 4.2.1

⁸⁵ HSE/20 Paragraphs 3.2.5 and 3.28

⁸⁶ APP/10 Paragraph 3.10

⁸⁷ APP/10 Paragraph 4.30

⁸⁸ APP/10 Paragraph 3.19

⁸⁹ HSE/20 Paragraph 3.1.2

⁹⁰ LPA/8 Paragraphs 2.10.8 and 2.11

⁹¹ APP/11 2 x A3 sheets. 22.5 degree emergency planning sectors, not 30 degree Hansard sectors

⁹² APP/10 Paragraphs 3.13, 4.33 and 4.35; HSE/20 Paragraph 4.4.2

⁹³ Core Doc 33 Paragraph 3.6.3

⁹⁴ HSE/19 Paragraph 41

⁹⁵ APP/10 Paragraph 4.38

85. 'Spontaneous self-evacuation', by persons who want to leave the area despite the advice to shelter, is catered for within the Off Site Plan⁹⁶. Given that the development as a whole will only increase traffic flows in the local road network by about 2%⁹⁷, such self-evacuation will not hamper the emergency services, who are very familiar with the logistics of evacuation.
86. (Submissions were made on the representations from members of the Off Site Plan Working Group⁹⁸.)

Precedent

87. HSE's letter which secured the call-in of the application alleged that it would have "serious precedential implications", but this argument appears to have vanished entirely, and there was no challenge to the Applicant's evidence on this issue⁹⁹.
88. There would be no precedent set due to the particular benefits and wide public advantages of this scheme, which would outweigh the miniscule risks to which HSE points. It is impossible to identify any other site within Tadley that would be capable of delivering the scale of planning benefits which the scheme will provide.
89. The only other allocated site in Tadley has a capacity of around 40 units, but it is unavailable and undeliverable¹⁰⁰. Other sites have very serious suitability/availability/deliverability problems¹⁰¹. Tadley has a very tightly drawn development boundary and any development outside the area would be contrary to development plan countryside policies¹⁰².

Alleged prejudice to future operations at AWE

90. HSE put the suggestion to the Applicant (though not to the Council) that the current proposal would prejudice AWE's future operations. No weight should be given to this suggestion which was not raised by AWE in their consultation response.
91. AWE is a 267 hectare site, and it is far fetched to suggest that AWE's future operations would be hampered by the current proposal, especially as there are residents closer to the AWE boundary than the application site.

The development plan and planning benefits

92. (Submissions were made regarding the status of the South East Plan, as matters stood at that time, emphasising that it remains part of the development plan¹⁰³.)

⁹⁶ Core Doc 33 Paragraph 5.7.4

⁹⁷ Transport Assessment Paragraph 9.4

⁹⁸ APP/13 Paragraph 71

⁹⁹ APP/12 Section 11

¹⁰⁰ APP/12 Annex 2 Pages 14/15

¹⁰¹ APP/12 Paragraph 11.9 and Annex 3

¹⁰² APP/12 Plan DB1 and Paragraph 11.12

¹⁰³ APP/13 Paragraphs 77-79

93. The proposal is a mixed use scheme which would make efficient use of an underutilised, sustainable PDL site. It accords with the LP allocation in policy D3.13. HSE suggests that little weight should be given to this allocation, as the current detailed objections of HSE were not considered at the time of initial allocation or subsequent 'saving'¹⁰⁴. However HSE has only itself to blame as it appeared to have taken the view that it was unnecessary to respond when consulted during the LP process¹⁰⁵. The Council and the LP Inspector approached the allocation on the basis that HSE did not have objections.
94. The application scheme complies fully with the relevant design, transport, housing mix and density policies. Notably:
- Tadley generally and the site itself are sustainably located – LP policy D5¹⁰⁶. There is a good bus service to Basingstoke and the site is close to employment¹⁰⁷. It is the best site for sustainable development in Tadley¹⁰⁸.
 - The development of this PDL site entirely accords with national and local policy¹⁰⁹.
 - The scheme complies with the requirements for a high quality and inclusive design.
 - The proposed density (41 dwellings per hectare) is wholly appropriate and would be an efficient use of the site.
95. The application scheme would deliver a range of community benefits, which will not be achieved without the comprehensive redevelopment of the site:
- The proposal will redevelop a longstanding derelict site close to the centre of Tadley¹¹⁰.
 - The proposal will ensure the replacement of the existing Scouts facility, which is of "relatively poor quality"¹¹¹, with a new community facility¹¹².
 - The proposed employment provision will enhance the existing provision of commercial property in Tadley¹¹³.
 - The proposal will secure the significant enhancement of a public footpath¹¹⁴.
 - There will be two new areas of Public Open Space within the site, accessible both to residents of the scheme and other local residents. There are no such facilities in this part of North Tadley¹¹⁵.

¹⁰⁴ HSE/21 Paragraph 6.13

¹⁰⁵ HSE/21 Paragraph 6.9

¹⁰⁶ Core Document 3 Policy D5

¹⁰⁷ APP/12 Plan DB1

¹⁰⁸ APP/12 Paragraph 7.10

¹⁰⁹ Core Document 3 Policy D2

¹¹⁰ Photographs at APP/12 Annex 4

¹¹¹ Doc 8 Planning SOCG Paragraph 7.65

¹¹² APP/12 Paragraphs 7.21 – 7.23

¹¹³ Doc 8 Planning SOCG Paragraph 7.7

¹¹⁴ APP/12 Paragraphs 7.37

¹¹⁵ Doc 8 Planning SOCG Paragraph 7.35

Market housing

96. The application scheme will contribute towards the provision of market housing in the second largest settlement in the Borough. In light of the potential revocation of the RSS, it is not possible to identify a single housing requirement figure – a range of different possible figures have to be considered, with weight attached to each¹¹⁶.
97. The range of possible requirement figures are:
- The South East Plan requirement of 945 p.a. for 2006-2027. This figure derives from a plan which was 'sound' when it was published. It is evidence based and significant weight should be attached to this figure.
 - A requirement of 825 p.a. for 2006-2027. This is referenced in the GOSE letter¹¹⁷ and was an initial figure which was subsequently uplifted.
 - A locally generated need based requirement of 790 p.a. The July 2010 Planning and Infrastructure Overview and Scrutiny Committee Report is an up to date analysis which supports this figure¹¹⁸.
 - 740 p.a. - whether over the period 2011-2027 or 2006-2027. This is the bottom end of the possible range, and the figure to which least weight should be given. It reflects an officer recommendation for the proposed adoption of an 'interim' requirement. But it is unknown whether this recommendation would survive the gathering of an evidence base, public consultation, and independent scrutiny during examination of the relevant DPD¹¹⁹. This figure can be given no material weight.
98. The Council suggests that there is a housing land supply of 3,331 in the relevant 5 year period, whilst the Applicant suggests it is 2,583 (excluding the application site). The differences relate to 5 sites¹²⁰.
99. When comparing requirements and realistic supply, there is a deficit no matter what requirement figure is considered¹²¹. If the Applicant's supply figure of 2,583 is used, the extent of the shortfall ranges from 1,917 using 945 p.a. (equating to only 2.87 years supply) to a deficit of 572 using 740 p.a. for the whole period 2006-2027 (equating to 4.09 years supply). Even if the Council's supply figure of 3,331 is used, there would be a deficit in all cases, other than if using a requirement of 740 p.a. for the whole 2006-27 period. This requirement can be given no weight.
100. Leaving aside the 740 p.a. figure for 2006-27 period, on any other basis there is a substantial deficit as against the 5 year requirement, and the only issue for debate is the extent of the deficit. This is a clear case where favourable consideration is advised in PPS3.

¹¹⁶ APP/12 Annex 2 update

¹¹⁷ Core Doc 28

¹¹⁸ APP/12 Rebuttal Appendix 3

¹¹⁹ Further commentary on this figure at APP/13 Paragraph 88 (4)

¹²⁰ Details at APP/12

¹²¹ APP/12 Annex 2 update

Affordable housing

101. The application scheme will provide 46 units (40%) of affordable housing in line with the LP¹²²:
- There is a massive unmet need of between 580 and 920 affordable units in the Borough¹²³. There is a shortfall in affordable provision over the last 5 years of 972 units, as against the lowest end of the range¹²⁴.
 - There is no prospect that completions in the short and medium term will address this shortfall or the identified level of need for future years¹²⁵.
 - Within Tadley, the position is worse. There have been no affordable housing completions since 2005/6¹²⁶ and extant planning permissions (as at April 2009) do not include any sites that will provide affordable units¹²⁷. There is an annual need for 23 units in Tadley¹²⁸. Aside from the application site, there is only one site in Tadley which is large enough to attract a requirement for affordable housing provision (land between Mulfords Hill and Silchester Road) - this is unavailable and undeliverable¹²⁹.
102. HSE states that the Council has substantially exceeded its 'objective' of providing at least 300 affordable units a year in each of the last two years¹³⁰. But this objective is a policy constrained figure and does not reflect the agreed actual level of affordable housing need in the District. It would also be wrong to place undue weight on the numbers of affordable units completed in 2007-2009. This was a time when developers prioritised affordable units to aid cashflow, and when significant additional funds were available to help offset the decline in the private housing market¹³¹.
103. The opportunity to deliver much needed affordable housing in Tadley, the second largest settlement in the Borough, is a material consideration to which very significant weight should be attached.

THE CASE FOR THE COUNCIL¹³²

Initial contextual points

104. The Council supports this application. The site is located within the defined settlement boundary of Tadley and is sustainably located. The development would provide much needed market and affordable homes, small scale employment opportunities and new community facilities, whilst improving visual and environmental amenity¹³³.

¹²² Core Document 3 Policy C2

¹²³ Doc 8 Planning SOCG Paragraph 7.58 and Core Documents 21-23

¹²⁴ APP/12 Table 8.1 and Planning SOCG

¹²⁵ Summarised at ARR/13 Paragraph 92(2)

¹²⁶ APP/12 Table 8.2

¹²⁷ APP/12 Paragraph 8.18

¹²⁸ Doc 8 Planning SOCG Paragraphs 7.61/7.62

¹²⁹ APP/12 Annex 2 Pages 14/15

¹³⁰ HSE/21 Paragraph 11.2 referring to Core Doc 4

¹³¹ APP/12 Paragraph 8.9 and rebuttal Paragraph 9.2

¹³² The case given here is an edited version of the closing submissions at Doc LPA/11

¹³³ LPA/9 Paragraph 3.13

105. The appropriateness of the site for residential development has been recognised for many years¹³⁴. After extensive consultation¹³⁵, the site was allocated (2006) for mixed use development under LP policy D3.17. The policy and allocation was 'saved' in 2009.
106. The role of HSE is limited to providing evidence on what it considers to be safety issues. HSE have not dealt with such concerns in the context of other planning considerations¹³⁶. However the Council has carefully considered HSE'S arguments as part of the overall planning balance, in the context of development plan policy and relevant material planning considerations.

The approach of HSE

107. There are essentially four arguments from HSE. First, that it would not be sensible to put a substantial number of people in harm's way. Second, that the development would be harmful to the proper operation of emergency preparedness. Third, that the development would be contrary to principles of nuclear siting policy, and fourth that the development would breach population density criteria. There was also some limited criticism of the LP site allocation.
108. Even before consideration of the numerous substantial planning benefits, HSE's own assessment of the safety/risk arguments does not suggest that all areas in the vicinity of AWE should be development free zones¹³⁷.
109. HSE confirmed that the science and policy they relied on to support their opposition to the current application has remained exactly the same since at least 1997 when the AWE site received a licence¹³⁸. But HSE, when considering the Kestrel Mead proposal – some 46 dwellings located closer to AWE than the application site - chose not to object. In addition, in 2001 HSE considered that there was no basis for objecting on nuclear safety grounds for a large new food store on the current application site – and it was confirmed at the Inquiry that this would still be their position today¹³⁹. Until 2007 HSE did not even wish to be consulted on any development likely to involve less than 20 people¹⁴⁰.
110. HSE is not saying that if the proposal is built the Off Site Plan will not work. It is accepted as being fit for purpose and extendable¹⁴¹.
111. HSE has not ruled out the possibility of further facilities being allowed at AWE – even if such facilities were placed near existing housing outside the AWE boundary. That approach only makes sense if it is based on an understanding that the risks and consequences associated with such operations are not in fact so severe as to preclude the existence of residential development nearby.

¹³⁴ Doc 8 Planning SOCG Paragraph 3.1-3.3

¹³⁵ LPA/9 Paragraph 3.5

¹³⁶ Ms Jones and Dr Lacey in xx

¹³⁷ Dr Lacey in xx

¹³⁸ Dr Lacey in xx

¹³⁹ Dr Lacey in xx

¹⁴⁰ HSE/21 Appendix J1 Page J-2

¹⁴¹ HSE/18 Paragraph 8.3c and HSE/20 Second Rebuttal Paragraph 4.4

REPPIR, 'reasonably foreseeable' and risk

112. There are two related but distinct issues - the risk of an event taking place at all, and the nature of the hazard (i.e. if such an event takes place whether it is likely that a materially harmful radiation dose would be received by the public). HSE accepted that these must be evaluated as distinct issues, but HSE'S case was based solely on a consideration of consequences after an event rather than including the likelihood of an event¹⁴².
113. Potential confusion arises because the term 'radiation emergency' - which is central to the interpretation of the main REPPIR requirements - focuses on the consequences of an event and assumes that it is likely a member of the public will be exposed to ionising radiation in excess of any of the doses set out in the Regulations¹⁴³. The need for emergency plans derives from an assessment that a 'radiation emergency' is 'reasonably foreseeable', so these definitions are linked¹⁴⁴. The nature of the Regulations is that they deal with events that are highly unlikely to occur, and even if they did would be equally unlikely to cause any harm¹⁴⁵. The Regulations also require consideration of the consequences of an event based on the assumption that no health protection measures are taken for 24 hours afterwards¹⁴⁶.
114. Much of the difficulty arises due to HSE'S reliance on REPPIR, and an attempt to transpose it into a planning decision context. Overall, in the world of REPPIR, the assessment of consequences of potential events is not based on what will happen to prevent the event or any subsequent radiation exposure.
115. The REPPIR approach of 'reasonable foreseeability' does not assist in understanding the likelihood of the initial event. The HIRE has identified a major fire which engulfed a whole building as an event that might have consequences leading to the instigation of off-site emergency measures - but it indicates that such an event could only ever be considered a 'remote possibility'¹⁴⁷. Most accidents could not result in any release of radioactivity to the open environment and an accident that could cause this is 'extremely unlikely'¹⁴⁸.
116. It is essential to consider the likelihood of such an event ever taking place. It is not disputed that AWE operates in a way which is as safe as possible. The facilities on the site are carefully designed, built and operated in a manner that assures safe operation¹⁴⁹. There are numerous layers of protection on site which apply even before any off-site measures are contemplated¹⁵⁰.

¹⁴² Dr Lacey in xx

¹⁴³ Core Doc 34 Regulation 2(1)

¹⁴⁴ Core Doc 34 Regulations 7, 8, 9

¹⁴⁵ Core Doc 34 Paragraphs 97 and 102

¹⁴⁶ Core Doc 34 Regulation 2 (1) and Paragraph 103

¹⁴⁷ HSE/8 Section 6

¹⁴⁸ HSE/8 Sections 5 and 7

¹⁴⁹ HSE/8 Section 7

¹⁵⁰ HSE/8 Section 4

117. There is no dispute that such a residual risk is very low indeed and the possibility of a relevant event might properly be described as being extremely remote¹⁵¹.

The risk of harmful consequences

118. Even if such an extremely unlikely event takes place, the Off Site Plan states that "even the most serious incident that can be envisaged at....AWE....should not require the urgent evacuation of areas outside the site fence"¹⁵². Exceptionally "evacuation within the first twenty four hours might be necessary for areas up to 400 metres downwind from the site of the incident. Most of this area would likely be within the AWE site boundary"¹⁵³.
119. If such an event ever impacted on the application site, the REPPiR Handbook states that "there would be no immediate health effect caused by a release of radioactive material on members of the public following a serious incident at AWE. Staying indoors with the doors and windows closed would remove almost all the risk"¹⁵⁴. It was accepted by HSE that the contents of the Handbook – approved by the Off Site Working Group in the light of REPPiR requirements¹⁵⁵ – were 'not incorrect'¹⁵⁶.
120. In contrast HSE's position relies on various assumptions to paint a picture of what it describes as a 'reasonably foreseeable' dose of radioactive material to a member of the public - around 30mSv. This is said to be 'very hazardous to health'. Regrettable language was used which suggests that in a radiation emergency there would be serious radiological consequences to people in surrounding areas¹⁵⁷.
121. The 30mSv dose is what HSE uses to find unacceptable harm¹⁵⁸. But that dose is no more than the REPPiR Handbook confirms that a worker could legally receive in an 18 month period¹⁵⁹. The calculation of a 30mSv dose assumes no countermeasures were taken pursuant to the Off Site Plan – and HSE conceded that preventative measures would reduce the dose¹⁶⁰. It also assumes that persons would be downwind of any release. The dose could be significantly less if the wind was blowing the other way¹⁶¹.

Impact on emergency preparedness

122. HSE does not suggest that, if the development goes ahead, the Off Site Plan will not work, but rather that the development would provide additional challenges. However HSE accepts that the Off Site Plan is fit for purpose¹⁶² and fully REPPiR

¹⁵¹ APP/5 Page 1

¹⁵² Core Doc 33 Paragraph 3.6.3

¹⁵³ Core Doc 33 Paragraph 5.4.1

¹⁵⁴ APP/5 Page 5

¹⁵⁵ Doc 34 Regulation 16(1) and Schedule 9

¹⁵⁶ Dr Lacey in xx

¹⁵⁷ HSE/18 Paragraph 4.2

¹⁵⁸ Dr Lacey in xx

¹⁵⁹ APP/5 Page 8

¹⁶⁰ Dr Lacey in XX

¹⁶¹ Mr Robinson in xx

¹⁶² HSE/20 Rebuttal Paragraph 4.4

compliant¹⁶³. With that background, HSE'S case might have been assumed to be that the addition of some 268 persons would fundamentally undermine the emergency planning for the area even after any relevant review has taken place. But this cannot be the case because:

- An additional 268 persons represents only about a 2% increase in the population of the area in emergency planning terms.
- HSE has made it clear that they would not object to a development of a substantial supermarket, with a petrol station and over 200 car parking spaces on the site¹⁶⁴. That would obviously attract as many and probably more than 268 people onto the site.
- HSE confirmed that it was not their case that the additional persons would prevent the Off Site Plan from working¹⁶⁵.
- The Offsite Plan is already able to provide a basis for dealing with radiation emergencies that are not even reasonably foreseeable by being extendable¹⁶⁶.

123. The Benchmark Review of the Off Site Plan confirmed that it is a thorough piece of work which compares well with other plans that had been assessed¹⁶⁷.

124. The Off Site Plan has been regularly reviewed, tested and updated¹⁶⁸ as required by REPPiR¹⁶⁹. It has very recently been tested and HSE confirmed that it met REPPiR requirements¹⁷⁰. There is a statutory process in place which ensures that if, adaptation is necessary, the Off Site Plan would be reviewed and updated.

125. The Off Site Plan is only one of several layers of defence and must be viewed in that context. Defence in depth includes on site measures which are quite independent of the Plan and may themselves be adapted. In fact there will be no need for material change to the Off Site Plan or other arrangements if this proposal is allowed.

126. The Off Site Plan deliberately does not identify a maximum population above which it ceases to function, as it has a degree of flexibility already built in. That is because no one can say how many people are in the area at a given time – as large numbers of people regularly travel into and through the area on a daily basis. In that context an additional 268 persons will make no material difference to the Off Site Plan.

127. HSE's case appears to rest largely on the argument that the unpredictable nature of an emergency means that it is possible that countermeasures may not

¹⁶³ HSE 18 Paragraph 8.3(c)

¹⁶⁴ Dr Lacey in xx

¹⁶⁵ Dr Lacey in xx

¹⁶⁶ Core Doc 34 Paragraph 138

¹⁶⁷ LPA/5 Appendix A

¹⁶⁸ Last reviewed in July 2009, next review in Jan 2012. Tested in 2007 and Nov 2010.

¹⁶⁹ Core Doc 34 Regulation 10 and Paragraphs 250-291

¹⁷⁰ Mr Saunders in xx

work as planned¹⁷¹. But that would mean that even when one has in place off-site emergency planning, defence in depth measures on site, regular review and testing, all of which are capable of dealing with even more remote emergencies, there might still be some other reason that emergency planning is inadequate. That is not a helpful approach.

128. (Submissions were made on the representations from members of the Off Site Plan Working Group¹⁷².)

Nuclear siting 'policy'

129. There is no specific nuclear policy that directly applies to AWE, as it is almost unique as a facility and as a 'legacy' site.

130. However HSE contends that the development will contravene the Hansard 'policy' that seeks to preserve the 'general characteristics' of a nuclear site. This is not akin to development plan policy but, at best, provides no more than broad guidance and refers to general rather than specific characteristics¹⁷³. Furthermore HSE's publication '*The UK's fourth national report on compliance with the Convention on Nuclear Safety Obligations*' indicates that the issue of judgement in a planning context is whether there is significant and unacceptable population growth after a site is licensed¹⁷⁴.

131. In any case, HSE'S policy argument is entirely dependant on being able to demonstrate either that there will be harm to emergency preparedness or that the risk/consequences of an event are such that the development should not be allowed. The objective of such policy is to limit radiological consequences in the unlikely event of a nuclear incident and it is not based on any assessment of risk as to whether a nuclear incident would occur.

132. Such a policy, even if it applies, does not provide any strict limit on population numbers and does not preclude population growth.

133. The Council does not consider that the emerging national policy on nuclear power generation is relevant to this application, as that emerging policy relates to site selection considerations for new nuclear power stations.

Population levels and density criteria

134. Putting aside the debate as to the relevance of the policy and the criteria therein, and whether there was any breach of such criteria, the policy is, in any event, only intended to be used for guidance¹⁷⁵. The Hansard policy refers to 'other unquantifiable factors' which are to be taken into account. In this case such factors could no doubt include the benefits that would be delivered if the application is allowed.

135. This case should not be determined purely in relation to compliance or otherwise with criteria. Any breach of the criteria would not necessarily

¹⁷¹ HSE/18 Paragraph 4.3

¹⁷² Summarised at LPA/11 Paragraph 66

¹⁷³ HSE/21 Appendix A.2

¹⁷⁴ APP/9 Siting Considerations Paragraph 17.29

¹⁷⁵ HSE/21 Appendix A.2

demonstrate any harm. It was conceded by HSE that, for this point to have any weight, some harm would have to be shown¹⁷⁶.

136. There has been a consistent lack of objection by HSE to substantial developments even nearer to AWE in the period 2000-2006. No objection was raised to the LP site allocation despite several consultations with both HSE and AWE over a 2 year period. There had been no objection by HSE to any development before 2006. This lack of objection was despite the underlying science relating to radiation releases and the policy/criteria now relied upon by HSE being the same¹⁷⁷. There was no basis on which the Council or the Local Plan Inspector could have concluded there was any issue relating to nuclear safety that would preclude the allocation of the application site.
137. Even if the policy/criteria apply, the 'general characteristics' of the area around AWE has remained much the same since 1997 when the site was licensed, and would remain similar if the application were allowed:
- The population in the near vicinity of the site falling within the 3km DEPZ increased by only 57 people in the period 1997-2009, an average rate of less than 0.03% per annum¹⁷⁸.
 - Even if the application were allowed, the overall level of population increase since 1997 would not exceed that attributed to natural growth within the area¹⁷⁹.
 - Experienced Council officers¹⁸⁰ are of the view that the general characteristics of the area have remained the same since at least 1997 (and probably for years before) and would not be materially altered if the development were allowed.
138. HSE explained¹⁸¹ that it was only in late 2009 that it was appreciated that earlier work by WS Atkins (which had estimated population numbers in 1995) had significantly underestimated population numbers at that time¹⁸². HSE had, until late 2009, assumed that there had been much larger increases in population growth in the vicinity of AWE than in fact there had been.
139. That erroneous approach was adopted by HSE in the appeal relating to proposed development at Shyshack Lane¹⁸³, where HSE argument was based primarily on a perceived significant increase in population growth of around 300%. That Inspector mainly relied on this flawed argument when deciding to dismiss the appeal¹⁸⁴, and that appeal decision therefore provides no material support to HSE case.

¹⁷⁶ Dr Highton in xx

¹⁷⁷ Accepted by Dr Lacey and Dr Highton in xx

¹⁷⁸ LPA/7 Paragraphs 2.6 and Section 4

¹⁷⁹ LPA/7 Paragraph 5.2 and LPA/9 Appendix 4

¹⁸⁰ Mr Gosling and Ms Linihan

¹⁸¹ Dr Highton

¹⁸² Core Document 32 Appendix 16 to the 13 January 2010 for critique

¹⁸³ Doc 10

¹⁸⁴ Doc 10 Paragraphs 11-16

140. Such an incorrect approach had also been taken by HSE in their initial objection to the current application¹⁸⁵. This solely concerned the implications of such an assumed large percentage increase in population.
141. HSE appears to have been forced into an about turn in late 2009. HSE now argue that the semi urban criteria would have been breached even in 1997, so that there would be a clear breach now if the development were allowed. But:
- Given that HSE was aware of the existing population levels they nevertheless have not objected to a range of developments near AWE. HSE knew about general characteristics, density criteria and extant population levels yet did not think it right to object to other developments.
 - Even in the Shyshack Lane appeal it was not the existing levels of population that concerned HSE, but rather the incorrectly perceived huge percentage increase from 1997.
 - HSE'S argument is founded on a breach of semi urban density criteria (or other more restrictive criteria) and is not underpinned by any assessment of real on the ground harm, but is merely a set of calculations and a pure criteria based assessment of acceptability. That was clear at the Inquiry¹⁸⁶.
 - The true nature of HSE'S position¹⁸⁷ is that, even if there were no change in demographic circumstances and general characteristics as a result of this proposal, and even if the trends suggested that no population increase would occur in the future, HSE would still advise against on the basis of a breach of the criteria. That is not an approach that should be given any support.
 - HSE has not given any consideration to the other unquantifiable factors referred to in the Hansard policy - the assessment was devoid of any consideration of the benefits to Tadley.
142. The remaining HSE population increase argument¹⁸⁸ purported to show percentage increases from 1991 of around 15-17% in the sector including the application site. But these figures cannot be relied upon because they are based on average household sizes derived from the 2001 census data, when in fact average sizes have reduced materially since then¹⁸⁹. In addition, the relevant start date was not 1991, but should have been 1997 - any material increase in population had been in the period before 1997¹⁹⁰. Accordingly, the figures relied upon by HSE do not provide a realistic picture of population levels and were bound to significantly overestimate the percentage increase.
143. The Council has also clearly demonstrated that a level of net out migration from the area had occurred which would in fact exceed the capacity of the application site¹⁹¹.

¹⁸⁵ Core Doc 32 Page 19

¹⁸⁶ XX of Highton

¹⁸⁷ Dr Highton in xx

¹⁸⁸ HSE/21 Figures 13 & 14

¹⁸⁹ LPA/7 Section 5

¹⁹⁰ LPA/7 Paragraph 4.5 and Appendix 4

¹⁹¹ LPA/7 Paragraph 1.4

144. There was a late suggestion from HSE that there had been a change in the terms of the 'Safety Assessment Principles' from 1992¹⁹² to the current 2006 edition¹⁹³ which provided some support to their position on population growth. However, a comparison of the editions in fact reveals that the 2006 wording was less restrictive and which, in the context of off-site emergency response considerations, indicated there should be an allowance for growth.

The development plan and material planning considerations

145. The application complies with a range of relevant development plan policies¹⁹⁴.

146. A range of matters are secured by the Unilateral Undertaking¹⁹⁵ and the suggested conditions. The matters contained in the Undertaking comply with the terms of Regulation 122 of the CIL Regulations and the tests in C05/05.

147. The site is allocated for this type of development in the LP¹⁹⁶. The suggestion by HSE that the Council were aware of HSE's objection to the potential for housing development on the site is wrong. At the time of LP allocation in July 2006 HSE had not objected to any development in the DEPZ, and did not even wish to be consulted unless a development would generate 20 or more people¹⁹⁷.

148. No precedent will be set if permission is granted, due to the individual merits and the specific characteristics of the case.

149. The scheme includes substantial benefits¹⁹⁸, as recognised by local residents¹⁹⁹. In summary it provides:

- A redevelopment, that accords with development plan and national policy, of a vacant and derelict site close to the centre of Tadley. It would make efficient use of previously developed land with a well designed scheme in a sustainable location.
- A new facility to replace the existing scout hut²⁰⁰.
- Improvements to a public footpath link and highway contributions so as to integrate the development with Tadley, along with a Travel Plan²⁰¹.
- New areas of public open space, a Landscape Management Plan and contributions to relevant off-site improvements²⁰².
- The provision of market and affordable housing. The need for affordable housing is particularly acute in Tadley²⁰³ and would accord with policy²⁰⁴.

¹⁹² HSE/9 Paragraph 98

¹⁹³ APP/8 Siting Considerations Appendix 7 Paragraph 112

¹⁹⁴ Doc 8 Planning SOCG Section 7 and the evidence of Mr Bond in relation to the South East Plan

¹⁹⁵ Doc 9

¹⁹⁶ Core Doc 3 Policy D3.17

¹⁹⁷ HSE/21 Appendix J1 page J2

¹⁹⁸ LPA/9 especially paragraphs 3.7-3.15

¹⁹⁹ Core Doc 32 Letters of support in July 2009 report Page.15

²⁰⁰ Core Doc 3 Policy C8, LPA/10 paragraphs 3.12 – 3.21

²⁰¹ LPA/10, LPA/10 paragraphs 3.42 – 3.62

²⁰² Core Doc 3 Policy CS9, LPA /10 paragraphs 3.22 – 3.38

²⁰³ LPA/10 Paragraphs 3.1-3.11, LPA/10 paragraphs 3.39 – 3.41

- The affordable and general housing mix would accord with policy²⁰⁵.

In contrast a refusal of planning permission would send a negative signal to residents and businesses in the area and impact on the wellbeing of the local community²⁰⁶.

Housing land supply and delivery

150. The Council has a 5 year land supply of 3,331 dwellings. There was a debate with the Applicant about the deliverability of some of the sites, but the Council's evidence is clear and accurate²⁰⁷.
151. As a result of the Cala Homes decision the South East Plan continues to be part of the development plan. The starting point remains the development plan and the policies that relate to housing provision remain relevant.
152. The South East Plan requires the provision of 945 dwellings p.a.²⁰⁸. In development plan terms, there is a deficit in the five year deliverable supply of housing land and the application should therefore be considered favourably. The exact extent of the deficit depends upon which scenario is chosen²⁰⁹.
153. The Council is undertaking consultation with local communities regarding future housing provision. This will inform a new housing figure to be contained in a pre-submission Core Strategy (summer 2011).
154. The Council has not adopted an 'interim' figure to use when the South East Plan is abolished. A proposed interim figure of 740 dwellings p.a. was to be considered on 11 November 2010 but this was not done in the light of the Cala Homes RSS judgement. Even if the 740 dwellings p.a. figure were used, the Council would only just meet the 5 year housing land supply requirement²¹⁰. Even in that scenario, the application site would make an important contribution.
155. The Council do not consider that emerging policy is of relevance to this application²¹¹.

Planning balance

156. The proposal complies with relevant development plan policy and provides a range of material benefits. HSE'S concerns should be considered alongside other material considerations.
157. The evidence demonstrates that the risk of any radiation 'event' taking place at all is minute. Even in the worst imaginable scenario there is realistically no

²⁰⁴ Core Doc 3 Policy C2 and Core Doc 8, LPA/10 paragraphs 3.1 – 3.11

²⁰⁵ Core Doc 8 and Core Doc 3 Policies C2 and C3

²⁰⁶ LPA/9 Paragraph 3.13

²⁰⁷ LPA/10 Boundary Hall Note Appendix 1

²⁰⁸ Core Doc 6 Policies H1 (Table H1b), H2, H3, and WCBV3

²⁰⁹ Various scenarios are set out in APP/12 Annex 2 (Using the Applicant's supply figure of 2,683 rather than the Council's 3,331)

²¹⁰ 5.3 years supply if Boundary Hall (100 units) included. Without Boundary Hall, 5.1 years supply – with a 76 unit surplus.

²¹¹ Details at LPA/11 Paragraph 115

prospect of any immediate health risks from an incident and, assuming safety measures are followed, any long term risk would be extremely small.

158. The Off Site Plan is clearly fit for purpose and there is no substantiated evidence to indicate that it will be materially prejudiced or compromised by the scheme.
159. The development would preserve the general characteristics of the population around AWE, whilst securing material improvements for Tadley.
160. Even when HSE'S concerns are considered in isolation, they do not provide a sensible or realistic basis upon which to reject the development.
161. The release of the site is entirely in accordance with the development plan and national policy and will provide material and substantial benefits that are much needed in Tadley.

THE CASE FOR SUPPORTERS WHO APPEARED AT THE INQUIRY

162. Mrs M Weston has been a local resident for 15 years. She pointed out that AWE has been there for around 60 years, during which period Tadley had grown and become a town. No objection has been raised to housing development before – including the recent housing at Kestrel Mead. There have been very few minor safety incidents over the years, and it would be unfair to resist housing development.
163. Mr B Spray is the Chairman of Tadley Scout Group. The Group, which is one of the largest in Hampshire, has been waiting 17 years to relocate. The group encompasses 100 Scouts and 50 in a group of older members. The building on the site is long past its sell by date, and the Group has a pressing need for new accommodation so they can provide good facilities for the Group and others who would be interested in using the new building. The Applicant's proposal is a first class scheme. Mr Spray has lived in Tadley since 1954, and his family would like to do the same, but cannot afford local house prices. Many local employees need affordable housing.
164. Mr A Jeffrey has lived in Tadley for 53 years and has worked at AWE for 44 years. There is a real need for low cost housing in the area. There has never been an airborne release from AWE and, even if there were, the prevailing southwest winds would disperse any plume away from most residents.

THE CASE FOR THE HEALTH AND SAFETY EXECUTIVE²¹²

165. HSE objects in the strongest terms to the proposal. Its reasons are based on first principles related to the effect on human health and because the proposal would breach longstanding Government policy on the siting of housing in proximity to nuclear facilities.
166. There are four parts to the objection:
 - It would be incorrect as a matter of principle to place a significant new population in harm's way given the consequences of a reasonably foreseeable nuclear emergency. This, by itself, is sufficient to mean that permission should not be granted.

²¹² The case given here is an edited version of the closing submissions at HSE/23

- HSE and the vast majority of the other multi-agency emergency planners and responders take the view that the proposal would significantly harm a safe and efficient emergency response in the event of a reasonably foreseeable incident.
- The proposal would fail to preserve the characteristics of the site when looked at in a public safety context. The introduction of a significant new community so close to the boundary of an establishment in an area which, for historic pre-regulation reasons, is already heavily populated cannot correctly be characterised as “preservation”.
- In terms of demographic criteria, even the least restrictive semi-urban criterion is significantly breached in the vicinity of the proposed development. This criterion is a conservative benchmark, as the activities at AWE give rise to a reasonable likelihood of more significant consequences than that for which the semi-urban criterion was designed.

167. The strength of HSE’s objection can be judged in several ways:

- This is the first application which HSE’s Nuclear Directorate has requested be called-in and the first Inquiry which it has felt it necessary to attend. HSE has had specific regard to the advice contained in C04/00. It appeared at the Inquiry because it believes the case to be one of exceptional concern and one where important policy or safety issues are at stake.
- The Nuclear Directorate is internationally renowned as one of the world’s foremost nuclear regulators, and has chosen to be represented by its most senior and qualified members of staff. The Inquiry heard from those who have been instrumental in forming the relevant policy, who in a national emergency would liaise directly with Ministers, and from internationally renowned experts in the field of radiological protection.

168. Set against this is the case advanced by a housing developer who has had the misfortune of purchasing the freehold of the site in the absence of any knowledge of the consequences of the existence of an atomic weapons establishment on its doorstep. The developer has been forced to construct a retrospective argument in defence of the application.

169. HSE’S case is based around a series of propositions.

Proposition 1. AWE has a large inventory of radioactive isotopes which are associated with the work it undertakes in the national interest in the maintenance of an independent nuclear deterrent.

170. AWE has been central to the defence of the United Kingdom for more than 50 years. It developed as a nuclear facility in the shadow of the Cold War. As a Ministry of Defence establishment operating in that international climate it grew outside normal land use planning and health and safety systems.

171. Today, it handles high explosives and radioactive substances required for the production of nuclear warheads. Such radioactive substances include plutonium, tritium and enriched uranium. Plutonium is the most hazardous of these isotopes but all are dangerous.

172. The exact inventory at AWE and its location within the site is classified. But it is public knowledge that up to 7.6 tonnes of plutonium are capable of being stored on the site at any one time.
173. Not all of the radioactive material is contained within the inner security cordon. For operational and historic reasons, there are significant facilities outside the inner fence which have their own particular security provisions. The exact location of these facilities is mostly classified, but at least one significant facility lies to the south of the inner security fence and thus closer to the application site.
174. There is also a requirement for the transport of radioactive material across the site. Such transit forms a component of the reasonably foreseeable hazard on the site²¹³.
175. The continued future use of AWE for purposes associated with the maintenance of a nuclear deterrent is clear, with the recent Anglo-French accord on research, development and construction of the nuclear deterrent.

Proposition 2. Significant radiation emergencies caused by activities at AWE are reasonably foreseeable. Such reasonably foreseeable incidents include, but are not limited to, incidents instigated by fire.

176. Parliament has created a regulatory regime which seeks to protect members of the public who live in the vicinity of nuclear facilities. "*The Radiation (Emergency Preparedness and Public Information) Regulations 2001*" (REPPPIR), seek to produce a comprehensive and proportionate response to the protection of the public from the threat of accidental nuclear release.
177. REPPPIR requires all potential accidents and their consequences to be identified by AWE. This identification of hazard and risk is then scrutinised by HSE.
178. The Regulations require the system to identify reasonably foreseeable radiation emergencies and to prepare for such events by way of off-site emergency arrangements. A reasonably foreseeable radiological emergency is one which is "less than likely" but which is still "realistically possible". Unlike other areas of public protection, Parliament has deliberately chosen not to identify the nature of the risk by reference to a quantitative descriptor. It is not productive to seek to reintroduce a quantitative descriptor into the debate (e.g. 1 in 1,000) when statute has deliberately avoided that approach.
179. Once a reasonably foreseeable radiation emergency is identified, HSE has the role of identifying a Detailed Emergency Preparedness Zone (DEPZ) within which arrangements are required to be put into effect. The furthest edge of this area is defined by the definition of a radiation emergency and is set with reference to a 5mSv radiation dose.
180. AWE has produced a Hazard Identification and Risk Evaluation assessment (HIRE), which seeks to identify all potential hazards of an escape of material beyond the AWE boundary, and to identify those hazards which are reasonably foreseeable. The redacted HIRE²¹⁴ establishes that reasonably foreseeable

²¹³ Redacted HIRE

²¹⁴ HSE/8

emergencies could arise from fire, human error, drops of material in transit and other accidents. The HIRE has been considered by HSE, which has consistently concluded since licensing that there are reasonably foreseeable radiation emergencies which could be caused by activities at AWE. At no time has there been any challenge to the conclusion that there is the prospect of a reasonably foreseeable radiation emergency at AWE, nor is there any good reason to doubt the accuracy of the analysis done pursuant to the statutory machinery.

181. It would be irrational for the planning system to adopt a different approach to determining the risk of an emergency from REPPIR²¹⁵. Despite the varying description used by others of the extent of risk ('small', 'remote' etc), the overall conclusion remains that there is the potential for a reasonably foreseeable emergency at AWE. Neither does the fact that the site is operating at or towards ALARP alter the position. Notwithstanding ALARP operating procedures a reasonably foreseeable emergency is identified through the HIRE process.
182. The test of reasonable foreseeability is the correct one to be considered in determining the appropriateness of granting permission for new development in the vicinity of AWE.

Proposition 3. The reasonably foreseeable consequence of such an accident is the delivery of a 5mSv dose of radiation at a radius of 3km from the nominal centre of the site - this has resulted in the setting of a DEPZ of 3 km for AWE. The dose received by those closer to the site would be higher and it is accepted that at 1km the effective dose could be in the region of 30mSv.

183. A radiation emergency is defined in REPPIR by reference to a dose intake of 5mSv. At all times since licensing the 5mSv contour has been set at 3 km from a notional point towards the centre of AWE.
184. The fact that other smaller DEPZ zones have been considered, but rejected, over the years only strengthens the statutory position that has been reached. The DEPZ has been properly reviewed.
185. Radiation consequences attenuate with distance - the closer a person is to the source of release, the higher the dose he is likely to receive. It follows (applying the Gaussian Plume model to the atmospheric dispersion of released radioactive particulates) that, if it is reasonably foreseeable that at 3km the dose is 5mSv, then at 1km the reasonably foreseeable dose would be c.30mSv. There is no challenge to this calculation.
186. This is a most significant dose - in excess of 30 times the statutory limit. This was not addressed in the Applicant's Environmental Statement or the evidence. This is a hugely significant omission.

Proposition 4. Receipt of such doses would be dangerous and harmful.

187. There is no serious argument but that this level of dose (30mSv) is significantly harmful and should be avoided. It would constitute putting people unnecessarily in harm's way. The evidence from the UK's foremost analyst of

²¹⁵ Accepted by Mr Bond in xx

the aetiological impact of radiological doses was quite clear that such doses would be unacceptably harmful and would lead to an increased risk of cancer²¹⁶. On this ground alone it is clear that planning permission should be refused.

188. It is true that in the early days of regulation, HSE did not object to residential development on a smaller scale at Falcon Fields/Kestrel Mead, which is located a similar distance from the fence. But this failure to object was an error - which should not be repeated in this case²¹⁷.
189. The Applicant did not take a seriously different approach on the harmful dose issue. It was accepted that it was "no part of [their] case that doses in the tens of mSvs were not unacceptably harmful". It was also agreed that such doses, which would be experienced by residents of the proposed development, were "significant" if not "catastrophic", and that all residents of the new development would be right to be "legitimately concerned" about such consequences²¹⁸.
190. REPPIR regulations make it clear that for the first 24 hours after a release, an assumption should be made that persons within the DEPZ are outdoors and would be unable to achieve the mitigation afforded by shelter. The reasoning is clear – "the effectiveness of urgent early health protection countermeasures such as sheltering... is hard to guarantee..."²¹⁹. The logic behind this assumption clearly applies with more force the closer a potential recipient of dose is to the point of release.
191. Even for those who are able to shelter, the impact of a release will still be likely to significantly exceed 10mSv, which all experts agree is a harmful dose which should be avoided if possible.

Proposition 5. Any suggestion that the use of AWE is sufficiently benign as to mean that there is no reason to limit residential development anywhere near its boundary is incorrect, uninformed and unsafe.

192. The Applicant suggests that AWE is a relatively benign use, akin to a research reactor in a university laboratory. There is no support for this assertion at all, which is made without knowledge of the nature, extent or actual inventory of AWE.
193. Research reactors are also the subject of REPPIR and the requirement to define a DEPZ - if they carry sufficient inventory and if there is (following a HIRE assessment) a reasonably foreseeable risk of a radiation emergency. But neither of the research reactors presently operating in the UK has a DEPZ.
194. The greater the consequences of a reasonably foreseeable radiation emergency, the larger would be the DEPZ²²⁰. The Applicant's assessment of the risk at AWE (which is based on absence of knowledge) is thus wholly inconsistent with the entire REPPIR regime.

²¹⁶ Dr Robinson

²¹⁷ Accepted by Dr Lacey, Mr Robinson, Dr Highton, Mr Saunders

²¹⁸ Dr Thorne in xx

²¹⁹ Core Doc 34 Paragraphs 57/58

²²⁰ Accepted by Mr Dillon in xx

195. The Secretary of State is entitled to assume that, in the absence of any evidence to the contrary, the REPPIR regime operates efficiently across the UK and at AWE. HSE²²¹ has actual knowledge of the processes at AWE, and can confirm that the nature of the operations which have led to a 3 km DEPZ are not benign or akin to a research reactor.
196. The Applicant is content to build in the shadow of a facility which they say is akin to a research reactor. But they have wholly failed to consider the true magnitude of the reasonably foreseeable radiation emergency and its consequences for the future residents.

Proposition 6. The nature and extent of the consequence of a reasonably foreseeable radiation emergency at the application site (which is just c.200m away from the AWE fence) is such that it would be inconsistent with the precautionary principle and with good planning to allow significant new residential dwellings to be sited there.

197. All parties with the relevant technical knowledge of the processes at AWE take the view that such a REPPIR-type emergency is reasonably foreseeable. The only two parties with the entire knowledge of what processes occur and where they are on the site (HSE and AWE) both oppose this development as a matter of principle.
198. Where the risk can and has been identified by a relevant mechanism as being realistically possible, and where the consequences are so potentially harmful to members of the public, it would be contrary to good planning to place significant additional residents in harm's way.
199. The precautionary principle operates where knowledge is uncertain and no mechanism exists to render the knowledge certain. In this case, even in the absence of the REPPIR regime, there would be clear and compelling grounds for refusing permission on purely precautionary grounds. However the REPPIR process takes the assessment of risk beyond uncertainty, as the radiation emergency is reasonably foreseeable. The state of knowledge is well beyond that required to invoke the precautionary approach. On the basis of known facts and risk assessments, the development should not proceed.
200. The fact that there is already housing in the area is a function of the particular history of AWE and is not an argument to allow further development.

Proposition 7. For these reasons, the grant of planning permission for over 250 persons to live within 200 metres of the AWE fence is not appropriate on public health and safety grounds.

Proposition 8. HSE and the vast majority of the emergency planners and responders take the further view that significant development of the type proposed would be harmful to the proper operation of emergency preparedness for existing and potential future residents of the DEPZ.

²²¹ Mr Saunders

201. REPPIR requires an emergency plan to be in place in relation to AWE. This has been done. The lead authority responsible for that plan is West Berkshire Council, which has the statutory responsibility for ensuring that in any reasonably foreseeable radiation emergency the exposure of persons to ionising radiation is restricted. It opposes the application and this is a weighty consideration²²².
202. This is not an isolated concern. Hampshire County Council emergency planners object to the grant of permission, as do Hampshire Constabulary, the Royal Berkshire Ambulance Trust and others. In a field where a multi-agency response is critical to the proper operation of an off-site plan, the fact that the vast majority of the key responders have objected is hugely telling.
203. The issue is not whether, following any grant of permission, the Off Site Plan can be retained and operated. As a matter of law, it would have to be put in place. Rather the questions are whether the proposal would lead to an inappropriate increase in the potential exposure of persons to ionising radiation.
204. There would be an inevitable increase in the exposure of persons to ionising radiation and significantly increased strain on the emergency services. It would give rise to additional potential for evacuation. There can be no accurate scientific analysis of the consequences of increasing the number of residents very close to a potential release of radioactivity. Human reactions to emergency situations are impossible to predict with accuracy.
205. At c.1 km from the centre of the DEPZ, there is the potential for a dose in excess of 30mSv to be received. Radiation at that level triggers the requirement for the consideration of evacuation applying the NRPB guidance²²³. At this level of exposure the potential for evacuation would have to be very much in the minds of responders.
206. The REPPIR assessment which gives rise to a potential for a 30msv dose assumes given wind and atmospheric conditions²²⁴. However the position could be up to seven times worse if atmospheric conditions were less favourable²²⁵, and this would make the potential for evacuation even greater.
207. The Off Site Plan²²⁶ expresses the general view that there will normally be no need for the urgent evacuation of areas outside AWE. But this applies throughout the DEPZ and is not meant to be absolute. There is the potential for subsequent evacuation for clean up work²²⁷.
208. The Off Site Plan also deals with self-evacuation²²⁸. The likelihood of this happening increases with proximity to the perceived point of danger²²⁹. Self evidently this would bring the public into contact with the full outdoor dose, and

²²² Doc 2

²²³ Issued by the Health Protection Agency

²²⁴ Pasqual Category D

²²⁵ Dr Thorne in xx

²²⁶ Core Doc 33

²²⁷ Core Doc 33 Paragraph 5.5.1

²²⁸ Core Doc 33 Paragraph 5.4.2 b

²²⁹ Mr Dillon in xx

should not be countenanced. It also has the potential to result in traffic congestion adjacent to the AWE entrance.

209. The proximity of the site to AWE means that any plume release would reach the site before any meaningful warning could be given to residents. The Applicant avoided answering this question, but HSE²³⁰ advised that it would be a matter of only 3-5 minutes between the event and the plume reaching the application site. In that time, it is unlikely that all (or even a significant number) of residents would be sufficiently warned of the release to get themselves and their family indoors and to secure doors and windows.
210. It is also clear that the Off Site Plan envisages the potential for emergency responders to have to enter the DEPZ close to AWE. The proposal would mean that emergency responders would be more likely to have to enter an area where dose levels were significantly above safe levels. The emergency services should not be put at such additional risk. In addition, there is no guarantee that emergency responders would feel it appropriate to put themselves at risk – the Applicant confirmed that neither the Hampshire nor the Thames Valley Police have specifically trained nuclear police officers. The decision as to whether to take the risk would be a judgement for individual officers²³¹.

Proposition 9. The proposal breaches longstanding government siting policy on the location of significant new development near to nuclear facilities.

211. The most recent and the clearest exposition of national policy is the Fourth National Report on Compliance with the Convention on Nuclear Safety Obligations²³². The following elements of the policy are clear:
- It is the characteristics of the licensed site which are relevant to the consideration.
 - It is the size, nature and, importantly, the distribution of development which is relevant to a consideration of the merits of a proposal.
 - It is for HSE to consider these matters.
 - The policy was initially written for nuclear reactor sites, but the Forward to the Fourth National Report makes it clear that the same policy considerations apply to non-convention sites such as AWE (though it must be the case that the policy should be applied with care to such sites to reflect their differing contexts).
212. This policy forms part of a Defence in Depth philosophy which applies to all elements of the relationship of nuclear facilities with the general public. It is important to note that locational policy is the only non-engineered element of this defence in depth policy. AWE is a legacy site where the earlier stages of defence in depth could not have been brought to bear. This places more emphasis on the need for the non-engineered part of the policy to be robust.

²³⁰ Mr Robinson in chief

²³¹ APP/10 Paragraph 3.12

²³² APP/9 Siting Considerations Appendix 8 Paragraph 7.28

213. Greater weight is given to developments which are very close to a nuclear site – this is reflected in the weightings which are applied to populations close to the site as part of the demographic criteria. Increasing the resident population very close to a nuclear site is hardly ever likely to be consistent with the aim of the policy. The Council and the Applicant have sought to portray this element of the policy in a way which is inconsistent with its proper construction – they have characterised the development as no more than ‘infill’ and have argued that the overall character of the area would not have altered between licensing and now.
214. But their approach is not required by the policy. It is to miss the purpose of the policy as part of the defence in depth concept:
- It is the characteristics of the site in safety terms that need to be considered. The policy does not refer to an infill test, but sets a test of health and safety.
 - The Applicant’s approach fails to give appropriate weight to the proximity of the development to the potential source of release.
 - This approach pays no attention to the dose implications for those at the application site, or the reasonably foreseeable risk of receiving a potentially dangerous dose of ionising radiation.
215. The proposal would introduce in excess of 250 persons within 1km of the nominal centre of the DEPZ. These people would potentially receive in excess of 30 times the statutory dose limit of radiation in the event of a reasonably foreseeable emergency. It is the role of REPPIR to restrict such exposure.
216. The proposal is in a sector of the DEPZ which is already well beyond even the least restrictive demographic criteria for nuclear facilities. It follows that significant net additions to the population are likely to be even less acceptable. If the relevant sector already has too many people to comply with the least restrictive criteria, it is a paradox to argue that because there are already so many residents you can allow more.
217. The addition of fewer than 10 persons on a site further away from the centre of the DEPZ was sufficient to persuade an Inspector that there had been a significant breach of this policy²³³. That decision and other material considerations led to a clear and unambiguous officer’s recommendation to refuse planning permission for the current application, on the basis that the relevant policy was breached. The Council’s shift in position is wholly inexplicable, and reliance upon the population count error included in the Shyshack Lane appeal decision is not a valid explanation, as this was known at the time of the recommendation to refuse planning permission for the current proposal.

Proposition 10. The proposed development is not even able to pass the least restrictive population density criterion applicable to nuclear facilities.

218. The development would result in a clear breach of even the least restrictive demographic criteria applicable to nuclear facilities. Three demographic criteria exist to guide the siting of nuclear facilities - semi-urban, remote and new build.

²³³ Doc 10

Of the three, the semi-urban criterion is the least restrictive - that is, it allows a greater population density closer to the facility.

219. The semi-urban criterion is associated with the risks and hazards that might be reasonably foreseeable in the context of an AGR reactor. DEPZs for AGRs are characteristically smaller than that at AWE, because the hazard at AWE has been calculated to be higher than for a reasonably foreseeable emergency at an AGR. This is due to the nature of the inventory and the operations at AWE.
220. When comparing the nature and consequence of hazard, it is appropriate to consider the identified reasonably foreseeable risks at various nuclear facilities²³⁴. But part of the Applicant's case ignores this logic and concludes that an AGR is more hazardous than AWE with reference to the worst case potential accident. This is a wholly misleading comparison since the risk of a worse case nuclear reactor accident is infinitesimally smaller than the reasonably foreseeable emergency at AWE. In addition the Applicant's case is not, and cannot be, based on any proper understanding of the operations at AWE.
221. This approach to the ranking of hazard, based on the size of the respective DEPZs for an AGR and AWE, is not new. It was raised at an early stage by HSE and was part of HSE's evidence at the Shyshack Lane appeal. The identification of AWE as potentially more hazardous than the AGRs is also further reflected by the fact that, at licensing, it was thought appropriate to treat AWE as an even more sensitive "remote" site. Thus the REPPiR regime works on the basis that a reasonably foreseeable radiation emergency would have greater consequences at AWE than a reasonably foreseeable incident at an AGR.
222. Since AWE is a legacy site the normal siting considerations (including the surrounding population characteristics) did not occur when it was established. Therefore control of further intensification of the surrounding population is even more important.
223. HSE is the only party to accurately apply the semi-urban criterion. The Applicant does not believe that the criterion is even applicable and does not apply it. The Applicant's technical case consisted almost entirely of an attack on this part of HSE's case.
224. When the criterion is applied correctly, it is clear that, as a result of the existing population, the semi-urban criterion is already breached by a significant margin²³⁵. In general terms the further south within the site is the assessment position, the greater the breach.
225. This breach is clear even when only the night-time residents are considered. Daytime occupiers and those passing through the area should be added to the calculation, and this would obviously worsen the situation.
226. The Applicant suggested that HSE had 'moved the goal posts' by changing from a single point of origin approach to a multi origin assessment when considering whether the semi urban criterion had been breached. This suggestion was clearly based on a misunderstanding of the information provided to the

²³⁴ Accepted by Mr Bond in xx

²³⁵ HSE/21 Paragraph 63 onwards, Figures 10 and 11 and Appendix K

Applicant in good faith by HSE. HSE has always considered multi origin analysis. In seeking to explain this methodology to the Applicant, HSE provided them with a data set for one assessment square, but only as representative of the methodology adopted.

227. As to whether a multi origin approach is appropriate:

- Transfers of material across the AWE site are an important element in the HIRE²³⁶. These transfers are not point sources and cannot be accurately modelled as such.
- The exact location of every facility which is relevant to the calculation of the DEPZ for AWE is not known and is not knowable. An accurate fixed point analysis is not possible, as it would be for a fixed reactor site.
- The future development plans at AWE for the lifetime of the proposed residential development are not knowable. The entire site is a nuclear licensed site.
- HSE does not, in any event, need to rely on outlying areas of the site to establish a clear breach of the semi-urban criterion. Neither does it need to assume that all squares are potential sources of release. This is because all squares from the central area and southwards give rise to a clear breach. This is particularly relevant because a significant nuclear facility (Pegasus) is to be placed on the squares which show a clear breach of the criteria.
- The use of a single point 'average' location against which to test compliance with the criteria as suggested by the Applicant is flawed. It spreads the potential location of a release and distorts the true position by including large areas to the north of AWE which have no nuclear facilities in them.

228. The Applicant does not believe that the semi-urban criterion is relevant and considers that an alternative criterion should be adopted. However no alternative criterion was produced, but instead a manipulation was performed on the weighted calculation which defines the semi-urban criterion²³⁷. But this is a meaningless exercise because it removes any meaningful judgmental criterion from the equation. The remodelled equation could be used to justify any increase in population close to AWE, however large, because what has been done is to remove any limiting criteria from the equation. This is entirely inconsistent with the policy to seek to maintain the general characteristics of the site, which is an approach accepted by the Applicant²³⁸.

229. Finally, the Applicant put forward the approach that if AWE wish to develop further areas in future within their licensed site for nuclear purposes, and this is held to be inconsistent with adjacent residential development, then this should limit the nuclear requirements of AWE. This potential fettering of a nationally important licensed nuclear site has no policy support and reemphasises the inappropriateness of the close juxtaposition of uses.

²³⁶ HSE/8

²³⁷ APP/9 Section 5.2

²³⁸ APP/9 Section 5 and Dr Thorne in xx

230. The Applicant submitted two rebuttals²³⁹ following the interim visit to AWE and in relation to the AWE Context Plan – included in the Pegasus application documents. The Applicant sought to establish (at least initially) that all relevant nuclear facilities were contained within the inner security fence, and that within or adjacent to that fence the areas which were in excess of the semi-urban criteria were either unused or used as a car park. However these rebuttals were seriously flawed:

- Not all nuclear facilities are within the inner security fence²⁴⁰. There is at least one significant facility south of this security fence – closer to the application site – as noted in the letter from AWE giving additional details.
- There was a basic error in the assertion that a number of squares which seemed to be in breach of the semi-urban criterion could be ignored because the breach was generated from within the site. This was accepted as a mistake by the Applicant. The squares which were suggested could be ignored were in fact in breach of the semi-urban criterion not only in one rotational sector but for the entire site - a much more serious matter since it involves breaches in at least 3 sectors.
- There was an error in the suggestion that some squares in breach of the criterion could be disregarded because they were open space or car park. It is clear from the Pegasus application documents (and accepted in the Applicant's second rebuttal) that these locations are the site of an important enriched uranium facility. This facility will make a significant contribution to any new DEPZ and is likely to result in the nominal centre of the DEPZ moving further to the south towards the application site²⁴¹.

231. Various points about population growth/change were made by the Applicant and the Council, namely:

- It was suggested that the population of the DEPZ had remained broadly the same since licensing.

The Council's assessment²⁴² sought to establish that there has been little change in the overall population of the DEPZ since licensing. This may or may not be the case but is of little relevance.

The DEPZ has a radius of 3km and is a huge area. There will inevitably be shifts in population within such an area. The issue is not the overall population, as emergency responders deal with sectors which reflect the likely path of any release, but the disposition of the population within the DEPZ. This is especially important as there is significant additional weighting afforded to those who live closest to the potential release to reflect their significantly enhanced prospect of a higher dose.

The Council's data does not help with this issue since their figures are all DEPZ wide figures. In contrast HSE's figures establish a clear trend for an

²³⁹ APP/9

²⁴⁰ Mr Saunders in Chief and AWE letter appended to HSE/20 Second Rebuttal

²⁴¹ Unchallenged evidence of Mr Saunders

²⁴² LPA/7

increase in population close to the site which is partly cancelled out by a decrease in population further from the site²⁴³.

- It was suggested that, in practice, an allowance for natural growth had been included in previous cases involving nuclear power stations and the semi-urban criterion.

There is no justification in the documents to support further growth in excess of the semi-urban criterion – it is not part of the stated Hansard policy for semi-urban sites²⁴⁴. The Council asserted that it is something which emerged as a matter of custom and practice, but in those cases (especially at Connah’s Quay²⁴⁵) the actual ceilings for population including natural growth were set significantly below the semi-urban criterion. It was always accepted that the semi-urban criterion was a ceiling which included the potential for natural growth²⁴⁶. Additional allowance for natural growth would be perverse as it would mean that the greater the breach of the criterion, the more additional breach would be accepted to accommodate natural growth.

- The Applicant sought to establish that other population sectors have higher populations than the sector including the application site²⁴⁷. But the sectors chosen by the Applicant were DEPZ sectors and not the Hansard population sectors, and the Applicant was not even aware of the important difference for the purposes of the demographic calculation. Furthermore the analysis had not been the subject of an appropriate rotation as required by the criteria. In addition, no weighting had been applied to reflect proximity, and the Applicant was not even aware that weighting factors (to represent enhanced doses) even existed. In the Applicant’s approach a person living at the extremity of the DEPZ was given exactly the same weight as one living by the fence.

Proposition 11. No appropriate consideration of the public safety issues was undertaken in relation to the historic allocation of the site. HSE cannot see how the site could have reasonably been allocated if such consideration had been given.

232. The original identification of the site as being potentially suitable for housing came by way of an early Planning Brief. Unsurprisingly, given the age of the Brief, there is no evidence that the proximity of the site to AWE was taken into account.
233. At the time of the LP allocation neither the issue of the relationship to AWE or the consequences of that relationship were considered. There was nothing in the Inspector’s report on the LP which came close to considering the current issues.
234. The LP allocation only continues to exist by reason of a statutory saving by the Secretary of State. By that stage, it would have been clear to the Council that

²⁴³ HSE/21 Figure 13

²⁴⁴ HSE/21 Appendix A2

²⁴⁵ HSE/21 Appendix B1

²⁴⁶ Dr Highton unchallenged evidence

²⁴⁷ Plans submitted by Mr Brookes APP/11

HSE had significant objections to housing development on the application site. The Council was under a duty when asking the Secretary of State to save the allocation to highlight these concerns, but it did not.

235. It is clear that the important issue of the public safety of those who might live on the site has not been considered in relation to the LP allocation.
236. For these reasons, if the Secretary of State believes there is validity to the concerns expressed by HSE, then very little weight can be given to an allocation where such concerns were not even considered during the process²⁴⁸. The existence of an allocation which did not consider the issue of public safety cannot justify the grant of a consent which would place people in harm's way.
237. The Applicant also relies upon the existence of a general and affordable housing need and other planning matters to off-set any harm caused by health and safety issues. HSE would find it surprising if the wish to provide housing could come close to justifying the risks to health associated with putting people in those houses. This would be the case even if it were found that there were an absence of a 5 year housing supply in area.
238. The Applicant places significant weight upon the regional housing requirement contained in the South East Plan. But in the real world the Secretary of State is not likely to place great weight on these regional housing figures. This is particularly the case where the Council has consistently taken the formal (and local) view that the present South East Plan figures represent an over-requirement in housing terms. The Secretary of State would thus be perfectly entitled to take the view that limited weight ought to be given to the South East Plan requirement.
239. In any event, the Council would, if planning permission is refused, be obliged through its emerging development plan process to meet any requirement for housing or affordable housing in the usual way. There is no evidence that the local planning process would be unable to meet any future housing requirement.

Proposition 12. The nature of the harm associated with the proposal is such that HSE strongly adheres to its "Advise Against" stance on the issue of the grant of planning permission in this case.

240. The grant of permission would put significant numbers of people unnecessarily in harm's way, would inappropriately harm the ability of the emergency responders to undertake their statutory duties, and would breach Government policy and population criteria on the siting of development in close proximity to nuclear facilities.

WRITTEN REPRESENTATIONS²⁴⁹

241. The AWE Off Site Plan²⁵⁰ has been prepared by a Working Group, chaired by West Berkshire Council and comprising representatives of a range of organisations – including HSE. In view of the importance of the Off Site Plan to

²⁴⁸ Accepted by Mr Bond in xx

²⁴⁹ Written representations sent to the Council before the call-in are summarised in the Council's Committee reports (Doc 32) and the full text is on the file

²⁵⁰ Core Doc 33

the health issue, the representations below have been grouped in relation to membership of the Working Group.

Organisations who are members of the Off Site Plan Working Group

242. West Berkshire Council opposes the application on the basis of the impact on the Off Site Plan²⁵¹. If the application were approved, the Council notes that the responding agencies would have to review their processes and the Off Site Plan, at potentially substantial additional cost.
243. AWE object on the grounds of the effect on the Off Site Plan. AWE notes that the development is of a significant scale within the DEPZ, some 500 metres from AWE's southern boundary. The development would lead to congestion on the roads which may have an impact on the ability of emergency services to gain access to AWE²⁵².
244. Thames Valley Police state that they have no specific objection to the planning application. However they express concern that any additional houses within the DEPZ would increase the resources needed to meet the requirements of the Off Site Plan. The additional population would increase traffic out of the area in the event of an emergency, and this could lead to gridlock. This would increase the amount of time self-evacuees would spend in a potentially contaminated environment, as well as hindering emergency response. The development would be close to AWE and would increase potential fatalities and health problems in the event of an off-site incident²⁵³. More recently the Police restated that in isolation there were not sufficient grounds to object, but that the concerns should be taken into consideration²⁵⁴.
245. Hampshire Constabulary advise against the application²⁵⁵. Additional houses in the area would increase the resident population at risk if an off-site emergency should occur. There would be increased demand on the emergency services due to increased numbers requiring assistance, and increased traffic flows. Responders could be exposed to increased hazard due to extended duration in the affected area.
246. Royal Berkshire Fire and Rescue Service do not raise an objection but make comments that placing more people in the DEPZ places additional pressures on responders in the event of an incident. Concern is expressed that approval of this application would set a precedent²⁵⁶.
247. The Health Protection Agency do not raise objection as long as the suggested countermeasures in the Off Site Plan remain viable²⁵⁷.
248. Hampshire County Council object to the application on the basis of siting policy and population density²⁵⁸. The Council further state that, if the development were to go ahead, the Off Site Plan would need to be reviewed.

²⁵¹ Doc 2

²⁵² Objection 3 March 2008 (on file)

²⁵³ LPA/8 Appendix 4

²⁵⁴ Doc 3

²⁵⁵ Docs 4 and 7

²⁵⁶ LPA/8 Appendix 11

²⁵⁷ LPA/8 Appendix 8

²⁵⁸ LPA/8 Appendix 2

249. There have also been communications expressing no objection from West Berkshire Highways Officer, the Environment Agency, Thames Water, Natural England, Hampshire County Council (Education, ecology, highways), subject to conditions. These representations are summarised in the Council's Committee reports on the application²⁵⁹.

Other organisations

250. Hampshire Fire and Rescue Service made observations regarding access and water supplies²⁶⁰. (The Service appeared to align itself with the Council and with the Thames Valley Police, although those organisations take somewhat different positions²⁶¹.)

251. Other representations are summarised in the Council's Committee reports on the application²⁶². These include objections from Tadley Town Council, Baghurst Parish Council and Aldermaston Parish Council. Pamber Parish Council expressed no objection but registered concern over water and sewerage. There were also 15 letters of objection and 15 letters of support, all as summarised in the Committee report.

²⁵⁹ Core Doc 32 starting at page 4. (Full representations on the file).

²⁶⁰ Doc 6

²⁶¹ LPA 8 Appendix 6

²⁶² Core Doc 32 starting at page 4. (Full representations on file).

INSPECTOR'S CONCLUSIONS

[Numbers in square brackets denote source paragraphs]

Background

252. The proposal is the demolition of an electricity substation and a former cinema (now used as a scout hut) and the redevelopment of the site for residential (115 dwellings) and commercial (945 sq.m. of Class B1 floorspace) purposes. The substation and scout hut would be relocated. There would be a new public open space and a local area for play, together with the upgrading of a public footpath [14-17].
253. The site is within the defined settlement boundary of Tadley. To the north of the site, across the main road and extending for a considerable distance, is the AWE [6-10]. It is the proximity of AWE which has given rise to the main objection to this application – the effect on human health.
254. The details of the nuclear inventory at AWE, its precise location, the processes undertaken and details of any future projects are, for obvious reasons, matters of national security and were not available to the Inquiry. However a considerable amount of more general information which is within the public domain was included in the initial material before the Inquiry, especially in the evidence of HSE [170-175]. In addition the amount of available information increased during the course of the Inquiry, especially as a result of a visit to AWE (during which a representative of AWE identified the use of certain areas and buildings), consideration of material submitted by AWE as part of a planning application for the 'Pegasus project' [9], and in the form of a letter from AWE giving additional locational details [230].
255. There is no suggestion or evidence that the interests of any party were prejudiced by the lack of more precise details of the nuclear inventory or the processes involved. No party requested that evidence related to such matters be considered in closed session.

Planning considerations and the approach to the decision

256. The starting point for considering the application must be the development plan, followed by other material considerations. In this case one part of the development plan, the Basingstoke and Deane Local Plan (LP), includes general policies dealing with the need to minimise pollution and related to environmental well-being [25].
257. More specifically, national planning policy in the form of Planning Policy Statement 23 '*Planning and Pollution Control*' (PPS23) states that the impact on health is capable of being a material consideration, and deals with the precautionary principle. Health issues, arising from the proximity of the site to AWE, are material considerations in this case, and this is accepted by all parties [34, 106, 165].
258. C04/00 deals, amongst other matters, with the role of HSE [34, 106, 167]. Their role is to provide advice on the nature and severity of the risks presented by major hazards to people in surrounding areas, so that those risks can be given due weight when balanced against other relevant planning considerations.

It is not the role of HSE to consider wider planning matters, which are the province of the decision maker. The opposition of HSE to this application was related to health matters and, although a very small part of HSE's case dealt with criticism of more general planning arguments being put forward in support of the proposal [237-239], HSE's evidence was well within the terms of C04/00.

259. This report therefore considers the application in the light of the provisions of the development plan, the objections raised by HSE (and written submissions from emergency responders) on health matters, and other material considerations – including the largely uncontested benefits arising from the development. An overall planning balance is then reached.

Development plan policies

260. Following the judgement of the High Court in November 2010 (2010 EWHC 2866) the South East Plan remains part of the development plan, although the Secretary of State's intention to abolish such Regional Strategies is a material consideration. In this case the only relevance of the South East Plan is in relation to housing land requirements, as discussed below [21, 23].
261. In addition to policies dealing with pollution and well-being, the LP includes a range of policies largely dealing with uncontentious land use planning matters (as will be discussed below). It also covers affordable housing and infrastructure contributions [24].
262. An important consideration is the fact that the LP allocates this site for a mixed residential development (of a minimum of 100 dwellings), open space and employment uses [13, 24]. The LP allocation of the site, which reflects an earlier Planning Brief [12] identifying the site for predominantly residential use, was 'saved' in July 2009 by a Direction of the Secretary of State [13].
263. Emerging local planning policy is at an early stage and there are no draft policies which are material to this case. This was agreed by the parties [27, 155].
264. The lack of consideration of health issues in relation to the site allocation was raised by HSE [232-236]. It is clear that the health consequences of the proximity of AWE to the site were not considered at the time of the adoption of the Brief, at the LP Inquiry or when the LP was subsequently adopted, or as part of the 'saving' process. The potential health issues have therefore not been previously addressed in the planning context and the current application is the first time they have been considered in relation to this site.
265. It is not disputed that HSE was consulted, on a number of occasions, during the two year period leading to the adoption of the LP. However there was no objection to the proposed site allocation from HSE. It is also clear that HSE had not objected to any other proposal in the DEPZ at that time, and did not wish to be consulted on any development generating less than 20 people. All this was in the context of the same science and nuclear policy which is currently relied on by HSE.
266. With this background, it is not unreasonable for the Council to have assumed that there was no health concern related to the proximity of AWE. The position was somewhat different by the time the question of saving LP policies and allocations was considered, as the Council was by then aware of the concerns of

HSE - but the authority apparently did not take this into consideration or report the position to the Secretary of State.

267. In any event, whatever the reason for the lack of consideration of the health issue – and it seems as though there has been fault on both sides – the LP allocation has the weight accorded by statute (S38(6) of the 2004 Act). It is not uncommon for information and evidence to emerge after the adoption of a plan, and this may properly be dealt with as a material consideration in dealing with particular proposals – as it is in this case. It can also be considered in emerging Development Plan Documents. However this is very different to any suggestion that little weight can be given to an adopted allocation because a particular issue was not even raised during the period when the allocation was being considered.

The effect on human health

Background

268. Following the Council's resolution to grant planning permission, HSE requested the Secretary of State to exercise his powers to call-in the application. C04/00 states that this power will only be exercised very selectively, and only if there are safety issues of exceptional concern.

269. The general expertise of HSE is recognised in C04/00. In this particular field the expertise of the Health and Safety Executive, Nuclear Directorate was not challenged. In particular, the experience of HSE witnesses in relation to nuclear policy matters and giving direct advice to Ministers is not in dispute. This is the first time the Nuclear Directorate has requested a call-in and the first time it has attended a Public Inquiry [167]. The advice of HSE, especially under these circumstances, should not be overridden without the most careful consideration.

270. The approach to HSE's advice is set out in C04/00. In particular the guidance is that:

- The risk to be considered is the residual risk which remains after all reasonably practicable preventive measures have been taken.
- Where it is beneficial to do so, HSE's advice takes account of risk as well as hazard – that is the likelihood of an accident as well as its consequences.
- Account should be taken of the size and nature of the proposed development, the inherent vulnerability of the exposed population and the ease of evacuation or other emergency procedures.
- The risk of serious injury, including fatality, is to be considered by HSE, attaching particular weight to the risk where a proposed development might result in a large number of casualties in the event of an accident.

The risk of a nuclear accident

271. The first consideration is the likelihood of an accident involving nuclear materials taking place at AWE - after all reasonable practicable measures have been taken to ensure that the installation is safe. The requirement on AWE as

the operator of the site is to make the risk 'As Low As Reasonably Practicable' (ALARP).

272. There is no historical evidence that there have been any incidents at AWE, or its Ministry of Defence predecessor on the site, involving the release of radioactive material to the open environment. From this historical perspective the operation has therefore been safe. However it is essential to consider the possibility of future incidents.
273. There are a range of events which could give rise to accidents - lightning strikes, fires, or human error being the most likely. However the evidence suggests that the only event likely to raise concerns about off-site safety would be a major fire which engulfed an entire building within which there was a nuclear inventory [44, 180].
274. Should any accidents or incidents occur there is protection in depth provided on the AWE site - there are a number of layers of defence before any off-site measures would be contemplated. The majority of potential faults identified in the Hazard Identification and Risk Evaluation assessment (HIRE) would not result in any release of particulate radioactivity to the open environment, due to the layers of prevention, mitigation and protection in each facility [43-45, 125, 127, 212, 214].
275. In this context there is no dispute that AWE operates in a manner which is as safe as possible, and HSE accepted that AWE operates in an ALARP fashion [38, 181]. Indeed, given the role of HSE in regulating the AWE operation, it would be surprising if HSE took a different view.
276. There was much debate at the Inquiry regarding the way in which the residual risk analysis should be considered. The Applicant and the Council both asserted that HSE's evidence focussed entirely on consequences (considered in the next section of this report) not on the initial risk of an event taking place [39, 65, 112-115].
277. The approach of HSE to risk was based on the Radiation (Emergency Preparedness and Public Information) Regulations 2001 (REPPPIR). These Regulations reflect the fact that there is a long history of nuclear facilities in the UK. REPPPIR is an established regulatory regime aimed at (amongst other matters) protecting the public who live near to such sites. REPPPIR requires all potential accidents and their consequences to be identified by (in this case) AWE, and this identification of hazard and risk is then scrutinised by the regulator (in this case) HSE [176-180].
278. REPPPIR requires the identification of "reasonably foreseeable radiation emergencies" - defined as emergencies which are "less than likely" but which are still "realistically possible" [178]. The regime specifically does not quantify the risk. It is reasonable to assume that this was a conscious choice on the part of those preparing and approving the Regulations. This approach sets the nuclear regime apart from other types of emergencies, such as flooding, where quantitative descriptors of risk (such as 1 in 100 years) are used.
279. Since the first issue of a licence to AWE, it has been consistently concluded, through the well established statutory process, that there are such reasonably foreseeable radiation emergencies which could arise from the activities at AWE.

This type of emergency and the acceptance that it is reasonably foreseeable is evident in the HIRE [180]. This is the approach of HSE to risk in this case.

280. There is nothing to doubt the accuracy of the work done within the REPPIR system or the system itself. However the concern of the Applicant and the Council is that the main purpose of REPPIR is to deal with a situation where an event has already occurred and control measures have failed. It then deals with the emergency planning arrangements to deal with that radiation emergency. There is an assumption in REPPIR that no health protection measures at all are taken for 24 hours after such an event.
281. It might be tempting to consider that saying that an event is 'reasonably foreseeable' does not provide a useful tool in the context of deciding a planning application, when the likelihood of the risk of a harmful event taking place needs to be considered. However there are two persuasive reasons for adopting the REPPIR approach. Firstly, it is the system which statute has deliberately established for dealing with sites such as AWE – and this is a system which has deliberately avoided quantifying the extent of the risk. Secondly, even if there was a reason for going behind REPPIR and substituting a quantifiable measure of risk, it is far from clear what that measure should be.
282. The Applicant has addressed this matter in comparison with events and activities of various kinds which contribute to a normal background level of risk, and has concluded that the residual risk is less than of one event in 1,000,000 years [66]. However this is not based on any detailed knowledge of the processes or nuclear inventory at AWE, and such comparisons are of limited assistance.
283. Various terms have been used to describe the risk that an event at AWE would impinge on those living and working outside the site. Perhaps the best is contained within the REPPIR Leaflet (2010) distributed to the public which describes the risk as 'extremely remote' [117]. The key point remains that, regardless of which of the various descriptors is used, there remains the potential for a reasonably foreseeable emergency at AWE – despite the fact that the site is operating at ALARP.
284. In this context, although the REPPIR approach towards 'reasonably foreseeable' events does not give a clear definition of the likelihood of an event occurring, it has the benefit of being the tried and tested statutory approach – which is applied to the entire nuclear industry. To go behind that and adopt a different test would not be justified, and it was accepted by the Applicant [181] that this would be irrational.

The consequences of a nuclear accident

285. REPPIR requires the operator (AWE) to produce a hazard analysis (HIRE) identifying potential accident scenarios and the possible extent of any release of radioactive materials. The HIRE is then scrutinised by the regulator (HSE).
286. A Detailed Emergency Planning Zone (DEPZ) is then fixed by HSE, as being an area within which detailed emergency preparedness is required. A radiation emergency is defined by REPPIR as a dose intake of 5mSv and the DEPZ is defined as being the area in which a member of the public might receive this dose or more in the event of a nuclear accident.

287. In the case of AWE, this DEPZ is a circle of 3 km radius from a nominal central point on the AWE site [183]. The extent of the DEPZ has not altered since the site was first licensed, although it is not clear how that figure was initially determined [56]. Consideration has been given by HSE to reducing the DEPZ but this consideration has not resulted in any change, and is part of the normal process of monitoring and review [56, 184]. The fact that alternatives have been considered should not be accorded any significant weight, as the adopted DEPZ has not been altered.
288. The application site is about 1 km from this nominal central point on the AWE site. The dose received by those closer to AWE would clearly be higher than those at the edge of the DEPZ, and HSE clearly calculated (on the basis of a Gaussian Plume model) that at 1 km the effective dose would be in the region of 30mSv [185]. This would be a significant dose, as accepted by the Applicant.
289. The methodology assumes that the application site would be downwind of any release. Clearly the dose could be less than 30mSv if the wind was blowing in the other direction [121]. However to assume a more favourable wind direction as part of the rationale for allowing the proposal would be most unwise.
290. However the Applicant put forward an analysis [54, 59] which suggested that the dose received at the application site would be significantly lower (no more than 16mSv). But this analysis was partly based on calculations subsequently accepted to be in error [228, 230]. It addressed only the current situation and the proposed Pegasus development, and did not allow for the possibility of future development at AWE closer to the application site. The calculation by HSE of the likely dose at the application site is more robust.
291. Turning to the consequences of such exposure, the REPPIR public leaflet states that there would be no immediate health effect for members of the public following a serious nuclear incident and release at AWE. It states that staying indoors with doors and windows closed would remove almost all the risk [69, 119]. There is no evidence that this is incorrect, but there has to be a question as to whether those potentially affected would be notified in time and be able to take shelter.
292. REPPIR makes the assumption that, for the first 24 hours after an event, persons within the DEPZ are outdoors and unable to achieve the mitigation afforded by sheltering. This is due to the uncertainty of guaranteeing that warning could be given or received, or that shelter would be immediately available [113, 120, 121].
293. Doubtless some sheltering would take place, and other emergency measures would be implemented. However the method of warning residents would be by way of telephone calls, and for those who were outside at the time of the incident, this could lead to a delay in notification. Given the evidence that the radioactive plume could reach the application site in around 3 – 5 minutes [209], the REPPIR assumption that no sheltering would initially occur is reasonable.
294. If the potential 30mSv dosage was received by occupiers of the development, this would be very significant. The extent of such a dose, arising from a reasonably foreseeable event, was not addressed in the Applicant's Environmental Statement or written evidence. The persuasive evidence of HSE,

given by an acknowledged expert on the impact of radiological doses was that such an exposure would be unacceptably harmful and would lead to an increased risk of cancer [187-191]. The concern is therefore not related to a societal risk, but a risk to a small number of people over a lifetime.

295. The Applicant's position at the Inquiry on the consequences of this dose proved not to be significantly different to that of HSE. It was accepted by the Applicant that such doses were "significant" if not "catastrophic", and that residents of the proposed development would be right to be "legitimately concerned" about such consequences [72, 189].
296. The Council compared this dose with other exposures to radiation. For example some medical procedures (such as CT scans) involved around a 10mSv dose [121]. However such comparisons are not especially helpful when considering the unwilling exposure of those who happen to live or work near the AWE site.
297. In dealing with the consequences of an accident, it is noted that HSE did not object to other housing developments in the area, most notably Kestrel Mead, which is located slightly closer to AWE [67, 136, 141]. This was despite the fact that the science and nuclear policy which HSE currently applies has not changed. However it was accepted at the Inquiry by HSE that this was a mistake [188]. Although this inconsistency is to be regretted, it adds very little to the Applicant's argument in this case.
298. However one defines the likelihood of a nuclear emergency of the type dealt with by the REPPiR process, it remains a possibility – albeit unlikely. The only two parties (HSE and AWE) with the full knowledge of the inventory and processes at AWE consider that such an emergency is reasonably foreseeable in the terms defined by REPPiR. The fact that one of these parties is the statutory regulator of the site is of considerable significance.
299. Should a nuclear accident take place, and have consequences off the AWE site, there remains the potential, even after preventative measures have been taken, that a materially harmful radiation dose would be received by occupiers of the proposed development. The potential that a person could receive a 30mSV dose cannot be disregarded, and is clearly an important material consideration.

The effect on off-site preparedness

300. As explained above, the DEPZ is determined by HSE, within which area a detailed emergency plan is required by REPPiR. In the case of AWE, this is the Off-Site Contingency Arrangements (the Off Site Plan). The current Plan was agreed in July 2009 and is to be formally reviewed in January 2012.
301. The Off Site Plan was prepared by a Working Group, chaired by West Berkshire Council and consisting of representatives of a wide range of organisations, including HSE. The Off Site Plan sets out the contingency arrangements for a multi-agency response should there be a release of radioactive material which poses a hazard outside the AWE boundary.
302. There was some discussion at the Inquiry as to whether HSE had formally approved the Off Site Plan, or indeed whether it was required to do so. That is to a large extent academic, as it is clear that HSE played an important role in the production of the Off Site Plan and that, had they considered the document to be deficient and not fit for purpose, they would have at the very least altered

the Working Group to that fact. The evidence of HSE did not significantly criticise the contents of the Off Site Plan, which was accepted to be fit for purpose and REPPIR compliant [81, 122, 201].

303. The Off Site Plan has been regularly reviewed and tested as required by REPPIR. The last test was in November 2010, and HSE (who were actively involved in the test) confirmed that it then met REPPIR requirements. The Off Site Plan has also been the subject of a Benchmarking Review [123] which confirmed its robustness.
304. HSE's concern in relation to the Off Site Plan was not that it would fail, but that the proposal would provide additional challenges and reduce emergency preparedness. However the limited increase (268) in the resident population of the emergency planning area (i.e. around 2%) would seem unlikely to have a significant impact on the effectiveness of the Off Site Plan [122, 131]. This is against the background that the Off Site Plan does not include a maximum population beyond which it would not work. In addition, the area already accommodates widely fluctuating numbers of people as a result of those travelling through and working within the area.
305. REPPIR requires [82, 121] that the Off Site Plan should be 'extendable' to provide effective mitigation against extremely unlikely accidents which could have consequences even beyond the DEPZ. This type of extendibility planning is an important part of nuclear emergency response arrangements. The built in flexibility and extendibility demonstrates that the Off Site Plan is capable of adjusting to changing circumstances, and that the process of review and modification could cope with the increase in population envisaged in the current application.
306. The Off Site Plan deals with the need for evacuation, and states that even the most serious incident that can be envisaged at AWE should not require the urgent evacuation of areas outside the AWE fence. Exceptionally, evacuation within the first 24 hours might be necessary for areas up to 400 metres downwind from the site of the incident, but most of this area would be within the AWE boundary [53]. This approach towards evacuation is reflected in the REPPIR public leaflet. In this context, the potential need to evacuate those living on the application site is limited.
307. If an evacuation were necessary, this would normally be carried out either before any release (on a precautionary basis), or following the initial phase once the pollutants had settled. There is no reason to suppose that the addition of those living and working on the application site would render any such evacuation impossible or significantly more challenging, although it would require additional resources and commitments from emergency responders.
308. Concern was also raised by HSE about those who chose, despite the published advice, to self-evacuate when an incident occurred. This possibility is recognised in the Off Site Plan [85]. However it is reasonable to assume that the majority of residents and workers would follow the advice to stay indoors and thereby limit their exposure. Those few who might self-evacuate are unlikely to pose the sort of traffic difficulties suggested – without any detailed evidence – by HSE. The Applicant's Transport Assessment [85] states that the entire development would only increase traffic flows by around 2%. In this context the very small increase in traffic brought about by any self-evacuation

would be unlikely to impact in any material respect on the emergency services. In any event, initially emergency vehicles would generally be going towards the incident, whereas any self-evacuees would be travelling away.

309. Some of the agencies who would be involved in responding to an emergency have objected to or raised concerns about the proposal [242, 249]. The fact that there have been varying responses is perhaps inevitable given the different roles of the organisations. However, although a number of them state that the Off Site Plan may need to be amended, they generally stop short of suggesting that this could not be done.
310. Particular attention should be given to the response from West Berkshire Council (who chair the Working Group) and Thames Valley Police (who are charged with leading the co-ordination and management of the emergency response) [242, 244].
311. West Berkshire Council, although objecting to the proposal, explains that, should the application be approved, the responding agencies would review their processes and the Off Site Plan, and adapt accordingly. Although concern is expressed at the financial consequences, it is clear that the Off Site Plan could be adapted to allow for the proposed development.
312. Thames Valley Police have concerns about development in an area where people may potentially be put at risk. However they state that there is nothing to indicate that the increase in population would result in the failure of the current Off Site Plan or a breakdown in the police response.
313. Overall, it is far from certain that the proposal would necessitate any significant changes to the Off Site Plan, which has built in flexibility and extendibility. But even if such changes were required, there is no persuasive evidence that they could not be accommodated within the statutory REPPiR process or that the proposal would unnecessarily impact on the effectiveness of emergency responders.

The applicability of nuclear siting policy

314. There is a disagreement between the parties as to the relevance of certain national nuclear policy statements [74-76, 129-130, 211].
315. HSE placed particular weight on two main sources of policy. These are the 'Fourth Report on Compliance with the Convention on Nuclear Safety Obligations' (the Fifth Report is very similar), and the Statement by the Secretary of State for Energy in March 1988 dealing with demographic criteria – the 'Hansard policy'.
316. It is clear that the policies were written for nuclear reactor sites, where all aspects of the design, planning and construction have been the subject of licensing control. Self-evidently the AWE site is neither a nuclear reactor nor a potential location for a complete new nuclear facility. It is a legacy site which has developed over many decades, and which has only recently been the subject of the licensing process.
317. In the light of this, it was accepted by HSE that there is no specific Government policy dealing with a legacy site such as AWE, and no HSE document in which

the applicable siting policy was specifically set out. Nonetheless, HSE gave weight to these national nuclear policies for a number of reasons.

318. In particular the Forward to the Fourth National Report states that, although the report only covers land based civil nuclear plant, the "safety of other UK nuclear facilities that fall outside the scope of this Convention are also regulated to the same standards, so as to ensure that they are operated in a manner that maintains a high level of safety" [211]. Although this refers to standards and not locational issues it is nevertheless a good indication of the applicability of the Report.
319. Several HSE witnesses, including those who directly advise Ministers on nuclear matters, explained how the policy is applied in practice to sites such as AWE. This evidence of the manner in which national policy has been applied was persuasive.
320. HSE referred to 1998 and 2008 papers dealing with proposals for demographic siting criteria to be applied to both reactor and non-reactor nuclear sites. Although these were discussion papers and not statements of policy, they add weight to the argument that the policy is applicable to non-reactor sites. Similarly considerations by NuSAC did not formally adopt a policy for sites such as AWE, but again these reinforce the use of the policies on the basis of custom and practice [75].
321. It is clear from the evidence that the policy sources relied on by HSE have been regularly used in relation to non-reactor sites, and is reasonable to consider them in this case.

Population density criteria

322. The overall policy approach is to preserve the 'general characteristics' of a nuclear site, and the Hansard policy specifically confirms the use of weighted population figures [213]. The Applicant accepts this general statement of government policy, though not the way in which it has been applied by HSE [61, 63].
323. This policy is by way of general guidance rather than being proscriptive. This is made particularly clear in the Hansard policy, and by the use of such subjective terms as 'significant' when considering whether there has been population growth after a site was licensed [47, 132].
324. The policy itself does not provide a finite limit on population numbers in the area. This is accepted by HSE. The issue is therefore not the principle of population growth in general, but rather the consequences of the location of the application site close to AWE. The limiting criteria in the policy are in the form of cumulative weighted populations to various distances around the site and in any 30 degree sector.
325. Three demographic criteria guide the siting of nuclear reactors - semi-urban, remote and new build. Of these, the semi-urban criterion is the least restrictive, and therefore allows a greater population density closer to the facility than the others. Although these criteria apply to reactors and not sites such as AWE, there is a persuasive logic which suggests that they should be applied in this case - the issue is therefore which criterion should be used.

326. The criterion to be applied can best be considered in relation to the extent of the hazard. DEPZs have been calculated for each appropriate nuclear site, and the DEPZ at AWE is wider than that for AGRs [219-220]. HSE persuasively explained that this is because the hazard associated with AWE has been calculated to be higher for a reasonably foreseeable emergency than that at AGRs. This level of hazard is also reflected in the fact that at licensing, it was apparently thought appropriate to treat AWE as an even more sensitive "remote" site [221].
327. As the semi-urban criterion is applicable to AGRs, at least the same criteria should logically be applied to AWE. This logic was accepted by the Applicant. Careful consideration of the criterion is especially important as the normal siting issues were not considered when AWE was established as a Ministry of Defence operation. This makes the consideration of the surrounding population characteristics even more important.
328. There was much debate as to the way in which the semi-urban criterion should be considered, but the overwhelming evidence was that, due to the existing population around the AWE site, the semi-urban criterion is already significantly breached for large parts of the AWE site [224]. In general, the further south one goes within AWE (i.e. towards the application site) the greater the breach. HSE's evidence on this matter did not allow for day time visitors to the area and, self-evidently, if they were included the breach of the semi-urban criterion would be greater.
329. Given this existing situation, significant population growth in the relevant sectors would not comply with the semi-urban criterion. It cannot reasonably be argued that because a sector already includes too many people, a growth in population may be allowed simply because the criteria are already breached.
330. The Applicant's approach was not to use the semi-urban criterion but to suggest an alternative by manipulating the weighted calculation which defines the criterion. This resulted in what was called a 'limiting population density'. However this is not a recognised approach and is not a useful concept because the consequence of the manipulation is to remove any limiting criterion – in other words the population could rise to any level and still meet the terms of the new equation. This would be at odds with the policy need, accepted by all parties, to maintain the general characteristics of the site.
331. There was considerable debate at the Inquiry as to the population of the area at the time of licensing and at present. This obviously bears on whether there has been population growth after the site was licensed.
332. The Council convincingly demonstrated that the population of the entire DEPZ has remained broadly the same since licensing (an average change of less than 0.03% per annum) [137]. This was supplemented by the personal knowledge of Council witnesses.
333. However this evidence dealt with the whole of the DEPZ and did not address changes within the area or with the more detailed situation close to the point of potential release within AWE. It was agreed by the Applicant and the Council that it is only cumulative weighted populations and moving averages that have direct relevance to HSE's demographic model [33]. In this respect HSE

evidence showed an increase in population close to the application site, which was balanced by a decrease in sectors further away [231].

334. HSE's population evidence is not without flaws, in that it relied on an average household size based on 2001 census data, when it was demonstrated that the average household size has reduced since that time [142]. In addition, the relevant start date should have been the licence date (1997), but 1991 was in fact used – and the Council demonstrated that most material increase in population had taken place before that [142]. Despite these issues, HSE's population evidence is the most useful in that it was produced in a manner appropriate to the consideration of the semi-urban criterion.
335. There is nothing to suggest that the current HSE evidence on population is incorrect, but there was a previous flaw in their approach which has led to an anomaly in their position. In 2009 it became apparent to HSE that the earlier work by WS Atkins – estimating population numbers around the time of licensing - had significantly underestimated the population at that time [138-141]. This seriously skewed the subsequent estimates of population increase in the area. On that basis, working under the misapprehension of very large population increase in the area, the fact that HSE did not object to most earlier proposals in the DEPZ is anomalous.
336. This misapprehension did feature in one objection by HSE, in relation to an appeal at Shyshack Lane [139, 217]. The incorrect evidence by HSE at this appeal was based on a population growth of around 300% in the relevant sector since licensing.
337. It was suggested that HSE had initially based its objection to the current proposal on this incorrect assumption of population growth in the area. When it discovered that this was not the case, the suggestion was that HSE had changed tack and adopted the position that the semi-urban criterion would have been breached even in 1997, so that there would also be a breach now if the application scheme went ahead. There is some evidence that the primary focus of HSE did shift in this manner, but that is not to imply that the existing breach of the criterion was not initially considered. In any event, the convincing evidence now is that the criterion was and is breached.
338. The Applicant stated that other sectors within the DEPZ are more heavily populated than the sector containing the application site [83, 231]. However this evidence considered DEPZ sectors and not Hansard policy sectors, and had not been rotated as required by the criterion. In addition, the data had not been weighted to reflect proximity to the potential release site. The Applicant accepted these shortcomings in the data, which therefore adds very little to the current considerations.
339. It was also suggested that an allowance for natural growth should be made in this case. However there is no evidence that this approach is based on any policy and, where such an allowance had been made in the past, the actual ceilings for population including natural growth were below the semi-urban criterion. In any event, HSE's convincing evidence was that the semi-urban criterion already allows for natural growth [231]. It would therefore be double counting to include this for a second time. To make an additional allowance for natural growth where the semi-urban criterion had already been breached would be illogical.

340. There was some discussion at the Inquiry of the way in which future development within the AWE site might be constrained by existing and future development outside the site [52, 79, 229]. Development of a nationally important nuclear site should not be unreasonably fettered by proposals outside the site (although this point was not made by AWE). In any event, given the fact that there is existing housing closer to AWE than the application site, it is reasonable to assume that this existing population would be the limiting factor rather than the proposed development. The constraining effect of the current proposal would therefore be very slight, and is not an argument of any real significance in this case.
341. In conclusion on this issue, it is noted that the criteria are specifically intended to be used only for guidance. A breach in the policy and the semi-urban criterion should not, in itself, be a reason why planning permission should be refused. That said, the balance of the evidence is that the policy and criteria are applicable to AWE and its surroundings, and that the semi-urban criterion is already breached in this location. That breach would be worsened by the proposal.
342. Although the character of the overall DEPZ has probably not changed significantly since licensing, this ignores the weight to be accorded to the proximity of the site to the potential source of release and the population changes close to the source of the release. This is an important factor when considering a site as close to AWE as the application site.
343. The alternative approach adopted by the Applicant does not have any backing in policy. It would fail to control population in the area around AWE – which is the clear objective of policy.
344. On balance, the general characteristics of the site would not be preserved by this proposal, and the semi-urban criterion would be breached.

Other health matters

345. The only nuclear appeal decision to which the parties referred and which could in any way be comparable to the current situation is that at Shyshack Lane, to which reference has already been made. In this case an Inspector dismissed an appeal for a much smaller housing development on a site within the DEPZ but further from AWE.
346. However, as noted above, HSE's case in that instance was erroneously based primarily on a perceived significant increase in population growth since licensing. The parties to the current application disagreed as to the amount of weight which that Inspector would have accorded to the apparent population growth. The Inspector's reasoning can only be assessed by what she wrote in the decision, but it appears as though she regarded it as an important material consideration. What the decision would have been in the absence of that (inadvertently) misleading evidence can only be a matter of speculation, but it would be unwise to place any significant weight on the decision.
347. The question of the precedent which granting planning permission for the current proposal would set was an argument raised by HSE in the letter which secured the call-in of the application. The letter referred to "serious precedential implications". However this was not pursued at the Inquiry. Each

application must be treated on its merits, and the alleged precedent which a decision on this site would set is not a major consideration. In any event, the Applicant's largely unchallenged evidence [88, 89] was that the application site is the last available development site of any size in the area, and it is therefore unlikely that any decision in this case would set a significant precedent.

Conclusion on health matters

348. The risk of a nuclear accident at AWE occurring at all is very low, given that the site is operating at ALARP. Should there be an accident, there are a number of levels of defence in depth before there would be any consequences for the general population outside the AWE site.
349. The likelihood of this residual risk occurring, although low, is nevertheless 'reasonably foreseeable' in the terms of REPPIR. Although this does not provide a clear definition of the likelihood of an off-site event occurring, as the Applicant sought to provide, it has the benefit of being the tried and tested statutory approach which is applied across the nuclear industry.
350. Should such a reasonably foreseeable event take place, there is the potential that those on the application site could receive a materially harmful radiation dose of the order of 30mSv. All parties accept that this is not something which should be disregarded, and it is an important material consideration.
351. The Off Site Plan, which sets out the response arrangements should there be a release of radioactive material outside the AWE boundary, is accepted by all to be fit for purpose. It is designed to be flexible and extendable. It is possible that the implementation of the application scheme would necessitate changes to the Plan, but the evidence does not lead to the conclusion that the Plan would fail. The representations of the key emergency responders generally support this conclusion.
352. There is no specific Government policy dealing with a site such as AWE, but the evidence is that the national policy relied on by HSE has been used for non-reactor sites, and this policy should be considered in this case. The overall policy seeks to preserve the 'general characteristics' of a nuclear site, which is an approach accepted in principle by the Applicant. The best evidence is that the general characteristics of the site would not be preserved by the proposal, and that the semi-urban criterion would be breached.
353. HSE has a specific role as set out in C04/00, and its opposition to the proposal needs to be carefully considered. There are a range of factors which suggest that the risk of an event occurring and having off-site consequences is of a very low order of probability. However the health consequences for those on the site, who could receive a materially harmful radiation dose, are such that HSE's Advise Against position is justified.

Other material considerations

354. There are a number of material considerations which weigh in favour of the application. This is in addition to the LP allocation of the site for residential, open space and employment uses. These material considerations are almost entirely uncontested and, where applicable, are supported by the development plan – for that reason the consideration of these matters is comparatively brief, but this does not imply that they have correspondingly limited weight.

The improvement of the site, density and sustainability

355. The site is currently visually unattractive and does not contribute to the character of the area. Aside from the activities at the scout hut the site is only used for local walking, and may therefore be regarded as under-utilised.
356. The general location of the site is clearly sustainable, being close to the centre of the second largest settlement in the Borough, and the principle of developing such sites is recognised by LP policy D5. There is a good quality bus service to Basingstoke, and the site is close to local employment opportunities in the District Centre, at Calleva Business Park and at AWE itself [10].
357. In principle the redevelopment of such a site close to the centre of the settlement would accord with LP policy D2 and with national policy by making efficient use of previously developed land. The proposed density of the residential element [15, 61] represents an efficient use of the site, as does the layout and scale of the commercial element.

General housing need and supply

358. Dealing first with housing need, there are a range of possible requirement figures. The South East Plan, which remains part of the development plan, sets a requirement of 945 dwellings p.a. for the period 2006 - 2026. Although the intention to abolish Regional Strategies is a material consideration, significant weight must currently be attached to this figure. This figure is the only one which has gone through a full needs assessment and has been adopted [97, 151, 152, 238].
359. However there are three possible alternative figures, which must be given less weight than the development plan figure and do not, in any event, represent a fully tested and adopted locally generated requirement:
- 825 p.a. for 2006-2027. This is based on the Chief Planning Officer's letter as to the possibility of utilising such a requirement.
 - 790 p.a. The Council's Planning and Infrastructure Overview and Scrutiny Committee (July 2010) supported this figure. However this requirement was not pursued by the Council at the Inquiry.
 - 740 p.a. for the period 2011-2027 or for 2006-2027. An officer report dealing with these possible requirements was to have been considered by the Council's Committee in November 2010 but, in the light of the Court judgement related to the reinstatement of Regional Strategies, no consideration was given to this proposal. It must therefore be accorded very limited weight.
360. Set against these requirements, there is a disagreement between the Applicant and the Council as to the exact extent of the deliverable land supply.
361. The Council considers that there is a supply of 3,331 dwellings in the relevant 5 year period, whereas the Applicant considers it is 2,583 (excluding the application site). The difference relates to five sites, based on the 'deliverability tests' in PPS3. [98-100, 150].
362. The Applicant's detailed assessment of these sites [98, 150] casts considerable doubt on the Council's more optimistic land supply figure. Of particular note is

the Beech Down site, where 64 extra care affordable units appear to have been included in the supply figure (although all other such units have been excluded). In relation to land between Mulfords Hill and Silchester Road (the other allocated site in Tadley) the best evidence is that there are land ownership problems which seem likely to delay any development. For these and other reasons set out in the Applicant's evidence, the more realistic approach of the Applicant to land supply is preferred [98].

363. Balancing housing requirements and land supply, using the Applicant's figures, it is clear that there is a deficiency in the five year supply regardless of which housing requirement figure is used [99]. The extent of the supply ranges from 2.87 years (using the 945 p.a. figure) to a supply of 4.09 years (using 740 p.a. for 2006-2027).
364. Even using the Council's land supply figures, there would be a shortfall for all the housing requirement figures unless one were to use 740 p.a. for the whole 2006-2027 period. Even using that figure, leaving aside the fact that it should not be given any significant weight, there would be a 5.3 year supply if the application site were included. It is clear that the application site would make an important contribution to the extent of the 5 year land supply under these circumstances.
365. With this background, the only issue is the extent of the shortfall in housing land. Under these circumstances, favourable consideration should be given to planning applications, in line with national policy.

Affordable housing

366. Affordable housing would be provided by way of the Planning Obligation. The development would provide 40% affordable housing (i.e. 46 of the 115 units) with a tenure split of 63% social rented and 37% shared ownership. This provision would accord with LP policy C2 and with the Affordable Housing Supplementary Planning Document.
367. It is common ground between the Council and the Applicant that there is a need for between 580-920 affordable units each year across the Borough. This reflects the various Housing Market Assessments which have been undertaken over recent years.
368. More locally, there is a significant local under-provision of affordable housing. Set against a clear identified need in Tadley [32] the current proposal would deliver 46 units.
369. This is of particular importance bearing in mind the exceptionally low level of affordable completions in Tadley - none since 2005/6 [32]. There are no other deliverable and available sites to meet either the current or cumulative need in Tadley [32]. The only other site in the area large enough to deliver affordable housing is the land between Mulfords Hill and Silchester Road but, as mentioned above, land ownership issues look set to delay that development.
370. HSE stated that the Council has substantially exceeded its 'objective' of providing at least 300 affordable units p.a. [102]. However this figure does not reflect the actual level of affordable housing need in the Borough. In any event, the period considered (2007-2009) was a time when developers prioritised

affordable units in order to aid cashflow, and when significant additional funds were made available. It by no means represents an average period.

371. The mechanism for securing the affordable housing provision in the Planning Obligation is unexceptional, and the comment from HSE that the intermediate housing would be unrestricted if the owners purchased outright is an entirely normal provision. These units would contribute towards the current need for such accommodation.
372. The affordable housing provision, given the pressing need in Tadley and the Borough generally, is a consideration to which significant weight should be attached.

Dwelling mix

373. The proposal would provide a mix of unit sizes which would accord with the requirements of LP policy C3. This requires a mix of dwellings with a substantial proportion of 1 and 2 bedroom units (30-50% in the case of the open market housing). It would create a mixed and inclusive community, taking into account the scale of the development, its location, and housing needs.

Employment floorspace

374. The application includes 945 sq.m. of commercial floorspace – around 10% of the floorspace of the overall development. It would be in a sustainable location and would enhance the existing commercial provision in Tadley. This is in accordance with LP policy EC4 and the LP site allocation.

The replacement of the scout hut

375. The former cinema building, now occupied by the Scouts, is in poor condition, as accepted by all parties and as confirmed by the Scouts [163]. The loss of such a facility would normally be resisted by LP policy C8. However there is an extant permission for the construction of a new facility in a residential area east of Southdown Road [14]. The applicant proposes to implement this permission prior to the demolition of the former cinema building – this is included in the Planning Obligation [14]. Should this not happen, the Applicant would pay a financial contribution towards a replacement facility.
376. The provision of a new facility, or contributions towards it, would be of greater benefit to the community than the retention of the existing building, and the objectives of the policy would be met. The new building – which could be used for a range of activities - would complement the existing playground, basketball court, football pitch and open space.

Footpath improvements

377. The existing footpath along the southern boundary of the site would be improved in relation to surface and boundary treatment, and high and low level lighting. This would improve surveillance and the overall quality of the path, which links Aldermaston Road and Almswood Road, along with providing access to the proposed central open space. This would comply with LP policy C9.

Design, layout and open space

378. There is no dispute that the scheme complies with the requirements for high quality and inclusive design. The dwellings would have private amenity space and the layout would not appear cramped or contrived. The three storey apartment blocks would be set back from the road and would be perceived along with adjoining commercial buildings – they would also replace the former cinema, which is of considerable scale. The existing mature trees around the site would be maintained.
379. There would be a central open space, which would produce a legible environment and allow an open view through to Aldermaston Road. This central open space would be accessible to residents of the development and other local people - there are no equivalent facilities in this part of North Tadley. This would accord with LP policy C9.

Conditions and obligation

Conditions

380. If it is considered by the Secretary of State that planning permission should be granted, the conditions set out in Annex 1 to this report are recommended.
381. The conditions are closely based on those agreed between the Council and the Applicant, and were not the subject of objection by any other party. Some minor amendments have been made to align them more closely with national policy. All are necessary and reasonable and meet the other tests in C11/95.
382. Standard conditions should be imposed to prevent the accumulation of permissions and to limit the development to the application plans, for the avoidance of doubt (Conditions 1 and 2).
383. A number of details of the scheme would need to be submitted for subsequent approval, to ensure a high quality of development in the interests of the visual amenity of the area (Conditions 3, 4, 10, 14). To ensure the development would not add to any flood risk, details of drainage arrangements should be submitted for approval (Condition 17).
384. During demolition and construction work it would be necessary to restrict the hours of working and deliveries, in the interests of the living conditions of nearby residents. (Conditions 6 and 13). Also during this period a condition would be necessary to protect the existing trees on the site, in the interests of the amenity of the area (Condition 20). Conditions dealing with construction vehicles, a temporary turning area, and the enclosure of the site would be necessary during the construction period in the interests of highway safety (Conditions 9 and 21).
385. Although conditions restricting 'permitted development' rights should only be imposed exceptionally, it is necessary to do so in this case given the nature of the scheme, so as to avoid the appearance of an overdevelopment of the site (Condition 5).
386. In the interests of the amenity of future residents of the development, it is necessary to require the use of obscure glazing in the first floor bathrooms, to

protect the development from road traffic noise, and to control the details and timing of lighting (Conditions 7, 15 and 18).

387. For highway safety and sustainability reasons, conditions should ensure the provision and retention of vehicle and cycle parking/storage (Conditions 8 and 23). Conditions should also control the details of roads, footpaths and accesses, and also prevent gated access to the development (Conditions 22, 24, 25). Existing access points should be closed and no additional accesses formed (Conditions 26 and 27). Works to improve the footway/cycleway fronting the site should be undertaken to improve access for pedestrians and cyclists (Condition 28).
388. For sustainability reasons, the dwellings should be constructed to Code 3 of the Code For Sustainable Homes (Condition 29). In the light of Lifetime Mobility standards, a condition is necessary to require 15% of the development to achieve that level (Condition 30).
389. To deal with any potential contamination, a condition is necessary to ensure investigation and, if necessary, remediation (Conditions 11 and 12).
390. Finally, in the interests of the living conditions of residents, a condition is necessary to ensure that the commercial space is used for B1 purposes only – as was sought in the application (Condition 19). The suggested highway safety reason for this condition is not agreed, as there is no evidence that uses outside B1 would necessarily generate additional traffic.

Planning obligation

391. Along with the affordable housing element referred to above, the Planning Obligation provides financial contributions and other community/infrastructure improvements [14]. This is in line with LP policy C1, which requires developers to provide the infrastructure and community facilities necessary to allow the development to proceed where provision is inadequate. The matters covered by the Obligation comply with the relevant development plan policies and guidance.
392. The key elements are:
- The provision of affordable housing. This has been dealt with above, and is in line with LP policy C2 and would meet a clearly identified housing need [101-103, 149].
 - A highway contribution and a Travel Plan. The Council has set out detailed and persuasive evidence [149] as to the need for and the calculation of the contribution. The area already suffers from high levels of congestion, and to allow the development without measures to offset its effect would exacerbate the position. The Council has provided evidence of the schemes to which the contribution could be allocated and which are directly related to the site and the proposal.
 - The implementation of the scout hut permission, or an alternative contribution. This is required in the light of LP policy C2, in order to provide the replacement of an essential local service. The deficiencies in provision in the area have been clearly identified [149].

- A Landscape Management Plan is necessary to provide for continuing management and maintenance of hard and soft landscaping. This is particularly important as the application site includes a significant amount of mature vegetation around the site boundary [149].
- The provision of a kickabout area and play area, and commuted sums towards the maintenance of open space and play areas. This would accord with LP policy C9, together with interim guidance. It would meet the reasonable needs of the increased number of local residents on the basis of formulae relating open space provision to head of population [149].
- A playing field contribution similarly relates to the population increase arising from the proposal, in the light of a range of documents supporting the need for provision. The contribution would be allocated to one of a named list of sites in the area [149].

393. These provisions meet the tests in C05/05 on the use of planning obligations. They are relevant to planning, necessary to make the proposal acceptable in planning terms, directly related to the proposal, fairly and reasonably related in scale and kind to the proposal, and are reasonable in all other respects. They also accord with the Community Infrastructure Regulations, which set out requirements for obligations. The matters contained in the Obligation are material considerations which weigh heavily in favour of the proposal.

The planning balance

394. With the exception of those general LP policies dealing with pollution and environmental well-being, the application accords with the development plan. In addition, aside from health matters, all other material considerations are either neutral or, in the main, in favour of the proposal.
395. This is a previously developed site within a defined settlement boundary, which is identified in a saved LP policy for the type of development currently proposed. That must be the starting point for the consideration of the application – even allowing for the fact that at no time were the health aspects of that allocation considered.
396. The site itself is in a sustainable location, and the proposal would make good use of the land in both visual and sustainability terms. It would result in significant planning benefits, in particular the provision of affordable housing (for which there is an acknowledged need) and the replacement of community facilities.
397. The position regarding housing land requirement and supply is in a state of flux at the moment. However the overall position is that, almost regardless of the housing requirement or land supply adopted, a 5 year housing land supply does not exist. Under these circumstances, favourable consideration should be given to planning applications.
398. Set against these matters is the sole, but substantial, objection on the basis of the effect on human health. This is clearly a material consideration and is the subject of policy at the national and local level.
399. Although decisions must be made on the basis of evidence, it is of relevance to recognise the role and expertise of those giving the evidence. The expertise of

HSE is clear and is recognised in national policy, and it has a specific role to advise Ministers on a range of matters, including the type of health issues raised by this application.

400. As concluded above, there is the unquantified potential for a reasonably foreseeable radiation emergency at AWE, even though it is clear that the likelihood of such an event is remote. Under those circumstances a materially harmful radiation dose could be received by occupants of the proposed development. No party suggests that the potential that a person could receive such a dose should be disregarded, and the fact that the proposal would put a significant number of people in harm's way is clearly an important material consideration.
401. The national nuclear policy documents relied on by HSE, although on their face not directly applicable to this case, have clearly been used as a matter of custom and practice in relation to facilities such as AWE, and it would be wrong to set them aside. All parties, though in some cases expressing concern about the relevance of the policies, accept the general principle that the general characteristics of the site should be preserved. In this case the best evidence is that this would not be the case, that the semi-urban criterion would be breached, and the proposal would not be in compliance with national nuclear policy.
402. The evidence is that the Off Site Plan has flexibility and extendibility built into it. Even if changes were required, such changes could be accommodated and emergency preparedness maintained.
403. This is a finely balanced case, with one very significant but unlikely harm to be set against a range of more 'conventional' planning considerations. However the consequences of such an unlikely event would be so serious that it is considered that planning permission should not be granted.

RECOMMENDATION

404. It is recommended that planning permission be refused.

P. J. G. Ware

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr T Cosgrove of Counsel	instructed by the Head of Legal & Democratic Services
He called	
Mr G Gosling	Intelligence Officer
Cert Arch	
Ms P Hughes	Head of Property Services
BSc MSc MBA MCIEH	
Ms N Linihan	Head of Planning & Transport
BA DMS MRTPI	
Ms R Fenn-Tripp	Principal Planning Officer
MSc BSc LMRTPI	

FOR THE APPLICANT:

R Griffiths QC	both instructed by Mr D Bond
Mr Tabachnik of Counsel	
They called	
Dr Thorne	Director, Mike Thorne and Associates
FInstP FSRP CRadP	
Mr Dillon	Emergency Management Services Limited
MSc SBCI MIFSM	
Mr Brookes	Director, GIS & Design Solutions
BSc(Hons) MS	
Mr D Bond	Partner, Wolfe Bond Planning LLP
BA(Hons) MRTPI	

FOR THE HEALTH AND SAFETY EXECUTIVE:

R Harris QC	instructed by the Treasury Solicitor
He called	
Dr D Lacey	Deputy Chief Inspector of Nuclear Installations Directorate (NI)
Mr I Robinson	Superintending Inspector NI
Mr S Saunders	Principal Inspector NI
Dr J Highton	Principal Inspector NI
Ms V Jones	Planning Consultant

INTERESTED PERSONS:

Mrs M Weston	16 Silchester Road, Tadley
Mr B Spray	Chairman, Tadley Scout Group. 12 The Close, Monk Sherbourne, Tadley
Mr A Jeffrey	Resident of Tadley

DOCUMENTS

Documents handed in at the Inquiry

- 1 List of persons present at the Inquiry
- 2 Written statement from West Berkshire District Council
- 3 Email (6/10/10) from Thames Valley police
- 4 Emails (19/2/10 & 3/9/10) from Hampshire police
- 5 REPPIR Regulations (extract)
- 6 Hampshire Fire & Rescue Service letter (14/10/10)
- 7 Hampshire Constabulary letter (15/10/10)
- 8 Planning and Housing Statements of Common Ground
- 9 Unilateral Undertaking (15/11/10)
- 10 Appeal decision (10/11/09) 2009 relating to Shyshack Lane, Tadley

Core Documents (Prepared by the applicant)

- 1 Volume 1 Environmental Statement, including appendices Volumes 2a and 2b, June 2010
- 2 Planning application plans (listed in condition no.1) supporting documentation and planning officer's reports
- 3 Basingstoke and Deane Local Plan (adopted July 2006)
- 4 Saved policies from the Basingstoke and Deane Local Plan
- 5 Basingstoke and Deane annual monitoring report (2009)
- 6 South East Plan (2009)
- 7 Design and Sustainability SPD (2008) (extracts):
 - Overarching introduction document
 - Appendix 5 construction statement
 - Appendix 6 waste and recycling
 - Appendix 7 places to live
- 8 Affordable Housing SPD (2007) (as replaced by PPS3)
- 9 Housing Mix and Lifetime Mobility Standards SPD (2007)
- 10 Landscape and Biodiversity SPD (2009)
- 11 Residential Parking Standards (2008)
- 12 Tadley Design Statement SPG (2004)
- 13 Basingstoke & Deane Employment Land Review (2009)
- 14 Section 106 Planning Obligations and Community Infrastructure SPD (2006)
- 15 Boundary Hall site Development Brief (1996)
- 16 Development Framework Document: Boundary Hall site (2004)
- 17 Ram Brewery, Wandsworth Inspector's report and Secretary of State's decision (APP/H5960/V/09/2099671, 2099695, 2099698 and 2099672) 30/6/10
- 18 Brit Oval Inquiry Inspector's report and Secretary of State's decision (APP/N5660/V/081203001) (8/6/09)
- 19 Scout's Den at Southdown playing fields, Southdown Road, Tadley. Application no. BDB71012, application plans, planning officer's report and decision notice (21/9/09)
- 20 GOSE call in letter (4/3/10)
- 21 Borough Housing Market Assessment for Central Hampshire New Forest (November 2007)
- 22 Housing Market Assessment update for Central Hampshire New Forest (December 2008)

- 23 Housing Strategy for Basingstoke and Deane Borough Council (2008-2011)
- 24 Basingstoke and Deane Borough Rural Housing Study 2010
- 25 Email regarding affordable housing completions in the Tadley area since 1997/1998 (27/4/10)
- 26 DCLG letter (6/7/10) regarding the revocation of South East Plan
- 27 Planning and Infrastructure Overview and Scrutiny Committee (17/12/09)
– Annual Housing Land Position Report and Annual Monitoring Report
- 28 GOSE letter to Basingstoke and Deane Borough Council regarding 5-year housing land supply calculation methodology 26 April 2010
- 29 Worting farm planning application officer's report (BDB71886) 12 May 2010 and officer update report
- 30 Basingstoke and Deane Borough Council Issues and Options Paper 2008
- 31 Basingstoke and Deane Borough Council Key Themes Paper 2010
- 32 Basingstoke and Deane Borough Council Committee Reports 1/7/09 & 13/1/10
- 33 Atomic Weapons Establishment off-site contingency arrangements 1/2009
- 34 A Guide to the Radiation (Emergency Preparedness and Public Information) Regulations 2001

Documents submitted by the Council

- LPA/1 Opening submissions
- LPA/2 Letter from HSE to the Council (6/6/2001)
- LPA/3 Letter from HSE to West Berkshire Council (16/6/2003)
- LPA/4 Note explaining outcome of 11/11/10 Committee meeting
- LPA/5 Atkins Benchmark Review of AWE Off-Site Plan (22/12/09)
- LPA/6 Planning application/permission for 'Pegasus' development
- LPA/7 Proof/Appendices of Mr Gosling
- LPA/8 Proof/Appendices of Ms Hughes
- LPA/9 Proof/Appendices of Ms Linihan
- LPA/10 Proof/Appendices of Ms Fenn-Tripp, Housing Requirement note and Rates of Housing Development table
- LPA/11 Council's Closing Submissions and Appendix dealing with RSS position

Documents submitted by the Applicant

- APP/1 Opening submissions
- APP/2 1990 ICRP recommendations
- APP/3 2007 ICRP recommendations
- APP/4 Plan showing facilities in the area
- APP/5 'What to do in the event of an emergency at AWE' leaflets (2007 and 2010 versions)
- APP/6 HIRE (11/07) for Associated British Ports Southampton
- APP/7 NRPB – R91 Model for short to medium range dispersion of radionuclides released into the atmosphere
- APP/8 HSE - 'Reducing Risks Protecting People'
- APP/9 Proof/Appendices of Dr Thorne, Siting Considerations Core Documents, additional Proof following interim site visit, additional Proof related to AWE Context Plan
- APP/10 Proof/Appendices of Mr Dillon, Schedule of Core Documents
- APP/11 Proof/Appendices of Mr Brookes
- APP/12 Proof/Appendices of Mr Bond, Housing Supply Statement
- APP/13 Applicant's Closing Submissions and Addendum

Documents submitted by the Health & Safety Executive

HSE/1	Opening submissions
HSE/2	Areas of agreement with Planning Statement of Common Ground
HSE/3	Extendibility Guidance (Chapter 9)
HSE/4	Health effects of plutonium (U.S. Environmental Protection Agency)
HSE/5	Hypothetical Multiple Facility Nuclear site
HSE/6	Site licence (29/3/00) for AWE
HSE/7	DECC Testing of Off-site Preparedness (Chapter 5)
HSE/8	Redacted HIRE for AWE (2008)
HSE/9	1992 Safety Assessment Principles
HSE/10	Statement by Dr Highton submitted to the Shyshack Lane appeal
HSE/11	Note on number of workers at AWE
HSE/12	Secretary of State's Statement on Localism Bill and Planning
HSE/13	HIRE Assessment (October 2002)
HSE/14	Review of AWE Accident Fault Sequences (June 2008)
HSE/15	HSE letter (16 September 2002) related to 3 km DEPZ
HSE/16	Redacted HIRE for AWE (2002)
HSE/17	Redacted HIRE for AWE (2005)
HSE/18	Proof/Appendices of Dr Lacey, Additional Proof
HSE/19	Proof/Appendices of Mr Robinson, Additional Proof
HSE/20	Proof/Appendices of Mr Saunders, Additional Proof, Second Additional Proof, Statement on REPPiR Leaflet
HSE/21	Proof/Appendices of Dr Highton, Additional Proof
HSE/22	Proof/Appendices of Ms Jones
HSE/23	HSE's Closing Submissions

ANNEX A

Conditions as agreed between Cala Homes (South) Ltd and Basingstoke and Deane Borough Council (with minor amendments as noted above)

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans:

<u>Plan Name/No</u>	<u>Received On</u>
Site Location Plan @ 1:1250	11th December 2007
12D	5th February 2008
29B	5th February 2008
28B	5th February 2008
26A	11th December 2007
27A	11th December 2007
3272-F-106	7th April 2008
11	28th November 2007
13B	5th February 2008
14B	5th February 2008
15B	5th February 2008
16A	5th February 2008
17B	5th February 2008
18A	5th February 2008
19A	5th February 2008
20B	5th February 2008
21A	5th February 2008
22B	5th February 2008
23B	5th February 2008
24B	5th February 2008
30	28th November 2007
31A	11th December 2007
32	28th November 2007
33B	7th April 2008
34	5th February 2008
Elevations 4B, 4C, 4D, 4A, 4, 3B, 3A, 2B, 2C, 3, 2, 2A, and 1, A1.	11th December 2007

- 2 The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.
- 3 No development shall commence on site until samples of all the external materials to be used (including hard surfacing materials) have been submitted to and approved by the Local Planning Authority in writing. Development shall be carried out in accordance with the approved details.
- 4 Notwithstanding the approved plans, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials and type of screen walls/fences/hedges to be erected/planted. The approved screen walls/fences shall be erected and the hedges planted in accordance with the approved details before the relevant buildings hereby approved are first occupied, and shall subsequently be retained.

- 5 Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking and re-enacting that Order with or without modification) no building, structure or other alteration permitted by Class A, B or C of Part 1 of Schedule 2 of the Order or Class A of Part 2 of Schedule 2 of the Order is permitted.
- 6 No work relating to the construction of the development hereby approved, including works of demolition or site preparation prior to building works, shall take place before the hours of 0730 nor after 1800 on Monday to Friday, before the hours of 0800 nor after 1300 on Saturdays, nor on Sundays or recognised public holidays.
- 7 The approved bathroom windows at first floor level shall be glazed with obscured glass and shall be permanently retained in that condition.
- 8 The dwellings and commercial building hereby permitted shall not be occupied until the relevant vehicle parking and turning space has been constructed, surfaced and marked out, and cycle parking and secure storage constructed in accordance with the approved details. Those facilities shall not thereafter be used for any purpose other than parking, turning, loading and unloading of vehicles and parking/storage of cycles.
- 9 No development shall take place until details of provision to be made for the parking and turning on site of operatives' and construction vehicles during the contract period together with storage on site of construction materials has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be fully implemented before development commences and retained and used only for the intended purpose for the duration of the construction period.
- 10 No works shall take place on site until a measured survey of the site has been undertaken and a plan prepared to a scale of not less than 1:500 showing details of existing and intended final ground and finished floor levels from a specified bench mark has been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 11 No works pursuant to this permission shall commence until there has been submitted to and approved in writing by the Local Planning Authority:-
 - (a) a desktop study carried out by a competent person documenting all the previous and existing land uses of the site and adjacent land in accordance with national guidance as set out in Contaminated Land Research Report Nos. 2 and 3 and BS10175:2001; and
 - (b) a site investigation report documenting the ground conditions of the site and incorporating chemical and gas analysis identified as being appropriate by the desk study in accordance with BS10175:2001- Investigation of Potentially Contaminated Sites - Code of Practice; and

- (c) a detailed scheme for remedial works and measures to be undertaken to avoid risk from contaminants/or gases when the site is developed and proposals for future maintenance and monitoring. Such scheme shall include nomination of a competent person to oversee the implementation of the works.

If during any works contamination is encountered which has not been previously identified then the additional contamination shall be fully assessed and an appropriate remediation scheme, including details of its implementation, shall be submitted to and approved in writing by the Local Planning Authority.

- 12 The development hereby permitted shall not be occupied/brought into use until there has been submitted to the Local Planning Authority verification by the competent person approved under the provisions of condition 11(c) that any remediation scheme required and approved under the provisions of condition 11(c) has been fully implemented in accordance with the approved details (unless varied with the written agreement of the Local Planning Authority in advance of implementation). Such verification shall comprise:
 - (a) as built drawings of the implemented scheme; and
 - (b) photographs of the remediation works in progress; and
 - (c) certificates demonstrating that imported and/or material left in situ is free of contamination.

Thereafter the scheme shall be monitored and maintained in accordance with the scheme approved under condition 11(c).

- 13 No deliveries of construction materials or plant and machinery shall take place before the hours of 0730 nor after 1800 on Monday to Friday, before the hours of 0800 nor after 1300 on Saturdays, nor on Sundays or recognised public holidays.
- 14 No development shall take place until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping works which shall specify species, planting sizes, spacing and numbers of trees/shrubs to be planted, and the layout, contouring and surfacing of all open space areas. The works approved shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development whichever is the sooner, in accordance with a phased programme agreed with the Local Planning Authority in writing prior to commencement of planting. Any trees or plants which, within a period of 5 years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 15 The commencement of the development shall not take place until a detailed scheme for protecting the development from road traffic noise has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include full details of noise mitigation measures, including window glazing and room ventilation provisions, of the dwellings which shall be used to achieve the good internal ambient noise levels within habitable rooms

(bedrooms and living rooms) set out in Table 5 of BS8233:1999 and to achieve noise levels in the garden area/outdoor living space not exceeding 55dB(A) (16 hour free field). All works which form part of the approved scheme shall be implemented in full prior to the first occupation of any of the relevant buildings hereby permitted.

- 16 No part of the development shall commence until the details of the highway works in Almswood Road and at the junction of Almswood Road and the A340 as shown coloured yellow on drawing 29 Rev B have been submitted to and approved in writing by the Local Planning Authority. The approved works shall be implemented in full prior to the occupation of the development hereby permitted.
- 17 Development shall not begin until drainage details, incorporating sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, have been submitted to and approved by the Local Planning Authority in writing. The approved scheme shall be implemented in accordance with the approved details before the development is completed.
- 18 Prior to the occupation of the development hereby approved, details of all external lighting and details of the timing of illumination shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out and be thereafter retained in accordance with the approved details and used in accordance with the agreed hours of illumination.
- 19 The commercial building shall be used only for purposes within Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 or in any statutory instrument revoking and re-enacting that Order (with or without modification).
- 20 No development shall take place on site until a method statement for works affecting trees (Arboricultural Method Statement) to include a Tree Protection Plan has been submitted to and approved in writing by the Local Planning Authority. The tree protection works shall be carried out before any demolition or building work is undertaken, and shall be retained in situ for the entire construction period.
- 21 Prior to the commencement of development a temporary 2 metre high perimeter fence shall be erected in accordance with details to be submitted to and approved in writing by the Local Planning Authority. The approved fence shall be fully implemented before development commences and retained for the duration of the construction period.
- 22 Details of the width, alignment, gradient and type of construction proposed for the roads, footways, paths and accesses, including all relevant horizontal cross sections and longitudinal sections showing the existing and proposed levels, together with details of visibility splays, signage and the method of disposing of surface water shall be submitted to and approved in writing by the Local Planning Authority before development is commenced. The agreed details shall be implemented before occupation of the dwellings and commercial building.
- 23 All garages constructed shall not be converted or used for any residential purpose other than as a domestic garage for the parking of vehicles.

- 24 The accesses shall be provided with splays to the highway at an angle of 45 degrees for a distance of 2 metres.
- 25 No gates shall be installed at the accesses from the highway into the site at any time.
- 26 On completion and first use of the approved accesses, the former accesses from Aldermaston Road (west) and Almswood Road shall be permanently closed and reinstated in accordance with details to be submitted to and approved by the Local Planning Authority.
- 27 No pedestrian or vehicular access, other than as shown on the approved plans, shall be formed into the site.
- 28 Prior to the development being brought into use the footway/cycleway fronting the site along the A340 Mulfords Hill, southwards from the Falcon Gyratory to the existing site access, shall be provided with dropped kerbs and tactile paving across the existing access. The works shall be constructed in accordance with drawings that shall be submitted to and approved in writing by the Local Planning Authority.
- 29 The dwellings shall achieve Code Level 3 of the Code For Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.
- 30 15% of the dwellings hereby approved shall be built to Lifetime Mobility standards.