



Appeal Decisions

Inquiry held on 6-8, 12-13 and 15 May 2026

Site visits made on 5 and 14 May 2026

by **Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 11th June 2026

Appeal A Ref: APP/Q3115/A/25/3377313

Land West of Kidmore End Road, Oxfordshire RG4 8SG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Fairfax (Reading) Ltd and Reading Golf Club (SODC) Ltd against the decision of South Oxfordshire District Council.
 - The application Ref is P25/S1431/O.
The development proposed is up to 70 homes (including affordable housing), new vehicular access, associated parking and landscaping-
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Appeal B Ref: APP/E0345/W/25/3377314

Land West of Kidmore End Road, Oxfordshire RG4 8SG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
 - The appeal is made by Fairfax (Reading) Ltd and Reading Golf Club (SODC) Ltd against Reading Borough Council.
 - The application Ref is P25/S1431/O.
 - The development proposed is up to 70 homes (including affordable housing), new vehicular access, associated parking and landscaping.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed and outline planning permission is refused.

Preliminary Matters

3. The 2 appeals above relate to the same scheme, the applications having been submitted in duplicate. With the agreement of the parties, I have modified the descriptions of development, removing superfluous wording.
4. The site slightly straddles the boundaries of South Oxfordshire District Council (SODC) and Reading Borough Council (RBC). Whilst the site accesses would fall within Reading, the rest of the development would fall within South Oxfordshire.
5. The scheme was submitted in outline with all matters except access reserved for future consideration. Those parts of the scheme which fall within Reading are therefore largely fixed. The submitted parameter plan covering the rest of the site additionally details circulation routes. Given the level of detail provided on the plan it provides a strong indication of the scheme likely to emerge in clearance of the

reserved matters. I have therefore placed significant weight on the parameter plan in assessing the scheme, acknowledging some scope for variation.

6. Outline planning permission for the application subject of Appeal A was refused, whereas RBC failed to determine the application subject of Appeal B. This appears to have been because it treated the application subject of Appeal A as the lead. RBC did however confirm the technical acceptability of the accesses and a lack of any objection subject to the provision of contributions towards services and infrastructure in Reading. Proceeding on the basis of judged compliance with The Reading Borough Local Plan, RBC did not therefore contest Appeal B and played a limited role at the Inquiry.
7. I have necessarily dealt with Appeals A and B together. However, given that I have no reason to question RBC's technical endorsement of the site accesses, and given that the development would otherwise occur within South Oxfordshire, my assessment below centres on development plan policy and matters contested in relation to Appeal A. It is generally agreed that neither Appeal A nor Appeal B could be logically allowed in isolation. Any resulting permission would be incapable of implementation.
8. SODC partly refused permission on grounds that provision of affordable housing, biodiversity net gain (BNG) and contributions towards infrastructure provision had not been secured. Following progress made towards provision of a Section 106 Agreement (S106) it withdrew its objection. SODC also partly refused permission due to the distance that future occupants would need to walk to the nearest bus stop. This objection was also withdrawn, this time based on the findings of an Inspector in another appeal. Insofar of the matter of locational sustainability nonetheless remains relevant, I shall consider this further below.
9. For the avoidance of doubt, all references within this Decision to 'SODC' are to South Oxfordshire District Council rather than to Reading Golf Club.

Main Issue

10. The main issue is whether the site would be an appropriate location for the proposed development having regard to development plan, the effects of the development on the character and appearance of the area, and other material considerations.

Reasons

Locational Policy

11. The site comprises part of a former golf course, which, having ceased operation in 2020 after around a century of use, has now been largely reabsorbed into the landscape. This is located adjacent to Reading, the built-up area of which generally aligns with the boundaries of SODC, and the southern edge of Kidmore End Parish (the Parish). The South Oxfordshire Local Plan 2035 adopted 2020 (the Local Plan) describes South Oxfordshire as a 'mainly rural district'. Within this context the Parish is a discernibly 'rural area'.
12. No provision is made for the expansion of Reading into South Oxfordshire within the Local Plan or the Kidmore End Neighbourhood Development Plan 2022 (the NP). Nor has there been any request from RBC for SODC to accommodate such growth. As the proposed development would effectively form an urban extension of

Reading, it would therefore be something that neither SODC nor RBC have planned for. It would however be a development of the type that the NP was partly prepared to help safeguard against.

13. Policy STRAT1 of the SOLP sets out the district's spatial strategy. This seeks to achieve a sustainable pattern of growth by directing development towards a hierarchy of settlements based on services and facilities. Key concerns include travel and protection of the countryside. In relation to 'Smaller' and 'Other Villages' Policy STRAT1 allows limited amounts of housing and employment to help secure the provision and retention of services. This objective is carried forward by Policy LCI of the NP which is supportive of infill within the 3 such villages the Parish contains. Further criteria covering housing development are set out within Policy H1 of the Local Plan. These include use of previously developed land adjacent to existing built-up areas, and broader exceptions for the development of unallocated sites.
14. These principles are broadly consistent with those seeking to direct development to sustainable locations set out within national policy, including in relation to rural areas. Within this broader context paragraph 83 of the National Planning Policy Framework (the Framework) states that to promote sustainable development in rural areas housing should be located where it will enhance or maintain the vitality of rural communities.
15. The site in question is not located within or adjacent to any settlement within SODC, rural or otherwise. As such the development would not fit within the established settlement hierarchy, nor would it directly complement any established community within South Oxfordshire. Relative to the rest of the Parish, it would constitute a distinct, relatively large and anomalous suburban enclave entirely at odds with the existing settlement pattern. Whilst Reading is not one of the built-up areas covered by Policy H1, even if it was the site is not previously developed land. Insofar as the site is unallocated the proposed development would furthermore fail to meet any of the exceptions set out within Policy H1.
16. The above policies clearly act to constrain housing development at a time when, despite a strong record of past delivery, there is a shortfall in SODC's supply of deliverable housing sites (5YHLS). This currently stands at 3.81 years. With age and changes in methodology, housing figures set out within the SOLP are themselves now out of date. Given that the change in methodology occurred whilst a new local plan was under preparation the figures within that too have now been overtaken. The matter is unlikely to be fully resolved in the very near future. SODC therefore acknowledges that in the interim there may be a need for flexibility in accommodating additional housing growth. That does not however mean that the above policies should be simply set aside in favour of wholly unplanned development. Here it is necessary to consider the effects of non-compliance.

Character and appearance

17. Several policies within the SOLP seek to protect the character of the countryside, landscape character and character more generally. Aside from Policy STRAT 1, these include Policies DES1, DES2 and ENV1 of the Local Plan. The site, as too the rest of the former golf course, is also located within a Locally Valued Landscape (LVL) designated under policy LPLV of the NP. This in turn falls within the broader Chiltern Wooded Chalk Plateau and Valleys Landscape Character Area (LCA).

18. The parties disagree over whether the LVL is a 'valued landscape' for the purposes of paragraph 187(a) of the Framework. This is surprising given that the designation explicitly incorporates 'valued landscape' within its title. As if further confirmation was required, the introductory and supporting text of Policy LPVL covers the relevant legal authorities, GLVIA Box 5.1, and background assessments, and clearly states that the LVL falls within the meaning of what is now paragraph 187(a) of the Framework. The examination and adoption of the NP was itself undertaken relatively recently. Within that context the southern part of the Parish was looked at in significant detail by the Examiner. Given that this and the above leaves no room for doubt I am content to proceed on the basis that it is unnecessary for the status of the LVL to be subject of any further consideration. In this regard paragraph 187 of the Framework states that decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes.
19. The quality of both the LCA and LVL varies, as is typical of the quality of any given landscape. It cannot be expected that any given part of such a landscape will exhibit every one of the attributes or values ascribed to the whole, particularly where those attributes or values are mutually exclusive. Context is also important, where, as in this case, the features which help to define the character of the landscape extend well beyond the scale of a site. It is therefore inappropriate to dissect the LVL into self-contained pieces for purposes of understanding the impacts of development, much less the site itself.
20. The former golf course extends further into the landscape towards the north and northwest of the site, and, prior to its development for housing, it also extended further south into Reading. It is chiefly characterised by grassland containing scattered trees and shot through with large belts of ancient and other woodland. This includes Cucumber Wood which bounds the northern edge of the site. The terrain within the site is varied, and from an open plateau ground levels generally fall towards the north and east to form the sides of dry valleys.
21. The character of the golf course is not intrinsically suburban. This is true whether or not a generalised suggestion to the contrary occurs within the South Oxfordshire and Vale of White Horse Renewable Energy Study. Here it is more relevant to note that even in 2020 an absence of 'detracting urban fringe uses' was recorded within the area in the Kidmore End Locally Valued Landscape Assessment. The defining features of the golf course have since become far less distinct as they have been reabsorbed into the landscape. Whilst its character remains closer to that of parkland than a more functional agrarian landscape, the former golf course appreciably forms a component of the broader countryside. The fact that the site is located near to the edge of Reading and is visually contained in some directions by Cucumber Wood does not alter this. Both the site and the wood ultimately form components of the same landscape.
22. Insofar as the built-up edge of Reading generally aligns with the boundary of SODC, there is a both distinct and abrupt, but nonetheless generally soft edged transition between Reading and the open countryside of the Parish. The open character of the site strongly contrasts with that of adjacent suburban development, as is emphasised within long-ranging views across the undulating terrain from the east. Both these attributes and the landscape context of the site are well understood locally given the ongoing and apparently long history of public access to the golf course, as well as past public use of the golf course itself. In view of the above the site occupies a highly sensitive location.

23. Though public access for purposes other than playing golf may have been, and may continue to be informal, that does not mean that in this case it is irrelevant or something to be set aside. Indeed, I saw nothing to suggest that any serious attempt is currently being made to prevent it. Free and easy access is instead facilitated by pedestrian gates, including from some adjoining gardens. Nor, in the absence of the proposed development, has the appellant indicated that any steps are going to be taken to prevent access in the future. Unsurprisingly, I observed numerous members of the public making recreational use of the former golf course during my site visits. Representations by local residents further attest to such use. I therefore have no reason to believe that what I observed was unusual. It stands to reason that scope for perception of change and effects would not be limited to a few select static viewpoints within the broader setting of the site.
24. Insofar as I have established that the site features components of plateau and valley fringed with ancient woodland, and that it otherwise directly adjoins and contributes to the appreciation of these features within a broadly undulating landscape, it demonstrates and helps to express key attributes and values of both the LCA and LVL. Within this context the long history of both formal and informal recreational use of the site is also of note, as is the existence of long-distance views given that these are typically limited across the LCA. The southern end of the LVL may not play a direct role in the setting of the Chilterns National Landscape, and more visually sensitive spaces might well be found elsewhere within the LVL. The site itself occupies a relatively small part of the LVL. My findings above nonetheless underline both the important and positive contribution that the site makes to the LVL, as well as to the rural character of the Parish more generally.
25. The development would see the plateau within the site occupied by a relatively dense housing estate. Given that adjoining parts of the same plateau have already been developed, very little of this feature would remain open. This would in turn extend the built-up area very close to the margins of Cucumber Wood, suburbanising its immediate setting. The transformation of its role from that of a landscape to settlement edge feature would diminish its existing character and quality. Retained open space on the east side of the site would form an appreciably subordinate component of the development, remodelled for drainage and made host for various suburban paraphernalia. This would blur the currently distinct transition between the settlement edge and open countryside, and the intrusion of development into the latter would erode the rural character of both the LVL and Parish more generally. The adverse nature of change would be appreciable from both outside and within the site. This would not be alleviated by the scheme of planting indicatively shown on the submitted plans, or likely to be alleviated by any alternative scheme.
26. Insofar as the scheme has been promoted as a discrete 'rounding-off' of the settlement edge, the proposed clustering of development in the west half of the site would instead increase the extent to which existing development markedly protrudes into the landscape. Indeed, though development on the west side of the site extends no further north than that towards the east, it projects much further north than the established settlement edge further west. This is appreciable in long ranging views westward into the LVL from adjacent parts of Reading, and would be similarly experienced from within the proposed development in open views towards the northeast. Rounding-off would not in any case be achieved given that whilst

suburbanised, the retention of open space on the east side of the site would form a substantial break in the continuity of the developed edge of the settlement.

27. Of further relevance here is Policy LCSS of the NP which seeks to retain the character of settlements within the Parish, including by maintaining the physical and visual separation of those settlements from one another and from Reading. Amongst other things, the background text explains that the built edges of each settlement are clearly defined and obvious to spot, meaning that the open spaces between settlements are as important to local character as the built-up spaces within the settlements.
28. Policy LCSS evidently serves in part to resist the expansion of Reading into South Oxfordshire, and in so doing to retain the established settlement pattern. The gap between Reading and Chalkhouse Green, which lies towards the north of the site, is identified as one of those that Policy LCSS seeks to maintain. The width of that gap varies depending from what point on the settlement edge it is measured. Unsurprisingly, given that existing development on the west side of the site protrudes northward, it lies closer to Chalkhouse Green than would the northern edge of the proposed development. However, when measured from the edge of the built-up area towards the south of the site the width of the gap between Chalkhouse Green and Reading would be significantly reduced as a result of the development. This part of the gap can be quickly traversed via routes running northwards along both the east and west sides of the site, or by walking across the golf course itself. Both its physical and visual reduction in size would be appreciable regardless of the lack of direct intervisibility between Chalkhouse Green and the site. The reduction in the size of the gap between Chalkhouse Green and Reading would be one further expression of the harm that a development otherwise wholly at odd with the established settlement pattern within the Parish would cause to local character and the LVL.
29. Within the context of seeking to protect the landscape, countryside and rural areas of South Oxfordshire from harmful development, Policy ENV1 of the Local Plan lists a number of features. These features are not presented as a closed list or scorecard. The fact that features which do not exist within the site would be unaffected by the development indicates their irrelevance rather than a diminished level of policy conflict. Though the LVL is not referenced within Policy ENV1, this reflects the fact that the NP postdates the Local Plan. The harm caused by the development to the landscape, countryside and rural area of South Oxfordshire would however be amplified by its adverse effect on the LVL. Having further regard to paragraph 135 of the Framework, the development would not be sympathetic to local character.
30. The appellant claims that landscape harm would be partly offset by enhancements. However, many of the claimed onsite enhancements are more appropriately understood as ecological avoidance and mitigation measures required to address risks of habitat degradation, and harm to protected species. Alongside a broader pledge to provide additional offsite public open space and BNG, the appellant has also offered the provision of enhancements on an adjacent part of the golf course. Whilst the above policies provide no scope for harm to be addressed in this way, some of the claimed enhancements would again be more specifically required as ecological mitigation and compensation. Even if they could be properly secured, any broader enhancements made to the landscape offsite would not make the level and nature of overall harm caused to the LVL any more acceptable.

31. For the reasons outlined above I conclude that the development would harm the character and appearance of the area giving rise to conflict with Policies DES1, DES2 and ENV1 of the Local Plan and Policies LPLV and LCSS of the NP.

Material Considerations

32. The development subject of Appeal A would conflict with the development plan taken as a whole. However, as established above, SODC currently lacks a 5YHLS and so the policies most important for determining the application are deemed out of date. Those with which I have established a conflict nonetheless remain broadly consistent with national policy. To the extent that those conflicts arise with the SOLP they attract significant weight. To the extent that they arise with the NP they fall to be considered in light of paragraph 14 of the Framework.

(a) Paragraph 14 of the Framework

33. The parties agree that paragraph 14 of the Framework applies. This is despite the appellant seeking to cast doubt over how the need for policies and allocations to meet an identified housing requirement can be met where, as in the current case, that requirement is zero. Paragraph 14(b) of the Framework and related parts of the Planning Practice Guidance (PPG) do not appear to anticipate such a scenario. However, it is not necessarily unusual within rural areas supporting small settlements and limited services. Here it appears unlikely to have been a rational intention of national policy to penalise communities whose neighbourhood plans failed to cater for non-existent needs. Rather, in the current case it is commendable that the NP went further than necessary in making an allocation for affordable housing despite the absence of any identified housing requirement. I therefore see no reason to depart from the agreed position.
34. Use of the word 'likely' within paragraph 14 leaves some scope for scenarios in which conflict with a neighbourhood plan would not significantly and demonstrably outweigh the benefits. Based on the very small sample of appeal decisions relating to other sites drawn to my attention this appears to have given rise to some variation in the way in which Inspectors have approached the application of paragraph 14 in the past. The reasons for this are open to speculation and the sample far too small to identify any trend. Variation can otherwise be expected given the differing circumstances of any given case, including the nature of arguments and evidence considered, and the composition of the balance itself. Generally speaking, insofar as the counterpoise to *likely* is *unlikely*, cases in which permission was granted despite conflict with a neighbourhood plan are likely to be in a minority. These previous decisions do not therefore bind my approach in the current case in relation to which I shall have primary regard to national policy.
35. Within this context the PPG refers to paragraph 14 as conferring *protection*. This protection can be logically understood as providing a safeguard against non-compliant schemes gaining permission via the 'tilted balance'. By stating that the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, paragraph 14 thus provides its protection by emphatically tipping the balance in favour of refusal.
36. That protection is not contingent on there being a particular level of 5YHLS or past performance in delivery. Whilst limitations of this type did once exist and are recalled within sections of the PPG which have yet to be revised, they were removed some time ago. As paragraph 14 is only engaged where paragraph 11(d)

has already been triggered, the protection it confers applies notwithstanding the level of 5YHLS and past performance in delivery.

37. The protection conferred by paragraph 14 is also not contingent on all policies being up to date. Outdatedness is again a consideration triggering the initial engagement of paragraph 11(d). In this regard the broad requirement within paragraph 14 is simply that the NP itself is less than 5 years old.
38. Absent other considerations, the level of 5YHLS, past performance in delivery and the outdatedness of policies are not therefore matters which can logically be held to cancel out or diminish the weight of the protection conferred by paragraph 14. It follows that this includes situations where, as in the current case, a recent neighbourhood plan does not contain policies addressing changes arising from the shift to the standard method which occurred after its adoption.
39. A key consideration in this regard is the absence of any evidence which indicates that it is likely that SODC will seek to address its shortfall by directing development of the type and scale proposed towards the Parish.
40. Insofar as paragraph 14 is engaged on the basis of neighbourhood plan conflict, it is possible to imagine cases where an identified conflict with a neighbourhood plan gives rise to no material or real-world harm. That has been partly claimed in the current case. My findings above have however established the opposite. That and the above being so, the adverse impacts of the scheme arising from its conflict with the NP attract substantial weight.

(b) Locational sustainability

41. The SOLP acknowledges that occupants of South Oxfordshire make some use of services in Reading. However, not to the extent that this has any significant bearing on the pattern of growth planned for. Despite the fact that the Parish and Reading directly abut, road and public transport linkages north of the built-up area are poor. Services and facilities within the Parish are very limited.
42. Given that the development would otherwise directly adjoin and be accessed from within Reading, future occupants would inevitably make use of its services and facilities. This is notwithstanding some uncertainty over the operation of catchments which arise from the fact that whilst attached to Reading, the development would remain within a different administrative area.
43. Both RBC and SODC identified concerns over the higher than recommended walking distance from the development to bus stops when assessing the scheme. As noted above, SODC refused permission partly on that basis. The submissions reference sources which cite 400m and 800m as ideal distances. Manual for Streets favours the latter figure, albeit not as a minimum, and in relation to which services should be 'comfortably' reached on foot.
44. Walking to the nearest bus stops towards the southeast of the site would involve use of a potentially unlit path across an open space lacking natural surveillance, and traversing a series of steep to exceptionally steep gradients. The appellant acknowledges this would not provide access for all, and it would undoubtedly be off putting to many, even before taking the longer than ideal walking distance into account. It would also greatly amplify the challenge of carrying additional weight. So much so that use of the bus for shopping trips or onward travel would most

likely be impractical. Whilst accessing bus stops towards the southwest would involve less demanding topography, this would require walking further, partly along lanes lacking pavements.

45. At least in principle the quality of the bus service itself might well make it attractive. However, that would not make it any more accessible or of any greater utility. Though RBC notes the potential for a new loop service to be introduced in relation to recent development towards the south, there is no certainty of this, and my attention has been drawn to the withdrawal of local school bus services. Access to bus transport would therefore exist for future occupants of the development, but the overall level of accessibility and utility would be poor.
46. Despite the peripheral location, energetic future occupants might instead cycle into Reading, or into adjacent parts of the suburban area. However, despite National Cycle Route 5 running past the west side of the site, there appears to be little dedicated cycle infrastructure. Some local services also fall within walking distance, though again, accessing those towards the east would require tackling the same or similar gradients to those outlined in relation to bus stops.
47. Paragraph 110 of the Framework states that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. However, in this case, given that the development seeks to directly extend the urban area of Reading, its poor performance is far more a product of weak functional integration.
48. A 'genuine' choice of transport modes would exist, at least for some, in some limited circumstances, for some limited purposes. Future occupants of the development would not therefore be *wholly* reliant on motor vehicles for travel. Nonetheless, my findings above indicate that even considered in relation to Reading the site would not be optimally, or even well located. Insofar as it has been advanced as a consideration in favour of the scheme, the locational sustainability of the development therefore attracts no more than limited weight.

(c) Housing provision

49. Set within the more general context of boosting the supply of homes, the development would provide up to 70 dwellings. If accepting the appellant's claim of deliverability, these dwellings would help to dent the current shortfall in SODC's 5YHLS. Whilst this is a consideration which attracts significant weight, the scale of the contribution and related economic benefits would be modest, reflecting the scheme's 'small-medium' size bracket.
50. Within this context the provision of up to 28 affordable homes would represent no more than a policy compliant proportion of an otherwise non-compliant development. Here South Oxfordshire is not unusual in exhibiting an unmet need for affordable housing. However, only 16 households on SODC's register indicate a preference for Kidmore End. Given that the development would not form a complementary part of any existing settlement within the Parish, it appears unlikely that those preferences would be directly satisfied. Excess provision would not respond to any locally identified need below district level, nor, despite effectively being an extension of Reading, would the development satisfy any need generated there.
51. Paragraph 82 of the Framework states that in rural areas planning decisions should be responsive to local circumstances and support housing developments that

reflect local needs. In this case the proposed provision of affordable housing would not effectively respond to the existing pattern of need, settlement, or local community. As such it would again demonstrate the scheme's failure to positively respond to and complement its social and spatial context. The same ultimately applies to the scheme's overall provision of housing. I therefore attach no more than limited weight to the scheme's provision of affordable housing, and no more than limited weight to the social benefits of the scheme's overall provision of housing.

(d) Open space and BNG

52. Whilst the proposed housing would be relatively dense, the development would provide significantly more than a policy compliant level of onsite public open space. Mandatory BNG requirements could also be met onsite and perhaps modestly exceeded. In principle, this would offer benefits over and above those required as standard. But how this would constitute an efficient use of the land, or optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development is unclear. With that in mind, I attach limited weight to these benefits.
53. As previously noted, the appellant has also offered a much larger parcel of land adjoining the site as additional public open space that would support additional BNG and related management. This land was only properly defined during the course of the Inquiry, at which time the exclusion of Cucumber Wood from the accessible area was also confirmed.
54. As again noted above, part of the land in question would be required to accommodate works to mitigate and compensate for ecological harm caused by the development. The provision of additional public open space and BNG would not meet any policy or statutory requirement. It would not balance any under provision of anything required onsite, directly address any of the harms I have identified or in some way 'counteract' any policy conflict. As its relationship with and relevance to the development would be at best tenuous, I am not convinced that its provision could be properly secured. Here the caselaw advanced in support of the appellant's approach relates to a different scenario not involving the offsite provision of 'benefits'.
55. Even if I accepted the appellant's approach, when set against the status quo the social and environmental benefits of providing additional offsite public open space and additional BNG would be limited. This is because public access would be formalised in relation to only a small part of the land to which the public already has informal access, and because in the absence of intervention, biodiversity, and any related scenic value would most likely increase naturally as the golf course continued its reabsorption into the landscape.
56. Though there may currently be nothing in place to manage the ecological impacts of informal public access to sensitive parts of the golf course, there is equally nothing preventing such measures from being taken. It remains the case that as actively encouraging access would increase the likelihood of adverse ecological impacts occurring, this would itself generate the need for management.
57. The benefit of providing additional offsite public open space and BNG would not therefore serve to make the development acceptable in planning terms considered either alone or in combination with other benefits.

(e) Infrastructure and service provision

58. The development would provide contributions towards infrastructure and service provision secured by S106, including the full range of contributions sought by RBC in relation to Appeal B. As the purpose of these contributions would be to mitigate the effects of the development, they do not attract weight in its favour. Similar is true of CIL. Insofar as Council tax serves to fund public services used by local residents, it again addresses need generated by development and is not a benefit.
59. The specific need for new pedestrian and cycle links onto Highdown Hill Road and pedestrian access to Kidmore End Road would again be generated by the development. There would be nothing remarkable about the fact that they might also be used by non-residents once constructed.

(f) Balance

60. Having had regard to the Framework's key policies throughout my assessment above, and having found that the benefits of the development would fall far short of the harm that it would cause, I conclude that the adverse impacts of allowing Appeal A would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Other Matters

61. In relation to Appeal B, interested parties have raised a number of objections not addressed within my reasons above. However, having established the unacceptability of the scheme in relation to Appeal A, Appeal B cannot logically be allowed. As outlined above, this is because it forms an integral part of the same scheme, and because it is incapable of being delivered in isolation. There is therefore no need for these matters to be subject of any further consideration.

Conclusion

62. For the reasons set out above the development subject of Appeal A would give rise to conflict with the development plan. In the absence of any other considerations which alter or outweigh this finding, the resulting harm would be unacceptable. Again, for the reasons set out above, this finding indicates that regardless of its judged compliance with the development plan, the development subject of Appeal B would also be unacceptable. I therefore conclude that both Appeal A and Appeal B should be dismissed.

Benjamin Webb

INSPECTOR

APPEARANCES

For the Appellant

Ashley Bowes Counsel for the appellant, Landmark

He called:

Philip Allin	(Planning) Boyer Planning
Andrew Smith	(Landscape/C&A) Fabrik

For SODC

Emmaline Lambert Counsel for SODC, Cornerstone

She called:

Anne Priscott	(Landscape/C&A) Anne Priscott Associates Ltd
Tracy Smith	(Planning) SODC

For RBC

Rob Burns RBC

For KEPC (Rule 6)

John Fitzsimons Counsel for KEPC, Cornerstone

He called:

Bettina Kirkham	(Landscape/C&A) KEPC
Anna Vorster	(Planning) KEPC

For CADRA (Rule 6)

Helen Lambert CADRA

She called:

Nick Haskins	(Planning) CADRA
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Interested Parties

Michael Bishop Local resident

Suzie Bradforth Local resident

Andy Cruse Local resident

Jan Durrant

WADRA

Sarah Eden Jones

Local resident

Jennifer Leach

Outrider Anthems

Charlotte Wooton

Local resident

INQUIRY DOCUMENTS

The list below includes documents missing from the submitted list. Numbering differs.

ID1.	Appellant opening.
ID2.	SODC opening.
ID3.	RBC opening.
ID4.	KEPC opening.
ID5.	CADRA opening.
ID6.	Global Biodiversity Loss, Ecosystem Collapse and National Security: a National Security Assessment.
ID7.	Standing Tall July 2022 – Jennifer Leach.
ID8.	The Land in Relationship – Jennifer Leach.
ID9.	S106 summary (06/05/26).
ID10.	S106 proposed engrossment (06/05/26).
ID11.	S106 with tracked changes (06/05/26).
ID12.	Ecology Co-op letter dated 07/05/26 re Highdown Hill link.
ID13.	DSIT press release April 2025: AI Growth Zones.
ID14.	SODC HDT 2019 spreadsheet.
ID15.	SODC HDT 2020 spreadsheet.
ID16.	SODC HDT 2021 spreadsheet.
ID17.	SODC HDT 2022 spreadsheet.
ID18.	SODC HDT 2023 spreadsheet.
ID19.	SODC HDT 2019-23 table.
ID20.	SODC revised CIL compliance statement (11/05/26).
ID21.	SODC S106 monitoring fees.
ID22.	Statement supporting SODC S106 monitoring fees.

ID23.	SODC Open Spaces Strategy January 2017.
ID24.	Ecology Co-op letter dated 08/05/26 re ancient woodland access.
ID25.	Appeal Decision: APP/L3815/W/24/3344538, 3344661, and 3344663.
ID26.	Plan D3456-FAB-00-XX-DR-L-0001 A defining off-site open space.
ID27.	Guidance Note 08/23: Bats and Artificial Lighting at Night.
ID28.	Letter from Andrew Smith to Philip Allin dated 11/05/26 re dark corridor for bats.
ID29.	SODC revised conditions list (11/05/26).
ID30.	RBC revised conditions list (11/05/26).
ID31.	RGC Barbastelle Bat Foraging Observations from Andy Cruse.
ID32.	S106 proposed engrossment (12/05/26).
ID33.	S106 with tracked changes (12/05/26).
ID34.	Plan SDP-XX-XX-DR-D-354 P6 – annotated with land registry parcels.
ID35.	SODC Advice Note on Carbon Reduction March 2026.
ID36.	Appeal decision APP/Q3115/W/23/3322954.
ID37.	SODC closing.
ID38.	KEPC closing.
ID39.	CADRA closing.
ID40.	Appellant closing.
ID41.	Forest of Dean DC v Secretary of State for Communities and Local Government.
ID42.	Cheshire East BC v Communities Secretary (QBD).
ID43.	R. (on the application of Working Title Films Ltd) v Westminster City Council.
ID44.	S106 proposed engrossment (15/05/26).
ID45.	S106 with tracked changes (15/05/26).
ID46.	SODC revised conditions list (20/05/26)
ID47.	RBC revised conditions list (20/05/26)

BY E-MAIL

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London
SW1H 9GL

Your Ref
Our Ref: 164835326.1\673767.07009

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thetreasurysolicitor@governmentlegal.gov.uk
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15 June 2026

Dear Government Legal Department

**PRE-ACTION PROTOCOL LETTER
PROPOSED CLAIM UNDER S288 TOWN AND COUNTRY PLANNING ACT 1990 FOR
STATUTORY REVIEW OF REFUSAL OF PLANNING APPLICATION (APPEAL DECISION
REFS. APP/Q3115/A/25/3377313 AND APP/Q3115/A/25/3377314 DATED 11 JUNE 2026) IN
RELATION TO PLANNING APPLICATION REFS. P25/S1431/O AND PL/25/0691/OUT**

1. THE FIRST DEFENDANT

Secretary of State for Housing, Communities and Local Government of Fry Building, 2
Marsham Street, London SW1P 4DF.

2. OTHER DEFENDANTS

2.1 The following parties shall be served a copy of this letter:

- 2.1.1 South Oxfordshire District Council of Abbey House, Abbey Close, Abingdon,
Oxfordshire OX14 3JE (**District Council**).
- 2.1.2 Reading Borough Council of Civic Offices, Bridge Street, Reading RG1 2LU
(**Borough Council**).
- 2.1.3 Oxfordshire County Council of County Hall, New Road, Oxford OX1 1ND
(**County Council**).
- 2.1.4 Kidmore End Parish Council of 30 Venetia Close, Emmer Green, Reading,
RG4 8UG (**Parish Council**).
- 2.1.5 Caversham and District Residents' Association of 159 Kidmore Road,
Caversham, Reading RG4 7NJ (**CADRA**).

Pinsent Masons LLP

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- 2.2 Should the First Defendant be aware of any other parties to whom this letter should be sent, we should be grateful to be informed so that a copy may be dispatched.

3. **THE CLAIMANT**

Fairfax (Reading) Limited of Buncton Barn, Buncton Lane, Bolney, Haywards Heath RH17 5RE (**Fairfax**), also acting on behalf of Reading Golf Club Limited (**Owner**). Fairfax and the Owner brought the Appeal.

4. **DETAILS OF CLAIMANT'S LEGAL ADVISORS**

- 4.1 The Claimant's solicitors are Pinsent Masons LLP of 1 St Michael's, 36 Jackson's Row, Manchester M2 5AE. The partner with conduct of this matter is Mr Mike Pocock (michael.pocock@pinsentmasons.com) and he is assisted by Ms Emma Hargreaves (emma.hargreaves@pinsentmasons.com).

- 4.2 The Claimant has sought advice from us and from Dr Ashley Bowes of Landmark Chambers, 180 Fleet Street, London, EC4A 2HG in the preparation of these potential grounds of claim.

5. **DETAILS OF THE MATTER BEING CHALLENGED**

- 5.1 The decision dated 11 June 2026 with references APP/Q3115/A/25/3377313 and APP/Q3115/A/25/3377314 by a Planning Inspector (appointed by the First Defendant) to dismiss the Claimant's appeal against the District Council's decision to refuse planning permission (Ref: P25/S1431/O) and the Borough Council's failure to determine the planning application (Ref: PL/25/0691/OUT) within the prescribed period (**Appeal**).
- 5.2 The respective planning applications sought approval for "*up to 70 residential units (including affordable housing) new vehicular access, associated parking and landscaping (all matters reserved except for access)*" (**Proposed Development**), to be undertaken on land at Kidmore End Road, Oxfordshire, RG4 8SG (**Site**).

6. **THE ISSUE AND RELEVANT FACTUAL BACKGROUND**

- 6.1 The Claimant applied to the District Council and the Borough Council for planning permission for the Proposed Development.
- 6.2 The District Council refused the planning application by decision notice dated 3 December 2025 and the Borough Council failed to determine the planning application within the prescribed period. The Claimant subsequently lodged an appeal under section 78 of the Town and Country Planning Act 1990 (**TCPA 1990**) (**Appeal**).
- 6.3 The Appeal was heard by an Inspector (Benjamin Webb) appointed by the First Defendant by way of Inquiry which closed on 15 May 2026. The Inspector refused the Appeal (**Decision**) for the reasons set out within the decision letter issued 11 June 2026 (**DL**).
- 6.4 The Claimant is of the view that the Decision of the Inspector was not within the powers of the Act and is therefore contemplating bringing a claim under section 288 TCPA 1990.
- 6.5 Accordingly, and pursuant to the Practice Direction on Pre-Action Conduct, the Claimant sets out below the basis for that claim with a view to avoiding extensive litigation or, at least, narrow the issues in dispute.



7. PROPOSED GROUNDS OF CHALLENGE

For the reasons set out below, the Decision was not within the powers of the TCPA 1990. Each Ground critically undermines the Inspector's planning balance at DL,60.

Ground 1: the Inspector excluded obviously material considerations in the form of (i) off site BNG and (ii) off-site open space and/or failed to supply legally adequate reasons

- 7.1 The Claimant put before the Inspector an executed planning obligation, which secured land adjacent to but outside the red-line of the Appeal Site as open space and land for the realisation of biodiversity net gain.
- 7.2 It was common ground with the other parties to the Appeal that those were benefits which could lawfully and properly be taken into account. Indeed, the District Council and the Claimant were also largely agreed that these benefits carried moderate to significant weight in the balance.
- 7.3 At DL,54 however, the Inspector concluded that *"I am not convinced that its provisions could be properly secured"*. It is not altogether clear what the Inspector means by that observation. Plainly the executed planning obligation "secured" those benefits, as it bound the Site Owner (and any successor in title) to provide the land (within their ownership) as open space and BNG and manage and maintain it accordingly.
- 7.4 It appears from DL,54 and 57 that perhaps the Inspector concluded that he was precluded from considering those benefits in the planning balance by virtue of Regulation 122(2) Community Infrastructure Levy Regulations 2010 (**CIL Regulations**) because they were not "necessary to make the development acceptable in planning terms".
- 7.5 If that is what the Inspector meant, the Inspector's reasons at DL,54 reveal a legal misunderstanding of Regulation 122, or at least give rise to a substantial doubt whether or not he correctly understood Regulation 122:
- 7.6 First, the fact that the off-site public open space and BNG *"would not meet any policy or statutory requirement"* did not denude them of being material planning considerations, applying the legal principles laid down in **Wright v. Forest of Dean Council** [2019] 1 WLR 6562 at [44]. They were plainly proposed for a planning purpose (i.e. the provision of open space and BNG are both planning policy objectives). Moreover, they were plainly fairly and reasonably related to the Proposed Development, in that they were proposed on land adjacent to the Site (on land within the same legal ownership) and for the use and enjoyment of the future occupiers of the Proposed Development (in addition to the general public).
- 7.7 Second, as was drawn to the Inspector's attention, a planning obligation may be "necessary" because it was advanced to outweigh a policy conflict, even though it was not addressing a particular policy requirement, see: **R(Working Title Films Ltd) v. Westminster CC** [2016] EWHC 1855 (Admin) at [25]. It was common ground that the Proposed Development conflicted, at the very least, with the settlement boundary policies of the development plan, see STRAT1, STRAT2 and H1 South Oxfordshire Local Plan and Policy LCI Kidmore End Neighbourhood Plan. The Inspector also identified a conflict with those policies. It follows that the over provision of open space and BNG off-site was not an unlawful breach of Regulation 122 of the 2010 Regulations. The Inspector was in error to confine himself to thinking that a benefit may only be



relevant if it “*would ... balance any under provision of anything required onsite, directly address any of the harms ... or in some way ‘counteract’ any policy conflict*”.

- 7.8 Third, at DL,57, the Inspector appeared to think that because the off-Site open space and BNG would not, by themselves, serve to make the Proposed Development acceptable in planning terms that it could not be taken into account. That is plainly wrong. Regulation 122 does not require a consideration to itself render the entire scheme acceptable in order to be taken into account. Indeed, even, if a consideration is not compliant with Regulation 122 CIL Regulations, that would not make it immaterial, simply that it could not form the reason for granting permission. As Ouseley J held in **HJ Banks & Co v. SSHCLG** [2018] EWHC 3141 (Admin) at [60], a consideration which was not CIL compliant could not form the reason for granting permission but that did not mean it was an immaterial consideration.
- 7.9 For the above reasons, the Inspector failed to take into account material obligations in the planning balance which he was bound to take into account. He appeared to do so on a legally flawed understanding of Regulation 122 CIL Regulations. At the very least, the Inspector’s reasons give rise to a substantial doubt whether he appreciated the meaning and effect of Regulation 122 CIL Regulations.

Ground 2: the Inspector excluded mandatory considerations when concluding the site was a valued landscape

- 7.10 At DL,18, the Inspector concluded that the Site was a valued landscape within the meaning of paragraph 187(a) NPPF. The Inspector arrived at that conclusion simply because the Site was identified in the Kidmore End Neighbourhood Plan as being “locally valued”. In short, the Inspector treated the identification of the landscape as being “locally valued” as conclusive as to whether it fell within paragraph 187(a) NPPF. The baldness of that approach is revealed at DL,18 where the Inspector said:
- “Given that this and the above leaves no room for doubt I am content to proceed on the basis that it is unnecessary for the status of the LVL to be subject to any future consideration”*
- 7.11 The Council agreed with the Claimant that the Site did not fall within a “valued landscape” within the meaning of paragraph 187(a) NPPF. The Claimant noted that the Site fell within a locally valued designation within the Kidmore End Neighbourhood Plan and called evidence, from Mr Andrew Smith, which disputed that the landscape met the necessary physical attributes which took the Site outside ordinary countryside.
- 7.12 Whether a Site comprises a valued landscape within the meaning of paragraph 187(a) NPPF is a planning judgment for the decision maker. The relevant question to ask is whether the site has “*physical attributes which took it out of the ordinary*”, see **Forest of Dean DC v. SSCLG** [2016] EWHC 2429 at [29]. The Courts have held that is a mandatory material consideration which arises by implication of the policy wording (at now) paragraph 187(a) NPPF.
- 7.13 Again, the relevant case law was drawn to the Inspector’s attention in the Claimant’s Closing Submissions (see paragraph 15).
- 7.14 Ignoring those considerations, the Inspector proceeded to find the Site fell within paragraph 187(a) NPPF solely on the basis that the Site was identified as being a locally valued landscape in the Neighbourhood Plan. That was plainly wrong. As Lieven J held in **Nixon v. East Hertfordshire DC** [2020] EWHC 3036 (Admin) at [54] it was an error of law to consider that:



“... the only relevant matters in determining whether this was a valued landscape were any statutory status or what was specifically identified in the Development Plan.”

- 7.15 The Inspector has therefore failed to engage with the evidence from the Claimant to the effect that the Site did not reveal the necessary physical attributes which took it out of the ordinary. Those were material considerations to which he was bound to have regard. The Inspector has fallen into the error of thinking that the only relevant consideration at paragraph 187(a) NPPF is whether the Site was identified in the Development Plan.
- 7.16 The consequence was that the Inspector wrongly applied the higher policy test at paragraph 187(a) NPPF (instead of that at paragraph 187(b) NPPF) and, expressly, considered the harm to the landscape to be “amplified” by virtue of being in a valued landscape, see DL,29.

Ground 3 the Inspector treated obviously material considerations as legally irrelevant when applying paragraph 14 NPPF and/or failed to supply legally adequate reasons for distinguishing the other decisions

- 7.17 The parties to the Appeal agreed that paragraph 14 NPPF was engaged. The Claimant advanced the case that the weight to attach to the policy presumption was limited given the context and extent of shortfall in housing land supply.
- 7.18 At DL,34-38, the Inspector addressed that argument and concluded at DL,40, against the Claimant, that the conflict with the neighbourhood plan carried substantial weight.
- 7.19 In arriving at the conclusion, the Inspector directed himself at DL,38 that the following considerations were not capable of being relevant to the question of weight to attach to the policy presumption at paragraph 14 NPPF:
- 7.19.1 the level of five year housing land supply.
 - 7.19.2 past performance in delivery.
 - 7.19.3 the outdatedness of policies.
 - 7.19.4 the lack of policies in the neighbourhood plan addressing changes arising from a revised housing requirement.
- 7.20 Whether a consideration is legally capable of being a material planning consideration is a question of law. If a decision taker proceeds on the misapprehension that he is precluded from taking a relevant consideration into account, which he was invited to take into account, that may form the basis to quash the decision, see: **R(Copeland) v. London Borough of Tower Hamlets** [2010] EWHC 1845 (Admin).
- 7.21 It is well-established that any consideration relating to the use and development of land, or which serves a planning purpose in that it relates to the character of the use of land, is legally capable of being a relevant planning consideration, see: **Westminster City Council v. Great Portland Estates Ltd** [1985] AC 661, 670; **Stringer v. Minister of Housing and Local Government** [1970] 1 WLR 1281, 1294.
- 7.22 Applying those principles, the considerations urged upon the Inspector and summarised by him at DL,38 were plainly relevant considerations to the weight to attach to the presumption at paragraph 14 NPPF. Indeed, they were so obviously material that it was irrational for him to have excluded them when applying paragraph 14 NPPF.



- 7.23 DL,37 reveals that the Inspector understood paragraph 14 NPPF to be only ever capable of being engaged with equal weight. That was plainly wrong. The application of paragraph 14 NPPF is not a binary exercise, it establishes a presumption which is capable of being outweighed. Critical to undertaking that exercise is the weight to attach to the presumption and other material considerations. It is well established that the context and extent of the shortfall in housing land supply are relevant considerations bearing on striking such a planning balance, see **Suffolk Coastal DC v. SSCLG** [2016] EWCA Civ 168 at [47] and **Hallam Land v. SSCLG** [2018] EWCA Civ 1808 at [51].
- 7.24 By treating himself as legally precluded from taking account of the considerations at DL,38 when applying paragraph 14 NPPF, the Inspector erred in law.
- 7.25 In the alternative, even if the Inspector understood that he was legally permitted to take those considerations into account but chose not to, he erred in law by failing to supply reasons to distinguish the other appeal decisions which took a different view.
- 7.26 When developing the argument that the weight to attach to the presumption at paragraph 14 NPPF varied according to the factors identified at DL,38, the Claimant drew to the Inspector's attention other appeal decisions where that had been the finding of those Inspectors, in its closing submissions:

"56. The Appellant accepts paragraph 14 NPPF is engaged. However, whether in a given case, the conflict with the neighbourhood plan outweighs the benefits is plainly context specific. The other appeal decisions tell us that factors will include:

a. Whether the neighbourhood plan has been updated to reflect an up-to-date housing requirement.¹

b. The significance and persistence of the housing shortfall.²

c. The consequences for a rigorous application of the spatial strategy of the neighbourhood plan.³

d. Whether the location of the proposed development would be sustainable.⁴

e. Whether the neighbourhood plan has allocations which are designed to meet an identified need and whether the neighbourhood plan area has experienced a scale of growth above its allocation.⁵

f. The scale of the housing benefits which would be delivered by granting permission.⁶"

- 7.27 Those other appeal decisions were material considerations to which the Inspector was obliged to have regard. He was not bound to follow the conclusions of the Inspectors but, before disagreeing with a critical aspect of their reasoning, he was obliged to have regard to the principle of consistency and supply reasons for taking a different view,

¹ CD .8.1 Chalgrove (3370273) DL,173.

² CD 8.2 Fontwell (3349836) DL,74.

³ Ibid.

⁴ Ibid at DL,75.

⁵ CD 8.9 Benson (3374232) DL,126.

⁶ Ibid.



see: **DLA Delivery Ltd v. Baroness Cumberlege of Newick** [2018] PTSR 2063 at [29] and **North Wiltshire DC v. SSE** (1992) 65 P & CR 137, 145.

- 7.28 The Inspector acknowledged those other decisions had been drawn to his attention at DL,34 however made no attempt to grapple with their reasoning, let alone supply reasons for distinguishing his inconsistent conclusion from theirs. By concluding as he did at DL,38, the Inspector was necessarily disagreeing with critical aspects of the reasoning of those Inspectors (to the effect that those considerations were obviously material considerations to the application of paragraph 14 NPPF) without any reasons. By proceeding in that way, the Inspector breached the duty upon him to supply reasons to disagree.

Ground 4: the Inspector acted in breach of natural justice

- 7.29 A party to a planning appeal is entitled to know the case they have to meet and have an adequate opportunity to make submissions and/or adduce evidence in response, see: **Hopkins Developments Ltd v. SSCLG** [2014] EWCA Civ 470 at [47].
- 7.30 It is well established that if an Inspector wishes to depart from the common ground of the parties, he ought to expressly raise that prospect and afford the parties an opportunity to comment, see: **Castleford Homes Ltd v. Secretary of State for Environment, Transport and the Regions** [2001] PLCR 29 at [53] and [65].
- 7.31 At DL,52 the Inspector notes the provision of open space and biodiversity net gain on-site would exceed the policy requirements on the Site and therefore “*would offer benefits over and above those required as standard*”.
- 7.32 However, the Inspector reduced the weight he would otherwise attach to those benefits because it was unclear to him whether “*it would constitute an efficient use of the land, or optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development*”.
- 7.33 At no point did any party to the Appeal suggest that the Parameters Plan would fail to constitute an efficient use of land or optimise the potential of the site to accommodate an appropriate mix of development. Indeed, by the end of the inquiry, it was expressly common ground with the District Council that the scheme **did** make an efficient use of land and that the mix was appropriate (following answers given by Ms Tracy Smith on behalf of the District Council in cross examination).
- 7.34 The Inspector therefore acted in breach of the rules of basic procedural fairness by taking into account those considerations as a basis to reduce the weight to the benefits, without affording the Claimant an opportunity to respond. Had the Inspector properly raised the prospect that he wished to pursue his own enquiry into whether the site made an efficient use of land or accommodated an appropriate mix, the Claimant could have engaged an urban design witness to address those questions. By failing to raise the issue, the Inspector has prejudiced the Claimant by depriving them of the opportunity to make submissions and/or call evidence to meet those points.

Ground 5: the Inspector acted irrationally by taking into account public access to the Site itself

- 7.35 The Inspector was told expressly that there were no public rights of access over the Site. Moreover, it was not contested by any party that the Owner could exclude the public from the Site at will (see the Claimant's Closing Submissions paragraph 19(a)).



- 7.36 However, at DL,23, the Inspector took into account the change in visual effects which would be experienced by members of the public who presently had found their way onto the Site. Indeed, that formed the basis for the Inspector to depart from the Claimant's view and the District Council's visual effects experts and identify a much wider spread perception of change.
- 7.37 The Inspector also took into account the unauthorised access at DL,55 when reducing the weight to the provision of off-Site public open space (on the counterfactual that he took that into account).
- 7.38 The Inspector had no evidential basis on which he could rationally conclude that any observed trespassers would continue to be allowed to be on the Site. The Inspector thereby irrationally characterised the baseline by treating informal access as though it were an established or continuing recreational use, despite the absence of any public rights of access, any legal mechanism securing access, or any evidence that the landowner would permit it to continue.
- 7.39 It was accordingly irrational to take into account the change in visual effects experienced by people who had no right to be on the Site and whom the Owner could have restrained from being on the Site when considering the change represented by the Proposed Development.
- 7.40 Moreover, it was an irrational application of planning policies (in particular DES1, DES2, ENV1 Local Plan and LPLV, LCSS Neighbourhood Plan), to take into account the effects on unauthorised users of Site.

Ground 6: the Inspector's treatment of the benefit of market and affordable housing was internally inconsistent

- 7.41 Both the District Council and the Claimant agreed the provision of market and affordable housing should carry at least significant weight.
- 7.42 The Inspector appeared to accept that common ground at DL,49 however at DL,51 appears to suggest that the benefit of market and affordable housing should attract "*no more than limited weight*".
- 7.43 If DL,49 and 51 address different benefits, the Inspector failed to identify what weight he gave to each in the final balance. If they address the same benefit, the reasoning is internally inconsistent. Either way, the informed reader cannot understand what weight was given to the principal benefit of the Proposed Development at DL,60.

Overall

- 7.44 The Claimant does not consider that but for those errors it can be said that the decision would necessarily have been the same, such as to justify not quashing the decision, cf. *Simplex GE Holdings Ltd v Secretary of State for the Environment* [2017] PTSR 1041.

8. CONCLUSION

For all of the above reasons, the Claimant considers that the decision of the Inspector was unlawful and should be quashed.



9. **THE DETAILS OF THE ACTION THE FIRST DEFENDANT IS EXPECTED TO TAKE**

- 9.1 The First Defendant is requested to confirm that, if a claim is issued, he will consent to judgment on any or all of the above grounds and pay the Claimant's costs of bringing the claim.
- 9.2 Confirmation that the First Defendant will accept service of court documents by email and, if so, the email address to which such documents should be sent.

10. **ADR PROPOSALS**

The Claimant considers the First Defendant is now *functus officio* and the decision can only be quashed by order of the Court.

11. **DETAILS OF ANY INFORMATION SOUGHT**

The First Defendant is requested to provide details of any materials or information that the Inspector reviewed to inform his decision that had not been submitted into the Appeal.

12. **ADDRESS FOR REPLY AND SERVICE OF COURT DOCUMENTS**

- 12.1 Please provide response to this letter and serve all court documents by email to all of the following:

12.1.1 Michael.pocock@pinsentmasons.com

12.1.2 Emma.hargreaves@pinsentmasons.com

- 12.2 We confirm that we will accept electronic service of documents on the basis that they are sent to both of the above email addresses.

13. **PROPOSED REPLY DATE**

Given deadline for making a claim, the Secretary of State is requested to provide a response within 14 days of receipt and no later than on **29 June 2026**.

Yours faithfully

Pinsent Masons LLP

This letter is sent electronically and so is unsigned

CC: the other defendants at Paragraph 2



Government Legal Department

Fairfax (Reading) Limited
c/o Michael Pocock and Emma Hargreaves
Pinsent Masons LLP

By email: Michael.pocock@pinsentmasons.com
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Your ref: 164835326.1\673767.07009
Our ref: Z2608267/LTM/JD3

29 June 2026

Dear Michael Pocock and Emma Hargreaves

**Fairfax (Reading) Limited v 1. The Secretary of State for Housing, Communities and Local Government
2. South Oxfordshire District Council 3. Reading Borough Council & Others**

**Response to Pre-Action Letter Regarding Proposed Claim under s288 Town and Country Planning Act
1990 for Statutory Review of Refusal of Planning Application (Appeal decision refs.
APP/Q3115/A/25/3377313 and APP/E0345/W/25/3377314 dated 11 June 2026) in relation to Planning
Application refs. P25/S1431/O and PL/25/0691/OUT**

1. This is a letter of response to your letter before claim on behalf of your client, Fairfax (Reading) Limited, also acting on behalf of Reading Golf Club Limited, dated 15 June 2026. This letter is sent on behalf of the Secretary of State for Housing, Communities and Local Government, in accordance with the provisions of the Pre-Action Protocol for Judicial Review.

The proposed Claimant

2. The proposed Claimant is Fairfax (Reading) Limited of Buncton Barn, Buncton Lane, Bolney, Haywards Heath, RH17 5RE ("**the Claimant**"). They are represented by Pinsent Masons LLP.

The proposed Defendant

3. The proposed Defendant is the Secretary of State for Housing, Communities and Local Government.
4. The Secretary of State's legal representative is:

Government Legal Department
102 Petty France
Westminster
London
SW1H 9GL

Clare Dedman - Head of Division
Fiona Montgomerie - Deputy Director, Team Leader Planning and Infrastructure Projects



5. Leigh McGeeney is the GLD case holder for this matter. Contact details are as follows:

Leigh McGeeney
Planning and Infrastructure Projects Team
Justice and Development Division, Litigation Directorate
Government Legal Department
leigh.mcgeeney@governmentlegal.gov.uk

References

6. Your reference as stated in your letter is: 164835326.1\673767.07009. Our reference is: Z2608267. Details for service of documents are set out below at the end of this letter.

Interested Parties

7. We note the list of proposed other Defendants listed at paragraph 2.1 of your letter.

The details of the matter being challenged

8. The decision dated 11 June 2026 with references APP/Q3115/A/25/3377313 and APP/E0345/W/25/3377314 by a Planning Inspector (appointed by the Secretary of State) to dismiss the Claimant's appeal against South Oxford District Council's decision to refuse planning permission (Ref: P25/S1431/O) and Reading Borough Council's failure to determine the planning application (Ref: PL/25/0691/OUT) within the prescribed period.

Response to the proposed grounds of challenge

9. The proposed claim will be defended in full.

Ground 1: the Inspector excluded obviously material considerations in the form of (i) off site BNG and (ii) off-site open space and/or failed to supply legally adequate reasons

10. The Inspector did not exclude consideration of (i) off-site BNG; or (ii) off-site open space. They were expressly considered in the decision letter, under the heading "Open Space and BNG". DL52 deals with on-site open space and BNG. DL53-57 then consider off-site open space and BNG.
11. In DL54, the Inspector expressed doubts as to whether this off-site open space and BNG could properly be secured. However, in DL55 he proceeded on the basis that it could be secured: "Even if I accepted the appellant's approach...". He went on to consider the weight to be afforded to those benefits in the circumstances. In DL55-56, he gave reasons why he considered the additional benefits of the off-site BNG and open space to be limited.
12. In DL57 he expressed the overall conclusion that these benefits, would not themselves or in combination with the other benefits serve to make the development acceptable in planning terms. Contrary to 7.8 of the PAP, this was not a conclusion that the benefits could not be taken into account. Rather, the Inspector concluded that they did not outweigh the harms, whether by themselves or in combination with other matters.
13. Accordingly, no arguable error of law arises. The Inspector did not fail to take the benefits into account. He simply reached a planning judgment as to weight. He gave legally adequate reasons for that judgment.
14. For the avoidance of doubt, it is not accepted that there was any error in the reasoning set out in DL54 or misunderstanding of the tests set out in regulation 122 of the Community Infrastructure Levy Regulations 2010. However, it is unnecessary to address that point further given that consideration was, in any event, given to the weight to be attached to these off-site benefits. They were not excluded from consideration.

Ground 2: the Inspector excluded mandatory considerations when concluding the site was a valued landscape

15. The case law relied on in the pre-action letter needs to be understood in its context. *Stroud District Council v SSCLG and Gladman Developments Ltd* [2015] EWHC 488 (Admin), *Forest of Dean District Council v SSCLG and Gladman Developments Ltd* [2016] EWHC 2429 (Admin), and *Nixon v Secretary of State for Housing, Communities and Local Government* [2020] EWHC 3036 (Admin) are authority for the proposition that a landscape may be a “valued landscape” even though it is not subject to a “designation”. In other words, the concept of a “valued landscape” is “not confined to landscapes which have a particular designation”: see *CEG Land Promotions II Ltd v Secretary of State for Housing, Communities and Local Government* [2018] EWHC 1799 (Admin) at [56].
16. In each of *Stroud*, *Forest of Dean*, and *Nixon* the landscape was not designated. The alleged error was failing to go on to consider whether the landscape was nonetheless a “valued landscape” because of demonstrable physical attributes which were such as to take it out of the ordinary. In each instance the Inspectors had, on a proper reading of the decision letters, gone on to consider whether the landscape should nonetheless be a “valued landscape”. They had each concluded that the landscape was not a “valued landscape”. There was no error in their approaches.
17. As Ouseley J explained in *CGE Land Promotions* at [58], in using the phrase “demonstrable physical attributes” in *Stroud* he was simply using the phrase adopted by the Inspector in that case. He made clear at [59] that consideration of this issue does not need to be confined to the appeal site: c.f. the formulation of the relevant test at 7.12 of the PAP Letter.
18. None of these cases dealt with a landscape which was already the subject of a landscape designation as a “valued landscape”. That was the situation which this Inspector had to consider, and his conclusions must be read in that context.
19. As the Inspector recognised at DL17, the site is designated as a “valued landscape” under the Local Valued Landscape Policy of the Kidmore End Neighbourhood Development Plan 2022. This designation was imposed because it was considered that the landscape had “...demonstrable physical attributes which collectively and individually raise the landscape well above the ordinary...” (see supporting text at 11.26).
20. As the Inspector explained, the introductory and supporting text of the policy designation referred to the relevant legal authorities, including *Stroud*, the GLVIA Box 5.1 exercise and the designation was supported by background assessments which demonstrated that the landscape satisfied the criteria for a valued landscape. As the Inspector noted, this had all been subject to a recent examination and was looked at in significant detail by the examiner.
21. In this context, the Inspector’s approach was entirely appropriate. There was a detailed evidence base, sitting behind the designation, which the Inspector had regard to. This addressed the issue of whether the landscape was a valued landscape, including consideration of the issue of “demonstrable physical attributes”. He was satisfied that this left “no room for doubt” as to whether the landscape was a valued landscape within the meaning of paragraph 187(a) of the NPPF. It was not only the fact of the designation which the Inspector considered, but the evidence base in support of it. He was not persuaded by the Claimant’s argument to the contrary.
22. Following DL18, there is then a discussion of the qualities of the landscape, including those of the site. With the conclusion being reached in DL24 that the site “demonstrates and helps to express key attributes and values of both the LCA [Landscape Character Area] and LVL [Locally Valued Landscape]” and that these findings “underline both the important and positive contribution that the site makes to the LVL.” The characterisation of the Inspector having simply accepted the designation without more is therefore unjustified. In DL25, the Inspector explained why he considered that the proposed development would “erode the rural character of both the LVL and Parish more generally”.
23. Read as a whole, the Inspector did not treat the designation in isolation as determinative of the issue. Instead, he relied on the designation, the evidence base supporting that designation and his own assessment as set out in DL18-25. There was no arguable error of law. The Claimant’s case depends on misreading DL18 and ignoring the analysis that follows.

Ground 3: the Inspector treated obviously material considerations as legally irrelevant when applying paragraph 14 NPPF and/or failed to supply legally adequate reasons for distinguishing the other decisions

24. The Inspector's consideration of paragraph 14 of the NPPF discloses no arguable error of law. He did not treat the factors in DL38 as legally irrelevant. Instead, he explained why, on the facts of this case, they did not diminish the weight to be given to the paragraph 14 protection.
25. At DL33, the Inspector recorded his agreement with the common ground that paragraph 14 was engaged. In DL34, the Inspector explains that the word 'likely' in paragraph 14 meant that conflict with a neighbourhood plan would not always significantly and demonstrably outweigh the benefits. This was a proper understanding of the policy.
26. Within DL34, the Inspector also had regard to the various appeal decisions relied on by the Claimant. He noted that this was a "very small sample size", insufficient to identify "any trend", and that there would be "differing circumstances of any given case" which may give rise to difference in how paragraph 14 is applied. He therefore did not consider these appeal decisions to bind his approach. This was obviously correct. The Claimant's own Closing Submissions recognised that "whether in a given case, the conflict with the neighbourhood plan outweighs the benefits is plainly context specific."¹ As the Inspector explained each decision was, therefore, likely to turn on its own facts. With this in mind, the Inspector was right to have primary regard to the national policy. There was no error in this approach.
27. In DL35, the Inspector explained the purpose and operation of paragraph 14 of the NPPF, again there is no criticism of this explanation in the pre-action letter.
28. In DL36, the Inspector explained that the protection afforded by paragraph 14 is not contingent on there being a particular level of 5YHLS or past performance in delivery. Nor, as set out in DL37, is it contingent on all policies being up to date. These are all matters which might engage paragraph 11(d) of the NPPF and consequently, where applicable, paragraph 14 of the NPPF. Again, all of this is correct.
29. This analysis formed part of the reasoned conclusion in DL38 that "Absent other considerations..." those factors did not cancel out or diminish the weight of protection conferred by paragraph 14. The Inspector was not saying that these matters could not reduce the weight as a matter of law. That is not a fair reading of the decision letter, given the introductory words of DL38. Instead, he was making a judgment as to how the policy should be applied on the facts of this case.
30. The reasoning in DL38 needs to be read with DL39, where the Inspector explains that "A key consideration in this regard is the absence of any evidence which indicates that it is likely that SODC will seek to address its shortfall by directing development of the type and scale proposed towards the Parish". The point being made was that these factors were not likely to result in development of this type and scale being directed towards the Parish, or indeed to this location, through plan making. Were the facts of the case different, the analysis might well have been different. The Inspector was simply applying the policy to the facts of this case.
31. This ground of challenge is therefore based on a misreading of the decision letter. The Inspector did not say that the factors identified in DL38 were legally irrelevant to the application of paragraph 14 of the NPPF. Instead, he considered that "Absent other considerations..." they were not such as to reduce the weight of protection afforded by the paragraph 14. This was plainly a matter of planning judgment.
32. As to the other decisions relied on by the Claimant, they do not engage the principle of consistency of decision making. They are examples of how the paragraph 14 exercise has been approached by other decision makers, on the facts of other cases. Each will be context specific. Even were such a principle to be said to be engaged, the reasoning in the decision letter dealt with them adequately. The Inspector explained that they turned on their own facts and did not consider the sample size to be sufficient to draw any trends from them. This was a reasonable basis on which to distinguish them. The Inspector

¹ Appellant's Closing Submissions at §56.

was right to have primary regard to the terms of national policy and to the facts of the case he was considering.

Ground 4: the Inspector acted in breach of natural justice

33. This ground is based on a false premise. It is said that the Inspector did not raise the issue of whether the proposed development would constitute an efficient use of land.
34. However, we are instructed that the Inspector asked the appellant's planning witness whether the over provision of on-site public open space would constitute an efficient use of land. This question was asked following the cross-examination of the appellant's planning witness and before re-examination.
35. It was therefore a point which the appellant's planning witness had the opportunity to address and the appellant's counsel had the opportunity to revisit during re-examination and / or in closing submissions. Indeed, the appellant's counsel asked his witness about the issue of the development proposal making an efficient use of land in re-examination.
36. Therefore, the prejudice alleged simply did not arise. An Inspector is entitled to raise matters during an inquiry and to ask questions of a witness. Had the appellant considered that it was necessary to have more time to deal with this point, then that request should have been made before the close of the inquiry. No such request was made.
37. In those circumstances, any suggestion of procedural unfairness is unsustainable.

Ground 5: the Inspector acted irrationally by taking into account public access to the Site itself

38. The characterisation of the baseline (including levels of informal public access) against which to assess the impact on character and appearance of the area and the weight to be given to the proposal to formalise public access to certain areas was a matter of planning judgment for the decision maker. The Inspector had the benefit of site visits to make his own observations as well as evidence he heard at the inquiry, including from the local community. His approach falls far short of the high threshold for *Wednesbury* irrationality.
39. In DL22, the Inspector noted "the ongoing and apparently long history of public access to the golf course, as well as past public use of the golf course itself." This concerned both use by the public as a golf course and for other purposes. In DL23, the Inspector noted that "[t]hough public access for purposes other than playing golf may have been informal, and may continue to be informal, that does not mean that in this case it is irrelevant or something to be set aside." He gave reasons for this assessment: [1] there was nothing to suggest any serious attempt is currently being made to prevent it; [2] free and easy access is facilitated by pedestrian gates, including from adjoining gardens; and [3] in the absence of the proposed development, the appellant has not indicated any steps are going to be taken to prevent access in the future. Further to this, the Inspector noted in DL23 that numerous members of the public had been making recreational use of the former golf course on his site visits, representations by local residents further attest to such use, and therefore what he had observed was not considered to be unusual. This was all sound reasoning for considering the existing public access.
40. The Inspector was under no misapprehension as to the nature of that access, he appreciated that it was not pursuant to any formalised public right of way. Whilst the appellant had asserted in Closing Submissions that the access could be removed tomorrow, as the Inspector noted, there were no steps which were proposed to prevent any access from continuing. In these circumstances, it was (at the very least) open to the Inspector to take the existing public access into account in assessing the impacts and benefits of the scheme.
41. Finally, it is noted that the language of "observed trespassers" used in the pre-action correspondence contrasts with the way in which the proposal to "formalise the public access" was put in the Appellant's Closing Submissions.

Ground 6: the Inspector's treatment of the benefit of market and affordable housing was internally inconsistent

42. As a starting point, the weight to be given to all material considerations is a matter for the decision maker. That two main parties may have agreed a weighing to be given to a particular material consideration does not bind the decision maker.
43. DL49 is principally concerned with the numerical contribution to supply and related economic benefits of the delivery of housing. In contrast, DL 50-51 address the responsiveness of that provision to matters including the spatial strategy and local need, in order to assess the social benefits of the delivery of housing. These are different considerations related to the provision of housing and there is no reason why the weight attached to these considerations should necessarily be the same.
44. There is no internal inconsistency in the reasoning. The reality is, the Inspector did not consider the site to be an appropriate location for housing in terms of addressing its social or spatial context. This was clearly explained throughout the decision letter, see for example DL 15, and was reflected in the weighting he gave to the social benefits of the provision of housing in that location.

Conclusion

45. For the reasons summarised above, none of the proposed grounds discloses an arguable error of law. The claim will therefore be resisted in full.

ADR Proposals

46. We do not consider that ADR is appropriate or would result in an outcome that your client would deem satisfactory.

Response to request for action, information, and documents

47. Paragraph 11 of your letter requests that the First Defendant provide details of any materials or information that the Inspector reviewed to inform his decision that had not been submitted into the Appeal.
48. We are instructed that the Inspector did not consider any material other than that submitted to the Inquiry and national policy in making their decision.

Address for further correspondence and service of court documents

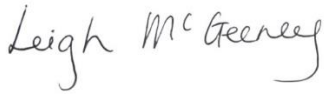
49. Please address all future correspondence regarding this proposed claim to Leigh McGeeney.
50. We hope you are not going to issue a claim in respect of this matter, but should you wish to please note that new legal proceedings issued in the UK which are required to be served on the Treasury Solicitor (save for immigration proceedings, costs claims in immigration proceedings and proceedings against the Legal Aid Agency or the Director of Legal Aid Casework) can be served as follows:

By email to newproceedings@governmentlegal.gov.uk. GLD would be grateful if, where possible, all new proceedings were served electronically and hard copy documents are not also sent to our postal address.

51. Please copy Leigh McGeeney into the service of proceedings. Service will only be valid however if effected by emailing the new proceedings email address.

52. Once new proceedings have been validly served, all subsequent service within those proceedings of documents, should be effected on the currently allocated GLD case officer by email to their GLD email address unless the parties to the proceedings are informed of other arrangements.

Yours sincerely



Leigh McGeeney
For the Treasury Solicitor

D 07355 029114

E leigh.mcgeeney@governmentlegal.gov.uk

CC representatives of:

South Oxfordshire District Council of Abbey House, Abbey Close, Abingdon, Oxfordshire OX14 3JE
(District Council)

Reading Borough Council of Civic Offices, Bridge Street, Reading RG1 2LU (Borough Council)

Oxfordshire County Council of County Hall, New Road, Oxford OX1 1ND (County Council)

Kidmore End Parish Council of 30 Venetia Close, Emmer Green, Reading, RG4 8UG (Parish Council)

Caversham and District Residents' Association of 159 Kidmore Road, Caversham, Reading RG4 7NJ
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