



Department for  
Communities and  
Local Government

Mr Daniel Weaver  
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Bristol VS32 4QL

Our Ref: APP/J0405/V/15/3014403  
Your Ref: BRS.5173

2 June 2016

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 77  
APPLICATION BY LIGHTWOOD STRATEGIC LTD  
AT LAND TO THE NORTH OF ASTON ROAD, HADDENHAM,  
BUCKINGHAMSHIRE  
APPLICATION: REF 14/02666/AOP**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Mr Paul Jackson B Arch (Hons) RIBA, who held a public local inquiry, which opened on 24 November 2015, into your client's application for the construction of 350 no. dwellings, including 45 no. retirement dwellings, with associated garages, parking, estate roads, footways, pedestrian linkages, public open space, burial ground, community sports facility, strategic landscaping, drainage and other associated works in accordance with application number 14/02666/AOP, dated 8 September 2014.
2. On 27 March 2015, the Secretary of State directed, in pursuance of section 77 of the Town and Country Planning Act 1990, that the application be referred to him instead of being dealt with by the relevant planning authority, Aylesbury Vale District Council.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that planning permission be granted subject to conditions. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and recommendation. A copy of the Inspector's report

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(IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

### **Procedural Matters**

#### **Matters arising after the close of the inquiry**

4. Following the close of the inquiry the Secretary of State wrote on 17 March 2016 to the applicant, the Council and interested third parties who appeared at the inquiry, inviting further information for the purposes of his consideration of the application. This matter was:
  - a) The implications, if any, of the quashing of Chapter 6 (“Housing and Development”) of the Haddenham Neighbourhood Plan.
5. Following the issue of that letter, the Secretary of State received responses from the applicant dated 31 March and 7 April, the local authority dated 30 March and Haddenham Parish Council dated 31 March and 4 April. The Secretary of State has taken account of these responses in his consideration of the application before him. As the responses were circulated to all the main parties he does not consider it necessary to summarise the responses here or attach them to this letter. Copies of the correspondence can be made available upon written request to the address at the foot of the first page of this letter.
6. On 5 April 2016 the Secretary of State received representations from Professor Sir Roderick Floud of the Haddenham Neighbourhood Planning Team. As he does not consider that these raised issues which would impact his decision, he has not found it necessary to summarise the responses here or attach them to this letter. Copies of the correspondence can be made available upon written request to the address at the foot of the first page of this letter.

### **Policy and Statutory Considerations**

7. In deciding the application, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
8. In this case, the development plan comprises the saved policies of the Aylesbury Vale District Local Plan (2004) (Local Plan) and the Haddenham Neighbourhood Plan (HNP) (except for the quashed “Housing and Development” chapter). The Secretary of State considers that the local plan policies most relevant to the appeal are those set out by the Inspector at IR7. He agrees with the Inspector that very little weight can be attached to the replacement Vale of Aylesbury Plan at this stage (IR9).
9. Other material considerations which the Secretary of State has taken into account includes the National Planning Policy Framework 2012 (the Framework) and the planning practice guidance first published in March 2014.

10. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the appeal scheme or their settings or any features of special architectural or historic interest which they may possess. Furthermore, as required by section 72(1) of the LBCA Act, the Secretary of State has also paid special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

### **Main issues**

11. The Secretary of State considers that the main issues in this case are those identified by the Inspector at IR200.

#### *Development plan*

12. The Secretary of State agrees with the Inspector (IR201) that the Local Plan is out of date insofar as policies related to housing supply are concerned. He notes that the Council falls well short of a five year housing supply as required by paragraph 47 of the Framework. Paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites. The Secretary of State agrees with the Inspector that where policies are out of date, paragraph 14 of the Framework states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

13. The Secretary of State has had regard to the Inspector's remarks at IR202 on the consistency of saved policy GR.53 with policies in the Framework on conserving and enhancing the historic environment. He agrees with the Inspector that this is out of step with the Framework, for the reasons set out by the Inspector.

14. The Secretary of State has taken into consideration the response of Haddenham Parish Council that although housing policies in the HNP have been quashed, the reasons behind the strategy and the reasons why the application site was not considered to be one of the best located sites, as endorsed by the local community, remain a highly material consideration in refusing planning permission. However, while the Secretary of State understands the concern, he concludes that, because it has been quashed, the Housing and Development chapter is no longer part of the development plan and therefore that it can no longer be taken into account when determining this planning application.

#### *The effect on heritage assets*

15. In terms of the impact on the Conservation Area (CA), the Secretary of State concurs with the Inspector that the development would be well set back from the Aston Road approach to the CA, east of the existing footpath and no dwelling would be so close to Aston Road as to seriously impact upon the experience of approaching the CA with the church at its heart. He also agrees that views of the church from Stanbridge Road would be appreciably more curtailed, but from this direction trees also interfere with the view and the church tower is 800 metres

away (IR215). The Secretary of State shares the Inspector's opinion that much more can be done to ensure that vistas are created to focus on the church tower without compromising the original field layout or existing hedges, and that this could be done at the detail stage. The Secretary of State agrees with the Inspector's conclusion at IR216 that development of the site would cause only a minor level of harm to the setting and hence significance of the CA, and that through careful design, would have the potential to enhance it.

16. The Secretary of State agrees with the Inspector at IR217 that the potential for a new footway on the north side of Aston Road is physically limited, with implications for the curtilage wall of Grenville Manor, a Grade II\* listed building within the CA. He agrees that replacing the grass verge with a hard surface, even if narrower than usually accepted by the Highways Authority, would have an unacceptable urbanising effect. The Secretary of State however concurs with the Inspector (IR 218) that a sufficiently wide verge is present on the south side of Aston Road which could accept a conventional footway without an unacceptable impact on the CA or any listed buildings.
17. The Secretary of State has had regard to the Inspector's remarks at IR219-220 in respect of the detrimental influence of increased traffic and parking pressure on the character of the CA. He agrees with the Inspector that it is unclear why the addition of 280 houses and their occupants on the development site would necessarily lead to such an increase in traffic that the qualities of the CA would be unacceptably affected.
18. The Secretary of State agrees with the Inspector's conclusion at IR222 that overall, only a minor level of harm would occur to the setting and thereby significance of the CA by virtue of the more restricted view of the church tower from Stanbridge Road. He concurs with the Inspector's view that the setting and therefore significance of the Grade I listed church tower would also be slightly diminished. However, he agrees that the harm would fall very much within the category of 'less than substantial harm' in terms of the Framework. The Secretary of State nevertheless attaches considerable importance and weight to the desirability of preserving the setting of listed building and conservation areas and agrees with the Inspector that this needs to be put into the overall balance.

*Other matters: traffic and highways concerns*

19. The Secretary of State has had regard to the Inspector's remarks at IR223-229. He notes that many objectors raise concerns that increasing housing development in principle is likely to lead to pressure on the existing road network, parking and increased safety risks. He agrees however with the Inspector's conclusion at IR229 that there is no existing accident pattern in Haddenham that would suggest a problem area or unacceptable day to day safety risk. The Secretary of State concurs with the Inspector that it has not been shown that the addition of houses on the Glebe lands, as opposed to other sites in Haddenham, would unacceptably increase congestion or highway safety risks. He agrees that the very low potential for increased delays or inconvenience is no reason to refuse planning permission. The Secretary of State therefore attached limited weight to this matter.

### *Conditions*

20. The Secretary of State has had regard to the Inspector's comments on conditions at IR195-196, the suggested conditions annexed to the IR, paragraph 206 of the Framework and the guidance. He is satisfied that the proposed conditions are reasonable and necessary and meet the tests of paragraph 206 of the Framework.

### *Planning Agreement*

21. The Secretary of State has had regard to the Inspector's comments on the planning agreement at IR197-199, paragraph 204 of the Framework and the Community Infrastructure Levy Regulations 2010. He notes the Inspector's comments at IR198 that as well as contributions to education, sport and leisure and affordable housing, the agreement provides for improvements to footpaths and provision of footways and cycleways and important enhancements to bus services (which have been in decline). He agrees with the Inspector that these are essential if the scheme is to be acceptable. The Secretary of State also notes the Inspector's comments that a burial ground is provided conveniently located for the church, which Haddenham will need within 2-3 years, and a very substantial area of open space will be added for community use which will also provide an open setting for the conservation area and St Mary's church. The Secretary of State agrees that these factors comply with policies and aims of the HNP and add to the merits of the scheme. The Secretary of State agrees with the Inspector that the provisions of the Agreement are directly related to the proposed development, fairly and reasonably related in scale and kind, and would be necessary to make it acceptable. He too considers that they meet the tests set out in paragraph 204 of the Framework and Regulation 22 of the Community Infrastructure Levy Regulations (2010). As such he affords the agreement substantial weight.

### **Overall conclusions and planning balance**

22. The Secretary of State has taken account of the potential impact on heritage assets. While he agrees with the Inspector that any harm would be less than substantial, and that there is the potential to enhance the CA, he attaches considerable importance and weight to the desirability of preserving the setting of listed buildings and conservation areas. As such he accords this harm moderate weight.
23. While there would be an increase in traffic, the Secretary of State agrees with the Inspector that the scheme would not unacceptably increase congestion or highway safety risks and that the very low potential for increased delays or inconvenience is not a reason to refuse planning permission. He therefore considers that limited weight should be attached to this matter.
24. The Secretary of State however agrees with the Inspector's conclusion at IR233 that the scheme offers not only an appreciable and rapid improvement in housing provision in Haddenham and Aylesbury Vale, but also substantial advantages to the community in terms of affordable housing and housing for the

elderly as well as a burial ground, sporting facilities and open space. He thus affords these benefits substantial weight. He agrees that the improvements to the bus service and the Thame to Haddenham cycleway link also weigh significantly in favour of the scheme in sustainability terms.

25. The Secretary of State has taken into account submissions dated 31 March and 4 April made on behalf of Haddenham Parish Council which consider that granting planning permission gives rise to issues of prematurity in terms of a replacement HNP, which the Parish Council is committed to prepare. Planning Practice Guidance however advises that refusal of planning permission on grounds of prematurity will seldom be justified in respect of a Neighbourhood Plan before the end of the local planning authority publicity period. The Secretary of State does not therefore afford any weight to this matter.
26. Overall, the Secretary of State agrees with the Inspector (IR 234) that having regard to the policies of the development plan, the benefits of development on the site would significantly and demonstrably outweigh the disadvantages. He agrees that, as such, the scheme would comply with the objectives of paragraph 50 of the Framework and that the balance tips firmly towards the scheme being granted planning permission.

### **Formal Decision**

27. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby grants outline planning permission for the construction of 280 no. dwellings, including 35 no. age-restricted dwellings, with associated garages, parking estate roads, footways, pedestrian linkages, public open space, burial ground, community sports facilities, strategic landscaping, drainage and other associated works in accordance with application number 14/02666/AOP dated 8 September 2014 (as amended), subject to the conditions listed at Annex A of this letter.
28. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
29. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

### **Right to challenge the decision**

30. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within six weeks from the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.

31. A copy of this letter has been sent to Aylesbury Vale District Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

*Philip Barber*

Authorised by Secretary of State to sign in that behalf

Richborough Estates

## Annex A: Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins. The design of the layout of roads, footpaths and dwellings shall include provision for public views towards St Mary's church from within the scheme. The development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 18 months from the date of this permission.
- 3) The development hereby permitted shall begin not later than 18 months from the date of approval of the last of the reserved matters to be approved.

Reason (1, 2 and 3): *To prevent the accumulation of planning permissions: to enable the Council to review the suitability of the development in the light of altered circumstances and to comply with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004*

- 4) No development shall take place, other than below ground works and foundations, until details of the materials proposed to be used on the external surfaces of the development hereby approved have been submitted to the local planning authority and approved in writing. The development shall be carried out in accordance with the approved details.

Reason: *To ensure a satisfactory appearance to the development*

- 5) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours; boundary treatment; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials and a programme for the works.

- 6) Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and implementation programme.

- 7) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority. No dwelling shall be occupied until the landscaping details relating to it have been fully implemented.

Reason (5, 6 and 7): *To ensure a satisfactory appearance to the development.*

- 8) Any tree or shrub which forms part of the approved landscaping scheme which within a period of five years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced



in the next planting season by a tree or shrub of a species, size and maturity to be approved by the local planning authority.

9) No site clearance works or development shall take place until there has been submitted to the local planning authority for their approval a scheme showing the type, height and position of protective fencing to be erected around each tree or hedge to be retained.

10) No site clearance works or the development itself shall be commenced until such a scheme is approved by the local planning authority and thereafter the development hereby permitted shall only be carried out in accordance with that scheme. The area surrounding each tree/hedge within the approved protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

1. There shall be no changes in ground levels;
2. No materials or plant shall be stored;
3. No buildings or temporary buildings shall be erected or stationed.
4. No materials or waste shall be burnt nor within 20 metres of any retained tree; and.
5. No drain runs or other trenches shall be dug or otherwise created, without the prior written consent of the local planning authority.

Reason (8, 9 and 10): *In order to ensure that damage does not occur to the trees during building operations-and to comply with policy GP39 and GP40 of the AVDLP and the guidance given in the NPPF*

11) The details to be submitted for approval in writing by the local planning authority in accordance with Condition (1) above shall include details of the proposed slab levels of the building(s) in relation to the existing and proposed levels of the site and the surrounding land, with reference to fixed datum point. The building(s) shall be constructed with slabs at levels that have been approved in writing by the local planning authority.

Reason: *For the avoidance of doubt and to ensure a satisfactory form of development*

12) No works on site shall commence until details of the proposed means of disposal of foul and surface water drainage have been submitted to and approved in writing by the local planning authority. The surface water drainage scheme shall provide detailed drainage calculations for the proposed scheme including any sustainable drainage techniques, surface water sewer network and road network including all rainfall events up to and including the 1 in 100 year plus climate change event. The development shall be carried out in accordance with the approved scheme of drainage.

Reason: *In order to prevent and manage flooding and in order to ensure that the development is adequately drained*

13) Before each phase of the development approved by this planning permission, no development shall take place until such time as a flood risk assessment to demonstrate that there shall be no increase in flood risk on or off site has been

submitted to and approved in writing by the local planning authority. The scheme shall contain:

- a. Demonstration that the discharge volume required to attenuate surface water runoff from the critical 1 in 100 chance in any year storm event, with an appropriate allowance for climate change, can be provided on site.
- b. Demonstration that the peak discharge rate for all events up to and including the 1 in 100 in any year critical storm event, including an appropriate allowance for climate change, will not exceed that of the existing site.
- c. Infiltration test results to ascertain the suitability of infiltration SUDS (as specified in Section 5.3.6 of the Flood Risk Assessment)

Reason: *To prevent flooding by ensuring the satisfactory disposal and storage of surface water from the site and to ensure that surface water is managed in a sustainable manner*

14) No floodlighting or other form of external lighting shall be installed unless it is in accordance with details which have previously been submitted to and approved in writing by the local planning authority. Such details shall include location, height, type and direction of light sources and intensity of illumination. Any lighting which is so installed shall not thereafter be altered without the prior consent in writing of the local planning authority.

Reason: *In the interests of the visual and wildlife amenities of the site*

15) Development shall not commence unless and until a Construction Management Plan ("CMP") has been submitted to and approved in writing by the local planning authority. Thereafter the construction of the development shall only be carried out in accordance with the approved statement. The CMP shall include:

- a) Details of the site compound including temporary structures/buildings, fencing, parking and storage provision to be used in connection with the construction of the development;
- b) Details of the proposed storage of materials and disposal of surplus materials;
- c) Methods of dust management;
- d) Pollution control during construction: protection of the water environment, bunding of fuel storage areas, surface water drainage, sewage disposal and discharge of foul drainage, pollution response plans;
- e) Details of the phasing of construction works;
- f) Siting and details of wheel washing facilities;
- g) Cleaning of site entrances, site tracks and the adjacent public highways and the sheeting of all HGVs taking spoil or construction materials to/from the site to prevent spillage or deposit of any materials on the highway;
- h) A site environmental management plan to include details of measures to be taken during the construction period to protect wildlife and habitats;
- i) Areas on site designated for the storage, loading, off-loading, parking and manoeuvring of heavy duty plant equipment and vehicles;
- j) Details and a timetable for post construction restoration/reinstatement of the temporary working areas and the construction compound;

- k) Working practices for protecting nearby residential dwellings, including measures to control noise and vibration arising from on-site activities shall be adopted as set out in British Standard 5228 Part 1: 2009; and
- l) Details of the routing of heavy vehicle traffic accessing and leaving the site, which shall not in any circumstances involve passing along Station Road or Aston Road west of St Tiggywinkles Animal Hospital.

*Reason: To ensure a satisfactory level of environmental protection and to minimise disturbance to local residents during the construction process*

16) No other part of the development shall begin until the new means of access have been sited and laid out in accordance with the submitted details and constructed in accordance with Buckinghamshire County Council's guide note "Commercial Vehicular Access Within Highway Limits" 2001. For the avoidance of doubt the applicants will be required to obtain a S184 licence with the Highway Authority in order to comply with the requirements of this condition.

*Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and of the development*

17) No other part of the development shall begin until visibility splays shown in principle on drawing nos. 6.1B and 6.2 have been provided on both sides of the access points. The area contained within the splays shall be kept free of any obstruction exceeding 0.6 metres in height above the nearside channel level of the carriageway.

*Reason: To provide adequate inter-visibility between the access and the existing public highway for the safety and convenience of users of the highway and of the access*

18) The details to be submitted for the approval of the local planning authority in accordance with condition 1 above shall include a scheme for parking, garaging and manoeuvring in accordance with the local planning authority's "Car Parking Standards". The approved scheme shall be implemented and made available for use before the development hereby permitted is occupied and that area shall not be used for any other purpose.

*Reason: To enable vehicles to draw off, park and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway*

19) No development shall take place until a footway scheme for improved pedestrian access on the south side of Aston Road from the development towards Church End and Haddenham St Mary's CE School; and in Stanbridge Road towards Woodways, has been submitted to and approved in writing by the local planning authority. In respect of Aston Road, the scheme shall provide for a footway at least as far as the vehicle entrance to the school. No dwelling shall be occupied until the footways have been provided in accordance with the approved scheme.

*Reason: To provide improved access towards the school for pedestrians and in the interests of encouraging reduced use of private cars*

20) No development shall take place until a programme of archaeological work in accordance with a written scheme of investigation has been submitted by the applicant and approved in writing by the local planning authority. The development shall not be implemented otherwise than in accordance with the approved scheme.

*Reason: To record or safeguard any archaeological evidence that may be present at the site*

21) The development hereby permitted shall be carried out in accordance with the following approved indicative plans: BRS.5173\_02H 1

*Reason: For the avoidance of doubt and in the interests of proper planning*

22) No more than 280 dwellings shall be constructed on the site.

*Reason: To ensure there is a limit on the density of development*

23) No development shall commence until a contaminated land assessment and associated remedial strategy, together with a timetable of works, has been submitted to and approved in writing by the local planning authority. The agreed remediation works shall be fully completed before any other construction work commences. The assessment / strategy shall include the following: a) The contaminated land assessment shall include a desk study which shall detail the history of the site uses and propose a site investigation strategy based on the relevant information discovered by the desk study.

b) The site investigation, including relevant soil, soil gas, surface and groundwater sampling, shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.

c) A site investigation report detailing all investigative works and sampling on site, together with the results of analysis, risk assessment to any receptors and a proposed remediation strategy shall be submitted to and approved in writing by the local planning authority prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters.

*Reason: To ensure that the potential contamination of the site is properly investigated, the risks to the planned end user group(s) quantified, and its implication for the development fully taken into account*

24) The approved remediation works as referred to in condition 23 shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. If during the works contamination is encountered which has not previously been identified then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the local planning authority.

Within 1 month of completion of the remediation works, a validation report shall be submitted to and approved in writing by the local planning authority. The validation

report shall include details of the completed remediation works and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology. Details of any post-remedial sampling and analysis to demonstrate that the site has reached the required clean-up criteria shall be included in the validation report together with the necessary documentation detailing what waste materials have been removed from the site.

*Reason: To ensure that the potential contamination of the site is properly dealt with and the risks to the planned end user group(s) minimised*

Richborough Estates

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# **Report to the Secretary of State for Communities and Local Government**

**by Paul Jackson B Arch (Hons) RIBA**

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

**Date: 22 January 2015**

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**Town and Country Planning Act 1990**

**Aylesbury Vale District Council**

**Application by**

**Lightwood Strategic Ltd**

Richborough Estates

Inquiry opened on 24 November 2015

Land to the north of Aston Road, Haddenham, Buckinghamshire

File Ref: APP/J0405/V/15/3014403

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**File Ref: APP/J0405/V/15/3014403**

**Land to the north of Aston Road, Haddenham, Buckinghamshire**

- The application was called in for decision by the Secretary of State by a direction, made under section 77 of the Town and Country Planning Act 1990, on 27 March 2015.
- The application is made by Lightwood Strategic Ltd to Aylesbury Vale District Council.
- The application Ref 14/02666/AOP is dated 8 September 2014.
- The development proposed is an outline planning application for the construction of 350 no. dwellings, including 45 no. retirement dwellings, with associated garages, parking, estate roads, footways, pedestrian linkages, public open space, burial ground, community sports facility, strategic landscaping, drainage and other associated works. New vehicular access from Stanbridge Road and Aston Road to be determined at outline stage.
- The reason given for making the direction was to consider all the relevant aspects of the proposed development.
- On the information available at the time of making the direction, the following were the matters on which the Secretary of State particularly wished to be informed for the purpose of his consideration of the application:
  - i) The consistency of the proposed development with the development plan and emerging Neighbourhood Plan for the area;
  - ii) Policies in the National Planning Policy Framework, in particular those set out in paragraph 50 on delivering a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities; and
  - iii) Any other matters the Inspector considers relevant.

**Summary of Recommendation: That the application is approved and planning permission granted subject to conditions.**

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**Preliminary Matters**

1. Following discussion with officers of the Council, the description of the proposed development was altered on 23 December 2014 to: 'Outline planning application for the construction of 280 no. dwellings, including 35 no. age-restricted dwellings, with associated garages, parking, estate roads, footways, pedestrian linkages, public open space, burial ground, community sports facility, strategic landscaping, drainage and other associated works'. I have considered it on this basis.
2. The application was submitted in outline with all matters reserved except access.
3. Following the formal making of the Haddenham Neighbourhood Plan (HNP) on 11 September 2015 and the need to expand on other matters, an Addendum Statement of Common Ground (SOCG) between the applicant and the Council was provided dated 26 November 2015<sup>1</sup>. A further Statement of Common Ground on Transportation Issues was provided dated 3 November 2015<sup>2</sup>.
4. The Council resolved at a meeting on 28 January 2015 that it would delegate the planning application to officers for approval subject to the completion of a Section 106 (S106) legal agreement. An Agreement between the applicant, the Council and the County Council was engrossed on 16 March 2015<sup>3</sup>. During the Inquiry, it was agreed that an addendum agreement would be necessary and this was

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<sup>1</sup> Doc 10. The original SOCG is at Core Document (CD) 2

<sup>2</sup> Doc 12

<sup>3</sup> CD6



submitted in December via counterpart<sup>4</sup>. I consider the Agreement and the Addendum Agreement later in the body of the Report.

### **The Site and Surroundings**

5. Haddenham is a large village and civil parish in the south-west of Aylesbury Vale, located approximately 8 kilometres (km) to the south-west of Aylesbury and 3 km north-east of the town of Thame. In 2011 it had a population of 4,502 in 1,946 households. The predominant land use in Haddenham is housing, supported by somewhat spread out local services including a community infant school, Haddenham Junior School, two restaurants, a medical centre, butcher, greengrocer, barbers, hairdressers, pubs, a museum and a number of churches and chapels. The village also benefits from a commercial district and small industrial zone. The village is well located adjacent to the A418 strategic route which connects it to the M40, the A40, Thame and Aylesbury. There is a railway station at the western edge of the village which offers mainline services from Birmingham to London Marylebone. Services to London run approximately every 30 minutes and those to Birmingham are hourly.
6. The village was originally formed of 3 hamlets which merged together over time, forming a spine along Church Way which is now designated as the Haddenham Conservation Area (CA)<sup>5</sup>. Newer housing, mostly of late 20<sup>th</sup> century, is grouped around this central area. The parish church, St Mary's, forms the focus of the southern part of the CA at Church End and is set beside an attractive village green area with a large pond. The application site is located outside the existing south eastern edge of Haddenham and east of Church End. It comprises 22.09 hectares (ha) of land on 4 fields currently used for pasture and arable crops. The indicative drawings show 3 of these, furthest from Church End, would be developed with a mixture of housing and open space. The fourth, west of a public footpath connecting Church Way with Aston Road, would be developed as open space with sports and play facilities, together with an area for community use as a burial ground.

### **Planning Policy**

7. The development plan for Aylesbury Vale comprises the saved policies of the Aylesbury Vale District Local Plan (2004) (LP). The relevant saved policies of the LP are as follows:
  - Policy GP.2: Affordable Housing;
  - Policy GP.8: Protection of the Amenity of Residents;
  - Policy GP.24: Car Parking guidance
  - Policy GP.35: Design of New Development Proposals;
  - Policy GP.38: Landscaping of New Development Proposals;
  - Policy GP.39: Existing Trees and Hedgerows
  - Policy GP.40: Retention of Existing Trees and Hedgerows;

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<sup>4</sup> Doc 11

<sup>5</sup> A helpful plan is in the SOCG at page 8

- Policy GP.45: Safe and Secure design;
- Policy GP.53: Conservation Areas;
- Policy GP.59: Preservation of Archaeological Remains;
- Policy GP.84: Public Rights of Way
- Policy GP.86: Provision of Outdoor Playspace
- Policy GP.87: Application of Open Space Policies
- Policy GP.88: Payment in lieu of Providing Sports and Play Areas
- Policy GP.94: Provision of Community Facilities and Services
8. The LP covered the period up to 2011. With respect to the location and supply of housing, it is agreed that the LP is out of date. Saved policy RA.14 related to housing on the edge of 'Appendix 4' settlements such as Haddenham but does not provide for any more than 5 dwellings in any scheme. It is not relied upon by any of the parties and is also out of date.
  9. Following comments from the Examining Inspector and the subsequent withdrawal of the replacement Vale of Aylesbury Plan (VAP) in February 2014, an initial consultation on the scope of the Vale of Aylesbury Local Plan (VALP)<sup>6</sup> was undertaken in May 2014. However, formal consultation on the draft plan is yet to take place in the spring of 2016; in its current form the VALP can be afforded very little weight in planning decisions.
  10. The Examining Inspector, in rejecting the VAP, noted that Aylesbury Vale will need to meet not only its own housing needs but also the potentially unmet needs of neighbouring authorities, including some where there is a more constrained policy environment. In identifying housing need, the relevant information in the 2013 Strategic Housing Land Availability Assessment (SHLAA) is now augmented by the most recent studies including the Aylesbury Vale Housing and Economic Development Needs Assessment (HEDNA) of June 2015<sup>7</sup> and the more comprehensive Central Buckinghamshire Housing and Economic Development Needs Assessment (CB-HEDNA) of 23 October 2015<sup>8</sup> (comprising Aylesbury Vale, Chiltern and Wycombe districts). The CB-HEDNA identifies an Objectively Assessed Need (OAN) for Aylesbury Vale to accommodate 21,300 dwellings in the plan period 2013-2033, including 4600 affordable units.
  11. The Council's contemporaneous 'Draft Settlement Hierarchy Assessment for the VALP to accompany Issues and Options Consultation October 2015'<sup>9</sup> seeks to determine the capacity of settlements to accommodate sustainable development and designates Haddenham as a large village and a strategic settlement based on its range of facilities and communications. As such it and 4 other large villages are the focus for the majority of new development. Haddenham had previously been recognised as a large village capable of accommodating new development in the earlier LP.

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<sup>6</sup> CD22

<sup>7</sup> CD12

<sup>8</sup> CD21 draft version

<sup>9</sup> Mr Leaver's Appendix 15

12. The Haddenham Neighbourhood Plan (HNP) was made on 11 September 2011 and forms part of the development plan. The vision of the HNP is “*A well-designed, well-connected village that is a pleasant and vibrant place to live and work; a busy, active and dynamic community with a shared purpose and direction, a sense of history, and a strong community spirit that is valued by residents*”. It anticipated housing growth based on information current at the time it was prepared (2014) but recognised this was likely to be an underestimate. Policy HD1 sets out the spatial strategy for housing and development, advising that *‘The Neighbourhood Plan supports sustainable growth. To achieve this, policies HD2 – HD6 allocate specific development sites in the Neighbourhood Area. If essential to meet an agricultural or other specific need, a new dwelling shall be sited within, or immediately adjacent to, an existing group of dwellings suitably located to serve the purpose, unless it can be shown that there is an over-riding requirement why it must be built elsewhere’*. This policy had been altered by the Neighbourhood Plan Examiner<sup>10</sup> in recognition that in its previous form, it would have prevented residential development (other than that on allocated sites and windfall and infill development) from coming forward, other than in exceptional circumstances. He advised that *‘such an approach fails to have regard to the national policy presumption in favour of sustainable development.’*
13. Policy HD5 of the HNP allocates 2.8 ha of land on the application site in the north eastern corner between the rear of Willis Road and the hedge line in the field, for residential development. It says that planning permission will be granted where an application:
- Provides up to 85 dwellings;
  - Has a design and layout, including lower density and a maximum of 2 storey at the site edge to provide a graduated transition from the village to open countryside;
  - Has specific treatment of open space to provide open views out of the village;
  - Provides effective safe and attractive pedestrian and cycle connection(s) into the core of the village;
  - Includes the implementation of a traffic impact assessment to manage traffic into the core of the village and limit the vehicular impact onto Woodways and Thame Road; and
  - Allocates land for the provision of a multi-denominational / civil burial ground.
14. The allocation of 2.8 ha followed analysis of the site as follows, in knowledge of development pressure. *‘The “Glebe Lands” (given the allocation reference HNP/009) comprises the Glebe Land owned by the Oxford Diocese together with a large field owned separately by a private owner on the corner of Aston and Stanbridge Roads. Both the owners/developers and AVDC consider that the whole 12.4 ha/9.9 acre area should be developed (if at all) as one to achieve a comprehensive development including a new village boundary; the SHLAA estimates that it could accommodate 224 dwellings in 2 phases over 10 years, although recent outline proposals have made much higher estimates, up to 400.*

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<sup>10</sup> CD18

15. *This site has been previously proposed for development; the independent inspector on the application found that development of the site for 100 dwellings (the application at the time) would be "totally unrelated to and impossible to integrate with the rest of the village" with the existing footpath "singularly unattractive for people walking alone or after dark". It was also considered that it would destroy the "sense of Church End in its historic rural setting" and have a seriously detrimental effect on the character and setting of the Church End part of the Haddenham Conservation Area<sup>11</sup>. These issues still represent material considerations for future planning applications and would be exacerbated by significantly higher numbers of houses. Development on the site would, in one sense, "round off" the village but it would increase traffic flow through the historic core of the village and affect views from the neighbouring properties in Willis Road, The Gables and the eastern side of Church End.' However, by dividing the site into 3 sections, a parcel of land to the north of the site could be delivered without a disproportionately adverse impact on the CA. The Glebe Lands would also be an appropriate site for a new burial ground – particularly as it is geographically well-connected to St Mary's church...*
16. The HNP concludes that a planning figure of 430 dwellings over the remaining period of the plan is a reasonable 'interim figure' to plan for in the absence of an up to date Local Plan, advising that '*This matches the recent (accelerated) growth in the village and meets the requirements of the HEDNA, whilst recognising the ability of the settlement to be socially, physically and environmentally capable of receiving and assimilating a significant amount of new residential development. Together with those houses in build or with approved permission this represents a total contribution of 545 towards the total District requirement*'. These would be on sites identified in Figure 9 of the HNP.
17. Turning to national policy, paragraph 183 of the National Planning Policy Framework (NPPF) says: '*Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need. Parishes and neighbourhood forums can use neighbourhood planning to: set planning policies through neighbourhood plans to determine decisions on planning applications;...*'

*Paragraph 184: 'Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. The ambition of the neighbourhood should be aligned with the strategic needs and priorities of the wider local area. Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up to date Local Plan is in place as quickly as possible. Neighbourhood plans should reflect these policies and neighbourhoods should plan positively to support them. Neighbourhood plans and orders should not promote less development than set out in the Local Plan or undermine its strategic policies.'*

*Paragraph 185: 'Outside these strategic elements, neighbourhood plans will be able to shape and direct sustainable development in their area. Once a neighbourhood plan has demonstrated its general conformity with the strategic policies of the Local Plan and is brought into force, the policies it contains take*

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<sup>11</sup> This specific site was bordering on the south end of the CA at Church End, where a burial ground is now proposed

*precedence over existing nonstrategic policies in the Local Plan for that neighbourhood, where they are in conflict. Local planning authorities should avoid duplicating planning processes for nonstrategic policies where a neighbourhood plan is in preparation.'*

18. Under the heading 'Determining Applications', paragraph 198 says that "[where] a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted.'
19. The NPPF defines the setting of a heritage asset as the surroundings in which it is experienced. The extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset; may affect the ability to appreciate that significance; or, may be neutral. English Heritage (now Historic England) (HE) guidance indicates that setting embraces all of the surroundings from which an asset can be experienced or that can be experienced from or within the asset. Setting does not have a fixed boundary and cannot be defined, in perpetuity, as a spatially bounded area or as lying within a set distance of a heritage asset. The NPPF says that the significance of an asset is defined as its value to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting.
20. Heritage significance can be harmed through development within setting. Substantial harm to the significance of a Grade II listed building should be exceptional. Substantial harm to the significance of designated heritage assets of the highest significance (including Grade I and II\* listed buildings) should be wholly exceptional. Paragraph 133 of the NPPF says that if development would cause substantial harm to significance, then planning permission should not be granted unless it can be demonstrated that an exception is warranted; an exception would be justified if the substantial harm is necessary to achieve substantial public benefits that would outweigh the harm. If the development would cause less than substantial harm, this harm should be weighed against the public benefits of the proposal.
21. Planning Policy Guidance (PPG) provides advice on neighbourhood planning. Amongst other things, it says that neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area. Decisions on planning applications will be made using both the LP and the neighbourhood plan, and any other material considerations. At paragraph ID 41-009-20140306 it says '*Neighbourhood plans, when brought into force, become part of the development plan for the neighbourhood area. They can be developed before or at the same time as the local planning authority is producing its LP. A draft neighbourhood plan or Order must be in general conformity with the strategic policies of the development plan in force if it is to meet the basic condition. A draft Neighbourhood Plan or Order is not tested against the policies in an emerging LP although the reasoning and evidence informing the LP process may be relevant to the consideration of the basic conditions against which a neighbourhood plan is tested. Where a neighbourhood plan is brought forward before an up-to-date LP is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:*

- *the emerging neighbourhood plan;*
- *the emerging LP;*
- *the adopted development plan;*

*with appropriate regard to national policy and guidance. The local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body particularly sharing evidence and seeking to resolve any issues to ensure the draft neighbourhood plan has the greatest chance of success at independent examination. The local planning authority should work with the qualifying body to produce complementary neighbourhood and Local Plans. It is important to minimise any conflicts between policies in the neighbourhood plan and those in the emerging LP. This is because section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved by the decision maker favouring the policy which is contained in the last document to become part of the development plan.'*

22. The PPG also provides advice on conserving and enhancing the historic environment, saying that heritage assets are an irreplaceable resource and effective conservation delivers wider social, cultural, economic and environmental benefits. In assessing whether 'substantial harm' in the terms of the NPPF is likely to occur, it says: *'What matters in assessing if a proposal causes substantial harm is the impact on the significance of the heritage asset. As the NPPF makes clear, significance derives not only from a heritage asset's physical presence, but also from its setting. Whether a proposal causes substantial harm will be a judgment for the decision taker, having regard to the circumstances of the case and the policy in the NPPF. In general terms, substantial harm is a high test, so it may not arise in many cases. For example, in determining whether works to a listed building constitute substantial harm, an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest. It is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed. The harm may arise from works to the asset or from development within its setting. While the impact of total destruction is obvious, partial destruction is likely to have a considerable impact but, depending on the circumstances, it may still be less than substantial harm or conceivably not harmful at all, for example, when removing later inappropriate additions to historic buildings which harm their significance. Similarly, works that are moderate or minor in scale are likely to cause less than substantial harm or no harm at all. However, even minor works have the potential to cause substantial harm.'*
23. Under the section 'How can proposals avoid or minimise harm to the significance of a heritage asset?' the guidance says *'A clear understanding of the significance of a heritage asset and its setting is necessary to develop proposals which avoid or minimise harm. Early appraisals, a conservation plan or targeted specialist investigation can help to identify constraints and opportunities arising from the asset at an early stage. Such studies can reveal alternative development options, for example more sensitive designs or different orientations, that will deliver public benefits in a more sustainable and appropriate way'*.
24. In accordance with the statutory duty set out in section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA), special regard must be paid to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they may possess. The

preservation of setting is to be treated as a desired or sought-after objective, and considerable importance and weight attaches to the desirability of preserving the setting of listed buildings when weighing this factor in the balance.

25. As required by section 72(1) of the LBCA, special attention must also be given, with respect to any buildings or other land in a CA, to the desirability of preserving or enhancing the character or appearance of that area. The application site is not within any CA but the proposed development would be visible in views towards, from and around Haddenham CA and forms part of its setting. Paragraph 132 of the NPPF indicates that significance can be harmed or lost through alteration or destruction of a heritage asset or development within its setting.

### **The Proposal<sup>12</sup>**

26. 245 dwellings would be constructed on 8.61 ha at a density of 28 dwellings per ha (dph). 35 age restricted dwellings would be erected on 1.47 ha at a density of 24 dph. 35% of all the dwellings would be affordable, in accordance with the Council's Affordable Housing Policy Interim Position Statement of June 2014<sup>13</sup>. As part of the S106 Agreement, amongst other things, the play areas and nature reserve would be provided, the public footpath improved and footways provided along Aston Road to access the primary school and on Stanbridge Road on the way to the junior school, local shops and other facilities. Improvements are proposed to the local bus service and the western part of the open space would be designated as a burial ground. A full summary of the provisions of the S106 Agreement is set out in the relevant chapter below.

### **The Case for Lightwood Strategic Ltd<sup>14</sup>**

*The main points are:*

27. The Council resolved to approve the scheme not once, but twice, respectively in the context of the then emerging HNP and in the context of the now 'made' HNP. The made HNP is materially different from the submission version in that the examiner expressly removed from the 'spatial strategy' policy HD1 any prohibition on developing outside the allocated sites, having found such a prohibition to fail the 'basic conditions' of having regard to national policy for 'positive planning', given the absence of any strategic housing figures to justify a cap or ceiling to housing numbers in Haddenham.

*The development plan*

28. No strategic policies for housing supply were saved in the LP. The applicant considered that, potentially, there was a conflict with policy RA14, but that by operation of paragraph 49 of the NPPF, in the acknowledged absence of a 5 year housing land supply, RA14 would be rendered 'out of date'. Neither the Council nor Haddenham Parish Council (HPC) consider that RA14 is a relevant policy. There is no allegation by any party that this proposal is in conflict with the LP, and the first bullet of the second half of paragraph 14 of the NPPF applies.

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<sup>12</sup> See concept masterplan ref BRS.5173\_02H 1

<sup>13</sup> CD30

<sup>14</sup> In the following summaries, some references and phrases are omitted. The full texts are contained in the printed closing remarks.

29. That part of the site covered by policy HD5 is expressly supported by the HNP. There is no conflict there. In addition, each and all of the 5 criteria either are delivered or can be at reserved matters stage. It should be noted that the aspiration of a burial ground could not sensibly be achieved at HD5 given its area of 2.8ha which renders 85 units a density of 30dph. The proposed scheme which takes in the wider Glebe site can and does deliver that much-needed facility for the village. It also provides significant community sports and open space and nature area which the Parish Council recorded that it strongly wishes to adopt as its own.
30. While the proposal before the Secretary of State goes beyond policy HD5, it is delivering HD5 and that part in the 2.8 ha allocation receives its express support for 85 units, as does the proposed burial ground. There is no policy objection to the provision of the country park, sports facilities or nature reserve; indeed, these are expressly welcomed by the HPC. It should further be noted that the proposal includes 35 retirement homes, which were, according to the HNP, to be provided on the Dollicot site, but which would not be provided under the application received for that site. Instead, that aspiration of the HNP will be delivered by these proposals.
31. Turning to policy HD1, it is important to recognise that before being altered, HD1 would have limited residential development in Haddenham to the 430 allocated in the five allocations HD2-HD6, plus windfalls and infills. Housing outside those allocations would have been prohibited except in 'exceptional circumstances'. Consequently, as against the submission version of the HNP extant at the time of the Secretary of State's call-in letter, a proposal for 280 houses on the application site would have been contrary to that prohibition and, hence, in conflict with HD1. Events have amply justified this amendment. The district-wide housing numbers to which the submission version HNP was working were approximately 19000. The HNP Consultation Response document acknowledged (indeed asserted) that it was appropriate for the HNP to base itself on the HEDNA evidence<sup>15</sup>. Since then, the HEDNA and consequent distribution exercises have identified a strategic housing need for 31000 across the district, with between 1007 and 1094 coming to Haddenham. Even Sir Roderick Floud's more modest appraisal identifies 677<sup>16</sup> and all are very significantly more than the 430 to which the allocations were directed. Given Haddenham's place as a 'strategic settlement' alongside Aylesbury, Buckingham, Wendover and Winslow at the top of the settlement hierarchy, this is only proper. It is one of the five most sustainable settlements in the District which are 'the main focus for growth'. Should this proposal be judged to be sustainable growth, HD1 expressly supports it. There is no conflict with HD1.
32. The HPC sought to argue that the phrase in HD1 introducing the allocations 'To achieve this...' should be read to limit 'sustainable growth' to those allocations (plus windfalls and infill). But that is to re-impose the prohibition agreed to have been removed and makes no sense, given the purpose of the Examiner's amendment. Reference to the very different circumstances in *Crane*<sup>17</sup> does not assist the HPC – there the Secretary of State (and judge) found that the policies in question set an upper acceptable limit for development, and then allocated

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<sup>15</sup> CD52, p. 98, response 257

<sup>16</sup> CD36 email from Sir Roderick Floud of 25 October 2015

<sup>17</sup> CD34



sites to accommodate that limit. Here, while there are 5 sites identified as sustainable, the upper limit they had represented was expressly and deliberately removed by the Examiner. It is not 'pointless' then to allocate the 5 sites as suggested; it is positive planning. But, equally, to use them as a means to prohibit sustainable growth elsewhere is, in the absence of strategic housing numbers, not positive planning, not in accordance with the NPPF, would have therefore failed the 'basic condition' test and so was removed. As such, the proposal does not conflict with the development plan including the 'made' neighbourhood plan. NPPF paragraph 14, first bullet of the second half, indicates permission should be granted without delay.

33. The HPC relies on the Crane and Woodcock cases<sup>18</sup>. The conclusions to draw from these are that:

1. Weight to be given to policy conflict is for the decision maker;
2. The effect of paragraph 198 of the NPPF is not to elevate the status of NP policies;
3. The effect of being 'out of date' must be a downwards effect on weight;
4. How far downwards is for the decision maker – depending on the circumstances of the case; leading to a look to the merits of the matter.

Moreover, the fact that the land is acceptable is sufficient distinction from the Crane case for the applicant.

#### *Heritage assets*

34. The proposed burial ground abuts the Haddenham CA. Between it and the proposed housing lie the nature reserve and the community sports provision. There are three Grade II listed buildings whose curtilages share that boundary. In addition, Grenville Manor is a Grade II\* listed house reasonably proximate to the site and on the opposite side of the road, further away from the site, lies another, Church Farm House. The Grade I St Mary's Church lies at the centre of Church End, within the CA, its tower visible in certain views over the application site.

35. No works are proposed to listed buildings or in the CA. Development or change within the setting of a heritage asset is not harm unless it materially and adversely affects the contribution of the setting to the significance of the heritage asset itself. While the site is in the setting of the three Grade II houses and the Church, and the footway works are in the setting of the two Grade II\* houses<sup>19</sup>, there is no serious suggestion that the significance of those heritage assets derives substantially from the absence of development on the application site or the absence of footpaths on that part of Aston Road. Moreover, the part of the site nearest the assets is proposed to be kept open and undeveloped, indeed, the applicant considers their setting to be enhanced by the proposals. The design of the footway can be sympathetically considered as to positioning, extent and surface and edging treatment. Footways of varying widths in traditional materials and edging are a characteristic of the historic core of the village.

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<sup>18</sup> CDs 13 and 34

<sup>19</sup> Depending on its extent. Church Farm House is well beyond the school vehicle entrance

36. It is notable that no part of the CA Appraisal<sup>20</sup> identified important views across the application site. In addition, the southern half of the boundary with Stanbridge Road is bounded by a significant hedge and the more open northern section is itself the subject of the HNP allocation HD5 at 30 dwellings per hectare (dph). At reserved matters stage, key views of the Church tower can be established and integrated into the layout. As the conservation officer recorded, the proposals will preserve the settings of the listed buildings and the CA and will not harm the significance of the heritage assets in question.
37. Paragraph 134 of the NPPF is not engaged. However, if there is considered to be some 'less than substantial' harm, that can be outweighed by the public benefits of the proposals. These are many and manifest and weighty. When one takes account of the other social benefits, the economic benefits and the environmental benefits brought, this is a case where the 'less than substantial harm' is more than adequately outweighed by the very substantial weight properly to be accorded to the benefits of the scheme.

*Whether the proposal constitutes sustainable development*

38. Proposals which accord with the development plan should be approved without delay. Where there is conflict, but the relevant policies are out of date, permission should be granted unless the harms significantly and demonstrably outweigh the benefits. Paragraph 198 of the NPPF is accepted not to elevate neighbourhood plans to any special status compared to other parts of the development plan. Paragraph 198 is agreed, therefore, not to be a 'footnote 9<sup>21</sup>' policy and the second dagger of the second bullet is not thereby engaged.
39. If there is no conflict with the HNP policies as they have emerged from Examination, S38(6) operates to indicate that permission should be granted, there being no material considerations which indicate otherwise, or not to the extent of disturbing the statutory presumption in favour of the development plan. Conversely, if conflict is found with either or both of HD1 and HD5, there are ample material considerations which indicate that permission should, nonetheless, be granted. The most prominent of these is the fact that both policies are 'relevant policies for the supply of housing' within the meaning of paragraph 49 of the NPPF and so are deemed 'out of date'. That has two effects: it takes the decision-maker to paragraph 14 second bullet as the operative test for determination; and it reduces the weight which otherwise would have been given to the policy and any conflict with it. As the HPC planning witness acknowledged, the effect of finding a policy 'out of date' when judging its weight can only be 'downwards'.
40. It is necessary to weigh the benefits and compare them with the alleged harms. The significant benefits across the three 'dimensions' of sustainable development are neither disputed nor challenged. Against this the 'harms' are heritage, accessibility and conflict with the HNP. As to heritage, there is no harm; or it is outweighed by benefits. As to accessibility, Haddenham has appropriate facilities, education, employment, bus services and a railway station. It is a sustainable settlement for additional housing development and the application site is a sustainably accessible location for such growth, as acknowledged in the

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<sup>20</sup> CD23

<sup>21</sup> In the context of paragraph 14

Transport Statement of Common Ground<sup>22</sup> and, not least, by its part allocation in the HNP itself. Sustainable transport improvements in the form of increasing a twice daily bus service to an hourly one will benefit the application site's residents and the settlement as a whole.

41. There is no credible argument that the site is not a sustainable one for development. Parcel 009A<sup>23</sup> even on the HPC's scoring system, which the applicant says is unreliable, was ranked in the top 5 of all sites in Haddenham. At 7.1 ha, that could accommodate 213 dwellings. The minutes of the HNP committee of 12th November 2014<sup>24</sup> record that '*the Glebe land comes some way down the priority list but no site was deemed unacceptable by the site criteria assessment*'. That leaves the pure policy objection of alleged conflict with the HNP 'spatial strategy' policy HD1.
42. It should be noted that there is no conflict with policy HD1, the prohibition on developing outside the allocations having been successfully removed, as accepted by HPC. If there is some conflict, as alleged, it is necessary to assess the degree of conflict and the weight to be attached thereto. As the HNP is a newly made plan, HD1, as a starting point, is accorded 'full' statutory S38(6) weight. However, it is a plan under pain of legal challenge, and so, although of legal force until quashed, it is legitimate to lessen the weight it might otherwise have. Further, policies HD1-6 are 'relevant policies for the supply of housing' and are, therefore, deemed out of date. As such, their weight will be reduced.
43. There are no circumstances here to justify re-elevating out of date policies to a level of determinative weight here, where the housing need has gone from 19,000 to 31,000, that attributed to Haddenham has gone from 430 to between 677 and 1000+ and the Glebe site was assessed as not unacceptable in itself, although not yet needed. Certainly, paragraph 198 of the NPPF does not as a matter of law amount to a reason to re-elevate the weight of an out of date NP housing policy. The two reasons given in the HNP for limiting HD5 to one corner of site 009A are heritage impacts and accessibility. As the Council has concluded that neither of these considerations amount to reasons to oppose 280 units on the application site, there is no further free-standing objection by reason of the boundaries to HD5, or the non-allocation of the balance under HD1. In addition, weight of any policy objection will be affected by the robustness of the process by which a policy has been arrived at, and the continuing validity of the evidence which underpinned it.
44. Much was made of the HNP being the 'authentic voice of the local people'. The applicant considers the process leading to priority ranking of the sites in the HNP was flawed. It is a characteristic of the neighbourhood planning process that the decisions as to where and what to develop are made by a necessarily small group of people and the danger of losing objectivity inevitably rises. The Government quite deliberately set out to devolve power downwards, and the applicant has no complaint about that principle. But there is another vital and long standing principle of public law decision-making: *with power comes responsibility*. That is the responsibility to be objective and evidentially and procedurally robust.

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<sup>22</sup> Doc 12

<sup>23</sup> Referring to the plan in the HNP Fig 9 page 29

<sup>24</sup> CD56, page 3

45. Given the 'light touch' of the examination process where there is not even an oral hearing session and no opportunity to ventilate and explore challenges to methodology, evidence and assumptions, it is particularly important that the process by which sites are identified and allocated is one that can be properly relied upon both by the Examiner and by the voting public. Both must take much of what they are given by the neighbourhood planning team (NPT) on trust. The process followed by that team must justify that trust. The applicant says that has not been the case here. The process was one of site scoring by two people both of whom are strongly opposed to development on the application site and both appeared to oppose it at the inquiry. It was conducted in a manner which ranked the sites in priority of their score and worked downwards down the list attributing housing to the sites until 430 had been distributed. The ranking was critical, therefore, to the allocation of housing to any given site. Although the site 009A at 7.1ha was able to accommodate 213 dwellings, it was initially given only 50 and then 85 when other high ranked sites dropped out or were reduced.
46. But that was at a score of 34, with the Airfield site<sup>25</sup> at 37 and the other three available sites at 35. The Haddenham Village Society (HVS) submitted representations challenging those scores<sup>26</sup>. By reference to distances, it scored the Glebe at 36, placing it second only to the Airfield. On the priority basis, that would have seen the 7.1 ha site allocated for 130 units (the 430 total -300 to the Airfield). But the HVS also scored the Airfield down from 37 to 34, which would have placed 009A at the top and eligible for its full 213 capacity.
47. The Consultation Response<sup>27</sup> recorded that the site assessments had been amended in the light of HVS's Appendix 2<sup>28</sup> and that the score for 009A has been rated at 36 'only one point below' the Airfield. That is indeed what the January Site Assessment<sup>29</sup> showed: a score of 36 following a change in the 'distance to (shopping) Parade' entry. However, the accompanying submission version plan of January 2015 still recorded the site 009A as 34 and the Airfield as 37, seen by some as a symptom of mistakes made in the unseemly hurry to submit the draft HNP in time to adversely affect the determination of the current planning application (a motive rather disarmingly admitted to in the Consultation Response document itself).
48. The applicant warned the Council that the HPC may seek to excuse the fact that the site assessment of 36 was not reflected in the priority ranking of 34 in the Annex C to the HNP. Less than a month later in August 2015, after both the examination and the referendum, the HPC said the 36 had been a digitisation error moving from manuscript to web.
49. The applicants say the 'error' was not one of erroneous transcription; the 36 arose from a (correctly) altered score for distance to the shopping parade in Woodways. The distance to the Parade is less than 1000m which results in a score of 36. HVS was quite right in its representations and the Consultation Response was quite right in its recording that the 34 had been changed to 36 as a result, placing the 009A site one point below the Airfield. Moreover, the 'digitisation' had occurred not in January 2015, but in early December 2014. The

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<sup>25</sup> HNP/001: The Airfield site at Fig 9 of the HNP

<sup>26</sup> CD51, Appx 2

<sup>27</sup> CD52

<sup>28</sup> CD52 p. 70, response 105

<sup>29</sup> See Doc 15, RF1/3, exhibit to Floud written submissions to High Court, 18<sup>th</sup> November 2015

change in January was a deliberate alteration to the contents of the document in four places, consciously and correctly done.

50. The applicant measured the distance from 009A and found that it was less than 1000m. It was left until a day before the witness statement was signed for a Google screen print to be produced purporting to show a distance in excess of 1000m. Three 'Google' plans were produced at the Inquiry<sup>30</sup>. Only one was relevant to the Parade. It showed 1.06km distance but only by taking into account three factors: (i) a perpendicular route from centre to road, rather than shortest route; (ii) a route taken along the highway to a junction, rather than following the footway; and (iii) approaching the Parade by going past it and then doubling back into the car park from the west, rather than using the footway into the Parade from the east. Just altering (i) to a more realistic and fair basis renders the distance to less than 1000m (as asserted by HVS and as recorded in the January amendment and the Consultation Response at 221). Further, no evidence was produced to show that a 'perpendicular' approach had been used for other sites, including especially the Airfield. When the applicant came to measure the distances from the Airfield to both the station and the nearest bus stop (both recorded as <500m), this did not accord with a perpendicular approach (it did not even accord with a 'as the crow flies' approach). This lack of parity demonstrates that the 009A site has not been treated on the same basis as other sites. The assessment is not fair, objective, or accurate.
51. The scoring is to find accessibility of sites for sustainable transport modes. The three categories are green <500m, amber 500-1000m, red >1000m. The purpose is to try and judge the propensity to use modes such as walking and cycling rather than the car. It is bizarre that the journey was assumed to be by car. No evidence was brought forward to indicate that any other site had had its distances to shops measured as if one drove rather than walked. Indeed, the Airfield scores could not possibly have been done on a 'by car' basis. And no-one drives to bus stops. The applicant knew full well that the distances were under 1000m.
52. Understandably there is a tendency to attribute matters to error rather than 'conspiracy'. But which it is matters not for the outcome as to the weight to be given to the allocation or non-allocation of the application site. On these shaky foundations was the priority list built; on this were the allocations distributed; in this did the Examiner place his trust; and in this did the voting public place their reliance. There is no justification on the basis of the robustness of process or endorsement of the local population to elevate its weight beyond that of any other out of date development plan policy. When the benefits are balanced against the harms alleged, it will readily be seen that the harms do not outweigh the very substantial weight to be given to the sum of those benefits, either 'significantly' or at all. Paragraph 14 of the NPPF would direct that planning permission should be granted.

#### *Planning balance*

53. The provision of 280 dwellings, comprising market and 35% affordable, of mixed tenure and sizes determined at reserve matters stage, together with 35 age-restricted houses, sustainably located in respect of one of Aylesbury Vale's strategic settlements, benefitting not least from a railway station, all set in

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<sup>30</sup> Doc 8

extensive public open space, sports provision and accompanied by a much needed burial ground otherwise unlikely to be achieved: this is a proposal for sustainable development par excellence. The HNP should have recognised this by a much larger allocation – and would have done so but for the peculiarities of its process – but even it recognised that this is a location which was acceptable for housing if needed. Indeed, none of the sites assessed were considered ‘unacceptable’. It is now needed, and urgently so. The Council cannot demonstrate a 5 year housing land supply and its affordable need is significantly outpacing its affordable delivery. There is something in the order of 31,000 dwellings to find and Haddenham must do its part. Haddenham will actually benefit as a settlement; it will have more residents to sustain its services and patronise its shops and cafes. There will be improved bus services to the benefit of all residents and improved footpaths and footways. There will be a significant increase in publically accessible open space, in ecological interest and in community sports provision. There will be a much needed burial ground to accept one end of the village’s demographic, and a wider range of market and affordable homes to accommodate the other. The planning balance is very firmly in favour of the scheme.

### **The Case for Aylesbury Vale District Council**

54. The Council has intentionally taken a limited role in this inquiry for three principal reasons. First, the decision is no longer its own following the Secretary of State’s call in on 27 March 2015. Secondly, the Council’s clear position is as set out in its report to committee dated October 2015<sup>31</sup>. The Council’s views have not changed. Lastly, the tension in this case – between the significant need for housing and the importance of neighbourhood planning – has been aptly articulated by the Parish Council and applicant’s cases. In the end, the outcome of this application will turn on how much weight the Secretary of State applies to each of these two issues. However, there are a number of short points:

#### *Approach to decision-making*

55. The following propositions can be derived from case law as to the proper approach in determining planning applications:

- i) Whilst S38(6) creates a presumption in favour of the development plan, judgment is still required by the decision maker. He or she is not required ‘slavishly to adhere to’ the development plan but is at liberty to depart from the development plan if material considerations indicate otherwise.
- (ii) The NPPF is a material consideration (albeit one likely to command significant weight<sup>32</sup>). It does not change the statutory presumption in favour of the development under S38(6).
- (iii) The NPPF sets out a simple sequence of steps for the decision maker in housing cases: the first step is to consider whether relevant policies for the supply of housing are out of date because the local planning authority is unable to demonstrate a five year housing land supply. If so, paragraph 14 will be engaged. The second step is to consider whether planning permission should be withheld for either of the two possible reasons given in paragraph 14<sup>33</sup>.

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<sup>31</sup> CD8

<sup>32</sup> see CD34 (Crane) paragraph 62

<sup>33</sup> see CD34 (Crane) paragraph 65

- (iv) Neither paragraph 49 nor paragraph 14 of the NPPF prescribe the weight to be applied to policies found out of date. Neither say that policies which are deemed to be out of date should be ignored<sup>34</sup>. The decision maker must determine the weight to be given to them<sup>35</sup>.
56. *Crane* does not, as the Parish Council sought to suggest in opening, state that “a proposal’s conflict with a recently *made* NP is, in itself, a powerful and decisive factor’ against granting planning permission”<sup>36</sup>. All the court said was that the Secretary of State was entitled to conclude that the conflict was a powerful and decisive factor; “*there was nothing legally wrong with the Secretary of State’s conclusion*” [paragraph 78]; and “*in the end, therefore, one comes back to the most elementary principle of planning law, emphasized by Lord Hoffmann in Tesco Stores Ltd. v Secretary of State for the Environment [1995] 1 W.L.R. 759 (at p.780F-H): that the weight to be given to material considerations, including statements of government policy, is a matter for the decision-maker to judge, subject only to the constraint of rationality... In other circumstances the Secretary of State might have struck the balance differently. He might even have struck it differently here, and to have done so might not have been unreasonable. But this does not mean that the decision he did make was irrational...*” [paragraph 79].
57. It is right that in *Crane* (and the Broughton Astley decision on which that challenge was based) as well as in the Winslow decision, the Secretary of State gave very substantial negative weight to the conflicts he found with the relevant neighbourhood plans but that does not mean the same is appropriate here. In contrast to the above decisions, part of the application site is allocated for housing by the HNP. It is part of the vision and spatial strategy of the plan to build houses in this location. That fact must limit any harm – environmental and strategic – caused by the application site being wider than the allocation. It was the Council’s position during the consultation on the HNP that the better approach would be to allocate the whole of the Glebe site and seek its comprehensive redevelopment. These factors alone make the decision here quite distinct to those taken in Broughton Astley and Winslow.
58. It is noteworthy that for all the HPC’s focus on *Crane* and the suggestion that the Council did not understand that decision by reference to the internal briefing memo to Members, there has been no criticism of the approach to decision-making in the officer’s report. In the end, HPC’s complaint is about the weight the Council attributed to the conflict with the HNP.

#### *Haddenham Neighbourhood Plan*

59. The Council and the applicant differ on whether or not there is conflict with the HNP. The HPC’s analogy with *Crane* in this regard is apt. If it were right that, as a result of there being no cap on development in policy HD1, the application does not conflict with the HNP even though it is not wholly within one of the allocated sites, then the whole process of site selection and allocation would be rendered pointless. That cannot be right and, in similar circumstances, the judge in *Crane* said as much<sup>37</sup>. This is a conflict to which the Council gives significant weight,

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<sup>34</sup> See CD13 (Woodcock) paragraph 107

<sup>35</sup> see CD34 (*Crane*) paragraphs 71-74

<sup>36</sup> Referred to in HPC opening remarks paragraph 11

<sup>37</sup> See CD34 paragraph 48

given the importance the Government places on neighbourhood planning, the fact that the HNP has only recently been made and the hard work that the people of Haddenham invested in producing it.

#### *Housing land supply*

60. In Aylesbury there is no five-year housing land supply; there is no issue between the parties on this point. Furthermore as set out in the SOCG Addendum<sup>38</sup> (sections 4 and 5), the direction of travel in terms of housing need is upwards. The Council places significant weight on the provision of market and affordable housing in an area with great need of both. In such circumstances, paragraph 14 of the NPPF states that planning permission ought to be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the NPPF as a whole. The Council understands that it is agreed that this is the balance to be struck in this case. It is clear that the second 'dagger' does not apply. Paragraph 198 is simply not in the nature of a 'footnote 9' policy. Indeed, paragraph 198 is not, in reality, much more than an expression of the statutory presumption in favour of the development plan.

#### *Environmental matters*

61. As set out in the Committee Reports and during the Inquiry, it is the Council's judgment that the application would have little detrimental environmental impact. The views of the local plan Inspector are not illuminating: he dealt with a different site, at a different time in a different policy context. The Parish Council did seek to make something of the corrigendum to the January committee report that replaced the original paragraphs that dealt with heritage matters<sup>39</sup>. The paragraphs were replaced because they did not reflect the views of the heritage officer and because they were poorly drafted and made little sense. The replacement paragraphs are clear, they reflect the views of the Council's heritage officer and they formed the basis on which the committee made their decision.

#### *Planning balance and conclusions*

62. The development has insignificant environmental impacts; a significant point in its favour (housing) and a significant point against it (the conflict with the neighbourhood plan). The Council does not think it here appropriate to apply the same weight the Secretary of State applied in Broughton Astley or Winslow. Each case must be judged on its own merits. In the Council's view, the allocation of part of the application site and the suitability of the remainder for housing has a material bearing. In the end, it is a finely balanced decision given the importance of neighbourhood planning but, in such circumstances, the NPPF dictates the result: planning permission ought to be granted as it cannot be said that the adverse impacts significantly and demonstrably outweigh the benefits.

### **The Case for Haddenham Parish Council**

63. The Secretary of State's reasons for calling in the application include a concern that the proposal may be in conflict with the (at that time emerging) HNP, an issue of very considerable importance since, as noted by Mr Justice (now Lord Justice) Lindblom in the first sentence of his important judgment in *Crane*:

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<sup>38</sup> Doc 10

<sup>39</sup> CD7



"Neighbourhood plans are seen by the Government as an important part of its so-called 'localism agenda'." Moreover, and since recovering the planning application for his own determination, the HNP<sup>40</sup> has now been made, as recently as 11 September 2015, following a referendum in which it achieved an overwhelming majority, with over 86% of those who participated voting 'yes'.

64. If that NP was sufficiently important to motivate the Secretary of State to recover the planning application when it was emerging, it is even more important now that it has been made, and for two main reasons:

a) It is now part of the development plan. It therefore receives the statutory priority afforded by S38(6) "*while material considerations may outweigh the requirements of a development plan, the starting point is the plan which receives priority. The scales do not start off in even balance*".<sup>41</sup>

b) It receives extremely strong Government policy support under the NPPF. In particular, and as stated in paragraph 198: "*... Where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted*".

65. The NP had also recently been made in the *Crane* case, a case which concerned in terms the weight properly to be attached to a recently made NP when it allocated certain sites for housing development, but not the application site in question, in circumstances in which the Council did not have a 5 year supply of deliverable housing land. Given this, the *Crane* case is plainly of seminal importance to the determination of this application since it is all square with it.

66. The same cannot be said with respect to *Woodcock*<sup>42</sup>, which is a case that concerns an emerging NP only, not one which had been made and brought into force, which therefore forms part of the development plan, and to which paragraph 198 of the NPPF therefore applies.

67. However, and in a proof which is 64 pages long and refers to and/or exhibits numerous legal cases and decision letters, nowhere did the applicant's planning witness even refer to either the *Crane* case or the underlying Broughton Astley decision (nor for that matter did the planning witness for the Council). The omission of any reference to *Crane* is surprising given its greater relevance (as a case concerning a made NP) and given, also, that *Woodcock* cites *Crane* with approval and considers it in detail. There is no explanation of why it was not raised, merely indicating that the Inspector would know the importance of *Crane*. The applicant's planning witness also confirmed that he was familiar with the Winslow decision letter<sup>43</sup> and yet this was not raised either, despite relying on numerous other decision letters. Most startling of all perhaps, he made no reference at all to paragraph 198 of the NPPF.

#### *The legal status of the Haddenham Neighbourhood Plan*

68. The applicant is seeking permission to challenge the making of the HNP by judicial review. However, unless and until it is quashed (and it is being robustly defended by both the Parish and District Councils) the decision maker is required

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<sup>40</sup> CD16

<sup>41</sup> CD39 *South Northamptonshire Council v SSCLG* [2013] EWHC 11 (Admin)

<sup>42</sup> CD13 *Woodcock Holdings Ltd v SSCLG* [2015] EWHC 1173 (Admin)

<sup>43</sup> CD46

to presume its validity. That follows from the decision of the House of Lords in the seminal case of *Hoffmann-La Roche*<sup>44</sup>, in which Lord Diplock stated as follows [at 365 D-F]: “*Under our legal system... the courts as the judicial arm of government do not act on their own initiative. Their jurisdiction to determine that a statutory instrument is ultra vires does not arise until its validity is challenged in proceedings inter partes either brought by one party to enforce the law declared by the instrument against another party or brought by a party whose interests are affected by the law so declared sufficiently directly to give him locus standi to initiate proceedings to challenge the validity of the instrument. Unless there is such challenge and, if there is, until it has been upheld by a judgment of the court, the validity of the statutory instrument and the legality of acts done pursuant to the law declared by it are presumed.*” (Emphasis Added)

69. As a matter of law, the Secretary of State must proceed on the basis that the HNP is a valid part of the development plan. Moreover, the applicant’s judicial review of the making of the HNP is not a “material consideration” for the purposes of S38(6), and cannot reduce the weight to be afforded to that Plan:
- a) It does not “relate to the use and development of land” (the test set out in *Stringer*<sup>45</sup>) but relates only to the validity of the HNP itself; and
  - b) to treat the fact of the judicial review as a material consideration militating against deciding the application in accordance with the development plan would be flatly inconsistent with the presumption of validity set out in *Hoffmann-la-Roche*. One cannot presume validity and reduce weight on the basis of possible invalidity at the same time.
70. If development plans could be attacked in this manner in Inquiry proceedings, such proceedings would be ungovernable: it would encourage an exhaustive analysis of the evidence base behind every policy in every part of the development plan. That cannot be right. The applicant’s position is also contrary to the approach of the Secretary of State in the Winslow Decision Letter<sup>46</sup>, dated 20 November 2014, also concerning a site in Aylesbury Vale’s area of authority, and on another application for development in breach of a Neighbourhood Plan. The Secretary of State, consistently with the legal position set out above, stated as follows: “*The Secretary of State has carefully considered the request of the appellant to delay the decision on this appeal until the outcome of the judicial review to the Winslow Neighbourhood Plan is known. However, the Secretary of State considers that there is no need to delay this decision and has proceeded on the basis that full weight is attributed to the Winslow Neighbourhood Plan, as part of the statutory development plan.*”
71. The Council also considers that the HNP forms part of the development plan unless and until it is quashed by the courts. Much of the criticism of the HNP during the Inquiry is wholly irrelevant and of no assistance in the determination of this application. The Parish Council very fairly disclosed as Core Documents the authorities on which it was relying on this legal issue ahead of the Inquiry. It then set out its legal position in its opening submissions at paragraph 3. The applicant has provided no authority in support of its position.

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<sup>44</sup> CD40 *Hoffmann-La Roche & Co. A.G. v. Secretary of State for Trade and Industry* [1975] A.C. 295

<sup>45</sup> CD41 *Stringer v Minister for Housing and Local Government* [1970] 1 WLR 1281 at 1294

<sup>46</sup> CD46

### *The Crane Case*

72. In *Crane* the Court had to decide whether a decision on an appeal under S78, in which the Secretary of State had given "very substantial negative weight" to the proposal's conflict with a recently made Neighbourhood Plan, was lawful, given that the policies of the development plan for the supply of housing land were acknowledged to be "out-of-date". The claim raised two main issues: first, whether the Secretary of State erred in law in concluding that the proposed development was in conflict with the NP then under consideration; and second, if the Secretary of State was correct in determining that the proposed development was in conflict with the NP, whether the Secretary of State misinterpreted or misapplied government policy in the NPPF when deciding that "very substantial negative weight" was given to that conflict notwithstanding the fact that the policies of the development plan for the supply of housing land were out-of-date.
73. Mr Justice Lindblom made the following points: The allocations in the NP represented both the acceptable location and the acceptable level of new housing development in the plan period and were the result of a process of selection, having emerged as the sites chosen for allocation in the light of public consultation and the evaluation of options. They had been selected in preference to other available sites which developers and landowners – including Mr Crane – had suggested. They were also the planned "maximum" provision of new housing for those sites without too much expansion into the surrounding countryside. The Parish Council was seeking to achieve reasonable clarity and certainty as to where the new housing would go, and not to encourage developers to promote large proposals on unallocated sites. It achieved this without needing to define a settlement boundary, or any express "limits to development". Further, in deciding which sites should be allocated for housing and which should not, the Parish Council had considered the sustainability of the new housing it was planning. This could be seen in the policies specifying the particular requirements for the allocated housing sites; in the policies relating to other allocations; and in the overarching policy for sustainable development. As such, the NP was composed of policies, both specific and general, which connected to each other to form a coherent whole: a full picture of the development and infrastructure for which the Parish Council had planned.
74. It followed that a proposal for housing on a site other than those allocated (unless a windfall) would not accord with the NP and would be contrary to its strategy for housing development. Such proposals would therefore be in conflict both with the NP itself and, as a result, with the development plan as a whole. The notion that the NP, properly construed, allowed for development so long as it did not conflict with specific policies for the protection of the environment and would not frustrate or delay development on any of the allocated sites was to be rejected. Such an interpretation could not be squared with its purpose in providing for sustainable development in the Parish and would undo the balance that was struck when it was prepared – the balance between the aim of allocating sites for additional housing whilst avoiding excessive expansion into the countryside. It would, accordingly, negate the strategy which the Parish Council conceived.
75. Importantly, Mr Crane's argument could not be reconciled with the true purpose and effect of the allocations. In particular, and if that interpretation were right, *"... there would have been no point in the Parish Council going through the exercise of selecting the sites it allocated for housing development and*

*formulating the policies and text which support those allocations."* Indeed, Mr Justice Lindblom went on to state: "*That, I think, is beyond any sensible dispute*".

76. As to the second issue, Mr Justice Lindblom took the view that the Secretary of State was plainly entitled to give the relevant considerations the weight that he did. In particular: so as to require him to consider whether the development would have "adverse impacts" that "significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole", or "specific policies in the NPPF indicate development should be restricted":
- a) Government policy in the NPPF, including the "presumption in favour of sustainable development" in paragraph 14, was only a material consideration external to the development plan and did not modify the statutory framework for the making of decisions on applications for planning permission but operated within that framework – as the NPPF itself acknowledges in paragraph 12.
  - b) Accordingly, it was for the decision-maker to decide what weight should be given to NPPF policy in so far as it was relevant to the proposal and the Court will not intervene unless the weight given to it by the decision-maker can be said to be unreasonable in the *Wednesbury* sense.
  - c) Once the Secretary of State had found Mr Crane's proposal to be in conflict with the development plan, he had to consider whether, in the light of the other material considerations in the case, he should nevertheless grant planning permission, entailing a classic exercise in planning judgment whereby his task was to weigh the considerations arising in the application of relevant policy in the NPPF, and any other material considerations beyond those arising from the development plan, against the statutory presumption in favour of the development plan enshrined in S38(6).
  - d) The Secretary of State did exactly what he had to do in a legally unassailable way given that the NPPF does not displace the statutory "presumption in favour of the development plan". In particular, neither paragraph 49 of the NPPF nor paragraph 14 says that a development plan whose policies for the supply of housing are out-of-date should be given no weight, or minimal weight, or indeed any specific amount of weight; and the presumption in favour of the grant of planning permission in paragraph 14 is rebuttable and the absence of a five-year supply of housing land will not necessarily be conclusive in favour of the grant of planning permission.
77. The reference in paragraph 14 of the NPPF to its policies being "taken as a whole" is important since the NPPF includes the policy on NPs in paragraphs 183 to 185, and the statement in paragraph 198. Paragraph 14 of the NPPF does not, therefore, remove the general presumption in paragraph 198 against planning permission being granted for development which is in conflict with a NP that has come into effect.
78. In the *Crane* case the Secretary of State did, therefore, exactly what paragraph 14 of the NPPF required him to do:
- a) He weighed the "adverse effects" of the proposal against its "benefits" in the light of the policies in the NPPF "taken as a whole."
  - b) Given that the NP had been brought into force, he was required to consider the proposal's conflict with that under the policy in paragraphs 183 to 185 and 198 of the NPPF.

- c) The presumption in paragraph 198 was, therefore, a consideration to which he was entitled to give significant weight.
- d) He was also entitled to attach great importance to the concept, in paragraph 185 of the NPPF, that NPs "will be able to shape and direct sustainable development in their area", which was "more than a statement of aspiration" in that once a NP has become part of a development plan it "should be upheld as an effective means to shape and direct development in the neighbourhood planning area in question, for example to ensure that the best located sites are developed".
- e) This reasoning led to the conclusion that the proposal's conflict with the NP had to be given "very substantial negative weight" – which was enough weight "significantly and demonstrably" to outbalance the benefit of the additional housing proposed.
79. The Secretary of State was not persuaded to make a decision which, in his view, would "undermine public confidence in neighbourhood planning", even though the proposed development would not cause unacceptable harm to the character and appearance of the area and would be sufficiently accessible, since that proposal "was clearly alien to the Parish Council's vision for its area manifest in the Neighbourhood Plan". There was nothing legally wrong with the Secretary of State's conclusion that, although the policies for the supply of housing in the development plan were not up-to-date, and although the development then before him would add to the supply of housing in the district, the proposal's conflict with the NP was, in itself, a powerful and decisive factor against granting planning permission.
80. Furthermore, *Crane* has resonance in the Winslow decision letter<sup>47</sup> where the Secretary of State rejected the proposal in terms almost identical to those used and upheld in *Crane*.

#### *The Woodcock Case*

81. Nothing in the *Woodcock Holdings* case<sup>48</sup> undermines the analysis of Mr Justice Lindblom in the *Crane* case. A proposal for housing on an unallocated site was in conflict with an approved NP which contained comprehensive site allocations. Further, and so far as the NPPF is concerned, *Woodcock* expressly adopted the approach in *Crane*. The case was factually distinguishable from *Crane* since in *Woodcock* the NP was still emerging – it had not completed its statutory process, and the presumption in paragraph 198 did not apply; and unlike *Crane*, it was accepted that the Secretary of State had failed to apply paragraph 49 of the NPPF and consequently did not engage in the *Crane* weighting exercise at all. It was noted that in *Crane*, unlike *Woodcock*, the Secretary of State gave an explicit and detailed explanation as to why the proposal was in clear conflict with the comprehensive spatial strategy of the NP.

#### *The Haddenham Neighbourhood Plan*

82. The HNP was the result of extensive community engagement involving surveys, consultations and workshops, having proceeded through the complete statutory preparation process of consultation, sustainability appraisal, examination, a

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<sup>47</sup> CD46

<sup>48</sup> CD13

referendum, and the Council's formal resolution to make it. The HNP was independently reviewed: *"This is an excellent report. Comprehensive consultation has been carried out. The Plan meets the basic conditions and could go forward to a referendum."* It did go forward to a referendum and was approved overwhelmingly. It is the authentic voice of localism and how Haddenham residents wish to shape and direct sustainable development in their area, ensuring that the best located sites are developed and that other sites are protected from development.

83. The vision of the HNP is *"A well-designed, well-connected village that is a pleasant and vibrant place to live and work; a busy, active and dynamic community with a shared purpose and direction, a sense of history, and a strong community spirit that is valued by residents"*. To this end the HNP identifies the features that are central to its vision and the spatial planning that underpins that vision. For example, at paragraph 3.0.2, the point is made that the village lacks both the central focus of the kind found at Thame, Aylesbury, Buckingham, Wendover and the wider range of facilities found in those settlements. Paragraph 6.0.5 states that there is very limited shopping and no secondary school. As a result, paragraph 6.0.5 goes on to explain that all new development will necessarily generate significant daily out-migration for journeys to work, the majority of shopping, and all secondary school journeys which *"will have a significant impact on the transport infrastructure both within, and into and out of, the village and represents a major sustainability challenge"*. Whilst paragraph 3.3 recognises that the village is well-connected to strategic routes and larger settlements by road and rail, it also says Church End is no longer served by bus.
84. The first of six cross-cutting objectives expressly recognises, at paragraph 5.1.1, the: *"... imperative to limit the impact on the CA and its rural setting from external developments, including impacts on approaches, both long and short views into and out of the village to open countryside, and traffic through, the village core"*. So far as new housing development is concerned, the HNP sets out both the level and location of the planned growth. The reasons for the amount of new housing planned over the plan period, and the location of the allocations, are clearly set out (see, in particular 6.2 to 6.5 and Annex C<sup>49</sup>), supported by the Sustainability Appraisal (SA) / Strategic Environmental Assessment (SEA)<sup>50</sup>.
85. The spatial strategy locates most development on the north side of the village, limiting the adverse impacts of traffic having to use the narrow village streets (since the new dwellings will be within walking distance of the railway station, the principal employment sites at Thame Road and Pegasus Way, and the existing bus services running to Aylesbury, Thame and Oxford); and giving effect to the imperative to limit the impact on the CA and its rural setting from external developments. The SEA states: *"The Glebe allocation (HD5) has increased from 50 to 85 dwellings in the Submission Plan. It is another site that is part of a larger site that is considered by the Parish Council to be unsuitable and unacceptable if developed as a whole. Such a proposal appears to be capable of delivering between 224 and 400 homes, which is of a scale that would be one means of delivering Option A to the Spatial Strategy of Policy 1. This scale of development in this location would have negative effects on the CA and on traffic and access that would not be capable of being mitigated with measures in a*

<sup>49</sup> CD37

<sup>50</sup> CD31

*policy that could overcome these disadvantages. However, in dividing the larger site into three and increasing the chosen site to 85 dwellings, the policy will have positive effects on housing without undermining the character of the village or the CA or creating traffic problems that cannot be effectively accommodated. This appears to be a reasonable compromise that will enable a viable, sustainable development scheme to come forward that will win the support of the local community at the referendum."*

86. It is against that backcloth that policy HD1 sets out the Plan's spatial strategy for sustainable growth to be achieved through the allocation of five sites providing a total of 430 dwellings, setting out a clear justification for the allocation of the five selected sites. Of these, the airfield site was allocated for business development and up to 300 dwellings (HD2); and part of the application site the subject of this Inquiry was also allocated for housing development, but only for up to 85 dwellings (HD5).

87. Paragraphs 6.9.1 to 6.9.3 explain why the whole of the current application site has not been allocated: *"This site has been previously proposed for development; the independent inspector ... found that development of the site for 100 dwellings (the application at the time) would be 'totally unrelated to and impossible to integrate with the rest of the village' with the existing footpath 'singularly unattractive for people walking alone or after dark'. It was also considered that it would destroy the 'sense of Church End in its historic rural setting' and have a seriously detrimental effect on the character and setting of the Church End part of the Haddenham CA.*

*These issues still represent material considerations for future planning applications and would be exacerbated by significantly higher numbers of houses. Development on the site would, in one sense, 'round off' the village but it would increase traffic flow through the historic core of the village and affect views from the neighbouring properties in Willis Road, The Gables and the eastern side of Church End. However, by dividing the site into 3 sections, a parcel of land to the north of the site could be delivered without a disproportionately adverse impact on the CA. The Glebe Lands would also be an appropriate site for a new burial ground – particularly as it is geographically well-connected to St Mary's church...."*

88. The table at page 5 of the Site Assessment Report<sup>51</sup> showed the scoring of the different Glebe sites (009A, B and C). There is a huge discrepancy between the scores attained by the different sites, with the B and C sites achieving a mere 25 points and 20 points respectively. This low scoring of the more general site is simply ignored by the applicant.

89. Much time was spent at the Inquiry on the alleged scoring defect of just 2 points (36 versus 34) of the Glebe 009A Site. However, this goes only to the validity of the Plan and is therefore irrelevant as a matter of law. In addition, the three measurement 'Google' plans<sup>52</sup>, read in conjunction with Sir Roderick Floud's witness statement in the High Court proceedings<sup>53</sup>), show that the scoring of 34 for the 009A Site, arrived at using the same consistent methodology as for all other sites, is correct. And in any event, nit-picking of this sort is wholly

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<sup>51</sup> CD37

<sup>52</sup> Doc 8

<sup>53</sup> Doc 15

misconceived in a neighbourhood planning process, one in which a range of planning judgments had to be made, and in which the strategy arrived at has been endorsed overwhelmingly at referendum, voted for by people who live in the locality and know it intimately from personal experience.

90. As in *Crane* at paragraph 42, the HNP has given explicit consideration to the potential development of the whole of the application site and rejected that for reasons which are clearly set out and have been endorsed by the local community. The development proposed in this application therefore conflicts with the spatial strategy of the HNP in exactly the same way as the proposed development in *Crane*. The notion that the Plan, properly construed, allowed for development other than in accordance with the allocations would negate the spatial strategy which the Parish Council conceived and the local community endorsed. Such an argument could not be reconciled with the true purpose and effect of the allocations – if right, there would have been no point in the Parish Council going through the exercise of selecting the sites it allocated for housing development. Since the HNP has been made very recently and forms part of the development plan, unlike in *Woodcock Holdings*, paragraph 198 of the NPPF applies, so that there is a clear presumption against planning permission being granted; and the conflict with the NP is, in itself, “a powerful and decisive factor against granting planning permission”, significantly outweighing the benefit of providing additional market and affordable housing.
91. This proposal should be considered in exactly the same way as the Secretary of State considered the proposal in *Crane*. To do otherwise would, “undermine public confidence in neighbourhood planning”, and particularly so given that the Neighbourhood Plan has only “just emerged from its statutory process” and the proposed development is “clearly alien to the Parish Council’s vision for its area manifest in the Neighbourhood Plan.”

#### *The Council’s case*

92. The Council has adopted a stance significantly departing from the Secretary of State’s position in *Crane* (a position which has been upheld by the High Court) and announced, in its July 2015 “Briefing Note” 3, that: “... we cannot reject housing applications just because there is conflict with housing supply policies in a recently made or draft Neighbourhood Plan.” Following the “leaking” of the above Briefing Note a further “Clarification Note” was circulated on behalf of the Council, on 4 August 2015<sup>54</sup>, which stated as follows in its most relevant part: “[T]he *Woodcock* judgement ... states that the Secretary of State accepts that paragraph 198 does not give “enhanced status to neighbourhood plans as compared with other statutory development plans”. The Secretary of State has therefore agreed that his interpretation of paragraph 198 of the NPPF which formed the basis of the previous judgement [*Crane*] was not correct.”
93. It would seem to be the case that this Council considers that the above concession in *Woodcock*, means that *Crane* is wrong in law, and by inference his Winslow Decision Letter<sup>55</sup> also. However, that concession is completely irrelevant to *Crane*, the true basis of which judgment was not any assertion or finding (none was ever made in *Crane*) that NPs have enhanced status over and above

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<sup>54</sup> CD15

<sup>55</sup> CD46



other parts of the development plan. Rather, the judgment in *Crane* proceeded entirely upon an entirely different basis, being that:

- a) Where there is a breach of any development plan, it is for the decision-maker to consider whether he should nevertheless grant planning permission, weighing other material considerations against the statutory presumption in favour of the development plan enshrined in S38(6);
  - b) In undertaking that balancing exercise, neither paragraph 49 of the NPPF nor paragraph 14 prescribe the weight to be given to policies in a plan which are out-of-date, which was entirely for the decision-maker (albeit they will "normally", not necessarily, be given less than the weight due to policies which provide fully for the requisite housing supply);
  - c) However much weight the decision-maker gives to housing land supply policies that are out-of-date, the question he or she then has to ask himself is whether the harm associated with the development proposed "significantly and demonstrably" outweighs its benefits, when assessed against the policies in the NPPF "taken as a whole", or specific policies in the NPPF indicate development should be restricted. The reference in paragraph 14 of the NPPF to its policies being "taken as a whole" is important and requires a decision-maker applying the presumption to consider every relevant policy in the NPPF including "*the policy on neighbourhood plans in paragraphs 183 to 185, and the policy on determining applications where there is conflict with an extant neighbourhood plan, in paragraph 198*"; and
  - d) The Secretary of State was fully entitled to give "very substantial negative weight" to the conflict between the appeal proposal and the recently approved NP, even though it was currently out-of-date in terms of housing land supply, given that it had just emerged from its statutory process and made manifest the Parish Council's vision for its area.
94. The lawfulness of attributing "significant weight" to paragraph 198 of the NPPF in respect of the breach of a very recently approved NP, even when the Council does not have a 5 year housing supply, was not the result of any "enhanced status" being given to a NP over and above any other part of the development plan. Rather, it was simply a result of the S38(6) test and the NPPF approach, in which the Secretary of State was entitled to attribute whatever weight he thought appropriate to the breach of that NP, even though its policies were out-of-date, including very substantial weight, noting (especially) that:
- a) The statutory and policy framework clearly accommodate the possibility of a Neighbourhood Plan being made when the Local Plan does not provide for a 5 year housing supply, so as to be out-of-date on being made;
  - b) In that case the NP had been made in such circumstances, following full consultation and all due statutory processes, very recently indeed;
  - c) So made, the NP established the Parish Council's vision and spatial strategy for that locality;
  - d) The planning application was for a proposal in breach of that vision and strategy; and

e) Paragraph 198 of the NPPF was part of the relevant policy framework, and one of the material considerations to which the Secretary of State had to have regard, when deciding what weight to attribute to that breach.

Moreover, the following points also need to be made with regard to the cases of *Crane* and *Woodcock*: *Crane* itself was never appealed; *Woodcock* did not overturn or disagree with *Crane* (and neither has any other case); and most importantly, not only is *Woodcock* entirely distinguishable from *Crane* on the facts, but it also plainly endorses *Crane* on the law. In paragraphs [87], [105] and [107] of the judgment in *Woodcock* the Judge agreed with *Crane* [at 71] that the NPPF does not prescribe the weight to be given to out-of-date policies when undertaking the paragraph 14 NPPF balancing exercise (in application of paragraph 49 of the NPPF when housing supply policies are out-of-date). In [88] of the judgment in *Woodcock* it is made plain that the Secretary of State had not applied paragraph 49 of the NPPF to the policies of the draft NP at all, and the paragraph 14 NPPF balancing exercise was never carried out in that case (because the Secretary of State wrongly thought that it did not have to be in respect of an emerging NP but only in respect of a made NP). By way of contrast that balancing exercise had been undertaken (and found to be exemplary) in the context of the made NP in the *Crane* case. Moreover, the learned Judge in *Woodcock* went out of his way to distinguish *Crane* from *Woodcock* by reference to the following:

- a) He specifically contrasted the "poor quality of the reasoning" in the decision letter then in issue to the "clear reasoning of the decision letter" in *Crane*; and
- b) He pointed out that in *Crane*, unlike in *Woodcock*, the Secretary of State had given an explicit and detailed explanation as to why the proposal was in clear conflict with the comprehensive spatial strategy of the NP then in issue.

95. Hence the proposition made by the Council that "... we cannot reject housing applications just because there is conflict with housing supply policies in a recently made ... Neighbourhood Plan" is simply wrong, as is its explanation for adopting that position. And that mistake really matters. The Secretary of State has had to call-in a number of applications to Aylesbury Vale which directly conflict with the relevant made NPs and in which the recommendation had been to approve the application – on a site in Buckingham, another in Great Horwood, and here in Haddenham.

#### *The applicant's case*

96. The applicant's evidence, like the Council's, simply ignores the case of *Crane*, and paragraph 198 of the NPPF. The consequence is that the entirety of the applicant's case is also ill-founded. Two obvious examples follow (beyond the misconceived notion that the fact the applicant is seeking permission to claim judicial review of the making of the HNP is a material planning consideration which somehow reduces its weight).

#### *Issue 1 – Conflict with the NP*

97. The applicant asserts that the proposal is not contrary to HNP, all on the basis<sup>56</sup> of the re-drafting of policy HD1 following consideration by the independent examiner. It is said that this, properly construed, does not prohibit development

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<sup>56</sup> as explained by Mr Weaver in paragraphs 7.37-7.42 of his proof of evidence

on unallocated sites, and is to be taken to mean that there is no breach of the NP by a proposal for a very significant housing development on a site that has been considered for allocation and roundly rejected. This position relies on reading the first sentence of HD1 in splendid isolation and wholly ignoring the rest of the Plan, including the very next sentence in HD1, which makes it unambiguously clear that the support for sustainable growth expressed in the first sentence is to be achieved by the allocations in policies HD2-HD6. This taking of a phrase out of context is a transparently illegitimate approach to interpretation of policy.

98. This argument has, moreover, been roundly rejected in *Crane* and in particular as follows at paragraph 48: “.....*If the interpretation of the plan urged on me ... were right, there would have been no point in the parish council going through the exercise of selecting the sites it allocated for housing development and formulating the policies and text which support those allocations. That, I think, is beyond any sensible dispute.*” The argument did not find favour even in *Woodcock*, upon which case the applicant does purport to rely, with the learned Judge accepting that the Secretary of State had been entitled to conclude that a proposal for housing on an unallocated site was in conflict with the approved NP. Moreover, it is implicit in the fact that the applicant is seeking to challenge the NP by way of judicial review that it is prejudiced by the NP, precisely because there is such a significant difference between that Plan and this proposal.

*Issue 2 – Government policy in the NPPF*

99. The applicant has simply ignored *Crane* in respect of the weight to be attached to that breach of the NP, taking no cognizance at all of the very clear finding that the Secretary of State was entitled to find that a proposal's conflict with a recently made NP is, in itself, a “powerful and decisive factor” against granting planning permission. And that factor was “decisive” in *Crane*; even when the policies for the supply of housing in the development plan, including (necessarily) those within that NP, are out-of-date and the proposed development would add to the supply of housing in the district; and even if the proposal would not (for example) cause unacceptable harm to the character and appearance of the area and would be sufficiently accessible.
100. That signals the importance attached by the Secretary of State to neighbourhood planning and the spatial strategies in NPs, approved by referendum, and by which local communities expect to shape and direct development in their area. And yet there is no reflection of that in any part of the applicant's evidence. Under cross examination, it was sought to distinguish *Crane* on the basis that in that case the NP made provision beyond the CS, but that is a distinction without a difference since both cases involve circumstances in which there is a lack of a 5 year supply. And in any event (as accepted in cross examination) the point about the CS in the *Crane* case has no application to the Winslow decision letter, and yet in that decision, too, “very substantial negative weight” was given to conflict to the NP leading to the dismissal of the appeal.
101. Since the applicant has also relied on the Earls Barton decision letter<sup>57</sup> (although it was not put to the Parish Council's witnesses in cross examination), there are 2 further points: the Earl's Barton NP was, as was the NP in *Woodcock*, an emerging NP only. However, Haddenham has a made NP, as was the case in *Crane*. Secondly, the application in Earls Barton comprised just 39 dwellings for a

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<sup>57</sup> Mr Weaver's appendix 13

settlement with around 2,350 dwellings and a NP growth target of just under 400 dwellings, representing about 1.7% overall growth and a 10% higher figure than the growth target. However, at Haddenham, the figures are over 10% overall growth and a 45% higher figure than the NP housing growth target.

*The specific issues*

102. The proposal's conflict with the NP is, in itself, "a powerful and decisive factor against granting planning permission", significantly outweighing the benefit of providing additional market and affordable housing. That was so, in *Crane* even though the policies for the supply of housing in the development plan were not up-to-date and the proposed development would add to the supply of housing in the district; and the proposal would not cause unacceptable harm to the character and appearance of the area and would be sufficiently accessible.
103. Site specific matters are addressed under two headings: sustainability and heritage. In both cases, they arise by reference to the infelicitous location of the site:

*Sustainability*

The site lies on the south side of Haddenham, well away from the two primary destinations of the railway station and the business parks on Thame Road and Pegasus Way, all of which lie on the north side of the village. As a result, there would be increased traffic along the narrow village streets as commuters travel to the railway station and the business parks. This is contrary to the vision of the HNP and its spatial strategy. Although the amenities within the centre of the village are potentially within walking distance of the application site for some people, the elderly and those with children are unlikely to make the journey on foot, particularly in inclement weather. The Local Plan Inspector recognised the limitations of the Aston Road site in this respect<sup>58</sup>, which again confirms the relatively unsustainable location of the application site.

104. Furthermore, and despite assurances given in the planning application, it is very possible that Church End will not benefit from an improved bus service to overcome its current lack of accessibility by sustainable transport modes. Arriva withdrew its 280 service (Aylesbury-Thame-Oxford) from Church End a few years ago, and as recently as October 2014 the company informed a public meeting that it has no plans to reinstate the service to the southern end of the village. To do so would only serve to delay passengers who use the service to get to Aylesbury, Thame and Oxford along the A418 to the north of Haddenham. Although the applicant suggests that an annual payment of £97,566 will be made by way of a Bus Service Contribution, the S106 Agreement is unsupported by any costings and brings with it absolutely no guarantee that any bus operator will commit itself to the service described, in which case any such payment could simply be reimbursed to the applicant. That matters because, as identified by the County Highways Authority in their letter of 11th November 2014 commenting on the planning application<sup>59</sup>: "*It is essential that the non-car accessibility requirements of the site are met, otherwise the development will become isolated and car dominated, contrary to policy.*" If the Secretary of State

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<sup>58</sup> CD10

<sup>59</sup> Appendix AHJ/A to Mr Jones' proof of evidence

cannot be sure that the bus service improvements can be delivered, permission should be refused on this basis alone.

105. Permission should also be refused if the Secretary of State cannot be sure that a footway along Aston Road can acceptably be delivered. That follows from the terms of the same letter from the County Council and their required Condition 2 and depends on land ownership, the dimensions and other characteristics of the verges, and full consideration of the potential heritage impacts.

#### *Heritage*

106. By statute and policy, heritage has a special place in the planning system. A finding of harm to the setting of a listed building or to a CA gives rise to a "strong presumption" against planning permission being granted - the presumption is a statutory one. Whilst that presumption can be rebutted, the other material considerations (or "public benefits") must be "powerful enough to do so"<sup>60</sup>. If the justification is that there is a need for development of the kind proposed, which in this case there was, but the development would cause harm to heritage assets, which in this case it would, the possibility of the development being undertaken on an alternative site on which that harm can be avoided altogether will add force to the statutory presumption in favour of preservation. Indeed, the presumption itself implies "*the need for a suitably rigorous assessment of potential alternatives*".
107. In this case, Haddenham has a highly significant CA through its historic core, including numerous listed buildings. Paragraph 5.1.1 of the NP notes that "*the community ... recognise an imperative to limit the impact on the CA and its rural setting from external developments, including impacts on approaches, both long and short views into and out of the village to open countryside, and traffic through, the village core*" and the applicant's heritage witness rightly accepted in cross examination that this imperative was an appropriate one. He also accepted that the spatial strategy in the NP (including the HD5 allocation being limited to 85 dwellings) was informed by a consideration of heritage issues, that the spatial strategy arrived at had the strong support of the local community as expressed through the referendum, and that the application scheme is far larger than that envisaged by the NP.
108. Yet both the applicant and the Council maintain, contrary to the clear views of the local community, that the application scheme could be brought forward without any heritage harm. Both distance themselves from the original views of Officers and relied on the much more brusque findings in the Corrigendum<sup>61</sup> of no heritage harm. Indeed, the applicant's heritage witness went even further than this in his oral evidence (though notably not in his Proof) and suggested that the net impact of the proposal in heritage terms would be beneficial.
109. The views of the Parish Council and the local community they serve should be preferred. Indeed, the applicant's evidence in particular needs to be treated with very considerable caution. For example, there is no reference to the Grade II\* listed buildings of Grenville Manor (at 3 Aston Road), the Barn to the South-West of Manor Farmhouse, Church Farm House (at 13 Church End) and The Turn

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<sup>60</sup> With reference to CD43 R (on the application of The Forge Field Society and others) v Sevenoaks District Council [2015] JPL 22

<sup>61</sup> CD7

(Townside). When the Inspector raised the issue of Grade II\* listed buildings, the applicant's heritage witness appeared unaware of them and then stated that they were "not in the vicinity of the site", something which is plainly incorrect (particularly so far as Grenville Manor and Church Farm House are concerned). Even more startlingly, he was ignorant of the fact that the Grade I listed Church is lit at night, a matter which should be completely obvious to anyone who has seen the Church at night and, indeed, anyone who has visited the Church at all, whether by day or night.

110. The application is fundamentally reliant on the delivery of a footway along Aston Road. In cross examination, the alternative footways shown on Figures SCGT/4 and SCGT/5<sup>62</sup> were put to the applicant's heritage witness. Both plans show how close the footway would run to the Grade II\* listed Grenville Manor at 3 Aston Road and yet he at no stage referred to this until it was put to him in cross examination. He then accepted that the footway could cause heritage harms if designed in certain ways but asserted that it would not cause any harm if designed well. That is not correct: the lack of footways in this area contributes to the rural character of the setting of the CA and listed buildings and so any footway will cause heritage harm. Further, and in any event, he had no knowledge of Buckinghamshire County Council's Highway Protocol for CAs and neither he nor any of the other applicant witnesses could give any detail of how the footway might be constructed. As a result, even if certain sorts of footways would not cause heritage harms in this area, there is no likelihood on the evidence available that such a "harmless" footway would be achievable. The Secretary of State must therefore proceed on the basis that the footway cannot be delivered without heritage harm.
111. The applicant accepted that there were views of the Church tower from Stanbridge Road. Its position was that the affected views would be "distant and occasional". This considerably understates the nature and importance of the views of the Church Tower. There are very clear views of the Church tower, currently over an agricultural field but what would become the very large area of housing development in the application scheme. The applicant also accepted the "rural character" of Aston Road, though held to the position<sup>63</sup> that this rural character "will not change significantly" as a result of this 280 dwelling scheme and all of its inevitably associated impacts. It is straightforwardly inevitable, however, that a substantial housing proposal in this location, with all its associated impacts, will cause heritage harms.
112. One such impact is traffic generation. The applicant accepted that traffic impacts could in principle cause heritage harms, but suggested there would be no such harms in this case. Yet it was not clear on what those traffic impacts would be. There is intrinsic uncertainty on those impacts, since it is not clear whether there will be a car park for the proposed burial ground. If there is a car park on site, it will contribute to the traffic impacts on heritage from the site. If there is not, it will result in increased traffic impacts in the CA. None of this appeared to have been considered by the applicant.
113. Applying all of the above to this case, it is clear that the proposal will inevitably cause heritage harms. It conflicts with the protection afforded by the HNP to the CA and the listed buildings it contains. It is subject to the statutory

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<sup>62</sup> See Doc 12 SOCG Transport

<sup>63</sup> Paragraph 4.25 of Mr Bell's proof of evidence

“strong presumption” against planning permission being granted which is harmful in heritage terms. Under the paragraph 134 test, its public benefits are manifestly insufficient to outweigh the heritage harms. It is also quite clear that a housing development such as this could easily be developed on another site where heritage harm would not be an issue. The heritage impacts of this proposal therefore provide an additional compelling basis for refusing permission, especially noting footnote 9 to paragraph 14 of the NPPF.

### *Conclusion*

114. Neighbourhood planning is seen by the Secretary of State as an important part of the localism agenda. The Secretary of State has twice decided that the ability to shape and direct sustainable development in a neighbourhood is “more than a statement of aspiration”. For this to be achieved, local volunteers, publicly spirited and unpaid, have to give up their own time, assess the alternative possibilities, consult widely, and have their proposals subjected not just to independent examination but also to referendum, thus ensuring that the basic conditions and other requirements are met and that those proposals accurately reflect the will of the people who live there and not just those who take a lead in the process by which the proposals are first formulated.
115. The proposals were emphatically endorsed by those who live in Haddenham and who overwhelmingly supported the spatial strategy and the vision of the HNP. The allocations which were proposed were tested by referendum and overwhelmingly supported by local residents. The suggestion was made in cross-examination that it was in some way improper of the Haddenham Parish Council to seek to have the NP sufficiently progressed for it to be taken into account, and given weight, in the decision on this application – and yet it is a Core Principle of the NPPF that planning should be genuinely plan-led; and the proper and intended role of a NP is, precisely that it be able to shape and direct sustainable development in the neighbourhood. It is no fault of the Parish Council that the application was made according to a developer’s timetable which was designed to pre-empt the making of the NP and its ability to exert that intended influence.
116. Granting planning permission would undermine the credibility of the whole neighbourhood planning process since it would involve the aspirations of the local community being put aside for this proposal, notwithstanding that it conflicts with the HNP strategy less than three months after it was made. That, of itself, is “a powerful and decisive factor” against granting planning permission as decided in *Crane*; and all the more so when the proposal causes additional harms – on designated heritage assets and in terms of accessibility – precisely because it fails to reflect the vision as to how to shape and direct sustainable development in Haddenham. In the end, this case is essentially indistinguishable from *Crane* and the public interest in consistent decision-making therefore compels that the same decision be reached.

### **Interested parties**

117. **Neil Pringle** is a local resident. He says that if development is required some of the objectives set out in the HNP which are important to the village and residents are important to review; these are
1. Protecting the CAs;
  2. Safe access to village facilities without using a car;

3. Minimising the increase in traffic through the village;
  4. Enhancing the village.
118. Haddenham's character comes partly from the 3 ancient hamlets at Church End, Fort End and Towns End. The land between these original settlements creates a historic linear core to the village, now a designated CA. Fortunately this development site is not adjacent to the CA and traffic impact on it would be minimal with access off Stanbridge Road. The HNP clarifies this and even points out that it is more than 500m from any site or land of historic importance.
119. The site lies within a short walking distance of most of the village facilities, the only possible exception being the station. Recently nearly all significant development has taken place around the station and has been focussed on the north side of the village. This site lies on the south and provides easy walking and cycling access to the surgery, bus stops, dentist, schools, tennis, football, library, churches and the shops. It is also important to distribute the development to ensure a dormitory village is not being created and the village can expand evenly.
120. The Glebe lands can be accessed without going through the village, thus protecting the CAs for traffic going to Aylesbury, High Wycombe and Thame. In addition cars are not needed to access the main village facilities. It has easy access to the bus. The development will help to minimise traffic but also could bring much needed additional trade to the Banks parade. This site has a footpath leading to Church Way. The recent developments by the railway would require people to drive to the facilities and in many cases once in the car they would drive into Thame, thus taking business away from Haddenham. It is clear a parent taking a child to school each day generates twice the traffic of a commuter. He considers that this site would provide additional needed investment and facilities for the village including a burial ground and much needed accommodation for the elderly.
121. The recent HNP was voted on by 51% of residents with 87% in favour. Whilst there are a number of errors in the final submission it also contains a set of site assessments where potential sites were scored. During the planning stage in January 2014 at a village meeting residents were given the opportunity to score 4 sites in order and the Glebe was one of these. This he believes was the largest resident contribution during the process. The Glebe was scored as the second most suitable site behind the airfield and attached to his written submission<sup>64</sup> is the graph produced by the HNP team which was never published. Glebe scored 36 points (second) and is rated as the most suitable site behind the airfield which only scored 1 point more with 37 points.
122. He has concerns over the ability for Haddenham to absorb an additional 430 houses as proposed by the HNP team or up to a 1000 as recently suggested. It is disappointing to see there were no real planned investments to support this expansion but given the HNP has subjected the village to this level of increase, the additional houses need to go somewhere and this plot after the airfield is the one defined as most suitable. Wherever they go they will impact on some residents.

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<sup>64</sup> Doc 1



123. **Nick Lock** is a local resident and a member of the NPT. He points out that measuring the distance from the site to the station is difficult as there are probably 50 different routes through the back streets. He was partly responsible for the measurements that the NPT relied on and he generally followed the road network. He said the amount of work involved in preparing the NP carried out by relatively few volunteers was enormous and involved a huge amount of unpaid time. It was inevitable that mistakes were made and he regrets that some of the distances were incorrectly measured or transcribed through the process. Mr Lock also points out that the plan to put a footway on the north verge of Aston Road is flawed as the verge, which is partly owned by him, ends before the school meaning mothers and children would be stranded on the road. The developers did not realise the school entrance is through the church yard and has been for 40 years.
124. **Sir Roderick Floud** made a statement<sup>65</sup> and pointed out that the members of the NPT lived in all parts of the village and would have been unbiased in their approach to potential sites. He also writes along with others to say that the applicant's traffic survey was carried out in mid-summer when at its lowest level. He says the application is an opportunistic attempt by developers to circumvent the NP process. 280 houses is an overdevelopment of the site.
125. **Gaynor Bull** is Chairman of the Governors of Haddenham St Mary's CE School behind St Mary's Church. There is no pedestrian access to the school along the rear vehicle entrance that is shown as the end of the footway on the applicant's drawings; all pupils have to enter and leave on foot through the churchyard. As a result any pupils and parents coming from the proposed scheme using Aston Road would have no footway at all and would have to use the road carriageway. This also applies to senior pupils who catch one of 3 buses that leave from outside the church in the mornings.
126. **Brian Bowman** is President of the Haddenham Village Society (HVS). He has lived for over 20 years in Haddenham. He objects to the application on the following grounds:

*The effect on the Church and CA*

Haddenham Church features in Simon Jenkins's "England's Thousand Best Churches". The 13th Century West Tower is described by Pevsner in "The Buildings of England" as "very impressive". The Church and tower, which are lit at night, are visible along Stanbridge Road and from the footpaths on the land. The CA adjoins the Glebeland and in the area are many Grade 2 listed buildings, including 3 Grade 2\* listed buildings. One, Grenville Manor is on Aston Road. These will be adversely affected by the traffic generated by this proposal.

*The footpaths on the land*

127. There are two public rights of way, the first behind Willis Road leading from Stanbridge Road. This is intended to be re-routed along the new access road from Stanbridge Road. This would turn it into a significantly longer and boring suburban footway. Similarly, the present footpath to Aston Road would be replaced by another hard-surfaced roadside footway. There has been no consultation about these proposals. Both these rights of way not only enjoy

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<sup>65</sup> See Proof of Evidence

views of the Church but also stunning views of The Chiltern Hills. The footpath behind Willis Road also forms part of the Round Haddenham Path as shown on BTB 1 attached<sup>66</sup>. This route is now virtually complete. The path to Aston Road is similarly a link to the Wychert Way, a 20 km route round Haddenham as shown on BTB 2.

### *Access to the Station*

128. It was stated by the Council that the distance from the Glebe Land to the Railway Station is 2 km. It would take 30-45 minutes, via the narrow (not wide enough for dual use by bicycles and pedestrians) and unattractive footpath to Churchway, to walk to the station, and would involve crossing the busy Churchway, Townside and Thame Road. The alternative route via Church End involves busy roads without footways and similar road crossings. Both routes are longer than most commuters would countenance, especially in adverse weather. Commuters who drive to the station have two dangerous options- both passing schools. The parking on Church End is horrendous around 0900 and 1500 with children being delivered and collected from school. This will only get worse with the school roll proposed to be increased by 50% to 135 children plus additional staff. The problems on Woodways are so bad a crossing is being installed. Parking around Church End is also a problem at other times due to weddings, funerals and other church events. Surprisingly, due to Haddenham being used in films and TV programmes, increasing numbers of visitors are coming by coach, including from abroad.

### *Traffic*

129. The roads alongside the Glebeland are narrow and dangerous. There have been two fatalities in recent years on Stanbridge Road between the Post Office and Kingsey. They do not have footways and are crossed and abutted by deep drainage ditches which make walking difficult and dangerous. In consequence people walk on the roadway. The creation of footways would be damaging to the visual amenities of the area. There are drainage ditches and mature hedges which would make it difficult to create a footway close to the hedge. There are also land ownership issues on Aston Road.

130. There is no longer a 280 bus service along Churchway. The nearest 280 bus stops are on Woodways and Fort End, some distance from the land. The existing 111 and 112 services are infrequent (1 per day on Monday to Fridays and an additional service on Wednesday and Friday) and of no real use either to commuters or residents wishing to use local facilities.

131. The proposed burial ground is both non-denominational and also secular. If, as stated by the applicant's heritage witness, there should be no parking on site, this will add to the parking problems in the area.

132. **Robyn Thorogood** has lived in Haddenham for 41 years, has been a member of the HVS for almost as long and Chairman in 2 earlier periods. He instigated the Haddenham Safe Walking and Cycling Group and is volunteer manager of Haddenham Snakemoor Nature Reserve. It is his contention that there will be a considerable increase in guardians and children walking along Aston Road to the

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<sup>66</sup> Attached to Mr Bowman's written statement

- school. This increase in pedestrians will be at a time when there are more car journeys on Aston Road.
133. He strongly agrees with all those who object to having more housing on the Glebe site than allocated by the HNP. The argument that the housing policy was out of date when the HNP was made cannot invalidate HNP housing allocations alone. It would require more flesh being put on policies in the HNP. He finds it difficult to reconcile the Council dismissing the nearly completed NP at the January meeting when the village is being asked to take account of the VALP in its earliest development stage and of the Judicial Review process just starting.
134. Should the Inspector be minded to recommend to the SoS that more housing can be built on the Glebe site than in the HNP then more emphasis must be given to discouraging village car journeys. Car numbers will increase with more housing but some of this can be discouraged by ensuring that it is easier, safer and more pleasant to cycle or walk to central destinations. To start it should be a 'given' that our planners start ensuring that all new development has an adequate provision of convenient cycle and pedestrian paths and good access to bus stops. The Lightwood scheme needs far better consideration in this respect. Money needs to be provided to restructure Church End to slow traffic and provide for safer walking routes in this area. This could be done in a way that improves the setting of Church End. Woodways would need similar consideration.
135. Secondly roads into the Glebe site should not be connected for cars and larger vehicles but should be connected for cyclists and walkers. A third road access from Willis road is required. This will give cyclists and pedestrians access to the recreation field path and in turn to schools, the medical centre and bus stops. The Lightwood application mentions provision of a convenient new bus route but this is not likely to be a viable option into the future. Provision for a footpath to Church End will be needed but it will have a bad effect on the setting of the CA.
136. The application for the Airfield has been agreed by the Council without ensuring a path from Dollicot to the new housing despite the HNP making this a requirement. This shows that the community cannot rely on the Council to ensure the most basic but necessary policies in the made HNP.
137. On a very different subject, both he and his wife have seen no reference to who would be responsible for developing and maintaining the nature reserve and the country park. Perhaps this could be clarified. After 25 years of developing and managing a nationally designated Local Nature Reserve that such takes a lot of effort, knowledge and funding.
138. **Christine Thorogood** notes that there is no provision for a footpath from St Mary's CE School vehicle entrance to Church End. She walks this road when collecting for the Poppy Appeal and whilst it is pleasant and fairly safe in daylight hours, at busy times at the beginning and end of the day, times of Church Services and concerts, at dusk and in the dark it is unpleasant and dangerous. For families, young people or elderly residents of the proposed Glebe site, to access the facilities and activities at Church End after dark this must be a significant consideration. It could well increase car use. Should the proposed Glebe development proceed then there should be a safe pathway all the way along Aston Road, from the development vehicle access to Church End, to enable safe walking after dark. The provision of the bus and safe pathways are vitally important as the Highways Department says "It is essential that the non-car

accessibility requirements of the site are met, otherwise the development will become isolated and car dominated contrary to policy."

139. The 35 age restricted dwellings are sited to the north-west of the development. The plan shows 27 detached and 8 semi-detached dwellings. This suggests that the age restricted dwellings will be spacious and expensive with considerable property and garden to upkeep. It will not provide the much needed smaller, easier and less expensive dwellings that many older residents wish to buy. These residents wish to downsize and free up much needed affordable (less expensive) family homes.
140. The Council suggests that a benefit of the Glebe development, with extra dwellings and extra people, would be the amenities and facilities in the village that would follow. Her experience in 41 years of living in Haddenham is that this is not so. During this time she has seen around a 30% increase in the number of dwellings. This has been accompanied by the loss of much including the long established bus service to the south of the village, 3 Banks, 1 Building Society, a butcher, an electrical shop, an ironmonger, a general provision store, a health and fitness gym, 3 public houses/ restaurants. A 4th restaurant/wine bar "The Twist at the Green Dragon" is temporarily closed.
141. **Councillor Judy Brandis** urged the Parish Council to make a NP. She gave evidence at the last examination in public which refused planning permission for 100 dwellings on this site near to the church. The village knows how that Inspector described the village and nothing much has changed since then, except the provision of more housing.
142. Haddenham is listed as a 'strategic settlement' mainly because of transport links. However, the other 4 strategic settlements are towns, 2 large and 2 smaller, but all market towns. Haddenham is not; the nearest market town Thame is just 2 miles away. Therefore as a village without a market square or centre or indeed many shops (nor the likelihood of many more) it would not be able to sustain the close-knit community it has. Settlements would be placed around the village, affording no connection to it. Indeed there is one by the station now and this would be another. The spirit of Haddenham which is so valued would be lost. Villages grow organically and huge numbers of new houses would not allow this to happen. Indeed the Sheerstock site built some 40 years ago took many years to mature and become part of the village. The village cannot keep absorbing huge numbers as the reason people come here is to feel integrated into the life of the village. When people do not know each other and do not feel accepted, as can happen in large communities, that sense of belonging and well-being, that essence of village life, disappears.
143. Haddenham has exceeded the historic norms for completed houses. Since 2013 at least 146 houses have been delivered (48 at Printers Piece, 71 at Chilworth Gate and at least 27 as infill) and in the pipeline, a further 45 near the station and 300 with planning permission at the airfield (HD2) totalling 491. The HNP provides for a further 25 at Dollicott (HD3), 10 on Station Road (HD4) and Glebe/Stanbridge Road 85 (HD5). This already takes the total to 611 without the extra 195 to bring this site to 280, totalling 806. She considers that the village has already contributed adequately to the 5-year land supply and to affordable housing. The 430 in the HNP was in addition to those built or in the pipeline, and is not the figure as quoted to be contrasted with the VALP target figures for the whole period of 2013 to 2033.

144. The HNP allowed for 85 dwellings on this site. It was agreed that this would deliver houses nearer to the north eastern part of the site where there is a closer conurbation and they would knit well with the village. This would thus keep the country feel to the part of the village leading to the church. Concern should be as much with the visual impact of the setting and the approach as with the views. The last committee report said that it would not have a significantly harmful impact on landscape character. I fail to see how the applicant thinks it can enhance the character of this part of Haddenham. To her mind, quantities of buildings do not enhance a green field.
145. The Church End road which bisects the green would have a huge increase in traffic and although assessments have not been made because it is deemed not to be as bad as the Stanbridge Road crossroads, it is extremely narrow and most of the time it has vehicles parked there; school cars, weddings, funerals, services and other church functions apart from visitors' cars as many houses do not have drives large enough to accommodate them. To add to the traffic in this part of the CA will not only take away the charm of the green but in so doing will spoil the calm and tranquil environment.
146. The 31,000 dwellings predicted by the emerging VALP is not definite as talks are still continuing and other local authorities must be told to build on their green fields before using land in Aylesbury Vale. 611 houses have been built or are in the pipeline or in the HNP. Adding the balance of 280 would take the total to 806, risking the disappearance of the essence of village life. This is a balanced judgement. The NPPF says that where a planning application conflicts with a NP that has been brought into force, planning permission should not normally be granted. Cllr Brandis thinks the word 'normally' was included to deal with exceptions, perhaps obvious sites overlooked by the NP. This site has not been overlooked by the NP team but for reasons stated the number of proposed dwellings has been reduced.
147. **Nick and Judy Nash** make a number of points related to the Transportation Reports which they consider are based on assumptions that were wrong by virtue of error and omission and that the Reports are therefore fatally flawed. A copy of their detailed objections, as amended during the Inquiry, is attached at Doc 2 and the applicant's response, in the form of references to the core documents and official responses, is at Doc 13.

### **Written Representations**

A large number of representations were made at application stage. The points made generally fall in line with those made later and by others at the Inquiry. The following points reflect concerns that are not already summarised above or are of particular interest.

148. **Malcolm and Shelagh Walker** object strongly to the development of any houses to be built on green field sites in Haddenham particularly the Aston Road, site. They have lived opposite the fields off Aston Road for twenty years and every year a crop of some kind has been grown or animals have grazed on it. Despite the fact that the Ministry of Agriculture and Fisheries say that the land is poor quality agricultural land it is still very productive. It is also very attractive countryside. There is a public footpath, which runs alongside the hedge which, borders the proposed development and many people get a great deal of pleasure from walking along the footpath. The hedge also supports the habitat of much wildlife, which they say would be destroyed if the development goes ahead.

149. The proposed development would create a great deal more traffic. The situation is aggravated by the fact that the proposed development is on the wrong side of the village for the station, Thame and Oxford. The most direct route to those places would be directly through the village passing St. Mary's School where the road is narrow. Aston Road at St. Mary's School is already congested at school times and dangers already exist to other road users including young children en route to and from school. The proposed development would increase this danger. It has been said that cycle and pedestrian links could be improved, but the roads are too narrow to facilitate a cycle track and even if it were wide enough a cycle track would not be in keeping with the rural setting of the village green area. Also to widen the public footpath leading to Church Way would only be possible by cutting down trees and shrubs again destroying the environment even further. It is already difficult to get a doctors appointment when required. The development would set a precedent and would quickly lead to the development of the adjoining fields. The land subject of the development is so close to the Haddenham CA that it should form part of it. There must be brownfield sites suitable for development within the area and even if not there must be many more sites suitable for development which would not have such a devastating impact on the landscape and the environment.
150. **Jonathan Proctor** writes on behalf of a cross-section of local residents in Haddenham. The applicants have timed their application to precede the adoption of the NP. Any substantive development should be planned and implemented in a considered way and in consultation with the local community. Acceptance of the application in the current circumstances would seriously undermine this core principle. Account should be taken of other major proposed developments within the village which are prioritised within the NP and which, unlike this application, have been advanced in consultation with the local community.
151. According to paragraph 8 of the NPPF economic, social and environmental sustainability gains should be sought jointly. The proposal does not contribute to building a strong and responsive economy as the site is not located in the correct location and has not come forward at the most appropriate time. The proposal does not support the development of a strong and vibrant community within Haddenham. The site does not relate well to the village in terms of design or location and does not represent a high quality built environment. There are significant issues surrounding healthcare and education and the development will not support the village's social and cultural well-being. As a result the proposal is not socially sustainable. The proposal does not protect and enhance the natural, built or historic environment. The development will be built on high quality agricultural land and will have a detrimental impact on the historic core of Haddenham and the associated built environment. The proposal will also have a negative impact on biodiversity. The proposal is therefore not environmentally sustainable.
152. In line with paragraph 14 of the NPPF, the significant negative impacts of the proposal significantly and demonstrably outweigh the benefits when assessed against the policies within the NPPF and the saved policies of the LP. The principle of development in this location is unacceptable because the proposals would, in our view, be completely out of scale and would overwhelm the existing village.
153. Please note that the site at was originally included within the Aylesbury Vale District Local Plan for 100 dwellings. When examining the draft deposit Local Plan

the Inspector concluded that the site should be deleted from the Plan. In summary his objections were:

- i. Haddenham is not the most sustainable location for development when compared to Buckingham, Winslow and Wendover;
  - ii. Development of the site would totally alter the approach to Church End and would have a suburbanising effect;
  - iii. Development of the site would cause the perception of the historic core of Haddenham and the CA in the landscape setting, as well as existing views, to be lost;
  - iv. Development of the proposed site would, particularly in relation to public rights of way, cause existing views and an open prospect to be lost;
  - v. A development on the proposed site would be totally unrelated to the existing village and would constitute a modern housing estate attached to an otherwise integrated settlement;
  - vi. Developing the proposed site would have an excessive visual impact resulting in the destruction of important views of the Haddenham CA; and
  - vii. The development site is not in a sustainable location in terms of accessing local services and facilities. The site would be outside a reasonable walking distance from Haddenham Business Park and the train station.
154. The Inspector's comments relating to the site are found within chapter 9 of the report<sup>67</sup>. The issues raised by the Inspector are still valid and have not been adequately addressed by the applicants, who are now proposing 280 dwellings in this location. The objections raised by the Inspector in 2002 should be applied again to this Application.

#### *Increased Congestion*

155. The proposed development of 280 dwellings would significantly increase traffic using local roads. It could result in at least 560 additional vehicles using the roads in Haddenham as realistically most homes have two cars. It is likely that the majority of new residents will travel out of the village to work. The level of traffic wishing to access the A418 (in particular with the intention of travelling towards Thame and the M40) will cause transport issues in one direction on Woodways and Thame Road, and in the other direction on Aston Road through to Church End and Station Road. The proposed development is located on the opposite side of the village to Haddenham and Thame Parkway station. From each of the two vehicular access points, as well as from the public right of way it will be at least a mile from the edge of the site to the station. It is likely that residents of the new development will drive to the train station as it would be at least a 20 minute walk. This is supported by the Inspector within his report where he states in paragraph 9.1.36 that: "*Haddenham is also served by a parkway railway station, providing regular rail services to London and Birmingham. However, the site is some 1.8km from the station, and would thus be beyond reasonable walking distance for most residents intending to travel.*" The increased traffic and congestion that will result from the proposed

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<sup>67</sup> CD10

development will also lead to an increase in traffic noise resulting in amenity issues for those living on the vehicular routes in and out of the village.

### *Highway Safety*

156. Church End already has significant traffic problems as vehicles approach the junction from four different directions. Increasing the traffic flow in this area will increase the chances of accidents between both pedestrians and vehicles. Of particular concern is that Church End serves as the only access to St Mary's School. Children currently have to cross an already busy junction and increased car volumes in this area will result in the area becoming more dangerous for school children going to and from school as there is no safe crossing point. The proposed development is also likely to prejudice the safety of school children on Woodways. Haddenham County First School and Haddenham Community Junior School are located on this road where there are no safe crossing points. The increased traffic in these areas resulting from the proposed development will increase the risk of accidents which may include children at those key school areas.

157. In other areas of the village, the crossroads between Stanbridge Road and Woodways has a history of road accidents. It is estimated that there have been six accidents in the last three years. At least one of these accidents has required air ambulance support. There would also be safety issues relating to the T junction between Stanbridge Road and Aston Road. This junction would become an accident hot spot as increased levels of traffic use it to access the new development.

### *Parking*

158. The proposed development is likely to attract commuters who will be using the railway station. Given the distance of the development from the station, it is very likely that these commuters will drive to the station. There is already a significant problem within Haddenham (in particular on Sheerstock) in relation to users of the station parking in residential streets. Commuters park in the streets near to the station rather than paying to use the car parking facility at the station itself. This existing problem will be made far worse with increased numbers of residents accessing the station by car. There is no parking shown on the master plan in relation to the burial ground. This will cause increased parking on Aston Road, restricting access for emergency vehicles and increasing the likelihood of accidents and congestion.

### *Bus Route*

159. The existing bus route does not accommodate the new development. Diverting the bus route would remove the service from existing residents. Arriva have no plans to re-instate their service to the Church End section of the village.

### *Overall Transport and Highways Impact*

160. The proposed development of up to 280 houses (over 560 new vehicles) would result in:

- (a) Increased congestion on roads within the village;
- (b) An increased risk of accidents at key junctions and on village roads, particularly in areas adjacent to schools;



(c) Increased levels of parking in roads surrounding the station and on Aston Road in relation to the proposed burial ground; and

(d) Increased traffic noise resulting in amenity issues for residents on busy streets.

161. These transport impacts resulting from the development would be contrary to guidance within the NPPF and in particular paragraph 32 which states that proposals for developments that result in severe cumulative transport impacts should be refused. This is of particular concern given other major developments proposed within the village which are prioritised within the Neighbourhood Plan.

#### *Community Facilities*

162. There are two primary schools located in Haddenham - St Mary's CE School and Haddenham Community Infant School. These two primary schools are full. St Mary's have been forced to accommodate a bulge year in 2014/15 but this will not be possible in subsequent years. The Community Infant School has no extra space to expand as it is on a small site. There is therefore insufficient space within local schools to accommodate the additional children that will require places as a result of the proposed development. There is no secondary school facility within Haddenham and as a result children will be required to travel out of the village for secondary education, leading to further traffic congestion, again highlighting the unsustainable location of the site. Within the Framework Travel Plan Lord William's School is referred to. It should be noted that Lord William's School is located within Thame in Oxfordshire and residents of Haddenham do not fall within the catchment area. It has not been possible to locate an assessment of local educational need within the application. It is clear that there is no capacity within local primary schools and transporting small children out of the village is unsustainable. There is therefore no local educational capacity, particularly at primary school level. The proposed development is therefore unsustainable.

163. In terms of healthcare services, the GP surgery already struggles to accommodate the number of patients that are currently registered. The applicants have not addressed the issue of healthcare within their submission. The Statement of Community Involvement states that healthcare provision relating to the new development is not a concern of the developer.

#### *Heritage*

164. The proposed development would have a detrimental impact on the setting of the Haddenham CA. The site was specifically assessed by the Inspector in 2004 when he considered that the site at Aston Road should be deleted particularly in relation to the impact on the Church End segment of the Haddenham CA.

165. In paragraphs 9.1.25 to 9.1.33 of his report, the Inspector considers the site at Aston Road in relation to the CA. He states that the proposed site is unsuitable for housing for the following reasons:

(a) The site is totally unrelated to Haddenham and would be impossible to integrate with the rest of the village;

(b) Any proposal for housing would have a detrimental impact on the historic, rural setting of Church End; and

(c) Any proposal would have a seriously detrimental effect on the character and setting of the Church End part of the Haddenham CA.

166. He states: "*Were the Aston Road site to be developed modern development would interpose itself between Church End and the open fields to the east. The perception of the historic core of the CA in its landscape setting would be concealed and the present views lost.*" The points raised above are still valid.

### *Environment*

167. The land is grade 3 agricultural land and is farmed productively every year. The proposed development would result in the loss of this important resource. The public right of way to the rear of houses on Willis Road accessed from Stanbridge Road gets constant use at present by dog walkers and ramblers going all the way across the fields to Kingsey and Thame. The proposed re-routing of the footpath would mean that this rural dog walking route is lost, forcing dog walkers onto main roads and pavements. The loss of green space will have a negative impact on the local wildlife and in particular the local Red Kite population. The proposal will also have a negative impact on the local landscape and will therefore not comply with saved policy GP38 of the Local Plan.
168. **Mr & Mrs S Holmes** make similar points and also consider that it will cause a bottle neck at the Stanbridge Road bridge, this is a fast and dangerous well known black spot. The extra houses would be better placed at the airfield end of Haddenham; this could potentially reduce the carbon footprint as it would be within walking distance of the railway station and the industrial park. This proposal will also have a detrimental effect on the local owl and bat population which are well known for utilising the derelict farm buildings off Aston Road.
169. **Karen Ellis** notes that the Council officer's report recommending approval by a fast track Strategic Planning meeting was neither objective nor diligent in demonstrating the site's sustainability and totally ignored unbiased information which is readily available from Central Government (such as National Travel Survey 2013 data<sup>68</sup>). The latter fails to support the developer's argument about the site not being car dependent (therefore not complying with one of the principles of the NPPF). The scale of the development represents a large piece of land when assessed against the overall size of the existing settlement which if developed brings into question the sensitive and attractive settlement that Haddenham is deemed to be comparable to other settlements in the UK.
170. Despite the Committee's report clearly stating that there was an emerging NP, the majority of Councillors ruled in favour of the development fearing a challenge from the developers if it was refused in order to allow the NP to be finalised. She fails to see how this reflected the best interests of those that they represent, on this occasion the residents of Haddenham. They are accountable and should act diligently to ensure impartiality, neither was demonstrated in reaching the decision. Six of the Councillors having voted in favour were obviously satisfied that the presentation and the Council's report proved that the development would not have an adverse impact on the village and met the underpinning core principles and dimensions to establish it as being sustainable in accordance with

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<sup>68</sup> Attached to Ms Ellis's letter

- the NPPF. However, she wrote<sup>69</sup> to each councillor prior to the committee meeting, questioning how the report has demonstrated that the three dimensions of sustainable development had been given equal consideration, being mutually dependent.
171. The process was undermined: the closing date for public objection following the revised plans was for a period of 5 working days. The notice was made public on 24th December (Christmas Eve) and the closing date for objections was 6 January. The planning office was closed for the total notice period and only reopened on the closing date of 6 January. When challenged at the meeting, the planning officer failed to give a clear reason for this and in fact concurred that due to the choice of the date suggested that the application was still in the consultation period which raises questions as to why this application fast tracked resulting in a final decision needing to be reached on 28 January.
172. Councillors and officers made misinformed statements during the meeting, members of the public were not allowed to correct these as any interruption from the floor risked the room being emptied and the decision being taken in private without public witnesses. The current decision to approve was therefore based on misleading information. The report fails to demonstrate, with facts supported by unbiased data from third parties, that the site will not be isolated and car dependent. Despite the Council's report stating that the development must not be car dependent and one councillor openly agreeing, she gave weight to her own subjective judgment that a temporary bus subsidy from the developers would mitigate this and voted in favour of the application. The fact that the representative for Bucks County Council was absent, who may have been able to provide some official information as to whether the bus subsidy would have any impact on reducing car dependency was not taken into account.
173. The NP allocates land in areas where a larger number of houses than this (430 in total) could be built in a sustainable manner which should meet the current target requirement for more housing. It did not make any sense to rush through this one isolated development which does not have the community's interests at heart. Ms Ellis says there should be no need for people like her and many of her neighbours taking hours to pour over extensive planning applications, as the only means left available to prevent unsustainable and destructive developments taking place.
174. The **Haddenham Village Society** currently represents over 300 households in the village and has been working for 50 years to preserve and enhance village heritage and character and the village way of life. It has collaborated closely with the Parish Council to develop the overall NP and strategy for the village. The timing and scale of any development in the village should be consistent with the overall housing numbers and timetable set out in that Plan.
175. In the light of the NP, which has now been adopted, the society considers that this application should be refused, although they would be prepared to continue discussions with the developers for a smaller development on the north-east corner of the site, possibly incorporating a burial ground, which is urgently needed. The major grounds for objection are as follows:

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<sup>69</sup> Letter attached to Ms Ellis's letter

1. The Society is concerned that a development of 280 houses, particularly if undertaken at the same time as other developments which are prioritised in the NP, would have a very significant impact on the infrastructure of the village; there is currently a shortage of infant school places and pressure on other facilities in the village such as the medical centre. The application fails to recognise these pressures and does not propose any measures to alleviate them.
2. The proposal largely fails to recognise that the site abuts one of the most significant CAs in Buckinghamshire and that the building of so many houses on this site will have significant and deleterious effects on that CA. This is contrary to national planning policy which calls for developments to enhance CAs and heritage sites. It is also contrary to the findings of the earlier Public Inquiry on this site for the earlier LP, in which key arguments were the need to preserve good quality agricultural land and to enhance existing views to and from the CA.
3. The scheme would generate very significant vehicle traffic through the CA, either via Church End or via Woodways/Fort End, to Haddenham and Thame Parkway station and beyond. As many as 600 cars can be expected to be owned by the residents of the proposed development and many of them are likely to be used for commuting to the station - because of its distance from the development - and beyond.
4. The application should have made provision for the enhancement of the Village and its CA through additional footpaths and cycle paths, either along the roads which border the site or through the current footpath to Churchway, which is too narrow to provide for cycle or wheelchair access. A particularly serious omission is the lack of safe walking routes along Aston Road to St Mary's School. The statement in the application that "Off-site pedestrian improvements will provide safe and convenient connections in Haddenham" is negated by the poor access for cycles and wheelchairs, as well as pedestrians, which is envisaged or currently provided around the site.
5. The current application shows no signs of recognising, in its layout and design, the special character of the Haddenham CA, with its "ends", passageways and walled gardens. For example, to be consistent with the Haddenham style of walled passageways, the existing public footpath along the rear of the Willis Road gardens should have been incorporated into the application in its current location, rather than merely proposing to reroute it along a new road. What is currently proposed is an "off-the-peg" design whose construction, so close to the CA, would severely damage its environment. The large number of minor roads, which may attract significant on-road parking and difficulty of access for refuse and emergency vehicles, will also cause significant light pollution.
6. The Society is not satisfied that there has been an adequate archaeological investigation of the site. The site is very close to the pre-Conquest settlement and to later medieval buildings and it is essential that any significant features of that history are discovered and preserved.
7. The developers initially informed the Society that positive discussions had taken place with Arriva about the possibility of a bus running through the site. Arriva representatives have told the Society that no such discussions have taken place and that they would not entertain such a proposal. It is understood that the developers have been in discussion with another bus operator, but no information has been given about possible timetables nor about the length of any arrangement for a bus service. It is essential that adequate public transport,

particularly to Haddenham and Thame Parkway Station, is provided so as to mitigate the impact of the development on vehicle flows.

8. The proposal does not provide adequate access to the proposed burial ground. The area around St Mary's Church already experiences serious parking problems at the time of funerals and it is essential that any additional burial space should have adequate access and parking provision. It is understood that the current burial ground will soon be closed.

9. The proposal for a sports ground. This would require more adequate engagement with the village community and appreciation of the existing village infrastructure. Whilst the provision of open space is welcome, it will need to be adequately maintained and used in the long term and this depends on a proper assessment of potential demand, which has not been carried out, as well as on the willingness of the Parish Council to adopt and maintain such facilities in perpetuity.

176. **Andrew Gordon** says that at the Council's public hearing for the application, substantial views assembled by representative village bodies were deemed inadmissible on technical grounds. This demonstrated contempt for the government's policy of 'localism' and provoked anger in the village. The NP was based on a series of well advertised and broad consultations within the village and takes proper account of the village's needs and, importantly, its obligations in the matter of housing. It is important also to take suitable account of the views of the Chairman of the HVS, a caring and consultative body with a high sense of the responsibility of the village in the wider society of Buckinghamshire, who was prevented from speaking.
177. **David and Judith Impey** say that both of the proposed routes to the development will take the increased traffic past schools — two in Woodways, one on Church End and a nursery school on Church End as well. Both routes involve negotiating bottlenecks in the roads - traffic calming measures in Woodways and road narrowing, further exacerbated by parked cars outside the Rose and Thistle pub on Station Road just beyond Church End green.
178. A video illustrating traffic risks was offered to the Council Committee but was rejected by the Chairman. This video was shot to refute the 'traffic survey' conducted by the developers at 1100 on a Thursday morning during the school holidays in late July 2014 which found low levels of traffic. There are very significant concerns relating to the process adopted by the Council in deciding to allow this scheme<sup>70</sup>. Haddenham residents are not against housing development in the area and suitable sites were already identified in the NP. Should the Glebe Lands development be allowed to proceed, this will bring damage to the environment, degrade a world-famous CA and increase traffic and risk to children at the times they are arriving for school.
179. **Graham Oliver** says amongst other things that he shares the views of other residents on the topic of problems associated with extra commuters causing added parking difficulties around the local station, as the proposed site is too far from the station to ensure people will leave their cars at home and walk; that it ignores the importance of the existing number of approvals both already given in the last few years as a contribution to the district's housing numbers and in the

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<sup>70</sup> Expanded upon in Mr Impey's letter, which also contains a link to the video.

- pipeline now for approval on local sites endorsed by the NP; that the proposed development does not fit safely with the access needs for schoolchildren making their way from their new homes to the nearest primary school (the applicant's description is far from reality about the suitability of the grass verge/roadway to act as a suitable footpath).
180. **Mrs J Cobb** points out there are plans for more houses near the station with direct access to the A418 without going through the village, and that this is a preferable site.
181. Alan Divall and West Waddy ADP write on behalf of **The Oxford Diocese Board of Finance**, who own the Glebe land in Haddenham. The proposal was supported because it would represent sustainable development in accordance with the core principles of the NPPF and would help address the district's shortfall of housing with 280 dwellings in one of its most sustainable settlements. Much needed affordable housing, age-restricted accommodation and a new burial ground will be provided by this scheme. The Glebe application site is contained within the Council's 2013 SHLAA as suitable for residential development. The application was submitted with the SHLAA guidance in mind. The scheme would provide economic benefits during construction and increase the population contributing to the local economy.
182. Delivery of housing on the site could be within with the next 5-year period contributing to housing land supply. The application site represents some of the lowest quality agricultural land in Haddenham. By providing a suitable landscape buffer between the CA and the built area of the proposal, the impact of the development on the setting of the listed buildings and the character and appearance of the CA is not considered significant. The development would promote healthy communities by providing public open space for existing and new residents.
183. It is concluded the proposal could be designed (at reserved matters stage) such to form a coherent and congruous extension to the village without significant detriment to the character and identity of the wider village in accordance with the NPPF; and the proposal site is in Flood Zone 1 therefore the proposed development will result in no adverse impacts for flooding or drainage.
184. The development will deliver 35 age restricted dwellings, key housing that has been identified as being needed by the Parish Council and local community as well as a much-needed new burial ground for Haddenham. This responds to an identified, urgent need as confirmed by the Vicar at St. Mary's Church as the existing graveyard has capacity for 2 to 3 years of burials until it is full. If the application is not allowed then delivery of a new burial ground is unlikely to be viable or achievable.
185. Inclusion of the Glebe site within the emerging HNP demonstrates that in principle development is acceptable on this site. However the allocation falls short of the 280 dwellings proposed and is contrary to the SHLAA, which looked to accommodate a larger amount of housing over 2 sites due to its sustainability credentials. The HNP policies are out-of-date. The proposal should to be allowed.
186. **Andy Fell** has been the leader of the NPT for the last 2 years. He has issues with a number of the appellant's statements that attempted to discredit the NP. The suggestion that the NP had predetermined the site allocations is wholly inaccurate. On the advice of AVDC Officers, the early intent of the NP was to only

- include design principles. To inform these, in the early phases of development, the plan reviewed the sites identified in the SHLAA 'call for sites' and ran a prioritisation exercise in early consultation. This revealed a clear public preference for the Airfield, with over 50% of respondents putting the site as their first preference for development. The remaining votes were split between the other 3 sites. Nevertheless, no site allocations were included in the plan until the VAP was withdrawn and, following the Winslow NP, further engagement with AVDC planning officers led down the route of site allocations from summer 2014.
187. Lightwood Strategic have continually confused discussion with one or more members of the NP team with consultation with the Parish Council; whilst the NP has operated as a sub-committee of the Parish Council the members were drawn from across the village and have not all been Parish Councillors and hence cannot reflect the view of the Parish Council to whom Lightwood Strategic have not presented. The NP team did speak to the developers, landowners and agents - initially of all of the sites identified in the SHLAA call for sites and eventually, as part of the site allocation process to the owners or agents of the other sites identified as viable. In these early discussions, the NP team met equally with the agents and/or owners of the Airfield, Aston Road and Dollicott and encouraged them all to engage the village residents in their developing plans. As a result, all 3 developers presented plans in open forum, but there was a marked difference between the Airfield developers who hosted site visits and ran 3-day workshops to help develop their master plan, and Lightwood Strategic who presented a fait accompli. Consequently, there is a significant difference in how well the developments reflect local needs and priorities, and the associated public support for the development. It was after these presentations that the need for site allocation was identified and so the NP team ceased communication with all of the developers for the duration of the site allocation process to ensure that it was as objective as possible and unbiased by the potential S106 offer of community development that could be associated with each site.
188. The NP team employed a nationally recognised, commercially enabled site assessment process, endorsed by Planning Aid England and AVDC Planning Officers, which was tailored to reflect local requirements. The 40 objective criteria were weighted by a community workshop and the resultant assessments were conducted collectively by the NP team and URS. Assessed across the whole site, development of the Aston Road site was about as unsuitable as building on the local nature reserve. Only by dividing the site and limiting potential development to the northern edge, with access only onto Stanbridge Road, did they determine a viable site but it still ranked below the Airfield, Dollicott and Station Road sites identified in the Plan.
189. As the lowest ranked of the viable sites, the Aston Road site has taken the overflow from the determined requirement of 430 houses that are not able to be absorbed on the more sustainable sites in the village. The NP has intentionally not filled any of the larger sites to their potential capacity to try to facilitate better integration of new developments into the existing community. This premise, which has been tested by a comprehensive Sustainability Appraisal that has supported the housing allocation policies, is undermined by approval of this application.
190. **Jim Robinson** notes that the rationale in successive plans for a substantial number of houses in Haddenham is that developments are "sustainable" by which it is understood that existing infrastructure will support such development. Primarily

amongst these considerations is the excellent rail communications and the proximity to the motorway. Both these facilities are at the opposite side of the village to the Glebe/Aston Road development and the HNP accepts the need for more houses and in an extremely professionally prepared document recognises that the Glebe Land/Aston Road development is one such area for development albeit such development should be limited to minimise the negative traffic impact through the CA en route to Station and Motorway.

191. The team that lead the formulation have gone to some lengths to find a reasonable compromise between the various views in the village and carried out professionally recognised assessments of each site. The villagers are united in their support for the process and oppose attempts to subvert it. The Council is desperate to get housing plans into its pipeline. The applicants for the Aston Road development rushed their project to steal a march on rivals and avoid consideration alongside other schemes (which would have been necessary under the NP). The majority of councillors in committee were happy to see a large housing project in Haddenham take pressure off their own villages.
192. **Dr Nicholas Rees** points out that traffic turning from Stanbridge Road onto Woodways would pose a risk to the children crossing to the Junior school, Infant School and nursery on Woodways. The turning onto Aston Rd would lead directly through the crossing point for mothers and young children accessing Haddenham St. Marys CE infant school. This crossing is already hazardous for parents with pushchairs and toddlers due the restrictions posed by the cobblestone pathways and lack of pavements. The additional traffic generated by the proposed development would necessitate a safe pedestrian crossing zone at Church End but this would have an adverse impact on the CA of Haddenham.
193. This proposed development alone would increase the population of Haddenham by about 10%. There has already been a noticeable increase in pressure upon local amenities, especially the medical centre and Haddenham schools, since the completion of the Pegasus Way and Spicers Yard developments. It is unclear how the village would cope with the proposed massive influx in residents, with the accompanying demands on the health care, schools and policing that would ensue.
194. He has concerns about the impact on residents both in The Gables and Willis Road in terms of loss of privacy, noise and light pollution from the residences and the proposed sports facilities. Haddenham already has community sporting facilities and it is unclear why additional sports facilities are needed within the development. As a long standing resident of Haddenham he is saddened by the fact that this quintessentially English village risks losing its charm in becoming another overdeveloped, soulless and poorly thought out town.

### **Conditions**

195. The wording of the suggested conditions is generally that agreed at the Inquiry and is covered here without prejudice to my consideration of the issues. I report only on conditions that attracted controversy and drew comments at the Inquiry, or because they require explanation or important rewording. All other conditions are necessary and should be imposed for the reasons stated, if the Secretary of State wishes to grant planning permission. I have considered the suggested conditions in the light of PPG and Appendix A to Circular 11/95 *The Use of Conditions in Planning Permission*. They have been adapted in accordance with



the recommendations therein where appropriate, to ensure the wording is precise, necessary, relevant and enforceable.

196. The usual conditions are suggested with respect to reserved matters, except that reserved matters applications should be submitted within 18 months rather than the usual 3 years. This is intended to ensure a more rapid start and was agreed between the Council and the applicant. **Condition 1** also includes a requirement to take into account views of the church tower in the layout, as discussed at the Inquiry. **Conditions 2 and 3** are adjusted to ensure that the timing of the details required to be submitted does not unnecessarily hinder the development of the site. A construction management plan is added at **Condition 15** in the interests of the amenity of local residents and the need to avoid increased congestion in Church End where large vehicles have difficulty passing parked cars. **Condition 19** requires the completion of improved pedestrian links to Haddenham St Marys School at least as far as the vehicle entrance to the school, before any dwelling is occupied. Further than this, the grass verges are an intrinsic part of the character of the CA at Church End and the road acts as an informal 'shared surface'. **Condition 22** limits the number of dwellings to 280 in order to ensure the density of development is acceptable in this edge of settlement location.

### **Planning Agreement**

197. A signed and dated S106 Agreement<sup>71</sup> between the applicant, owners, County Council and District Council has been provided. This aims to ensure that the following objectives would be achieved:

- a) to provide the amenity land including play and sports areas including maintenance as part of the scheme, which would be handed over to the Parish Council (this was preferred by the HPC at the Inquiry);
- b) to carry out the development in accordance with a scheme of phasing;
- c) to report regularly on progress of market and affordable housing;
- d) to provide the affordable housing in accordance with a programme;
- e) to provide contributions towards sport and leisure which include improvements to Haddenham Village Hall and/or improvements to the sports pavilion at Woodways Recreation Area;
- f) to provide contributions towards education provision by means of the expansion of St Mary's CE primary school and St Michael's secondary school;
- g) to provide 35 dwellings suitable for the elderly;
- h) the provision of an enhanced bus service to service the development altering the current 111/112/113 routes to provide at least an hourly service from 0700 to 1900 during the week and 0800 to 1700 on Saturdays, for at least 5 years;
- i) to implement and administrate a Travel Plan for at least 5 years;

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<sup>71</sup> CD6 and Doc 11

- j) to provide contributions towards the cycleway between Haddenham, Thame Parkway Station and Thame;
- k) to provide a highway works contribution including provision of a footway on Aston Road and improvements to public footpath 15 connecting to Church Way; and
- l) to provide the burial ground for transfer to a local organisation.

198. As well the contributions to education, sport and leisure and affordable housing the Agreement provides for improvements to footpaths and provision of footways and cycleways and important enhancements to bus services (which have been in decline). These are essential if the scheme is to be acceptable. In addition, a burial ground is provided conveniently located for the church, which Haddenham will need within 2-3 years; and a very substantial area of open space will be added for community use which will also provide an open setting for the conservation area and St Mary's church. These factors comply with policies and aims of the HNP and add to the merits of this scheme.

199. I consider that the provisions of the Agreement are directly related to the proposed development, fairly and reasonably related in scale and kind, and would be necessary to make it acceptable. They meet the tests set out in Paragraph 204 of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations (2010). Following a discussion at the Inquiry, there is no suggestion that more than 5 payments have been made to any of the objectives set out and I conclude that the requirements of Regulation 123 and Planning Policy Guidance<sup>72</sup> (PPG) have also been satisfied. As such I give the S106 substantial weight.

### **Inspector's Conclusions**

*In this and subsequent sections, numbers in brackets [] refer to the main paragraphs in the Report that are of relevance*

200. In the light of the above and my site visit, and having particular regard to the matters on which the Secretary of State wishes to be informed, the main considerations upon which the decision on this application should be based are as follows:

- The extent to which the proposed development would be consistent with the development plan for the district, including the Haddenham Neighbourhood Plan;
- The impact of the proposal on heritage assets, particularly the Haddenham CA;
- Whether the proposal would deliver sustainable development; and
- The overall planning balance.

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<sup>72</sup> Ref ID: 25-093-20140612 and following

## *The development plan*

### *LP policies*

201. In line with paragraph 215 of the NPPF, saved policies of the LP can be afforded due weight according to their degree of consistency with policies of the NPPF. The LP is out of date insofar as policies related to housing supply are concerned<sup>73</sup>. The Council acknowledges that it falls well short of a 5 year housing supply as required by paragraph 47 of the NPPF. Paragraph 49 says that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites. Where policies are out of date, paragraph 14 of the NPPF says that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.[77-8]
202. Saved policy GP.53 says amongst other things that proposals for development will not be permitted if they cause harm to the character or appearance of CAs, their settings or any associated views of or from the CA. The explanatory text indicates that the use and development of land adjacent to CAs can frequently have a material effect on the character of the area, for example by affecting views to or from the CA. Therefore the need to respect the setting of the CA in terms of design of new buildings and alterations will also apply beyond the designated boundaries. The wording of the policy is out of step with the NPPF which requires an assessment of heritage significance, consideration of the effect followed by the application of a balancing exercise, but the statutory duties in S66 and S72 of the LBCA remain.

### *The Haddenham Neighbourhood Plan*

203. The HNP is part of the development plan, but the text acknowledges that it was prepared during a period when there was no clear assessment of housing need that could be relied on. The Aylesbury HEDNA and the Central Buckinghamshire HEDNA<sup>74</sup> were not published until June 2015 and October 2015 respectively. They and the most recent Aylesbury District assessment of 5 year housing land supply in July 2015<sup>75</sup> assess the current housing need as being substantially in excess of the 19,690 anticipated in the HNP; at least 27,528 for the period 2013-2033. This is not questioned by the HPC. There was little doubt in the minds of those preparing the HNP that housing supply in Aylesbury Vale would need to rise further and that forthcoming joint reviews with neighbouring Councils would be likely to put more pressure on Aylesbury and by extension Haddenham, because it remains one of the most sustainable settlements in the district. The 2013 SHLAA had identified sites in Haddenham including the Glebe lands designated as SHL/HAD/004 and SHL/HAD/013<sup>76</sup>; and the draft final HELAA of 2015<sup>77</sup> allocated a total of 280 dwellings to the same areas.
204. Nevertheless the HNP sets a target of 430 dwellings for the period up to 2033, that figure being based on the DCLG 2011 Interim Household Projections and the

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<sup>73</sup> See Council letter of 5 October 2015 clarifying SOCG paragraph 1.51

<sup>74</sup> CD 12 and CD21

<sup>75</sup> CD11

<sup>76</sup> See plan at page 13 of Mr Weaver's proof

<sup>77</sup> CD19

preliminary HEDNA<sup>78</sup> (the best available information at the time) less 115 dwellings already completed or consented. The HNP was made by Aylesbury Vale on 11 September 2015. The change to policy HD1 brought about by the Plan Examiner whereby development could not be restricted is a crucial change also recognised by the Council in pre-submission consultation. The subsequently issued HEDNA in June and CB-HEDNA in October then raised the level of anticipated need and it is in this changed circumstance that the application now has to be seen. Whilst recognising that the HNP, quite rightly, seeks to direct housing development in the interests of retaining a village feel and protecting the CA, there is not and cannot be a blanket ban on development which might take the total above 430. HD1 recognises this. The NP is out of date in this respect.[29,83]

205. The Council say that the application conflicts with the HNP because the whole process of site selection and allocation in developing the NP would be rendered pointless, quoting from the *Crane* case. However, based on the information before me, there are significant differences between the HNP and the Broughton Astley Neighbourhood Plan (BANP):

a) The BANP provided for significantly more dwellings than it was required to do according to the latest need assessment, including a 'reserve' site, whereas the HNP does not envisage growth in new housing to 2033 beyond the minimum 430 figure;

b) The site in question in that case was positively excluded as a potential site, unlike the Glebe lands in this case, which had been in the SHLAA and HELAA and carried forward to the HNP;

c) The 'Crane' site was considered to be relatively remote from the village centre, unlike the Glebe lands which are relatively remote from the station but largely within walking distance of shops and facilities.

[32-3,56-7,65,72-91]

206. In the Broughton Astley decision<sup>79</sup>, the Secretary of State regards the purpose of NPs in paragraph 185 of the NPPF as '*more than a statement of aspiration*'. He considers that '*neighbourhood plans, once made part of the development plan, should be upheld as an effective means to shape and direct development in the neighbourhood planning area in question, for example to ensure that the best located sites are developed. Consequently, in view of ... paragraphs 198 and 185 [of the NPPF] the Secretary of State places very substantial negative weight on the conflict between the appeal proposal and the Neighbourhood Plan.*' Given that HD1 had been altered by the Examiner to prevent any limit being placed on development and in carrying out the responsibility of shaping and directing that, the HNP did not envisage the possibility of further growth in housing beyond satisfying the DCLG 2011 Interim Household Projections, which were recognised as likely to be insufficient. Bearing in mind that the process of site selection (set out in Annex C to the HNP<sup>80</sup> and dated August 2015) included other sites potentially expanding the capacity of the village<sup>81</sup>, those allocated in the plan itself were only those which would accommodate 430 dwellings (acknowledging

<sup>78</sup> An Initial Assessment of Housing Need, October 2014, See HNP paragraph 6.04

<sup>79</sup> Doc 38

<sup>80</sup> CD 37

<sup>81</sup> And identified in Aylesbury Vale's Housing and Economic Land Availability Assessment (HELAA) of 2014

HNP/007 or HD6 in the HNP, South Lower Road for 43 dwellings notated as a flexible 'reserve' for release in 2024 if others did not come forward).[38,45-6,53,57,73]

207. I conclude on this point that the HNP did an essential service in identifying the best located sites and put them in a priority order. However no additional capacity or flexibility was positively identified in policies of the plan to allow for potential growth in housing need. Paragraph 6.5 refers to all the potential sites assessed in Annex C but *'these were considered to have less potential for residential or mixed development than the identified sites'*. No barrier is placed on development occurring on any of these sites<sup>82</sup>; they are simply ordered in priority. The extent of the conflict with the HNP, therefore, relates to the site specific constraints outlined in the HNP for the Glebe lands, namely the character and setting of the CA, the rural setting of Church End, the usefulness of the existing footpath, the impact on traffic through the historic core of the village and the impact on views from properties in Willis Road and other streets;<sup>83</sup> and not the principle of their development. The process that led up to the selection of the 'best located sites' is also relevant.[53,58,75,90]
208. Paragraph 16 of the NPPF says the presumption in favour of sustainable development "will have implications for how communities engage in neighbourhood planning". "Critically", it says, this will mean that neighbourhoods should do three things, one of which is to *"develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development"*. Moreover, there are bound to be differences in NPs; the PPG says that NPs should *"reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared"*. That is what has happened in Haddenham. For the reasons explained above, I find the comparisons with Broughton Astley in the *Crane* case to be different in the specific considerations relating to housing supply. Nothing in the *Woodcock* case, where the NP was not 'made' alters my conclusions: therein lies confirmation that the Secretary of State acknowledges that paragraph 198 of the NPPF does not elevate neighbourhood plans to any special status compared to other parts of the development plan, nor to alter the operation of S38(6), nor the applicability of paragraph 49 of the NPPF. [20,66,81,94,98]
209. With regard to the methodology for the scoring of the merits of each site considered by the NPT, it became apparent at the Inquiry that errors had been made in the distances recorded by its members for the purposes of assessing pedestrian access from Glebe A to transport and facilities. These had already been highlighted in representations<sup>84</sup>. Further information has since been provided including an agreed set of distances<sup>85</sup> realistically based on walking rather than travelling by car. I give limited weight to small differences in distance particularly either side of a notional 'threshold' but small variations make a big difference to the score and hence position on this priority list. The proposed development would be accommodated on 2 of the sites identified in the HELAA, Glebe A (162 dwellings approximately) and part of Glebe B (118 dwellings). Glebe C was rejected by the plan Inspector in 2004, is too close to the CA and is partially allocated as a burial ground.[44-5,88-9,121]

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<sup>82</sup> Except HNP 006, which has been withdrawn by the landowner.

<sup>83</sup> And other matters such as pressure on schools and facilities such as healthcare which are of general concern

<sup>84</sup> From Dr Diprose CD50 on a Publication Stage Consultation Comment Form

<sup>85</sup> Doc 9

210. Glebe A is within reasonable distance of shops and schools along Stanford Road and the Church Way footpath and has a score of 34, but small differences in distances to local facilities make a big difference to the scores, potentially raising Glebe A to 36, or second out of the 21 sites suggested. Glebe B scores only 14, but no account is taken of close and convenient access to the garden centre on the opposite side of Stanbridge Road, which sells a range of food and household items as well as a providing café facilities. There is no score for Glebe A and B together, but taken overall, and bearing in mind the location of all the shops and facilities in Haddenham which include the garden centre in Stanbridge Road and the school, church, a shop and pub at Church End, I find that the whole application site location is reasonably sustainable. It is not dissimilar to north eastern or southern parts of the village in distance to the station; and well within cycling distance. The benefits arising from the scale of the overall scheme which include the public benefits of the burial ground, affordable housing, open space, sports facilities and the improvements to public bus services, attract considerable weight. [49-50,119]
211. To conclude on the consistency of the proposal with the development plan, the scheme would be a departure from NP policy HD5, but would be on a site already selected as being potentially developable and whatever score is correct, Glebe A and B together fall well within the top half of the list of preferable sites. As one of 5 large villages in Aylesbury Vale, Haddenham will need to accommodate more dwellings.[30-1,84-6,103-4,143]
212. Turning then to the specific issues:
- The effect on heritage assets*
213. A CA Appraisal (CAA) for Haddenham was published by the Council in 2008<sup>86</sup>. It sets out key views and vistas into and out of the CA; important open spaces and trees to be conserved; and permeability (networks and routes through the village, focusing on non-car modes), all of which are significant considerations in the HNP. The HNP states *The appraisal also identifies 17 distinct identity areas particularly important to defining the character of Haddenham. These include narrow curvilinear lanes with an enclosed and intimate character, sections of walls that border the road and paths, a mixture of historic buildings interspersed between modern infill developments, greens and ponds. To capture the visual character of the village, these features are incorporated into the design principles of this Plan. It is important to note that the NPPF puts particular emphasis on the need to conserve, and if possible enhance, heritage areas*'.
214. In 2004, the Examining Inspector said that the influence of the CA extends beyond its boundaries into its overall setting<sup>87</sup>. Because of its linear nature embracing 3 hamlets, much 19<sup>th</sup> and 20<sup>th</sup> century development around the edges of the CA shares and benefits from this historical significance, but it is diluted as more recent development extends further from Church Way; for example, Willis Road, Thame Road, Stanbridge Road and Wykeham Way do not contribute meaningfully to the setting of the CA. However the fields around Church End have an important role in preserving an ancient route to St Mary's Church and the listed buildings that surround it, which make a journey into this part of Haddenham little different to what it might have been 2 centuries ago when the

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<sup>86</sup> CD23

<sup>87</sup> CD10 paragraph 9.1.27

farmland was associated with the local living. Moreover, the lack of formal footways or any obvious highway engineering beyond a tarmac surface, combined with a large number of buildings of architectural interest, cobbles, wychert walls and green verges contribute to strong overall architectural and historical significance at Church End in particular. This is further emphasised by the prominence of the late 13<sup>th</sup> century church tower which is visible for a considerable distance, the more so at night when it is floodlit.[111,144]

215. Having said that, the setting as perceived from the east is detrimentally affected by modern development in The Gables, unremarkable but prominent detached houses which overlook the Glebe land. No dwellings are proposed in the scheme before me on the western field (HNP/009C on the SHLAA derived plan<sup>88</sup>) unlike the scheme firmly rejected by the Inspector in 2004 as a 'suburbanising feature' and referred to by many objectors to this scheme. Development would in fact be well set back from the Aston Road approach to the CA, east of the existing footpath; and no dwelling would be so close to Aston Road as to seriously impact upon the experience of approaching the CA with the church at its heart. Views of the church from Stanbridge Road would be appreciably more curtailed, but from this direction trees also interfere with the view and the tower is around 800m away.[111]
216. The layout of the new development on the indicative plan shows little opportunity has been taken thus far to integrate the arrangement of houses and roads with the church at the centre of the community. As confirmed by the applicant at the Inquiry, much more can be done to ensure that vistas are created to focus on the church tower without compromising the original field layout or existing hedges; and this could be done at the detail stage. In addition, the much needed burial ground would provide an appropriate visual break between the CA and the open ground labelled 'nature reserve'. With adjustments to the layout along these lines, I conclude that the development of site HNP/009A and part of HNP/009B would cause only a minor level of harm to the setting and hence significance of the CA, and through careful design, would have the potential to enhance it.[35,106-7,109,113,126]
217. The potential for a new footway on the north side of Aston Road is physically limited, especially if constructed to normal highway standards. No firm details were provided, but in any event significant alterations would be required to the levels of the existing verge, with implications for the curtilage wall of Grenville Manor, a Grade II\* listed building within the CA. The creation of a pedestrian crossing at this point, as suggested, would be an unfortunate urbanising influence which would diminish the setting of this listed building as well as the CA more generally. Moreover, well preserved wychert walls, which are a unique characteristic of Haddenham, on the north side of Aston Road (including at Wychert House) form the street boundaries of other buildings which contribute strongly to its setting, even though outside the CA. Replacing the grass verge with a hard surface, even if narrower than usually accepted by the Highways Authority, would have an unacceptable urbanising effect.[110]
218. On the other hand, there are no comparable walls or houses of interest on the south side of Aston Road east of the school vehicle entrance. A sufficiently wide verge is present which could accept a conventional footway without an

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<sup>88</sup> CD37 page 5 of Annex C to the HNP

unacceptable impact on the CA or any listed buildings (technical solutions exist to accommodate the ditch on this side). This would benefit the whole population of Haddenham by providing a footway along a large part of a road which is popular with runners and walkers, as well facilitating safer pedestrian access towards the school on a dangerous stretch round a bend (I saw that the 30 mph speed limit is ignored by many until the built-up area of the village is reached). West of the school entrance, Aston Road acts as a shared surface.[104-5,110,125]

219. Many objectors draw attention to the detrimental influence of increased traffic and parking pressure on the character of the CA. Much of this is due to traffic around school times. Presently, at school pick-up time, there is already a great deal of parking pressure around the green at Church End leading to congestion especially for larger vehicles which are occasionally obstructed. It is difficult to see how this existing problem would be made unacceptably worse by the proposal, as all available space for parking is often taken. There is a reasonable likelihood that parents in houses on the Glebe land would walk the 1-2 km distance to the school.[112,145]
220. In any case it is unclear why the addition of 280 houses and their occupants on the Glebe lands would necessarily lead to such an increase in traffic that the qualities of the CA would be unacceptably affected. Any additional traffic would mostly occur in morning and evening 'rush hour' periods and at other times the qualities of the area would remain much as they are now. Traffic generated by the development is likely to disperse in several different directions including towards Aylesbury, in the opposite direction. Accepting that there must be a point when traffic density has an intolerable effect on the significance of a quiet rural heritage asset, there is no evidence that that would be reached here.[112]
221. The HPC are concerned about the heritage advice in the officers' report initially and in the subsequent corrigendum<sup>89</sup> which changed its meaning. I concur with the general opinion that the Council's heritage advice to members was confusing but am of the view that there is no doubt as to what their final advice was. I have considered the matter in the light of national guidance and the law as set out in paragraphs 24 and 25 above.[61,108]
222. I have taken account of the potential impact on all the other heritage assets referred to by the parties and in representations, but conclude that overall, only a minor level of harm would occur to the setting and thereby significance of the CA by virtue of the more restricted view of the church tower from Stanbridge Road. The setting and therefore significance of the Grade I listed church tower would also be slightly diminished. The harm would fall very much within the category of 'less than substantial harm' in terms of the NPPF. Considerable importance and weight attaches to the desirability of preserving the setting of listed buildings and conservation areas and this needs to be put into the overall balance.

### *Other matters*

#### *Traffic and highways concerns*

223. The proposal is the subject of the September 2014 Transport Assessment which should be referred to for trip rates associated with a 350 dwelling

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<sup>89</sup> CD7



development<sup>90</sup> based on TRICS 2014 (version 7) database. That is followed by Revision A, dated January 2015, with appendices. Attention is also drawn to the SOCG on Transportation Issues between Lightwood Strategic and Buckinghamshire County Council<sup>91</sup>. The population of the village reflects a great deal of growth in the latter half of the 20<sup>th</sup> century. Many objectors raise concerns that increasing housing development in principle is likely to lead to pressure on the existing road network, parking and increased safety risks. It is one of the reasons that the HNP leans towards new development nearer the station, as many commuters drive there rather than walk or cycle. However, transport was only 3<sup>rd</sup> in importance in the site scoring system used, after heritage and environment.

224. There is no dispute between the main parties that the existing highway network in Haddenham is, on the whole, working safely. I observed parking pressure and congestion at St Mary's school in the afternoons and occasional short queues along Woodways and Thame Road at busy times around the beginning and end of the day but nothing that would be considered out of the ordinary in any large village. It is important to note that the Buckinghamshire County Highway Authority considered the previously proposed 350 dwelling development of the site acceptable in highways terms. That would have involved an additional 180 two way vehicle movements in the morning peak between 0800 and 0900, and 195 in the evening between 1700 and 1800 (estimated up to the year 2019). Chapters 9 and 10 of the 2014 Assessment demonstrate that the capacity of the highway network is easily able to absorb the increased use with no noticeable effect on queuing or delay. The proposed scheme of 280 dwellings would lead to significantly less vehicle movements.
225. It is noticeable that the junction at the centre of the green at Church End is excluded from the Assessment in Chapter 10, yet this is one of the most sensitive because of its narrow carriageway widths, lack of footways, unconventional layout, location at the most attractive part of the conservation area and concentrated use at school times when children are present. However my observation is that all these factors lead to uncertainty on the part of drivers who tend to adopt slower vehicle speeds and a more cautious attitude. The proportion of vehicle trips generated by the scheme that use this route<sup>92</sup>, for instance to travel to the station, will be relatively small; there are many other destinations and another route to the station along Woodways and Thame Road. This worry on the part of residents, which I understand, does not amount to a persuasive reason to refuse planning permission. Nor do concerns about parking for the new burial ground; the application is in outline, and there is no evidence that services and burials will lead to a greater parking problem than has been experienced in the past.
226. Detailed and helpful comments have been made on the Transport Assessment by Mr Pawsey and Mr and Mrs Nash<sup>93</sup> which the applicant has responded to by providing references<sup>94</sup>. I have given very careful attention to these observations which reflect the opinions of those who live in the village and therefore have the most direct experience. I draw the following conclusions: the traffic survey was

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<sup>90</sup> In Chapter 8

<sup>91</sup> Doc 12

<sup>92</sup> Estimated to be 16-18 two way trips in morning and evening peak hours

<sup>93</sup> CD59 and CD65

<sup>94</sup> Doc 13

- carried out shortly before the end of the school summer term so it is likely that the figures are not unreasonable. I observed traffic conditions in Haddenham during the Inquiry which took place during the autumn term. The availability and use of buses to transport secondary school pupils to Thame and Aylesbury and elsewhere indicates that traffic congestion for this reason as a result of this development is likely to be very limited. The preference of Haddenham residents to use their own motor cars is no different to other locations where a choice is available: I have no doubt that with the proposed improvements to bus services, the evolution of a travel plan encouraging sustainable modes, together with the improvement to the footpath to Church Way, future residents will have a real choice of sustainable means of getting around. [104,134,147,175]
227. With regard to the restricted bridge at the south end of Stanbridge Road, features of this sort are common on many rural routes which are well known locally to cause short delays to drivers from time to time. Given the likely increase in traffic levels on this particular route as a result of the scheme, there would not be an unacceptable increase in congestion. For many future residents, a preferable (and for many, shorter) walking route to St Mary's CE School is likely to involve the footpath to Church Way; I do not therefore consider the increased risk to pedestrians on Aston Road to be a significant objection, especially as a new footway will be installed as far as the school vehicle entrance. Parking on the verge in Aston Road from time to time is a clear hazard but there is no evidence to show that it leads to an unacceptable highway safety risk.
228. The likelihood of on-street parking on Stanbridge Road leading to a single track carriageway is accepted but this is no more than a normal hazard that is very common in many places, accentuated by increasing car ownership; drivers have to deal with such things as part of their usual day-to-day experience. There is no evidence to suggest that any unacceptable highway safety consequences are likely to arise in any location as a result of the scheme. In any event, the Highways Authority has measures it can put in place to regulate parking, as I heard may soon occur nearer the station, to control unsafe parking practices.[83,128]
229. To conclude on traffic and highway matters, there is no existing accident pattern in Haddenham that would suggest a problem area or unacceptable day to day safety risk. No doubt there would be an increase in traffic, but future residents will have various destinations in mind including Aylesbury, Thame and the M40. All of the facilities that future residents may need to access, including the station, shops, health facilities, churches and schools are within 2 km, which is recommended in the *Manual for Streets*<sup>95</sup> as the distance within which walking offers the greatest potential to replace car journeys. It has not been shown that the addition of houses on the Glebe lands, as opposed to other sites in Haddenham, would unacceptably increase congestion or highway safety risks. The very low potential for increased delays or inconvenience is no reason to refuse planning permission.[129,157,178]
230. I appreciate the concerns of occupiers in properties along Willis Way and The Gables that views across fields will be obscured for some and very much altered for others and that many people enjoy looking towards the Chilterns on the horizon. Whilst this is a material consideration, there is no right to a view and

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<sup>95</sup> Manual for Streets 1, paragraph 4.4.1 derived from PPS13, also referred to in Manual for Streets 2. Also see SOCG on Transport, paragraph 2.22

the impact has to be considered against the public benefits of the scheme.[144,148-9]

231. The route of the existing footpath along the north edge of the field is not fixed at the outline stage and need not be completely subsumed by the development.
232. Finally, the HNP is subject to judicial review<sup>96</sup> on grounds including the means by which potential development sites were scored, a matter that I have considered above. Notwithstanding that, until quashed, the HNP remains part of the development plan at the current time and the weight that attaches to it cannot be reduced on the basis that it may not be at some point in the future.[42,68-70]

## Conclusion

233. It is in the nature of planning policies that the period of consultation that leads to their eventual adoption overlaps with new guidance, assessments, events or other processes such that elements may be so affected that they are out of date before they can be properly applied. It is in this context that S38(6) of the Act refers to the need to consider other material considerations, and that the NPPF refers to other material considerations in paragraphs 12 and 14. The aims of the HNP must be recognised, in the words of the Secretary of State, as 'more than an aspiration'. However the scheme is in overall conformity with NP policy HD1 as adopted. In light of the scoring of the identified sites, the conflict with policy HD5 carries only limited weight. The scheme offers not only an appreciable and rapid improvement in housing provision in Haddenham and in Aylesbury Vale, but also substantial advantages to the community in terms of affordable housing and housing for the elderly as well as a burial ground, sporting facilities and open space. The improvements to the bus service and the Thame to Haddenham cycleway link also weigh significantly in its favour in sustainability terms. [29,30,57,78,87,139,175,184]
234. There is nothing to suggest that allowing this application would prevent any other identified site coming forward. A minor degree of harm would result in terms of the effect on the setting of the conservation area, but an opportunity would be created to visually link the public elements with the church tower in a more meaningful way than on the illustrative plan, which could better reveal its significance. Having regard to the policies of the development plan including the vision, strategy and policies HD1 and HD5 of the HNP, the benefits of development on this site, being a significant expansion of site HD5, would significantly and demonstrably outweigh the disadvantages. As such, the scheme would comply with the objectives of paragraph 50 of the NPPF. The balance tips firmly towards the scheme being granted planning permission.

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<sup>96</sup> See Response at Doc 15

**Inspector's recommendation**

235. My recommendation is that the application be allowed and planning permission granted subject to the conditions in Annex 1.

*Paul Jackson*

INSPECTOR

Richborough Estates

## APPEARANCES

### FOR AYLESBURY VALE DISTRICT COUNCIL:

|                                          |                                          |
|------------------------------------------|------------------------------------------|
| Mark Westmoreland_Smith                  | Of Counsel, instructed by HB Law         |
| He called                                |                                          |
| Philippa Jarvis BSc(Hons)<br>DipTP MRTPI | Philippa Jarvis Planning Consultancy Ltd |

### FOR LIGHTWOOD STRATEGIC LTD:

|                                    |                                             |
|------------------------------------|---------------------------------------------|
| Christopher Boyle                  | Queens Counsel, instructed by Pegasus Group |
| He called                          |                                             |
| Peter Bell BA MA PDD IHBC          | Asset Heritage Consulting                   |
| Anthony Jones BSc(Hons)<br>MCIHT   | Transport Planning Associates               |
| Daniel Weaver BA(Hons) MA<br>MRTPI | Pegasus Group                               |

### FOR HADDENHAM PARISH COUNCIL:

|                                                |                                           |
|------------------------------------------------|-------------------------------------------|
| Paul Stinchcombe                               | Queens Counsel instructed by Mike Gilbert |
| assisted by                                    | Planning                                  |
| Ned Helme of Counsel                           |                                           |
| He called                                      |                                           |
| Michael Gilbert BA MRTPI                       | Mike Gilbert Planning                     |
| Professor Sir Roderick<br>Floud DPhil FBA FCGI |                                           |

### INTERESTED PERSONS:

|                    |                                                   |
|--------------------|---------------------------------------------------|
| Neil Pringle       | Local resident                                    |
| Nick Lock          | Local resident                                    |
| Sir Roderick Floud | Local resident                                    |
| Gaynor Bull        | Chair, Haddenham St Mary's CE School<br>Governors |
| Brian Bowman       | President, Haddenham Village Society              |
| Chris Thorogood    | Local resident                                    |
| Robyn Thorogood    | Local resident                                    |
| Cllr Judy Brandis  | AVDC Councillor for Haddenham and Stone           |
| Nick and Judy Nash | Local residents                                   |

## DOCUMENTS

- 1 Statement of Neil Pringle
- 2 Statement of Nick Nash (as amended- CD65)
- 3 Submissions from Jonathan Pawsey and Karen Ellis
- 4 Statement of Brian Bowman
- 5 Statement of Robyn Thorogood
- 6 Statement of Christine Thorogood
- 7 Statement of Cllr Judy Brandis
- 8 Calculation of distances by Nick Lock submitted in response to challenge to HNP
- 9 Calculation of distances agreed by HPC and the applicant, and photographs of locations on Woodways and Stanbridge Road
- 10 Statement of Common Ground Addendum
- 11 S106 Deeds of Variation
- 12 Statement of Common Ground on Transportation
- 13 Applicants annotated copy of CD59 and CD65, received 8 December 2015, as requested by Inspector
- 14 Illustrative plan of planned footways in Aston Road, provided by the applicant
- 15 Claim No CO/5131/2015: Grounds of Resistance on behalf of the Interested Party including Witness Statement of Sir Roderick Floud, dated 18 November 2015

### Annex 1 Suggested list of conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins. The design of the layout of roads, footpaths and dwellings shall include provision for public views towards St Mary's church from within the scheme. The development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 18 months from the date of this permission.
- 3) The development hereby permitted shall begin not later than 18 months from the date of approval of the last of the reserved matters to be approved.

Reason (1, 2 and 3): *To prevent the accumulation of planning permissions: to enable the Council to review the suitability of the development in the light of altered circumstances and to comply with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004*

- 4) No development shall take place, other than below ground works and foundations, until details of the materials proposed to be used on the external surfaces of the development hereby approved have been submitted to the local planning authority and approved in writing. The development shall be carried out in accordance with the approved details.

Reason: *To ensure a satisfactory appearance to the development*

- 5) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours; boundary treatment; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials and a programme for the works.
- 6) Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and implementation programme.
- 7) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority. No dwelling shall be occupied until the landscaping details relating to it have been fully implemented.

Reason (5, 6 and 7): *To ensure a satisfactory appearance to the development.*

- 8) Any tree or shrub which forms part of the approved landscaping scheme which within a period of five years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved by the local planning authority.
- 9) No site clearance works or development shall take place until there has been submitted to the local planning authority for their approval a scheme showing the type, height and position of protective fencing to be erected around each tree or hedge to be retained.
- 10) No site clearance works or the development itself shall be commenced until such a scheme is approved by the local planning authority and thereafter the development hereby permitted shall only be carried out in accordance with that scheme. The area surrounding each tree/hedge within the approved protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:
  1. There shall be no changes in ground levels;
  2. No materials or plant shall be stored;
  3. No buildings or temporary buildings shall be erected or stationed.
  4. No materials or waste shall be burnt nor within 20 metres of any retained tree; and.
  5. No drain runs or other trenches shall be dug or otherwise created, without the prior written consent of the local planning authority.

Reason (8, 9 and 10): *In order to ensure that damage does not occur to the trees during building operations-and to comply with policy GP39 and GP40 of the AVDLP and the guidance given in the NPPF*

- 11) The details to be submitted for approval in writing by the local planning authority in accordance with Condition (1) above shall include details of the

proposed slab levels of the building(s) in relation to the existing and proposed levels of the site and the surrounding land, with reference to fixed datum point. The building(s) shall be constructed with slabs at levels that have been approved in writing by the local planning authority.

Reason: *For the avoidance of doubt and to ensure a satisfactory form of development*

- 12) No works on site shall commence until details of the proposed means of disposal of foul and surface water drainage have been submitted to and approved in writing by the local planning authority. The surface water drainage scheme shall provide detailed drainage calculations for the proposed scheme including any sustainable drainage techniques, surface water sewer network and road network including all rainfall events up to and including the 1 in 100 year plus climate change event. The development shall be carried out in accordance with the approved scheme of drainage.

Reason: *In order to prevent and manage flooding and in order to ensure that the development is adequately drained*

- 13) Before each phase of the development approved by this planning permission, no development shall take place until such time as a flood risk assessment to demonstrate that there shall be no increase in flood risk on or off site has been submitted to and approved in writing by the local planning authority. The scheme shall contain:
- a. Demonstration that the discharge volume required to attenuate surface water run-off from the critical 1 in 100 chance in any year storm event, with an appropriate allowance for climate change, can be provided on site.
  - b. Demonstration that the peak discharge rate for all events up to and including the 1 in 100 in any year critical storm event, including an appropriate allowance for climate change, will not exceed that of the existing site.
  - c. Infiltration test results to ascertain the suitability of infiltration SUDS (as specified in Section 5.3.6 of the Flood Risk Assessment)

Reason: *To prevent flooding by ensuring the satisfactory disposal and storage of surface water from the site and to ensure that surface water is managed in a sustainable manner*

- 14) No floodlighting or other form of external lighting shall be installed unless it is in accordance with details which have previously been submitted to and approved in writing by the local planning authority. Such details shall include location, height, type and direction of light sources and intensity of illumination. Any lighting which is so installed shall not thereafter be altered without the prior consent in writing of the local planning authority.

Reason: *In the interests of the visual and wildlife amenities of the site*

- 15) Development shall not commence unless and until a Construction Management Plan ("CMP") has been submitted to and approved in writing by the local planning authority. Thereafter the construction of the development shall only be carried out in accordance with the approved statement. The CMP shall include:



- a) Details of the site compound including temporary structures/buildings, fencing, parking and storage provision to be used in connection with the construction of the development;
- b) Details of the proposed storage of materials and disposal of surplus materials;
- c) Methods of dust management;
- d) Pollution control during construction: protection of the water environment, bunding of fuel storage areas, surface water drainage, sewage disposal and discharge of foul drainage, pollution response plans;
- e) Details of the phasing of construction works;
- f) Siting and details of wheel washing facilities;
- g) Cleaning of site entrances, site tracks and the adjacent public highways and the sheeting of all HGVs taking spoil or construction materials to/from the site to prevent spillage or deposit of any materials on the highway;
- h) A site environmental management plan to include details of measures to be taken during the construction period to protect wildlife and habitats;
- i) Areas on site designated for the storage, loading, off-loading, parking and manoeuvring of heavy duty plant equipment and vehicles;
- j) Details and a timetable for post construction restoration/reinstatement of the temporary working areas and the construction compound;
- k) Working practices for protecting nearby residential dwellings, including measures to control noise and vibration arising from on-site activities shall be adopted as set out in British Standard 5228 Part 1: 2009; and
- l) Details of the routing of heavy vehicle traffic accessing and leaving the site, which shall not in any circumstances involve passing along Station Road or Aston Road west of St Tiggywinkles Animal Hospital.

*Reason: To ensure a satisfactory level of environmental protection and to minimise disturbance to local residents during the construction process*

- 16) No other part of the development shall begin until the new means of access have been sited and laid out in accordance with the submitted details and constructed in accordance with Buckinghamshire County Council's guide note "Commercial Vehicular Access Within Highway Limits" 2001. For the avoidance of doubt the applicants will be required to obtain a S184 licence with the Highway Authority in order to comply with the requirements of this condition.

*Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and of the development*

- 17) No other part of the development shall begin until visibility splays shown in principle on drawing nos. 6.1B and 6.2 have been provided on both sides of the access points. The area contained within the splays shall be kept free of any obstruction exceeding 0.6 metres in height above the nearside channel level of the carriageway.

*Reason: To provide adequate inter-visibility between the access and the existing public highway for the safety and convenience of users of the highway and of the access*

- 18) The details to be submitted for the approval of the local planning authority in accordance with condition 1 above shall include a scheme for parking, garaging and manoeuvring in accordance with the local planning authority's "Car Parking Standards". The approved scheme shall be implemented and made available for use before the development hereby permitted is occupied and that area shall not be used for any other purpose.

*Reason: To enable vehicles to draw off, park and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway*

- 19) No development shall take place until a footway scheme for improved pedestrian access on the south side of Aston Road from the development towards Church End and Haddenham St Mary's CE School; and in Stanbridge Road towards Woodways, has been submitted to and approved in writing by the local planning authority. In respect of Aston Road, the scheme shall provide for a footway at least as far as the vehicle entrance to the school. No dwelling shall be occupied until the footways have been provided in accordance with the approved scheme.

*Reason: To provide improved access towards the school for pedestrians and in the interests of encouraging reduced use of private cars*

- 20) No development shall take place until a programme of archaeological work in accordance with a written scheme of investigation has been submitted by the applicant and approved in writing by the local planning authority. The development shall not be implemented otherwise than in accordance with the approved scheme.

*Reason: To record or safeguard any archaeological evidence that may be present at the site*

- 21) The development hereby permitted shall be carried out in accordance with the following approved indicative plans: BRS.5173\_02H 1

*Reason: For the avoidance of doubt and in the interests of proper planning*

- 22) No more than 280 dwellings shall be constructed on the site.

*Reason: To ensure there is a limit on the density of development*

- 23) No development shall commence until a contaminated land assessment and associated remedial strategy, together with a timetable of works, has been submitted to and approved in writing by the local planning authority. The agreed remediation works shall be fully completed before any other construction work commences. The assessment / strategy shall include the following:

a) The contaminated land assessment shall include a desk study which shall detail the history of the site uses and propose a site investigation strategy based on the relevant information discovered by the desk study.

b) The site investigation, including relevant soil, soil gas, surface and groundwater sampling, shall be carried out by a suitably qualified and accredited consultant/contractor in accordance with a Quality Assured sampling and analysis methodology.

c) A site investigation report detailing all investigative works and sampling on site, together with the results of analysis, risk assessment to any receptors and a proposed remediation strategy shall be submitted to and

approved in writing by the local planning authority prior to any remediation commencing on site. The works shall be of such a nature as to render harmless the identified contamination given the proposed end-use of the site and surrounding environment including any controlled waters.

*Reason: To ensure that the potential contamination of the site is properly investigated, the risks to the planned end user group(s) quantified, and its implication for the development fully taken into account*

- 24) The approved remediation works as referred to in condition 23 shall be carried out in full on site under a quality assurance scheme to demonstrate compliance with the proposed methodology and best practice guidance. If during the works contamination is encountered which has not previously been identified then the additional contamination shall be fully assessed and an appropriate remediation scheme agreed with the local planning authority.

Within 1 month of completion of the remediation works, a validation report shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the completed remediation works and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology. Details of any post-remedial sampling and analysis to demonstrate that the site has reached the required clean-up criteria shall be included in the validation report together with the necessary documentation detailing what waste materials have been removed from the site.

*Reason: To ensure that the potential contamination of the site is properly dealt with and the risks to the planned end user group(s) minimised*

## Annex 2 Glossary

|          |                                                                           |
|----------|---------------------------------------------------------------------------|
| NDP      | Neighbourhood Development Plan                                            |
| HNP      | Haddenham Neighbourhood Plan                                              |
| SHMA     | Strategic Housing Market Area                                             |
| SHLAA    | Strategic Housing Land Availability Assessment                            |
| SHEDNA   | Strategic Housing and Economic Development Needs Assessment               |
| HEDNA    | Housing and Economic Development Needs Assessment                         |
| CB-HEDNA | Central Buckinghamshire Housing and Economic Development Needs Assessment |
| HELAA    | Housing and Economic Land Availability Assessment                         |
| VAP      | Vale of Aylesbury Plan (withdrawn)                                        |
| VALP     | Vale of Aylesbury Local Plan (in consultation)                            |
| FOAN     | Fully Objectively Assessed Needs                                          |

## Annex 3

## Core Documents list

| <b>Ref: CD/X</b> | <b>Document Title</b>                                                                               |
|------------------|-----------------------------------------------------------------------------------------------------|
| 1                | Secretary of State Call-In Letter (27 March 2015)                                                   |
| 2                | Statement of Common Ground, dated 19 June 2015                                                      |
| 3                | Applicant Statement of Case                                                                         |
| 4                | AVDC Statement of Case                                                                              |
| 5                | Haddenham Parish Council Statement of Case                                                          |
| 6                | Completed Legal Agreement (dated 17 March 2015)                                                     |
| 7                | Strategic Planning Committee Report and Corrigendum (January 2015)                                  |
| 8                | Strategic Planning Committee Report (October 2015)                                                  |
| 9                | Local Plan 2004 Proposed Allocation Boundary HA.1                                                   |
| 10               | Local Plan 2004 Inspector's Report Haddenham Extract                                                |
| 11               | AVDC Five Year Housing Land Supply Position Statement (July 2015)                                   |
| 12               | Aylesbury Housing and Economic Development Needs Assessment (A-HEDNA) (June 2015)                   |
| 13               | Woodcock Holdings Judgement                                                                         |
| 14               | AVDC Members Briefing on Woodcock Holdings (31 July 2015)                                           |
| 15               | AVDC Clarification on Woodcock Holdings Briefing (4 August 2015)                                    |
| 16               | Haddenham Neighbourhood Plan                                                                        |
| 17               | Haddenham Neighbourhood Plan (Submission Version, January 2015)                                     |
| 18               | Haddenham Neighbourhood Plan Inspector's Report                                                     |
| 19               | HELAA (October 2015) – Haddenham Extract                                                            |
| 20               | AVDC Response to December 2014 Neighbourhood Plan Consultation                                      |
| 21               | Central Buckinghamshire Housing and Economic Development Needs Assessment (CB-HEDNA) (October 2015) |
| 22               | AVDC 'Issues and Options Consultation' VALP (October 2015)                                          |

|    |                                                                                                                    |
|----|--------------------------------------------------------------------------------------------------------------------|
| 23 | Haddenham CA Appraisal (2008)                                                                                      |
| 24 | Affordable Housing Supplementary Planning Document (November 2007)                                                 |
| 25 | Supplementary Planning Guidance on Sport and Leisure Facilities (August 2004) and Companion Document (August 2006) |
| 26 | Aylesbury Vale Playing Pitch Strategy, 2010                                                                        |
| 27 | Aylesbury Vale PPG17 (update) Study, 2010                                                                          |
| 28 | Assessment of Leisure and Cultural Facilities for Aylesbury Vale, 2012                                             |
| 29 | Guidance on Planning Obligations for Education Provision, Bucks County Council (2010)                              |
| 30 | AVDC Affordable Housing Policy Interim Position Statement (June 2014)                                              |
| 31 | Neighbourhood Plan Sustainability Appraisal/Strategic Environmental Assessment (January 2015)                      |
| 32 | Dartford Judgement                                                                                                 |
| 33 | Phides Judgement                                                                                                   |
| 34 | Crane Judgement                                                                                                    |
| 35 | VALP Consultation – Background Note (October 2015)                                                                 |
| 36 | NDP – emails dated 25 October 2015                                                                                 |
| 37 | Annex C to the Neighbourhood Plan (post Referendum)                                                                |
| 38 | Broughton Astley appeal decision – APP/F2415/A/12/2183653                                                          |
| 39 | South Northamptonshire Council v SSCLG [2013] EWHC 11 (Admin)                                                      |
| 40 | Hoffmann-La Roche & Co. A.G. v. Secretary of State for Trade and Industry [1975] A.C. 295                          |
| 41 | Stringer v Minister for Housing and Local Government [1970] 1 WLR 1281 at 1294                                     |
| 42 | East Northamptonshire District Council v Secretary of State for Communities and Local Government [2015] 1 WLR 45   |
| 43 | R (on the application of the Forge Field Society and others) v Sevenoaks District Council [2015] JPL 22            |
| 44 | R (Hughes v South Lakeland DC [2014] EWHC 3979 (Admin)                                                             |
| 45 | Wenman v SSCLG [2015] EWHC 925 (Admin)                                                                             |
| 46 | Secretary of State decision (20 November 2014), Land south of Verney Road, Winslow – 12/04597/OUT                  |

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| 47 | NDP Minutes (14 July 2013)                                                                                                           |
| 48 | NDP Minutes (5 September 2013)                                                                                                       |
| 49 | Map – NDP Group                                                                                                                      |
| 50 | Representation Diprose (17 March 2015)                                                                                               |
| 51 | Representation Haddenham Village Society (12 January 2015)                                                                           |
| 52 | Consultation Statement (January 2015)                                                                                                |
| 53 | Site Assessment Report Submission (January 2015)                                                                                     |
| 54 | Email Correspondence AVDC and Lightwood (July 2015)                                                                                  |
| 55 | Pre-Active Protocol Response (13 October 2015)                                                                                       |
| 56 | NDP Minutes (12 November 2014)                                                                                                       |
| 57 | Pringle – Written Submission following verbal address (24 November 2015)                                                             |
| 58 | Parish Council HNP Judicial Review docs (including submission on Ground of Challenge, Roderick Floud Witness Statement and exhibits) |
| 59 | J Pawsey Representation (23 November 2015)                                                                                           |
| 60 | Distance plans and photographs submitted by Applicant                                                                                |
| 61 | N. Lock documentation (26 November 2015)                                                                                             |
| 62 | J Brandis document (26 November 2015)                                                                                                |
| 63 | B Bowman document (26 November 2015)                                                                                                 |
| 64 | N Nash (written) – SUPERSEDED BY CD 65                                                                                               |
| 65 | N Nash (electronic) – SUPERSEDES CD64                                                                                                |
| 66 | S106 – Draft Deed of Variation                                                                                                       |
| 67 | Statement of Common Ground Addendum                                                                                                  |
| 68 | Footway Plan Options ( TPA x 3 plans)                                                                                                |
| 69 | C Thorogood document (26 November 2015)                                                                                              |

Richborough Estates



## **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

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

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

### **SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS**

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

#### **Challenges under Section 288 of the TCP Act**

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the date of the decision.

### **SECTION 2: ENFORCEMENT APPEALS**

#### **Challenges under Section 289 of the TCP Act**

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

### **SECTION 3: AWARDS OF COSTS**

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

### **SECTION 4: INSPECTION OF DOCUMENTS**

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