



# Hearing Statement

Examination of the Housing and Economic Development,  
Development Plan Document Submission Draft

for The Trustees of Hammond Ground

17-282

Project : 17-282  
Description : Examination of the  
Housing and Economic  
Development,  
Development Plan  
Document Submission  
Draft  
Client : The Trustees of  
Hammond Ground  
Date : 07 December 2017  
Author : Ben Pycroft  
Approved by : Rawdon Gascoigne

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## 1. Introduction

- 1.1 This statement is submitted on behalf of the Trustees of the Hammond Ground in response to the Inspector's Main Issues and Questions set out in the Inspector's Letter of 2<sup>nd</sup> November 2017. It should be read alongside the previous representations made on behalf of the Trustees of Hammond Ground by Dickman Associates Ltd.
- 1.2 Our client has appealed against the Council's decision to refuse to grant outline planning permission for up to 50 no. dwellings at their land at Hammond Ground, Whalley Road, Read (LPA ref: 3/2016/1192). The appeal will be heard at a public inquiry, which opens in May 2017. The appellant does not agree that the Council can demonstrate a deliverable five year supply of housing land as it is required to do by paragraph 47 of the NPPF and therefore considers the tilted balance set out in paragraph 14 of the NPPF applies. Emery Planning will be presenting the evidence in relation to housing land supply at the inquiry. We have also been instructed to provide this hearing statement and attend the housing session at the examination into the HED DPD on behalf of the Trustees of the Hammond Ground to identify our serious concerns.
- 1.3 In response to the Inspector's questions, we refer to the Council's latest Housing Land Availability Schedule (HLAS), which was published in November and has a base date of 30<sup>th</sup> September 2017. As this document has been prepared after the HED DPD was submitted, our client has not had the opportunity to comment on it until now.

## 2. Issue 2 – Housing

### **a) Is the amount of land allocated for housing sufficient to meet the CS requirements?**

- 2.1 No. As the Inspector is aware, the HED DPD only allocates two sites in Mellor and Wilpshire on the basis that the Council claims these are the only settlements where there is an outstanding requirement for housing once completions and extant permissions have been taken into account. We consider that further sites should be allocated to ensure that the minimum requirement set out in the Core Strategy is achieved.
- 2.2 The Core Strategy sets out a minimum housing requirement of 5,600 dwellings to be delivered between 2008 and 2028. In the first 9.5 years of the plan period however, only 2,011 dwellings were delivered against a requirement over the same period of 2,660 dwellings. This leaves a

minimum of 3,589 dwellings to be delivered in the remaining 10.5 years of the plan period (i.e. an annual average of 341 dwellings in each and every one of the monitoring years to 2028).

2.3 The table on pages 7 and 8 of the HLAS show that at 30<sup>th</sup> September 2017 there were planning permissions for 3,956 dwellings. This would mean a flexibility of around 10% above the residual minimum requirement of 3,589 dwellings. However, it is our view that not all of these 3,956 dwellings will be delivered in the plan period for the following reasons.

- Firstly, not all of the sites with planning permission where construction has not started will be delivered in the plan period. Indeed, the HLAS applies a 10% slippage rate to these sites; and
- Secondly, four of the very large sites will plainly not deliver in full in the plan period. We discuss these sites below.

### **Site 1 – Standen Strategic Site (HLAS – pages 34 and 35)**

2.4 The Standen strategic site is allocated for 1,040 dwellings in the plan period 2008 to 2028. According to the Core Strategy (pages 178 and 179), it was due to start delivering dwellings in 2016/17 at a rate of 100 dwellings per year. That did not happen. At 30<sup>th</sup> September 2017, it had still not delivered any dwellings but was reported as being “under construction”. Taylor Wimpey is in the process of constructing the first phase of the development called “Half Penny Meadows”. The first dwellings are now said to be completed in May 2018.

2.5 The HLAS considers that this site will deliver 200 dwellings in the five year period from 1<sup>st</sup> October 2017 to 30<sup>th</sup> September 2022. We consider that this is optimistic as no dwellings are expected until May 2018 and the average build rate experienced across the Borough is 30 dwellings p.a. However, even if that happened, it would leave the remaining 840 dwellings to be delivered over the remaining 5.5 years of the plan period. This would mean an unrealistic build rate of 152 dwellings per annum, far in excess of even the 100 dwellings per annum suggested in the Core Strategy.

2.6 Furthermore, there is no evidence at all that the site will deliver 100 dwellings per annum. In particular, we have seen no market evidence at all to substantiate this un evidenced and implausible delivery rate. Should such evidence be produced, we reserve the right to comment on the same. If it is not, we would invite the Inspector to call for it.

2.7 Consequently, it is clear that the Standen site is not going to deliver in full in the plan period. In our view, a significant number of dwellings will be remaining at the end of the plan period. However, we would welcome the opportunity to comment further on this at the hearing sessions once we have seen the Council's trajectory for the site in its response to the Inspector's question 2b) below.

## Site 2 – West of Whalley Road, Barrow (HLAS – pages 21 and 22)

2.8 The phasing on this site is as follows:

- Phase 1 = 183 dwellings;
- Phase 2 = 83 dwellings;
- Phase 3 = 90 dwellings;
- Phase 4 = 79 dwellings
- Phase 5 = Primary School

2.9 This is shown in the following plan submitted as part of the reserved matters application (LPA ref: 3/2017/0064):



2.10 The first phase of the site will be developed by Redrow. Paragraph 6.6 of the planning statement in support of the 183 dwelling reserved matters application states:

*“This reserved matters application provides reassurance that this residential development will come forward and make a meaningful contribution to the Council’s five year supply of housing land. The application seeks approval for 183 dwellings to be delivered in the first Phase of development with the applicant intending to deliver the first dwellings within the monitoring year 2018.”*

2.11 There is no evidence that there will be more than one developer at the site at this stage. The reserved matters for phase 1 included all of Redrow’s own house types.

2.12 In terms of the later phases, whilst a reserved matters application has been made for the remainder of the land, this was by the landowner and essentially keeps the outline permission alive.

2.13 The HLAS considers that the site will deliver 180 dwellings in the five year period from 1<sup>st</sup> October 2017 to 30<sup>th</sup> September 2022. We consider that this is optimistic as no dwellings have yet been completed and the average build rates experienced across the Borough is 30 dwellings p.a. Redrow’s build rate at its site in Whalley was 25 dwellings p.a. However, even 180 dwellings were delivered by 30<sup>th</sup> September 2022, this would leave the remaining 228 dwellings to be delivered over the remaining 5.5 years of the plan period (i.e. 1<sup>st</sup> October 2022 to 1<sup>st</sup> April 2028). This would mean a build rate of 41 dwellings per annum, which is higher than the average rate of 30 dwellings per year. Consequently, we do not consider this site will deliver in full in the plan period.

### **Site 3 – Land off Waddington Road, Clitheroe (HLAS – page 40)**

2.14 The site has outline planning permission for 275 dwellings, which was granted on 6<sup>th</sup> March 2015 (LPA ref: 3/2014/0597). A reserved matters application has not been made at the time of writing. Whilst the site was to be developed by Morris Homes, we understand that this is no longer the case and it is currently being marketed. Nevertheless, a reserved matters application or new outline application is likely to be made before the outline permission expires in March 2018.

2.15 The HLAS considers that the strategic site will deliver 110 dwellings in the five year period from 1<sup>st</sup> October 2017 to 30<sup>th</sup> September 2022, with a start on site in year 2 (i.e. 1<sup>st</sup> October 2018 to 30<sup>th</sup>

September 2019). We consider that this is unrealistic given the fact that a reserved matters application has not yet been made and then there will be a lead-in time from the commencement of development to the delivery of dwellings. Once the lead-in time has been extended, this would mean that the site will not be delivered in full in the plan period.

#### **Site 4 – Land east of Chipping Lane, Longridge (HLAS - pages 46 and 47)**

2.16 The site has outline planning permission for 363 dwellings and reserved matters have been approved for 118 dwellings (LPA ref: 3/2016/0193 – approved September 2016). The site is being developed by Barratt Homes and is known as “Bowland Meadow”. The previous HLAS (October 2016 – page 49) confirmed that a start on site had been made by 30<sup>th</sup> September 2016 but no dwellings had been delivered by then. This remains the case in the current HLAS (October 2017). The latest position is set out on Barratt Homes’ website, which states:

*“Groundworks are now underway at Bowland Meadow and our first families will move in to their new homes in Spring 2018.*

*We opened our brand new sales centre this autumn and expect to open the Show Homes early next year”.*

2.17 On this basis, the first dwellings would not be complete until April 2018 (i.e. 18 months after the approval of reserved matters).

2.18 The HLAS considers that the site will deliver 150 dwellings in the five year period to 30<sup>th</sup> September 2022. We consider that this is optimistic as no dwellings are expected to be completed until spring 2018. Once the lead-in time has been extended, this would mean that the site will not be delivered in full in the plan period.

#### **Affordable housing**

2.19 In addition to the above, there is a pressing need for new affordable housing in Ribble Valley:

- The Strategic Housing Market Assessment (SHMA, December 2008) concluded that the net annual housing need of social rented dwellings was 264 dwellings per annum.
- The Council’s “Addressing Housing Need in Ribble Valley” (June 2011) confirmed that Ribble Valley has the lowest provision of social housing in the North West with 0.7% of the total stock being social rented units.
- The 2013 SHMA updated the 2008 SHMA and took account of the guidance in the NPPG. It concluded that there was a **net annual need of 404 affordable dwellings in Ribble Valley** for the first five years.



- The Core Strategy Inspector took into account a recalculation based on a higher percentage (35%) of income spent on housing than the SHMA did (25%), this would reduce the net annual need to **264 affordable homes**. The Inspector also took into account 154 households living in private rented accommodation, but still found the scale of need to be 114 dwellings per year for the first 5 years.

2.20 The HLAS confirms that there have been just 561 affordable dwellings delivered between 1<sup>st</sup> April 2008 and 30<sup>th</sup> September 2017, or only 22% when compared to the requirement of 2,508 (i.e. 9.5 years X 264). The number of affordable dwellings completed has therefore been significantly below the needs identified.

2.21 Taking into account the points we have raised above regarding the slippage on the very large sites in both the plan period, further sites will be required to deliver affordable housing in the plan period.

### **Additional flexibility**

2.22 Taking the above into account, we consider that additional flexibility should be made to account for the slippage that is being experienced and therefore to assist the Council in:

- Achieving the minimum housing requirement over the plan period;
- Addressing unmet affordable housing needs; and
- Demonstrating a deliverable five year supply of housing land.

2.23 The Local Plans Expert Group published its report to the Communities Secretary and to the Minister of Housing and Planning in March 2016. The report recommends at paragraph 11.4 that the NPPF should make clear that local plans should be required not only to demonstrate a five year land supply but also focus on ensuring a more effective supply of developable land for the medium to long term (over the whole plan period), plus make provision for, and provide a mechanism for the release of, developable Reserve Sites equivalent to 20% of their housing requirement, as far as is consistent with the policies set out in the NPPF. Reserve Sites represent land that can be brought forward to respond to changes in circumstances.

2.24 At present the recommendations of the Group are just that; recommendations. However their conclusions reflect precisely the concerns that we have in respect of the Ribble Valley Local Plan. There is insufficient flexibility to deal with changing circumstances, specifically a failure to deliver housing at the anticipated rates. We consider that a much higher flexibility allowance is

required, in the order of 20%. This would give a reasonable degree of security that should sites not deliver at the rates anticipated, a five year housing land supply could still be maintained and the requirement met over the plan period.

**b) Is there a housing trajectory for the delivery of housing on the strategic site and the principal settlements? 1040 dwellings are identified for Standen over the plan period where will the remainder of the housing requirement be provided?**

2.25 No. The only trajectories we are aware of are:

- The trajectory set out on pages 178 and 179 of the Core Strategy. This is clearly already out of date as it shows completions in excess of 400 dwellings in 2014/15 and 2015/16, when in reality 345 and 300 dwellings were achieved in those years and it shows completions in excess of 600 dwellings in 2016/17, when 390 dwellings were completed. As discussed above, the trajectory in the Core Strategy also assumes that the sites at Standen and Barrow (i.e. sites 1 and 2 above) will deliver 100 dwellings p.a. each starting in 2016/17. This did not happen; and
- The trajectory set out for 4 sites on pages 12 and 13 of the HLAS.

2.26 We note that note 8 on page 179 of the Core Strategy states the housing trajectory will be reviewed and updated on a regular basis, but this has not happened in the three years since the Core Strategy was adopted.

2.27 In the event the Council produces a housing trajectory, as it is required to do by paragraph 47 of the NPPF, we welcome the opportunity to comment further on this point at the examination hearing sessions.

**c) Will the distribution, capacity and speed of deliverability (with regard to viability and infrastructure) of the sites, including those allocated in the DPD and the Standen strategic site, satisfy the provision of a 5 year housing land supply?**

2.28 No. Our view is that the Council cannot demonstrate a 5YHLS for the reasons summarised below.

**Application of the 20% buffer**

2.29 Whilst in previous HLAS reports (including that with a base date of 30<sup>th</sup> September 2016), the Council accepted that there had been persistent under delivery and therefore applied the 20%

buffer, it now considers there has not been persistent under delivery and only applies a 5% buffer.

2.30 However, in a recent appeal decision dated 25<sup>th</sup> October 2017 regarding land at Lower Standen Hey Farm in Clitheroe (appended at **EP1**); the Inspector concluded that there is a persistent record of under delivery in Ribble Valley because the Council had failed to meet the annualised requirement taking into account of the backlog.

2.31 In terms of whether persistent under delivery has occurred in Ribble Valley, we set out in the table below the completions against the requirement since the start of the plan period in 2008 as follows:

Year	Requirement (dwellings p.a.)	Completions (net)	Over / under provision	Cumulative
2008/09	280	75	-205	-205
2009/10	280	89	-191	-396
2010/11	280	69	-211	-607
2011/12	280	147	-133	-740
2012/13	280	172	-108	-848
2013/14	280	183	-97	-945
2014/15	280	345	65	-880
2015/16	280	300	20	-860
2016/17	280	390	110	-750
01/04/17 – 30/09/17	140	241	101	-649
<b>Total</b>	<b>2,660</b>	<b>2,011</b>	<b>-649</b>	
<b>Average</b>	<b>280</b>	<b>212</b>		

2.32 As set out above, despite achieving over 280 dwellings in the last 3.5 years, in each and every one of the six previous years (i.e. 2008/09 to 2013/14), the Council under delivered against the annual housing requirement by a significant margin. This has led to a significant cumulative backlog of 649 dwellings, which equates to over 2.3 years of unmet need (i.e.  $649 / 280 = 2.3$ ).

2.33 In summary, completions have only exceeded the requirement in 3.5 years of the last 9.5 years. As paragraph 3-035 of the PPG sets out, a longer term view needs to be taken by the decision maker to take into account the peaks and troughs of the housing market cycle. On this basis, it is clear that the 20% buffer applies in Ribble Valley.

2.34 Within this context, we refer to recent appeals made by Arnold White Estates Ltd against the decisions of Aylesbury Vale District Council to refuse to grant planning permission for residential development at land at Littleton Manor Farm, Bicester Road, Waddesdon (PINS refs: APP/J0405/W/16/3152120 and APP/J0405/W/16/3152132). The appeals were dealt with by way of a public inquiry, which took place in April 2017. The decision notice was issued on 10<sup>th</sup> July 2017. In allowing one of the appeals and dismissing the other, the Inspector concluded that a 20% buffer should apply as completions had only met the requirement in 3 of the last 10 years. Whilst in that case there was no cumulative backlog due to completions in the last two monitoring years (2014/15 and 2015/16), the Inspector still concluded that there had been persistent under delivery (please see paragraph 91 of **EP2**).

2.35 Once the 20% buffer is applied, even on its own figures, the Council's supply figure is reduced to a highly marginal 5.15 years (an "oversupply" of just 76 dwellings).

### Build rates

2.36 Paragraph 3-033 of the PPG states that the Council's trajectory should take into account (amongst other things) local delivery record. We have reviewed the local delivery record in Ribble Valley on sites in the supply of 50 dwellings or more, which had made completions in 2016/17 (i.e. the last whole monitoring year) and note that the average build rate is around 30 dwellings per annum. This is set out in the following table:

Site / Development	Housebuilder	Capacity	Average annual build rate
Pendle Hill View, Barrow	Bloor	113	33
Valley View	McDermott	57	25
Henthorn Road	TW DWH	270	38 38 (76 in total split between 2 housebuilders)
Primrose Mill	Miller	126	26
Lawson Rise	Redrow	54	25
Monks Cross	DWH	138	21
Abbeyfields	Bellway	71	32
		<b>Total</b>	238
		<b>Average</b>	<b>29.75</b>

2.37 On this basis, we consider that a build rate of 30 dwellings per annum should be applied to the large sites in the Council's supply.

### **Lead-in times**

2.38 As discussed above, the lead-in times on four large sites (i.e. the time assumed before dwellings are delivered on sites) should be extended to reflect the fact that dwellings will not be delivered until spring 2018 in the case of land at Standen, Barrow and Chipping Lane, Longridge and further back in terms of Waddington Road to allow for the submission of a further application. This has an impact on the five year supply figure as fewer dwellings will be delivered in the five year period as a result. Collectively, this results in a deduction from these sites of 175 dwellings once a build rate of 30 dwellings per annum has also been applied.

2.39 The lead-in times for other sites are also unrealistic. For example, the Council claims that the site at land east of Clitheroe Road (Lawsonsteads), Whalley (page 60 of the HLAS) will deliver 160 dwellings per annum in the five year period, yet it was not under construction on 30<sup>th</sup> September 2017. Redrow originally controlled the site, then Bloor Homes. Bloor Homes no longer intend to develop the site and therefore the site will need to be sold to another house builder, who will need to re-apply for permission for their own house types.

2.40 There have now been two housebuilders who have controlled the site but no longer have any commitment to build on the site. This is partly because of the extent of the drainage issues on the site, which would need to be resolved.

2.41 On this basis, we do not consider that 160 dwellings will be developed on this site in the five year period. The lead-in time should be extended for the site to be sold and new applications made and approved and a start on site made. This results in a deduction of 100 dwellings.

2.42 The Council also includes 275 dwellings in its supply from Land west of Preston Road, Longridge. (HLAS, page 50). The site has outline planning permission, which was granted in September (LPA ref: 3/2016/0974). The lead-in time for this site should be extended to allow the site to be sold to a developer and a reserved matters application prepared, submitted and approved and then a start on site made and infrastructure put in place. The build rate should be 30 dwellings. This means that 75 dwellings could be delivered in the five year supply, a deduction of 200 dwellings.

## Windfall allowance

2.43 The Council includes a small sites windfall allowance of 115 dwellings. This is based on the average number of dwellings which were completed or under construction on windfall sites between 2008 and 2014, which equated to 23 dwellings per annum.

2.44 Whilst we accept that small windfall sites will come forward in the five year period, we consider that an allowance should only be applied in years 4 and 5 of the five year period to avoid double counting. The reason for this is because the Council already includes small sites within its supply with planning permission at the base date, which would have been on windfall sites. To then include an additional 23 dwellings per annum would be double counting. Assuming that the small sites with planning permission at the base date will be delivered within 3 years (i.e. because planning permission would expire beyond three years), the windfall allowance would only apply in years 4 and 5. This results in an allowance of 46 dwellings and a deduction of 69 dwellings in the five year supply.

## Conclusions regarding five year supply

2.45 Our view is that the Council cannot demonstrate a deliverable five year supply of housing land as shown in the table below. To address this issue, additional sites should be allocated in the HED DPD.

	Requirement	Council + 20%	Emery Planning
A	Local Plan housing requirement (1 <sup>st</sup> April 2008 to 31 <sup>st</sup> March 2028)	5,600	5,600
B	Annualised net Local Plan housing requirement (5,600 / 20 years)	280	280
C	Five year net Local Plan housing requirement	1,400	1,400
D	Net housing shortfall 1 <sup>st</sup> April 2008 to 30 <sup>th</sup> September 2017 (2,660 requirement – 2,011 completions)	649	649
E	Five year requirement including backlog (C + D)	2,049	2,049
F	Buffer	410	410
G	Total supply to be demonstrated (E + F)	2,459	2,459
H	Annual average (G / 5)	492	492
	<b>Supply</b>		
I	Council's five year supply	2,535	1,991
J	Five year supply (I / H)	<b>5.15</b>	<b>4.05</b>
K	Over / under supply over the five year requirement plus buffer (I – G)	<b>76</b>	<b>-468</b>

### **3. Appendices**

- EP1. Appeal decision regarding land at Standen Farm, Clitheroe
- EP2. Appeal decisions regarding land at Littleton Manor Farm, Bicester Road, Waddesdon

EP1





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# Appeal Decision

Site visit made on 10 October 2017

**by Roger Catchpole DipHort BSc(hons) PhD MCIEEM**

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

**Decision date: 25<sup>th</sup> October 2017**

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**Appeal Ref: APP/T2350/W/17/3174924**

**Lower Standen Hey Farm, Whalley Road, Clitheroe BB7 1EA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Dummer against the decision of Ribble Valley Borough Council.
  - The application Ref: 3/2016/1196, dated 20 December 2016, was refused by notice dated 28 February 2017.
  - The development proposed is the erection of 5 no. dwellings and associated works.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. As the proposal is near a listed building I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
3. The Council has an emerging plan that is yet to be adopted. Consequently, this appeal will be determined in accordance with the extant development plan having regard to the emerging policies, insofar as they may be relevant, and the National Planning Policy Framework 2012 (the Framework).
4. The appellants have drawn my attention to an appeal decision<sup>1</sup> relating to a nearby building to the west of the appeal site. Whilst I have paid careful attention to this decision, the circumstances are not similar in all respects because it is not within the setting of the listed building, has a significantly greater regard for its immediate landscape context, relies upon a more innovative design approach and predates the existing development plan. Consequently, this appeal has been determined on its individual merits and the evidence before me.

## Main Issue

5. The main issue is the effect of the proposal on the character and appearance of the local area, bearing in mind the special attention that should be paid to the setting of the nearby Grade II listed building, 'Lower Standen Farmhouse'.

## Reasons

6. The appeal site is situated near the southernmost extent of the market town of

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<sup>1</sup> APP/T2350/A/12/2186164

Clitheroe. It comprises an extended curtilage of a listed farmhouse and an area of adjacent pasture that fronts onto the A671. The land generally rises from this road towards the farmhouse and is physically separated from the settlement by Pendleton Brook. The proposal comprises five detached dwellings arranged along an east-west axis. Access to the site would be via an existing driveway that links the A671 to a cluster of residential dwellings to the south west of the appeal site.

### *Character and appearance*

7. 'Lower Standen Farmhouse' (Ref: 1072091) dates from the early 19<sup>th</sup> century and has a number of curtilage structures to the rear that have been converted for residential use. The farmstead occupies an elevated position in the landscape to the west of the A671. Historic mapping confirms the presence of the farmstead and indicates that it was surrounded by agricultural land. The building comprises a single range with a subservient, later addition projecting from its northern gable end. It is constructed from coursed rubble which is covered in pebbledash render on its front elevation. This building has an unusual single storey and two storey bow window either side of its main entrance.
8. Whilst the setting of the building has been subject to domestication, with over-sized barn conversions and the construction of a modern bungalow immediately to the south, it nevertheless retains an agricultural character. This is because the farmyard to the rear and pasture around the front still remain clearly legible. As these features are indicative of its former use they are of evidential value. Notwithstanding the nearby bungalow, the buildings occupy a visually distinct position in comparison to the main settlement and, in landscape terms, are consequently read as a farmstead rather than as a residential development. Given the above, I find that the setting of the listed building, insofar as it relates to this appeal, to be primarily associated with the extended curtilage and pasture to the northeast of this building.
9. I observe from the plans and my site visit that the proposal would lead to a significant reduction in the openness of the nearby pasture and that the listed building would no longer remain legible as a semi-isolated building associated with a former farmstead, despite the retention of a small area of pasture in the southern part of the appeal site. I accept that this would maintain a primary view of the main elevation with glimpses of the farmyard beyond. However, this ignores the views of the wider farmstead, as set out above, which also contribute to its setting and thus its evidential value.
10. Consequently, I find the assessment of heritage significance too narrowly defined and therefore somewhat contrived. Furthermore, the suggestion that the proposal would be less harmful than changes that have already occurred carries little weight as the existence of harm is not a justification for further harm. Bearing in mind the existing rural character and appearance of the site, when viewed from the A671, I also find that the proposal would have a highly incongruent, suburbanising effect on the immediate area. This would not only result from the staggered, linear layout of the buildings and their regimented roof form, but also the associated hard landscaping, plot subdivision and domestic paraphernalia of future occupants.
11. Whilst I accept that more distant, undefined, vantage points may give rise to an inter-visibility that might suggest that the proposal is an integrated

extension of the southern settlement boundary, this is not how the proposal would be experienced by the majority of people who would regularly view the site from the A671. The appellants are of the opinion that the proposal would be well related to more recent development to the north of the appeal site. However, the open countryside is clearly demarcated at this point by the topography and vegetation associated with Pendleton Brook. Whilst similar in design, the proposal would result in the disruption of an otherwise visually distinct settlement boundary. Given the above, I find that the proposal would not only harm the setting of the listed building but would also be detrimental to the character and appearance of the rural landscape to the south of Clitheroe.

12. This impact would be significant given the high degree of visual prominence of the site. I observed that the proposal would be clearly visible to southbound road users given the rising ground, low stone wall and small number of intervening, deciduous trees. Whilst the trees are mature and would provide some screening during summer months this would not be the case during winter months when the scheme would be clearly visible. In any event, the trees are an impermanent feature that could be removed or die from natural causes at any time on the basis of the evidence that is before me. This also applies to the evergreen, boundary vegetation further to the south. If lost, the scheme would become clearly visible to northbound road users as well. As I have no planning mechanism before me to ensure the retention of these features, they cannot be relied upon to mitigate the harm that I have identified.
13. Paragraph 132 of the Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Given the separation distances and retention of some of the pasture, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight. Under such circumstances, paragraph 134 of the Framework advises that this harm should be weighed against the public benefits of the proposal. Clearly, the proposal would make, an albeit, small contribution to housing provision and would be sustainably located in close proximity to a settlement with a wide range of services and alternative modes of transport. However, I do not find that this outweighs the harm that would be caused to the setting of the listed building to which considerable weight and importance must be attached.
14. Given the above and in the absence of any significant public benefit, I conclude that the proposal would fail to preserve the setting of the Grade II listed building. This would fail to satisfy the requirements of the Act, paragraph 134 of the Framework and conflict with key statement EN5 and policies DMG1 and DME4 of the Ribble Valley Borough Council Core Strategy 2008-2028 (2014) (CS) that seek, among other things, to ensure that the settings of heritage assets are conserved and protected and that all development has regard to its surroundings, including any impact on landscape character. As a result, the proposal would not be in accordance with the development plan.

#### *Housing land supply*

15. Clitheroe is designated a Principal Settlement in Key Statement DS1 of the CS

which seeks to guide development to the most appropriate locations within a series of identified settlements. When development occurs outside settlement boundaries, as defined by the retained proposals map of the former local plan, it is deemed to be in the open countryside and policies DMG2 and DMH3 of the CS apply. The appellants accept that the site is outside the currently defined settlement boundary but are of the opinion that it may be subject to change in the emerging plan. However, the Council have indicated that there are no unresolved objections to the position of the settlement boundary at this location and that it will therefore remain unaltered on the emerging proposals map. Bearing in mind the late stage of the emerging plan, I give this some weight in the planning balance of this appeal.

16. Policy DMG2 indicates, among other things, that development in the open countryside will be required to be in keeping with the character of the landscape. This would clearly not be the case, as set out in paragraph 10-12 of this decision. Policy DMH3 goes on to identify a number of exceptions where development may be permitted. None of these apply in this particular instance and this fact is not disputed. However, the appellants have disputed the presence of a deliverable 5-year housing land supply (HLS) which, if accepted, could lead to the engagement of paragraph 49 of the Framework which, in turn, would engage the so called 'tilted balance' as set out in paragraph 14 of the Framework. Irrespective of any conclusion relating to 5-year HLS, paragraph 14 would not be engaged, however, because of the harm that I have identified to the setting of the designated heritage asset. This is because footnote 9 of paragraph 14 of the Framework indicates that development should be restricted under such circumstances.
17. The Council has indicated that it has a 5.73-year HLS which is based on information from April 2017 which is materially different from the position at determination which was based on information from September 2016. Despite this fact, the appellants maintain that a deliverable 5-year HLS is not present. This is because they contend that a 5% buffer should not have been applied and that the available housing land supply has also been overestimated.
18. Turning to the first matter, the Council has justified the use of a 5% buffer through the application of a 'housing delivery test', as set out in a recent Government White Paper<sup>2</sup>. This suggests that a 20% buffer should not apply where completions over the last three years of a monitoring period exceed the annualised requirement, as set out in a development plan. Whilst clearly signalling Government intent, I find the adoption of this approach premature at the current time because it is based on a consultation document that could be subject to change despite the fact that the approach was due for implementation by November 2017. In any event, I note that the Council has used an unadjusted annualised requirement of 280 houses which has failed to account for a backlog of 750 houses which gives a higher annualised requirement of 430. Under such circumstances, it is clear that the Council has failed to meet its annual targets since the beginning of the plan period. As such, I am satisfied that a persistent record of under-delivery is present.
19. Turning to the second matter, the appellants have suggested that there is a shortfall of deliverable housing that amounts to 2,357 homes rather than the 2,588 homes identified by the Council. This difference turns on the

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<sup>2</sup> Fixing our Broken Housing Market. February 2017. HM Government.

deliverability of three sites: Higher Standen Farm; 23-25 Old Row; and Lawsonsteads. The Council concedes that the last site will make a reduced contribution of between 90-120 homes rather than the 160 that has been estimated but is satisfied that the other two sites will deliver the expected number. In relation to the first site, I acknowledge the 'conversation' that occurred with the housebuilder but find that the conclusions have not been substantiated in any written evidence. Consequently, this assertion only carries limited weight in the balance of this appeal. In relation to the second site, I acknowledge that a reserved matters application is still pending and note the site history. However, under the terms of footnote 11 of paragraph 47 of the Framework I am satisfied that the site can still be considered deliverable.

20. Given the above, it follows that a potential shortfall of up to 70 homes would result in a 4.89-year HLS with a 20% buffer and a 5.57-year HLS with a 5% buffer. However, the Council have allowed for a 10% slippage in its calculations for all sites with planning permission or awaiting Section 106 agreements that had not commenced by the 31 March 2017. As this amounts to 177 homes and is not disputed by the appellants, I am satisfied that a 5-year HLS is present at the current time whichever buffer is applied.
21. I acknowledge the evidence concerning the local development land market across the Borough. However, the conclusions were not based upon a full market research report, as indicated in the relevant letter. Moreover, the evidence comprised a single sentence which concluded that there was an upper sales limit in 2016 of around 2 houses per month. This was based upon informal reporting rather than quantitative evidence and lacks a suitable degree of robustness as a result. Furthermore, sales are not the same as completions and asking prices can be adjusted. Consequently, this evidence can only be viewed as subjective, unsubstantiated opinion of a highly generalised nature with no specific link to the above sites. I therefore give it limited weight in the planning balance of this appeal.
22. Given the above, I conclude that the development would be in the open countryside and that the full weight of locational policies applies. The proposal would therefore be contrary to policies DMG2 and DMH3 of the CS and would not be in accordance with the development plan.

### **Conclusion**

23. For the above reasons and having regard to all other matters raised I conclude that the appeal should be dismissed.

*Roger Catchpole*

INSPECTOR

EP2



## Appeal Decisions

Inquiry held on 25, 26 and 27 April 2017

Unaccompanied site visit made on 24 April 2017

Accompanied site visit made on 27 April 2017

**by R J Jackson BA MPhil DMS MRTPI MCMi**

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

**Decision date: 10 July 2017**

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### Appeal A

**Ref: APP/J0405/W/16/3152120**

**Littleton Manor Farm, Bicester Road, Waddesdon,  
Buckinghamshire HP18 0JR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 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 Arnold White Estates Ltd against Aylesbury Vale District Council.
  - The application Ref 16/00752/AOP, is dated 29 February 2016.
  - The development proposed is demolition of agricultural buildings and the construction of a residential development comprising of 16 No dwellings and revised access arrangements.
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### Appeal B

**Ref: APP/J0405/W/16/3152132**

**Littleton Manor Farm, Bicester Road, Waddesdon,  
Buckinghamshire HP18 0JR**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Arnold White Estates Ltd against the decision of Aylesbury Vale District Council.
  - The application Ref 15/02032/APP, dated 11 June 2015, was refused by notice dated 14 December 2015.
  - The development proposed is demolition of existing agricultural buildings and dilapidated farm houses, residential development comprising 2 No replacement dwellings and conversion of three barns to provide 6 No dwellings, a total of 8 dwellings, and new access road.
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## Decisions

### Appeal A

1. The appeal is dismissed and planning permission for demolition of agricultural buildings and the construction of a residential development comprising of 16 No dwellings and revised access arrangements is refused.

### Appeal B

2. The appeal is allowed and planning permission is granted for demolition of existing agricultural buildings and dilapidated farm houses, residential

development comprising 2 No replacement dwellings and conversion of three barns to provide 6 No dwellings, a total of 8 dwellings, and new access road at Littleton Manor Farm, Bicester Road, Waddesdon, Buckinghamshire HP18 0JR in accordance with the terms of the application, Ref 15/02032/APP, dated 11 June 2015, subject to the conditions in the Schedule to this decision.

### **Procedural matters**

3. Appeal A was made in outline. On the application form it was indicated that layout was for consideration, however this would have prevented the implementation of that appeal as well as of Appeal B in the event that both proposals were considered acceptable. At the Inquiry the appellant formally withdrew layout from consideration. The Aylesbury Vale District Council (the Council) indicated that it had no objection to this change and the Inquiry continued on that basis with the layout plan being considered as illustrative. I have considered the appeal on this basis.
4. Following the lodging of Appeal A the Council indicated that had it been in a position to do so it would have refused the application for five reasons. These related to the effect on the character and appearance of the area; on highway safety; the location was considered not to represent sustainable development due to the reliance on the private car for access; insufficient information on drainage and flood prevention measures; and for a lack of financial contributions towards education, leisure, off-site highway works and sustainable travel measures.
5. Following correspondence between the parties the Council withdrew the putative reason relating to flood and drainage matters. However, no Flood Risk Assessment (FRA) had been submitted, and at the Inquiry I asked that one be prepared and submitted. This was subsequently done and this showed that flood risk was not a constraint on development.
6. Consultation was undertaken on the FRA and a response received from the Local Lead Flood Authority (Buckinghamshire County Council (the BCC)) indicating it had no objections subject to conditions on any planning permissions. No response was received from the Environment Agency although the Council indicated that the site is located in Flood Zone 1 and it was not aware of any critical drainage issues. Therefore I am satisfied that, subject to the imposition of appropriate conditions, the site is not at risk of flooding and would not increase flood risk elsewhere and consequently I need not take this issue further.
7. The Council confirmed that following a review it was no longer seeking a contribution towards education facilities.
8. The Council did not refuse Appeal B in relation to its locational accessibility despite a recommendation to that effect from the Highway Authority, considering that other factors outweighed this issue. Evidence was given by a representative of the Highway Authority, although appearing as a witness of the Council, who maintained this objection. I shall therefore consider the locational accessibility of the site as a main issue in relation to Appeal B as well as Appeal A.
9. The two proposals would have different access arrangements with the A41 Bicester Road, with that for Appeal A utilising a redesign of an existing lay-by



to the A41, but with that for Appeal B being for a new access some distance to the west. The appellant confirmed that it was not proposing both accesses, and that in the event that both proposals were found to be acceptable only that access relating to Appeal A would be constructed if both schemes were implemented. If necessary, it was proposed that this be controlled through a planning condition.

10. Before the Inquiry opened the appellant submitted a revised access plan<sup>1</sup> in respect of Appeal A. This involved works either within the public highway or on land adjacent to the public highway in the appellant's ownership. There were no objections to this plan being used although the Council indicated that it did not overcome its objections on highway safety grounds or in relation to the accessibility of the appeal site. I have therefore used that plan in making my decision.
11. Although the appellant disputed that the provisions would comply with the Community Infrastructure Levy Regulations 2010 (as amended) (the CIL Regulations) the appeal was accompanied by a Planning Obligation by way of Unilateral Undertaking dated 27 April 2017 under Section 106 of the Town and Country Planning Act 1990 (as amended) (the 1990 Act) to the Council and the BCC. This made provision for contributions towards open space and leisure, real-time passenger information systems and a travel plan. This will be discussed later in this decision.
12. The Council is preparing the Vale of Aylesbury Local Plan (the VALP), and the Waddesdon Parish Council is preparing the Waddesdon Neighbourhood Plan for submission to the Council. However, it was agreed at the Inquiry that due to the early stage in preparation of both plans neither was of any material weight in this appeal decision.
13. I undertook an unaccompanied site visit before the Inquiry opened circumnavigating the appeal site on the public rights of way network, and undertook a second, accompanied site visit after the Inquiry closed including visiting the appeals site itself.
14. Following the closure of the Inquiry the Supreme Court issued its decision in the cases of *Suffolk Coastal District Council v Hopkins Homes Ltd and SSCLG, Richborough Estates Partnership LLP and SSCLG v Cheshire East Borough Council*<sup>2</sup> (*Suffolk Coastal*). The parties were given the opportunity to make further comments in the light of this decision and I have taken these comments into account.

## Background

15. In 2013 the Council granted planning permission in respect of the site of Appeal B for the conversion of three barns to two dwellings and the construction of two new dwellings as replacement for the pair of existing dwellings on site. In line with the normal time limits for implementing a planning permission this would have expired by the time of the Inquiry. However, in 2016 an application to vary condition 17 of that permission was granted. As this was an application under Section 73 of the 1990 Act this had the effect of granting a new planning permission<sup>3</sup> meaning there was a new

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<sup>1</sup> Drawing No 4956.022 Rev B

<sup>2</sup> [2017] UKSC 37

<sup>3</sup> See paragraph Reference ID: 17a-015-20140306 of the Planning Practice Guidance

3 year period in which to implement that development. Where necessary I will refer to this as "the 2016 permission".

## **Main Issues**

16. In light of the above the main issues are:

(i) For Appeal A only:

- the effect on the character and appearance of the area; and
- whether the proposal makes appropriate provision towards open space and leisure.

(ii) For both appeals:

- the effect on highway safety;
- whether the location of the site is such that the need to travel would be minimised and the use of sustainable transport modes maximised; and
- whether there are any other material considerations, including the housing land supply situation and the benefits of the proposal, which would indicate that the proposals should be determined otherwise than in accordance with the terms of the development plan.

## **Reasons**

### Character and appearance

17. Although this is a main issue only for Appeal A, I will consider the effect of both proposals as this provides context for the consideration of the remaining main issues.
18. The appeals sites are located to the west of the village of Waddesdon on the north side of the A41. The sites are similar comprising a redundant dairy complex made up of a range of traditional and twentieth century agricultural buildings with these latter buildings being mostly constructed from portal frames with sheeting walls and roofing. There is a pair of existing semi-detached dwellings on the site, and there is a straight access to the lay-by off the A41. Immediately to the southeast of the farm complex is an existing bungalow lying outside the appeals sites.
19. The site of Appeal B is the whole of the farm complex, but that for Appeal A is smaller, excluding the site where the buildings would be located in Appeal B and an area to the north of those buildings.
20. The landscape of and around the immediate vicinity of the appeal sites is predominantly flat, although there is some slight variation. For example the appeal site lies on a slight ridge with the land form reducing slightly to the east and west. The landform rises to the village of Waddesdon to the east, with the church and its churchyard on higher ground allowing for a view over the appeal site and the wider countryside, and to the south in the area around the listed Waddesdon Manor. The fields are divided by hedgerows and there are various rights of way both to the east/north and southwest of the appeals sites which facilitate views of the appeals sites.

21. The appellant disputes whether the appeals sites are in the open countryside. While it accepts that the appeals sites do not represent Previously Developed Land as defined in the Glossary to the National Planning Policy Framework (the Framework) as the land was last used for agriculture, it maintains that the site is not a greenfield site as it has buildings upon it.
22. It is not in dispute, however, that the appeal site is some distance and separate from the village of Waddesdon which lies to the southeast. There are intervening fields and, apart from the existing dwellings which appear associated with the farm buildings, the buildings have an agricultural character. They fit within a rural, mainly undeveloped, landscape. In my view the appeal site lies in an area of open countryside separated physically and visually from the village of Waddesdon.

#### *Appeal A*

23. In Appeal A the farm buildings would be removed and replaced by dwellings. Although the layout is illustrative, it shows the form of buildings being set around a number of short cul-de-sacs, with each property set within its own distinct curtilage. With the domestic paraphernalia and other associated activities, such as parking, which would be inevitable around the dwellings, this would result in an isolated enclave of residential development separate from the village. While I noted that there was some existing development separate from Waddesdon, this was in the form of sporadic development in the countryside rather than the more consolidated enclave I have here identified.
24. Policy GP.35 of the Aylesbury Vale District Local Plan (January 2004) (the AVDLP) requires that development should respect and complement the physical characteristics of a site and its surroundings, the historic scale and context of the setting and the natural qualities and features of the area. There was no dispute at the Inquiry that this policy was material to the consideration of the appeal and generally in accordance with the policies in the Framework and, as it is not a relevant policy for the supply of housing, should be given substantial weight.
25. The Framework indicates in paragraph 55 that new isolated homes in the countryside should be avoided unless there are special circumstances. Clearly the new dwellings would not be isolated one from another being part of an enclave of nineteen<sup>4</sup> dwellings (or twenty-five if Appeal B were also to be allowed and implemented), but there would be no facilities or services within the enclave. While the list of special circumstances gives only examples none of those would apply to the proposal. I therefore conclude that the appeal site is located in an isolated location.
26. The main parties at the Inquiry agreed that the proposed dwellings would be smaller both in floor area and volume to the large agricultural buildings on the appeal site and this would improve openness in the area, and this is a truism. However, the existing buildings exhibit their agricultural character and are in keeping with the existing rural character of the area. While the loss of the buildings would be a benefit I can only give this limited weight as, currently, they are not out of keeping with the area.

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<sup>4</sup> The sixteen proposed plus the existing pair of semi-detached properties on the Appeal B site together with the dwelling immediately outside the appeal site, all of which are to remain.

27. That the buildings are redundant from agriculture was not in dispute and I would accept that there is no other incentive for the landowner to remove them. However, at present, they are appropriate within the landscape and there are other powers available to deal with disrepair should this occur.
28. Whatever layout or form of architecture used in any application for approval of reserved matters any residential development would be seen from a number of public vantage points, including from the rights of way network in the area and from the area around the church. It would be a more urban form of development when compared to the existing situation and would significantly and demonstrably be out of keeping with the prevailing form and character of the area of development which is made up of villages or of sporadic development in the countryside.
29. Although the overall site benefits from the 2016 permission (or Appeal B if permitted) this is limited to a small area of the site and would be concentrated on the re-use of existing buildings which would retain, to some extent, the character of their former use or as replacement dwellings. The proposal in Appeal A would be of a different scale and thus of different order of magnitude to the permitted scheme.
30. The appellant notes that the route of HS2 will be located some distance to the north of the appeal site through the same valley and argues that this will alter the character of the area. However, while there would be noise and disturbance when trains traverse the track this would not adversely affect the overall rural character of the area and in time would assimilate into the area, in the same way that the existing railway network constructed in the nineteenth century has assimilated into their areas in other locations.
31. As such the proposal would be significantly and demonstrably out of keeping with the character and appearance of the area. It would therefore be contrary to Policy GP.35 of the AVDLP as set out above. It would also be contrary to paragraphs 17 and 55 of the Framework in that it would not recognise the intrinsic character and beauty of the countryside and as I have set out above.

*Appeal B*

32. When compared to the 2016 permission the main difference in Appeal B is that the existing agricultural buildings would be converted into six dwellings rather than the two previously permitted, with the two separate, replacement, dwellings being the same.
33. Policy RA.11 of the ADVLP permits outside the built-up area of settlements, for non-residential purposes, the conservation and re-use of buildings that are of permanent and substantial construction and in keeping with their rural surroundings. The policy states that residential re-use is unlikely but may be granted exceptionally either as part of a business conversion scheme or where genuine attempts to secure business re-use have been unsuccessful. Where permissible the scale of such conversion schemes should not conflict with the strategy of concentrating development in the main settlements and conversion work should not involve major reconstruction or significant extensions and should respect the character of the building and its setting.
34. The third bullet point to paragraph 55 of the Framework permits, as a special circumstance, the residential re-use of redundant or disused buildings that

lead to an enhancement to the immediate setting; there is nothing in the Framework to indicate that business re-use is a 'first refusal'. In light of this, part of Policy RA.11 is inconsistent with the Framework, and thus in line with paragraph 215 of the Framework, should be given lesser weight.

35. The proposed conversion in Appeal B would be in keeping with the form of the existing buildings and, through the demolition of the buildings shown as part of that proposal, would result in an enhancement to their immediate setting. There would be no difference in respect of the effect of the two replacement dwellings. I am therefore satisfied that, while the proposal would be contrary to that part of Policy RA.11 of the ADVLP relating to the nature of the use, the proposal would comply with the remaining parts of that policy, in that the proposal would not involve major reconstruction or significant extensions and would respect the character of the building and its setting. It would also comply with paragraph 55 of the Framework as set out above.

#### Highway safety

36. As noted above the proposals have different access arrangements proposed, with that for Appeal A to be used in the event that both appeals were to be allowed and implemented. The proposed access for Appeal B (on its own) being a more simple arrangement. The Council's objections to both arrangements were, in principle, the same, although in relation to Appeal A additional concerns were made about the layout, particularly of the proposed pedestrian refuge.
37. There was some conflagration in the discussions at the Inquiry as to whether the proposals would lead to safe access arrangements for pedestrians (including those using wheelchairs and buggies) including crossing the road to the proposed westbound bus stop and accessing the village. In the majority I will consider these users in the next section dealing with whether the site lies in an accessible location, and will pull the whole together in the final Planning Balance section.
38. I was not referred to any development plan policies, but was directed to the Buckinghamshire's Local Transport Plan 4 (LTP4) which was adopted following public consultation by the BCC in 2016. Included within this document is Policy 17 which indicates that BCC will work to ensure that new developments provide safe and suitable access. This is in line with paragraph 32 of the Framework which has, in part, the same objective. I therefore give this part of LTP4 significant weight in this decision.
39. Although it was confirmed there was no objection, in principle, to the provision of new (or improved) accesses to the A41 the Council was concerned about the increase in right hand turning moves across the direction of travel noting the accident record on this road between Waddesdon and the county boundary to the west.
40. There was some dispute over the relevant period as to when accident records should be examined with the Council seeking a longer period as it considered that the appeal site had been effectively unused<sup>5</sup> over recent years when dairy farming ceased. It therefore argued that accident records should be looked at when the site was operational as a dairy farm. However, it seems

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<sup>5</sup> With exception of the movements associated with the three existing dwellings on site and the arable farming of the land as the land has been let out

to me that it is clear that additional right hand turning movements would increase the likelihood of accidents. Rather, what needs to be considered is whether safe and secure access to the site can be achieved so that the risk of accidents would be at an acceptable level, it not being possible to achieve zero risk.

41. It was not in dispute that in both cases appropriate visibility and access geometry would be achieved. It was also the case that the amount of traffic using the site would be such that delays caused to traffic continuing along the A41 would be minimal. The principal concern was that traffic slowing to access the site would result in 'rear end shunts' from traffic wishing to travel along the A41 and not stopping in time.
42. The A41 is a busy road with a significant proportion of Heavy Goods Vehicles (HGVs) upon it. There are a number of junctions both to roads and other facilities either side of the road. However, it is not a road where drivers travelling along the A41 would not expect to slow, or stop, to allow vehicles to turn, nor is it one where they would expect to pass on the inside of those turning. Those turning onto the A41 would expect to have to wait for a gap in the traffic to emerge.
43. Although the two access arrangements are different in both cases there would be adequate visibility for traffic travelling westbound to see that traffic was turning into the appeal site. Appeal A involves the re-configuration of the entrance to the lay-by and in that context would improve the situation for any vehicles travelling westwards to access the lay-by. It was not part of the Council's case that the proximity of the new access in Appeal B to the lay-by would give rise to any additional highway safety concerns.
44. In Appeal A the proposal included a right hand turn arrow marked on the carriageway as well as a straight through arrow. The width of the carriageway would be sufficient for a car to pass on the inside of a car turning right into the site, but not an HGV. While the driver of a car continuing along the A41 would need to slow, a driver of an HGV similarly travelling would have to stop. The view of a driver of an HGV of a car waiting to turn right might be obscured by an intervening car. However, this would be a normal occurrence for the driver of an HGV and one which they would expect to deal with.
45. To get to or from the proposed westbound bus stop the Appeal A proposal would involve installing a crossing point, in the form of a pedestrian refuge crossing, on the A41 a short way to the west of the proposed access linked by footways. I am satisfied that this would provide a safe crossing point of the A41 for all pedestrians.
46. I am therefore satisfied that in both appeals there would not be an unacceptable risk to highway safety for motorised users of the highway. The proposal would therefore comply with Policy 17 of LTP4 and paragraph 32 of Framework in this respect.

#### Locational Accessibility

47. The Framework, in paragraph 34, notes that decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and use of sustainable transport modes can be

maximised. It is noted, however, that account should be taken of policies elsewhere in the Framework, particularly in rural areas such as here.

48. The appeals sites are located some distance from the village of Waddesdon and its facilities. Waddesdon is classified as a 'large village' and has a good range of facilities. Distances from the location of the dwellings to various facilities were agreed by the main parties varying between 1,240 m to the village hall, and 1,800 m to the doctors' surgery. It would be approximately 700 m from the site to the closest, western edge of Waddesdon. Access by pedestrians would be, at least partially as I will explore below, alongside the A41.
49. The existing footway route alongside the A41 varies in quality, with the wider and better maintained footway being towards the village where the speed limit is 30 mph. Beyond the village the national speed limit applies (60 mph), but vehicles on the side of the A41 on the same side as the footway should be slowing on the approach to the village with the uphill topography assisting in reducing speeds.
50. The footway away from the village varies in width but is less than 2 m in width, seen as the minimum unobstructed width for pedestrians in Manual for Streets 1. This document also advises that additional width should be considered between the footway and a heavily used carriageway. In some places the existing footway is separated from the existing carriageway by a grass strip, but in other locations it is immediately adjacent to the carriageway. The Council argued that due to the amount of traffic on the A41, and in particular the quantum of HGVs, there would be a degree of 'kerb shyness' and took the view that additional width should be provided beyond the 2 m set out above.
51. I was referred to a number of different documents providing information relating to pedestrians and how far they are likely to be prepared to travel by foot to get to facilities. None are mandatory or provide absolutes, but they do provide guideline distances. It is also common sense that the further a facility is from home the less likely it would be that an occupier would walk and rather would choose to use a car. In a similar way, if the pedestrian user of the route does not feel safe or secure, they are less likely to walk on that route than one which is more commodious. That a particular distance is beyond the 'maximum' does not mean that it would never be reached by a pedestrian; it is just that it would be less likely.
52. The Chartered Institute of Highways and Transport publication 'Guidelines for Providing for Journeys on Foot' gives various 'suggested walking distances' to facilities. This gives a 'maximum' distance as 1,200 m for facilities other than town centres or schools/commuting, and none of the facilities (apart from the school) meets this criterion. Schools/commuting have a guideline 'acceptable' distance of 1,000 m and a 'maximum' distance of 2,000 m. Manual for Streets gives a 2,000 m maximum distance to services and the Department for Transport<sup>6</sup> gives a 2 mile maximum. Whichever set of guidelines is used, to reach the facilities in the village it would involve a substantial walk and this distance does reduce the likelihood that an occupant of any of the proposed new dwellings would walk to the village, particularly in poor weather.

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<sup>6</sup> In DRMB, Vol 5 – Provision for Non-Motorised Users (February 2005)

*Appeal A*

53. In this proposal various alterations and additions are proposed to enhance, as the appellant sees it, the existing footway provision. From the village the footway would be widened to 2 m (although with a 'pinch point' at the position of a lamppost). It would then be located behind an existing hedgerow, along the edge of the existing field to the end of the existing access to the appeal site from within the lay-by. The field is at a lower level than the footway and at the time of the site visit the top of the hedgerow was around 4 or 5 m above the field. There would be a 'connecting' footway approximately half way along the new footway within the field giving access to the proposed east bound bus stop.
54. To the west of the reconfigured lay-by a 2 m footway would be provided to the pedestrian refuge crossing point previously described, which would then continue on the southern side of the A41 to the new bus lay-by/stop for buses heading west.
55. Although the appellant argued that, due to the scale of the development, the quantum of those looking to use the pedestrian routes to Waddesdon would be limited, it seems to me that if the route is not commodious then it is less likely that it would be used, and this should weigh against the proposal.
56. For that section of the route close to the A41 the amount of traffic, including HGVs, would be such that it would act as a disincentive to the use by pedestrians. For those accompanying small children to and from school there would be the added disincentive that they would also be concerned about the child's safety, however well behaved that child may be.
57. For the section of the route within the field while there would be separation from the traffic on the A41 the route would be isolated. The route is not proposed to be lit and would be in close proximity to the high hedgerow creating an oppressive environment. Although different people would perceive the suitability of the route differently, my overall view was that due to the isolation from the public domain an occupier of the proposed dwellings would not consider it to be a safe and suitable route between the appeal site and the village, particularly at night.
58. The new route would not be designed for use by cyclists who would be expected to use the A41. Use of the new route by cyclists would lead to conflict with pedestrians and further reduce the likelihood that it would be used by pedestrians. Whether the A41 would be used by cyclists would depend on individual choice and the experience of the cyclist. Given the amount of traffic on the A41, and in particular the proportion of HGVs, my conclusion is that it would be only the most experienced and committed of cyclists who would choose to use the A41.
59. Taken together, my conclusion on this issue for Appeal A is that due to a combination of the distance to the facilities in Waddesdon and the safety and suitability of the proposed route to pedestrians and cyclists those living in at the site would be very unlikely to use non-car modes to get to the village. This means that the use of sustainable transport modes would not be maximised, contrary to the advice in paragraph 34 of the Framework, and this weighs significantly against this proposal.



### *Appeal B*

60. In this appeal no enhancements to the footways are proposed and this would mean that the existing footway adjacent to the A41 would need to be utilised by pedestrians wishing to visit Waddesdon from the lay-by. The existing route is less than 2 m wide along the vast majority of its length and can only be traversed in single file. As with Appeal A the location of the footway adjacent to the A41 also weighs against proposal.
61. As with Appeal A, due to a combination of the distance to the facilities in Waddesdon and the safety and suitability of the proposed route to pedestrians and cyclists means that those living in at the site would be very unlikely to use non-car modes to get to the village. Therefore the use of sustainable transport modes would not be maximised, contrary to the advice in paragraph 34 of the Framework, and this weighs significantly against this proposal.

### Infrastructure

62. This issue relates only to Appeal A since the Council did not seek any contributions in relation to Appeal B due to the size of the proposed development. In all cases while making provision for contributions under the terms of the Planning Obligation the delivery of the contribution is contingent on me finding that the contribution complies with the CIL Regulations.
63. Regulation 122 of the CIL Regulations states a planning obligation may only constitute a reason for granting planning permission if the obligation passes three requirements. This is reiterated in paragraph 204 of the Framework. These requirements are that the Obligation is necessary to make the development acceptable in planning terms, that it is directly related to the development and fairly and reasonably related in scale and kind to the development.
64. Regulation 123 of the CIL Regulations also states a planning obligation may not constitute a reason for granting planning permission for the development to the extent that the obligation provides for the funding or provision of relevant infrastructure where five or more separate planning obligations provide for the funding or provision of that project or provide for the funding or provision of that type of infrastructure.

### *Leisure and Open Space*

65. The Council sought contributions towards open space and leisure facilities for improvements to the sports pitch provision and associated facilities at Frederick Street, Waddesdon and the Planning Obligation makes provision for a payment towards this.
66. Policies GP.86, GP.87 and GP.88 of the AVDLP seek to ensure sufficient outdoor play space at a standard of 2.43 ha per 1,000 population and equipped play space. Where this cannot practically be made on site or is better provided elsewhere in the locality financial contributions are sought. The Council has set out details of such facilities in a Sport and Leisure Supplementary Planning Guidance and details of the contributions sought in an accompanying Ready Reckoner Supplementary Planning Document.
67. The increased population would result in an increase in the use of the open space facilities in Waddesdon. However, it has not been shown that the

contribution is necessary in the sense that I have not be provided with a costed programme for the delivery, or specific details, of what the contribution would be used for. As such I consider that the contribution would not pass the requirements set out in Regulation 122 as it has not been shown that the contribution would be necessary or fairly and reasonably related in scale and kind to the development.

#### *Transport*

68. The BCC sought that the provision of a Travel Plan and Real Time Passenger Information Systems (RTPIS) at the two bus stops being part of the proposed alterations to the A41.
69. BCC normally only seeks Travel Plans where the development would exceed 80 dwellings as set out in its document 'Sustainable Travel Plans – Guidelines for Developers'. Evidence was given to the Inquiry that the Highway Authority sought a Travel Plan as part of the measures to encourage modal shift from the private car and encourage cycling/walking. There are certain fixed costs associated with the setting up of a Travel Plan which are then divided over the total number of dwellings. At 80 dwellings (or more) this would be proportional to the benefit derived. However, at sixteen dwellings this would be excessive and would not fairly and reasonably relate in scale to the development and consequently this would not comply with Regulation 122.
70. As to the RTPIS the uncontested evidence at the Inquiry was that they assisted in encouraging the use of public transport. While there is a change to bus services as from May 2017 buses would still serve the stops in both directions. I am therefore satisfied that the provision of such RTPIS would encourage modal shift. Had I concluded that the site was located in an accessible location I would have found the provision of RTPIS to be necessary to make the development acceptable, the contribution would have been directly related to the development and fairly and reasonably related in scale and kind to the development. It would, therefore, have complied with Regulation 122 and being the first contribution towards this piece of infrastructure would have complied with Regulation 123.

#### Housing Land Supply and other Benefits

71. This section will concentrate on the housing land supply situation, with the other benefits of the development considered in the Planning Balance section below.

#### *Introduction on Housing Land Supply*

72. For the purposes of these appeals only, the parties had agreed much of the detail, but disagreed on two points; whether unmet need from outside the District should be considered as part of the requirement for the District, and whether the 'over-supply' (as it was described by the Council) of completions since 2013 should be discounted from the total need, and if so, over what time period. In the Statement of Common Ground the Council accepted, in line with paragraph 47 of the Framework, that it had a record of persistent under delivery of housing and the additional buffer should be 20%, but, in the evidence presented to the Inquiry, the Council's witness stated he considered

that there was “a very strong argument to justify the inclusion of a 5% buffer rather than a 20% buffer”, so this factor also needs be considered.

73. The Framework in paragraph 47 indicates that to boost significantly the supply of housing Local Plans should meet the full objectively assessed needs for market and affordable housing in the housing market area. The AVDLP does not do this and thus, in line with paragraph 215 of the Framework, it is not consistent with the policies of the Framework. Therefore the policies of the ADVLP relating to the supply of housing land should be given limited weight.
74. The Council accepts, in line with paragraph 49 of the Framework that relevant policies for the supply of housing are not up-to-date. Thus, in line with paragraph 14, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. At the Inquiry it was accepted by all parties that, although the ‘tilted balance’ of paragraph 14 would apply, it would apply with more weight if the Council was unable to show a 5 year Housing Land Supply (5YHLS). The recent Supreme Court decision in the *Suffolk Coastal case* makes it clear that it matters not whether the failure is because of the inadequacies of the policies concerned with housing provision or because of the over-restrictive nature of other non-housing policies, a shortfall is enough to trigger the second part of paragraph 14.
75. As part of the evidence base for the forthcoming VALP the Council, along with Wycombe District Council (WDC), South Bucks District Council (SBDC) and Chiltern District Council (CDC), has commissioned the ‘Buckinghamshire Housing and Economic Development Needs Assessment Update 2016, Report of Findings (05 December 2016)’ (the HEDNA) looking at the period 2013 to 2033. This indicates that for Aylesbury Vale only, the Objectively Assessed Need (OAN) for the District is 965 dwellings per annum over this period. This figure of itself was not disputed by the appellant.
76. There was also no dispute that the relevant period for the consideration of the 5YHLS was 1 April 2017 to 31 March 2022, nor on the projected supply over this period, including a discount rate for non-implementation at an agreed figure.

*Unmet need*

77. While accepting the OAN figure of 965 dwellings per annum, the appellant took the view that this should be increased to take account of the position accepted by the Council that the adjoining authorities within the Housing Market Area (HMA) would not be able to deliver their own OANs, due to constraints, principally an Area of Outstanding Natural Beauty and the Green Belt. It therefore proposed that the annual requirement for Aylesbury Vale should be increased to take account of this.
78. The appellant pointed to the Memorandum of Understanding between the Council and WDC dated 8 December 2016 under the Duty to Co-operate, whereby the Council agreed on the basis of currently available evidence a figure of 1,700 dwellings for the plan period represented a justified figure for unmet housing need arising from the WDC area, and that the Council has agreed to accommodate this in addition to the Council’s own OAN. However,

it should be noted that this Memorandum explicitly states "It is also agreed that should further evidence arise relating to unmet need subsequent to this agreement further cooperative work will be undertaken to determine whether an alternative figure for unmet housing need can be agreed between the two councils". It is therefore clear that this figure is not finalised and could go up or down. The information to the Inquiry was that there would also be unmet need from the SBDC and CDC areas which would, in all likelihood, need to be accommodated in the Council area and this had been identified in a paper to the Council as 5,800 dwellings from this joint area for the plan period. Again this figure is not finalised and is subject to change.

79. A number of recent appeal decisions were in front of the Inquiry. In a decision<sup>7</sup> from January 2017 relating to Land at Valley Farm, Soulbury (the Soulbury decision) the Inspector concluded "that at that time the housing requirement derived from a full and objectively assessed need properly apportioned across the 'housing market area' as a whole is not yet available" (paragraph 51). Contrasted to this was an appeal decision<sup>8</sup> from February 2017 relating to 105 Aylesbury Road, Aston Clinton (the Aston Clinton decision) where the Inspector recorded that the Council's position that it had a 5YHLS but did not accept this contention on the basis that it did "not take into account unmet need and requirements of adjoining authorities" (paragraph 7).
80. The Court of Appeal in *Hunston Properties Ltd v St Albans City and District Council*<sup>9</sup> accepted it was not for an inspector in a Section 78 appeal to seek to carry out some sort of local plan process as part of determining the appeal, so as to arrive at a constrained (or 'policy on') housing requirement figure. The same Court in *Oadby and Wigston Borough Council v SoSCLG & Bloor Homes Ltd*<sup>10</sup> pointed out that the consideration of the test in paragraph 49 of the Framework related not to the HMA but to the local authority area (paragraph 38), and the decision maker "should not ... adopt a level of need for market and housing affordable housing that is, in truth, the product of a conscious redistribution of need from one local planning authority's area to another where this is effectively – in the inelegant jargon – an untested 'policy on' decision, liable to be revisited and changed in the local plan process" (paragraph 39).
81. The HEDNA assessed the OAN for the whole of the Buckinghamshire HMA and provides an unconstrained, or 'policy off', figure for each district. The sum of the totals for each district provides the full OAN for the HMA. These figures were accepted by the appellant for the purposes of these appeals. To add to the OAN figure for Aylesbury Vale by including some of the unmet need from outside the district as part of the 5YHLS calculation would be making a 'conscious redistribution' which is not appropriate in the consideration of a Section 78 appeal. Although there may be some distribution from other districts to Aylesbury Vale, and although what this figure might be is emerging, at this stage in the local plan process any redistribution would represent the application of policy and thus represent a 'policy on' figure. As the Courts have made clear this is not appropriate for consideration in a

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<sup>7</sup> Appeal Ref: APP/J0405/W/16/3146817

<sup>8</sup> Appeal Ref: APP/J0405/W/16/3163245

<sup>9</sup> [2013] EWCA Civ 1610

<sup>10</sup> [2016] EWCA Civ 1040

Section 78 appeal and I am therefore satisfied that for this appeal the OAN figure for Aylesbury Vale should be 965 dwellings per annum.

82. While this is a different view to that of my colleague in the Aston Clinton decision I note that this appeal was determined following the written representations procedure and may not have had all the evidence I had in front of me. My approach would also appear to fit more closely to the two decisions of the Court of Appeal cited above.
83. The appellant in response to the referral on the *Suffolk Coastal* case also referred to the publication by the Council of a post-Inquiry update to the OAN. This shows the figures changing, and reinforces my conclusion that the question of any redistribution from adjoining Districts should be considered through the Local Plan process not a Section 78 appeal.

*'Over-supply'*

84. In the period 2013 to 2016 it was agreed that in Aylesbury Vale 4,906 dwellings were delivered which is a greater figure than the 3,860 dwellings derived from the OAN figure (that is 965 dwellings/annum multiplied by 4 years). The dispute was over whether that should be discounted from the total requirement, and if so, over what time period.
85. The appellant argued that this figure should not be discounted from the future housing requirement, on the basis that there is no support for that approach in the Framework, the Planning Practice Guidance (the PPG) or any Ministerial Statement. It noted the difference between the historic record of completions and the forward-facing nature of the 5YHLS. It is not necessarily surprising that this subject is not found in the Framework or other guidance since the issue in most appeals tends to be regarding under-delivery and how that should be re-allocated in the remaining plan period.
86. While paragraph 47 of the Framework deals predominantly with plan making it makes clear that Local Plans should meet the full, objectively assessed needs of an area. As the PPG makes clear<sup>11</sup> the "need for housing ... refers to the scale and mix of housing and the range of tenures that is likely to be needed in the housing market area over the plan period – and should cater for the housing demand of the area and identify the scale of housing supply necessary to meet that demand". Thus supply and demand should balance over the plan period. To over-provide in the overall plan period may have other, unidentified, effects that could be detrimental. To discount it completely would have, in the long term, the potential to undermine the planned system, and there would be no incentive to boost the supply of housing in the shorter term. I am therefore satisfied that it would be appropriate for the 'over-supply' to be factored into the 5YHLS calculation.
87. The next question is over what period the completions should be taken into account. The Council argued that this should be over the next five years as this will balance the housing market more quickly (for want of a better expression 'a Sedgefield in reverse' approach) and would lead to a consistent approach, as where there is a shortfall in provision the PPG indicates that normally this should be delivered in the next five years.

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<sup>11</sup> Reference ID: 2a-003-20140306

88. However, as has been re-iterated many times most recently in the Housing White Paper, the Government's aim is to boost the supply of housing, and that insufficient housing has been built in recent years. It seems to me that it would be more appropriate for the 'over-supply' to be considered over the whole plan period rather than in the shorter term so that the demand and supply balance over the whole plan period. I therefore consider that the housing which is already complete should be discounted over the remainder of the plan period ('a Liverpool in reverse' approach).

*The Buffer*

89. The Council published its latest 'Five year housing land supply interim position statement' (the Position Statement) in October 2016 to take account of the draft HEDNA published a short time before<sup>12</sup>. This accepted that the Council was a '20%' authority and this was confirmed in the Statement of Common Ground relating to this appeal.

90. Note was, however, taken of an Inspector's report to the Secretary of State<sup>13</sup> from April 2016 on a called-in application relating to a site south of Weston Road, Great Horwood where it was stated that the poor performance in the past was more due to a slow take-up than a failure to give permissions, and that recent performance had improved, and, if repeated, would justify a lower buffer (paragraph 129). I would concur with this proposition. The issue is whether the lower, 5%, buffer is yet justified.

91. The Position Statement shows<sup>14</sup> that in the 10 years from 2006 to 2016 completions had exceeded requirement in 5 of the 10 years, and in the last 5 years of that period only on one occasion had completions been below requirement. However, in looking at the cumulative backlog, as it is described, it is only since 2014/15 that there has been an overall surplus. Completions again exceeded the requirement in 2016/17 but this would only be three years out of the last ten. It is clear that in judging whether a Council has a record of persistent under delivery this should be considered over the longer term in order to take account of economic cycles. Taken overall, while the situation is improving, the Council still has a record of persistent under delivery and the 20% buffer remains appropriate.

*Conclusion on Housing Land Supply*

92. My conclusions from the above are as follows. The appropriate OAN figure is 965 dwellings/annum, account should be taken of completions from the beginning of the plan period, but this should be factored over the whole of the plan period, and that a buffer of 20% remains appropriate. In this scenario the Council's witness accepted that the Council could not demonstrate a 5YHLS, having on his figures, which were not contested, only a 4.91 year supply. This, therefore, adds weight to the tilted balance referred to above, although this would not be substantial due, firstly to the relatively small deficiency, secondly because, while all additional dwellings are beneficial, these schemes, would not make a material difference to the overall supply situation and, thirdly as the Council through the VALP is seeking to resolve the issue in the longer term.

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<sup>12</sup> The figures in the draft and final version of the HEDNA did not change.

<sup>13</sup> File Ref: APP/J0405/V/15/3137967

<sup>14</sup> Table 2

### **Other matters**

93. In addition to making comments about matters addressed above, the local Councillor who attended the Inquiry also expressed concerns about the provision of education in Waddesdon and that the proposals would not be making any contributions towards this area. However, I have nothing to show that the schools are at capacity and that a contribution is necessary.
94. The listed Waddesdon Manor is located to the south on higher ground. All parties were agreed, and I concur with this view, that there was sufficient separation between the appeals sites and Waddesdon Manor and its setting to ensure that the setting of Waddesdon Manor would be preserved. As such there would be compliance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) which requires that special regard should be had to desirability of preserving a listed building or its setting.

### **Planning Balance**

95. The Framework indicates in paragraphs 6, 7 and 8 that the purpose of the planning system is to contribute to the achievement of sustainable development. Sustainable development has three roles, economic, social and environmental which cannot be undertaken in isolation because they are mutually dependent. In both appeals the balance should be undertaken in the context of a development plan that is out-of-date in respect of the supply of land for housing and that the Council is unable to show a 5YHLS meaning that the tilted balance set out in paragraph 14 of the Framework, as explored above, should apply.
96. In both appeals the proposals would deliver additional housing. This is a benefit both economically and socially. Economically this would be both short term during construction and thereafter through the occupation of the dwellings. The benefits would be greater for a larger number of dwellings, and in this context it should be remembered that for Appeal B this would only be a benefit of net four additional dwellings. The benefits during construction would be short-lived, but that of occupation would be in the long-term and, overall, I give each significant weight.
97. Both proposals would have a satisfactory access to the A41. However, as this is a requirement of the development this, of itself, is only neutral in the overall balance.
98. The proposals, in Appeal B would result in a benefit to the appearance of the area through the demolition of some of the existing buildings, but this would be the same as in the 2016 permission and consequently can only be given limited weight.
99. In Appeal A only there would be the benefit of an enhancement to the local transport infrastructure and lay-bys, and the upgrading of a short section of the footway beside the A41 from where the existing footway ceases to be 2 m in width to where it would go behind the hedgerow. As these would also enhance accessibility to the existing public rights of way network I give these together moderate weight.
100. In Appeal A the proposal would be contrary to Policy GP.35 of the AVDLP which it was agreed was not a relevant policy for the supply of housing. I

agree with this analysis as it relates to the form of development in any location rather than restricting the location of housing. This policy is consistent with the Framework and should be given substantial weight. While there are economic and social benefits of the development, individually and collectively the harm to the environment and the location of the site, meaning that it would not maximise sustainable transport modes, are such that they significantly and demonstrably outweigh these benefits when assessed against the policies of the Framework and the development plan when each are considered as a whole and therefore the proposal would not represent sustainable development. Consequently this appeal should be dismissed and planning permission refused.

101. However, in Appeal B, there would be the economic and social benefits, and compliance with the policy in the Framework relating to housing formed from the re-use rural buildings and compliance with that part of Policy RA.11 of the ADVLP which is in accordance with the Framework. Against this is the harm from the location of the site. Taking all these matters in the balance, and noting that the Council's only objection was on highway safety grounds which I have concluded is not well-founded, this harm does not significantly and demonstrably outweigh the benefits of the proposal. While the proposal would not comply with some of the policies of the development plan material considerations indicate the decision should be made otherwise than in accordance with those policies and the proposal represents sustainable development. As such this appeal should be allowed and planning permission granted.

### **Conditions**

102. I have considered the conditions put forward by the Council in respect of Appeal B against the requirements of the PPG and the Framework. The numbers of the conditions imposed are given in brackets. In addition to the standard timescale condition (1), I have imposed a condition specifying the relevant drawings as this provides certainty (2).
103. The Council requested a Construction Management Plan. However, while details relating to how the site is run are required to protect the living conditions of the occupier of the bungalow adjacent to the appeal site, other details such as access routing are not required as such an access can only be from the A41. I have therefore imposed a condition relating to the necessary elements (3).
104. In order to ensure that the site is properly drained and does not increase the risk of flooding, details of foul and surface water drainage systems need to be submitted, installed and maintained (4, 5, 6, 11).
105. A condition relating to the materials to be used the external surfaces of the buildings (8) is needed to ensure that the proposal is in keeping with the character and appearance of the area. For the same reason conditions relating to the provision, implementation and maintenance of hard and soft landscaping (9, 14) and tree protection (7) during the construction period are necessary. As the landscaping scheme should include details of any screen walls and fences, a separate condition is not necessary.
106. I have also imposed in the interests of highway safety a condition requiring the new access to the A41 to be constructed before any of the dwellings are



occupied in accordance with approved details and that appropriate visibility displays are provided and maintained (10).

107. In order to ensure that the environmental benefit of the demolition of the existing buildings shown on the application drawings is achieved along with landscaping of the resultant area, a condition is necessary requiring this to take place prior to any of the dwellings being first occupied (12).
108. In order to ensure the interests of protected species the measures set out in the Protected Species Assessment submitted with the application need to be implemented (13).
109. The PPG indicates that only exceptionally should permitted development rights be removed from developments. Policy RA.11 of the ADVLP states that conversion work should not involve significant extensions and should respect the character of the building and its setting. I therefore find that to respect the character of the existing buildings and their setting that permitted development rights allowing alteration and extension to the barn conversions and the construction of outbuildings within those curtilages should exceptionally be removed (15). Such a condition is not, however, necessary for the two replacement dwellings.
110. Where necessary and in the interests of clarity and precision I have altered the conditions to better reflect the relevant guidance.

### **Conclusion**

111. For the reasons given above, and taking all other matters raised into account, I conclude that Appeal A should be dismissed and Appeal B allowed.

*RJ Jackson*

INSPECTOR

**Schedule of Conditions  
Relating to Appeal Reference APP/J0405/W/16/3152132**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

811 - L9E	Location
811 - L10D	Survey
811 - L12E	Demolitions
811 - P - L4G	Proposed Site Layout
811 - L15C	Vision Splay Drawing
811 - P2B	Existing TB1-4 – Barn Conversion
811 - P3D	Proposed TB1-4 Barn conversion
811 - P4B	Plans, elevations & section TB5
811 - P5A	Existing & Proposed Plans & elevations TB6
811 - R1E	Proposed Floor Plan, Elevations & Garages Plots R1 & R2
4956.010	Proposed Access & Visibility Provisions
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
  - i) the parking of vehicles of site operatives and visitors;
  - ii) loading and unloading of plant and materials;
  - iii) storage of plant and materials used in constructing the development;
  - iv) wheel washing facilities;
  - v) measures to control the emission of dust and dirt during construction;
  - vi) delivery, demolition and construction working hours.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 4) No development shall take place until details of a foul water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details and no dwelling shall be occupied until the approved foul drainage serving that dwelling has been implemented as approved.
- 5) No development shall begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is first occupied. The scheme shall also include:
  - i) Assessment of Sustainable Drainage System (SuDS) components as listed in the CIRIA SuDS Manual (C753) and provide justification for exclusion if necessary
  - ii) Demonstrate that water quality, ecological and amenity benefits have been considered
  - iii) Existing and proposed discharge rates and volumes
  - iv) Ground investigations including:
    - Infiltration in accordance with BRE365
    - Groundwater level monitoring over the winter period

- v) Subject to infiltration being inviable, the applicant shall demonstrate that an alternative means of surface water disposal is practicable subject to the drainage hierarchy listed in the national Planning Policy Guidance
  - vi) Detailed drainage layout with pipe numbers, gradients and pipe sizes complete, together with storage volumes of all SuDS components
  - vii) SuDS components set out in the Flood Risk Assessment and Drainage Statement dated May 2017 reference 4956/FRA
  - viii) Full construction details of all SuDS and drainage components
  - ix) Calculations to demonstrate that the proposed drainage system can contain up to the 1 in 30 storm event without flooding. Any onsite flooding between the 1 in 30 and the 1 in 100 plus climate change storm event should be safely contained on site
  - x) Details of proposed overland flood flow routes in the event of system exceedance or failure, with demonstration that such flows can be appropriately managed on site without increasing flood risk to occupants, or to adjacent or downstream sites
    - Flow depth
    - Flow volume
    - Flow velocity
    - Flow direction.
- 6) No development shall take place until a "whole-life" maintenance plan for the site has been submitted to and approved in writing by the local planning authority. The plan shall set out how and when to maintain the full surface water drainage system (e.g. a maintenance schedule for each drainage/ Sustainable Drainage System component) following construction, with details of who is to be responsible for carrying out the maintenance. The plan shall subsequently be implemented in accordance with the approved details.
- 7) No equipment, materials or machinery shall be brought on site in connection with the development hereby permitted, and no works, including site clearance or any other preparatory works, undertaken until tree and hedgerow protection measures have been erected on site in locations and in accordance with details submitted to and approved in writing by the local planning authority and subsequently agreed in writing by the local planning authority as complete. The protection shall be retained until the development is complete and nothing shall be placed within the fencing, nor shall any ground levels be altered or excavations made within that area without the prior written consent of the local planning authority.
- 8) Prior to any above ground construction work commencing samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted shall have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 9) Prior to any above ground construction work commencing full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include the proposed means of enclosure. The hard landscaping, including means of enclosure, shall be fully implemented prior to the occupation of any dwelling hereby permitted.
- 10) The development hereby permitted shall not be occupied until the access shown in principle on drawing number 811 - P - L4G has been completed in

accordance with details submitted to and approved in writing by the local planning authority. The details shall include the specification of the roads, footpaths and driveways, and shall include minimum visibility splays of 151 m by 2.4 m back from the edge of the carriageway in both directions on to the A41. Following completion the visibility splays shall be kept clear of any obstruction between 0.6 m and 2.0 m above ground level.

- 11) Prior to the first occupation of the development, a verification report carried out by a qualified drainage engineer must be submitted to and approved by the local planning authority to demonstrate that the Sustainable Drainage System has been constructed as per the approved scheme.
- 12) Prior to the occupation of any dwelling the buildings and other structures shown for demolition on drawing number 811 - L12E shall be demolished and all materials derived from such demolition removed from the site. The land shall thereafter be landscaped in accordance with the details approved pursuant to condition 9 in accordance with the timetable set out in that condition or in condition 14 as appropriate.
- 13) The development shall be implemented in accordance with the summary and conclusions detailed in the Protected Species Assessment from the ecological consultant, Ecology Solutions, carried out in February 2013.
- 14) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no development permitted by Classes A, B, C, D or E of Part 1 of Schedule 2 of that Order shall be erected other than those expressly authorised by this permission in respect of the dwellings marked TB1, TB2, TB3, TB4, TB5 and TB6 on drawing number 811 - P - L4G.

END OF SCHEDULE

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Nicholas Ostrowski	of Counsel, instructed by HB Public Law on behalf of Aylesbury Vale District Council
He called	
Del Tester IEng FIHE MCIHT	Managing Director, Origin Transport Consultants Ltd
Nick Ireland BA MTPI MRTPI	Planning Director, GL Hearn
Sue Pilcher BSc MSc MRTPI	Senior Planning Officer, Aylesbury Vale District Council

### FOR THE APPELLANT:

Jack Smyth	of Counsel, instructed by Arnold White Estates Ltd
He called	
Stuart Atkinson BSc CEng MICE MCIHT MAPM	Director, Stuart Michael Associates
Geoffrey Gardner MSc MRTPI DMS MCIWM	Director, Gardner Planning Ltd

### INTERESTED PERSONS:

Councillor Paul Irwin	County, District and Parish Councillor
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### INQUIRY DOCUMENTS:

INQ1	Opening on behalf of the Appellant
INQ2	Opening on behalf of the Council
INQ3	Plan Showing Proposed Access Arrangements and Off Site Works – Stuart Michael Associates drawing 4956.022 Rev B at A1 size
INQ4	Photographs of unlit footway in Radley, Oxfordshire
INQ5	Extract from Design Manual for Roads and Bridges, TD 42/95 – Form of Major/Minor Priority Junctions
INQ6	Signed Statement of Common Ground
INQ7	Aylesbury Vale District Council – Five year housing land supply interim position statement, August 2016
INQ8	Extract from Planning Practice Guidance relating to Housing and economic land availability assessment
INQ9	Policy RA.11 and explanatory text of Aylesbury Vale District Local Plan (January 2004)
INQ10	Additional draft conditions submitted by Aylesbury Vale District Council
INQ11	S106 Obligation – CIL Compliance Schedule
INQ12	Letter from Appellant formally withdrawing 'layout' from consideration of Appeal A
INQ13	Plan showing route of HS2
INQ14	Executed Planning Obligation

- INQ15 Email from Buckingham County Council relating to bus routes
- INQ16 Closing submissions on behalf of the Council
- INQ17 Closing submissions on behalf of the Appellant