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## Appeal Decision

Inquiry started on 8 March 2016

Site visit made on 17 March 2016

**by Frances Mahoney DipTP PGDipTP MRTPI IHBC**

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

**Decision date: 13 June 2016**

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**Appeal Ref: APP/K0425/W/15/3011900**  
**Mill Lane, Princes Risborough HP27 9LN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Gladman Developments Ltd against the decision of Wycombe District Council.
  - The application Ref 14/06162/OUT, dated 30 April 2014.
  - The development proposed is outline planning for up to 210 dwellings, site access, highway networks, landscaping, public open space and associated works.
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### Decision

1. The appeal is dismissed and planning permission for outline planning for up to 170 dwellings<sup>1</sup>, site access, highway networks, landscaping, public open space and associated works is refused.

### Preliminary matters

2. The Inquiry sat from the 8-11 March, and 15-17 March 2016, with an accompanied site visit on the 17 March 2016.
3. This appeal is against the failure of the Council to determine the planning application for the proposed development. Following the submission of the appeal (1 April 2015) the Council went on to consider the proposal on the 1 July 2015 and identified 11 putative reasons for refusal. In these circumstances I have treated this 'decision' as that which the Council would have made had it been empowered to do so.
4. Putative reason for refusal 7 deals with the proposed widening of the footway beneath the Mill Lane rail viaduct. Additional information has been provided in respect of these works. The completed agreement made pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended) (S106)<sup>2</sup> promises the delivery of the proposed works<sup>3</sup>, along with an extension of the footway along Mill Lane<sup>4</sup>. The agreed works would be delivered in accordance

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<sup>1</sup> See paras 10-16 below.

<sup>2</sup> Inquiry Doc 6.

<sup>3</sup> As set out on dwg no 4746/29/03 – attached to the S106. These works also include three way traffic signals at the junction of Crowbrook Road, Place Farm Way and Mill Lane.

<sup>4</sup> As set out on dwg no 4746/29/02 – attached to S106.

- with a Highways Works Delivery Plan<sup>5</sup>, and an agreement entered into with the Highway Authority<sup>6</sup>.
5. Putative reasons for refusal 8, 9, 10 and 11 deal with the absence of a satisfactory mechanism to secure financial contributions to maximise accessibility to the site by sustainable modes of transport; the accommodation of traffic movements from the proposed development safely and without causing unacceptable traffic congestion at the Aylesbury Road/New Road/Longwick Road/Duke Street roundabout junction; local infrastructure and the provision of affordable housing.
  6. The parties have worked collaboratively to establish and agree the provisions within the completed S106 agreement for the appeal site<sup>7</sup>. The S106 promises the delivery of affordable housing units equal to no less than 40% of the total bedspaces comprised in the development<sup>8</sup>, on-site public open space, the provision of a management company with responsibility for the open space, including a single equipped area of play<sup>9</sup>, the implementation of a sustainable urban drainage scheme, including its management, and the payment of contributions towards education<sup>10</sup>, and highways, including a travel plan.
  7. The submitted evidence showed that the promised contributions and mitigating measures were necessary, reasonable and justified in accordance with Regulations 122 & 123 (3) of the Community Infrastructure Levy Regulations 2010<sup>11</sup>. Based on the justifying evidence the elements of the S106 will not be considered further<sup>12</sup>.
  8. Therefore, for the above reasons the Council did not defend reasons for refusal 7-11 inclusive<sup>13</sup>.
  9. During the consideration of the planning application the description of development was amended to outline planning for up to 192 dwellings<sup>14</sup>. It was upon this extent of the proposed development that consideration of the planning application was given by the Council.
  10. However, in January 2016 following further discussions between the parties, in seeking to respond to drainage aspects and the provision of land required for future railway works, amended plans were submitted which indicated that the number of dwellings was proposed to be reduced to up to 170 units.
  11. At the Inquiry the appellant company requested that the appeal proposal be considered on the basis of the reduced scheme for up to 170 units. The

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<sup>5</sup> Required under the terms of the S106.

<sup>6</sup> Under section 278 and/or section 38 of the Highways Act 1980 – promised under the terms of the S106 – all in compliance with the terms of CS Policies CS 16 & CS 20.

<sup>7</sup> Inquiry Doc 6 - the promises between both Wycombe District Council and Buckingham County Council and the appellant company.

<sup>8</sup> In accordance with the terms of CS Policy CS 13 – Statement of Common Ground General (SofCGG) para 7.4.1.

<sup>9</sup> In accordance with Policies CS Policy CS 18, DSAP Policies DM 16 & DM 17.

<sup>10</sup> This relates to a project to expand Princes Risborough Primary School to provide additional half form entry – in compliance with CS Policy CS 21 – SofCGG para 7.2.1.

<sup>11</sup> Inquiry Docs 5 and 6.

<sup>12</sup> Inquiry Doc 5. It should also be noted that the Council has an approved CIL Charging Schedule. The market dwellings would be liable for the paying of the prescribed CIL rate, but this is a matter outside of the consideration of the S106 contribution in this instance.

<sup>13</sup> Paras 1 of Inquiry Docs 2 and 28 respectively and SofCGG para 1.1.7.

<sup>14</sup> An agreed point between the parties. It was to take into account matters relating to drainage and was the subject of public consultation – Inquiry Doc 1.

redlined application site would remain the same along with the proposed access layout plan<sup>15</sup>. However, Development Framework, dwg no 5692-L-02 rev E would be superseded by Development Framework, dwg no 5692-L-02 rev K<sup>16</sup> to reflect a development of up to 170 dwellings<sup>17</sup>. The appellant company also suggested the imposition of a planning condition restricting the composition of the proposed development to no more than 170 dwellings.

12. Taking into account that whilst the description of development of this appeal initially referred to up to 210 dwellings, amended then to up to 192 units, it is clear that it is now the intention of the appellant company to reduce the quantum of development down to 170 dwellings as a maximum. The focus of the evidence from the main parties reflected this intention, it being centred on a development of 170 dwellings, giving close consideration to the parameters set out on the proffered amended plan<sup>18</sup>.
13. It is not in the remit of the decision-maker to change the description of development. However, both the appellant company and the Council were in agreement that the extent of the development proposed should be no more than 170 dwellings<sup>19</sup>.
14. The amended Development Framework is conceptual in its terms. However, the proffered changes, in themselves, were subject to a process of consultation carried out by the Council which mirrored that undertaken when planning application 14/06162/OUT was initially considered<sup>20</sup>. It is clear that all the parties have considered the development before the Inquiry in the context of a development of 170 dwellings, the amended Development Framework, and the terms of the promoted condition relating to the limitation of the number of units up to 170.
15. The extent of publicity and responses in relation to the amended plans, along with the fact that the overall change in the quantum of development represents a reduction in the scale of the scheme, are both important factors to be considered when assessing whether this appeal proposal would be so changed that to grant it would be to deprive those who should have been consulted on the change to development of the opportunity of such consultation<sup>21</sup>.
16. With this in mind, the proposed changes would not materially prejudice the interests of others and so within this decision, like the main parties, I proceed on the basis that the reduction in numbers and amendment to the Development Framework and associated documents, forms the basis for the consideration of this proposal<sup>22</sup>.

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<sup>15</sup> Dwg ref 2013-064-100-02 Rev A – CD1.2 & 4746/21/01 CD1.3.

<sup>16</sup> Shows the indicative relationship of the proposed development with open green space, existing vegetation, proposed structure planting, equipped play area, access points/road layout, proposed drainage management features, existing public rights of way and existing neighbouring land uses, including the railway line/station and crossing point. The plan illustrates how the proposed development might be accommodated. The purpose of this illustrative plan is to inform consideration of the development.

<sup>17</sup> Further consulted upon amended plan - Illustrative Masterplan dwg no 5692-L-03 D & Outline Drainage Strategy dwg no 300-001 Rev G.

<sup>18</sup> Dwg no 5692-L-02 rev K.

<sup>19</sup> SofCGG para 1.1.6 and Inquiry Doc 2.

<sup>20</sup> Inquiry Docs 17 & 4. The representations submitted as a result of this latest consultation are set out in Inquiry Doc 27.

<sup>21</sup> Bernard Wheatcroft Limited v S of S for the Environment and Another (1982) 43P & CR233.

<sup>22</sup> This was the subject of an Inspector's ruling delivered orally at the Inquiry.

17. Whilst the planning application form indicates the appeal site lies within Princes Risborough, the site has a close association with Monks Risborough, not least as it lies adjacent to the Monks Risborough station. The sprawling nature of the urban development of Princes Risborough has essentially subsumed Monks Risborough into its wider settlement area and I have dealt with these two indistinguishable established residential areas as one.

### **Main Issues**

18. Consequently, the main issues are:

- whether the proposal would undermine the plan-led approach to strategic growth, compromising the proper planning of the expansion of Princes Risborough;
- the effect on the safety of future residents of the proposed development from the flow of water; to buildings and their contents; and whether the proposal would increase flood risk to the site and offsite areas;
- the effect of the proposal on the character and appearance of the area, including the Chiltern Area of Outstanding Natural Beauty (AONB);
- on the supply of high quality agricultural land (best and most versatile (BMVAL));
- whether the proposal would prejudice the future development of railway infrastructure;
- the effect on pedestrian safety on the adjacent level crossing and public rights of way;
- the effect of the proposed additional traffic generated on the free flow of traffic and conditions in relation to the safety of highway users; and
- in light of these issues whether the appeal proposal constitutes sustainable development.

### **Reasons**

#### *Planning Policy/Housing*

19. The Council is currently engaged in the production of a local plan (LP). This will set out the spatial strategy and key planning policies for the development of the District to 2031, including site specific allocations. Although the LP was first consulted upon in February 2014, it is still in the early stages of production and a Green Belt review is underway.

20. The appeal site (Mill Lane site) has been considered for housing as part of the options within the consultation document<sup>23</sup>, both within the medium growth option<sup>24</sup>, as well as the high growth option<sup>25</sup>.
21. The Council's Strategic Sites Assessment Study (February 2014)<sup>26</sup> identified the potential capacity of the Mill Lane site as being 160 dwellings<sup>27</sup>. The Landscape Assessment of Strategic Sites document (February 2014)<sup>28</sup>, like the other documents mentioned above, was produced as part of the evidence base for the consideration of development options in the formulation of the LP. It focused on a series of sites which were considered to be potential options for development, in the context of the constrained nature of the district, particularly as already highlighted, the Green Belt and AONB designations, which cover large tracts of the land area. The Mill Lane site was identified for housing<sup>29</sup>.
22. The consultation document<sup>30</sup> identified a number of options which included known sites which could be broadly quantified and new options for further investigation. However, the Council acknowledged that the scale of growth being identified was likely to result in there being no choice as to which option to pursue. It would be the balance of housing to be provided on each option which would be under consideration, not a choice between them, as they would be needed to contribute to one degree or another<sup>31</sup>.
23. The local development scheme (March 2015) sets out a timetable leading to the adoption of the LP and other area action plans. This shows the LP not coming forward to adoption until July 2018 at the earliest<sup>32</sup>.
24. The National Planning Policy Framework (the Framework) acknowledges that it is highly desirable that local planning authorities should have an up-to-date plan in place. The Council is working towards achieving this goal. However, the tabled date for adoption is some way off and the Council could not reassure me this would not be subject to slippage. In these circumstances of uncertainty, and the lack of confirmation of compliance with the terms of the Framework, these factors diminish the weight that can be attributed to the emerging LP policies<sup>33</sup>. However, the identified constraints within the district and the acknowledgement that the strategy for housing provision may call into play all of the identified options within the consultation document<sup>34</sup> are important influencing factors in the evolution of the LP.
25. There is no Neighbourhood Plan to cover Monks Risborough or Princes Risborough. However, work is underway in respect of the Princes Risborough Town Plan (Town Plan). This takes the form of an area action plan<sup>35</sup>. A plan of this nature would normally spring from an examined and adopted strategic plan, such as a core strategy, which set outs the housing requirement for the

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<sup>23</sup> CD8.1 Pages 81 & 82 PR3.

<sup>24</sup> Some 1000 homes.

<sup>25</sup> Some 2000-2500 homes – CD8.1 Page 75.

<sup>26</sup> CD9.12.

<sup>27</sup> CD9.12 Page 30.

<sup>28</sup> CD9.13(CD12.2).

<sup>29</sup> CD9.13 Table 2.1 page 8 & pages 85-91 inclusive.

<sup>30</sup> CD8.1.

<sup>31</sup> CD8.1 Page 23 para 4.7.

<sup>32</sup> CD6.4 Page 2.

<sup>33</sup> This was an agreed point between the parties.

<sup>34</sup> CD8.1 page 23 para 4.7.

<sup>35</sup> SofCGG para 5.1.4.

district, including the appropriate full objectively assessed need (FOAN)<sup>36</sup>. However, following the major options consultation in early 2014, Princes Risborough<sup>37</sup> has been identified through the emerging local plan process as an area which is likely to need to accommodate a significant level of the future housing and development needs for the district. This is in part due to the percentage of the district which is either Green Belt (48%) or designated as AONB (71%)<sup>38</sup>. The land on the western side of the town, beyond the Aylesbury railway line, is not constrained by these protective designations being essentially open countryside both in character and policy terms.

26. The Town Plan has been proposed as a draft consultation document (February 2016)<sup>39</sup>. A number of public exhibitions, workshops and events were held prior to the publishing of the draft plan and the Princes Risborough Steering Group is responsible for working together to actively assist and guide the development of the plan.
27. Part of the plan-led planning for the future is the empowerment of local people to shape their surroundings with succinct local and neighbourhood plans, setting out a positive vision for the future of the area, reflecting the vision and aspirations of local communities<sup>40</sup>. I do not doubt that considerable efforts have been made to engage with the community in respect of the production of the TP, and that, even though the proposed urban extension would be in the order of near doubling of the size of the town, local input to this strategy in identifying suitable sites and the infrastructure needed to support that growth has been positive.
28. It is anticipated that the Town Plan will be submitted for examination in August 2016 with the adoption date being April 2017<sup>41</sup>. These dates vary from those within the local development scheme<sup>42</sup> which anticipates an adoption date of July 2017. The variance stems from the Council's acknowledgement of the likely amount of growth that will be needed in the district and the need to expedite the TP in response.
29. The Council's strategy of bringing forward the TP in advance of the district wide LP is explained as being reflective of the importance and complexity of the task that is needed to ensure that a fully sustainable solution is found in a comprehensive manner. However, my concern is that the TP promotes a substantial development of up to 2,500 new homes in a vacuum of a properly assessed and examined housing need for the district. The undertaking of the duty to co-operate is not due to be completed until the latter part of 2017<sup>43</sup>, and the review of the Green Belt would also need to be factored into any conclusions on strategic policy and allocations. On the promoted timeframe for adoption, the TP could need to be subsequently reviewed with some immediacy as the LP evolves on a more drawn out trajectory.
30. On the face of the matter Princes Risborough could offer the opportunity for a significant urban expansion within the district. That said the extent of that

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<sup>36</sup> Taking into account the need for affordable housing and having undertaken and incorporated the duty of co-operate and its outcome.

<sup>37</sup> The natural centre for the north of the district.

<sup>38</sup> Inquiry Plan B – there is some overlap between the two designations.

<sup>39</sup> CD8.3.

<sup>40</sup> Framework paras 17 & 150.

<sup>41</sup> Jarvis proof para 4.23.

<sup>42</sup> CD6.4.

<sup>43</sup> CD6.4 page 15.

expansion is a matter to be examined through the local plan process. On the evidence before me there is no certainty that 2,500 homes may be enough in this location to respond to the as yet undetermined finalised housing requirement for the district. This is a matter which cannot be ignored. Without the examined structure of the LP to underpin policy, at this stage of the development of the TP, and in the context of this section 78 appeal, important elements of the TP, particularly that relating to the extent of residential development required in the town, is assumptive.

31. The emerging TP is advancing in its progress to adoption, but has yet to reach the examination stage, and does not currently form part of the development plan for the area. The appeal proposal is not a substantial development either in the context of the existing town or in the context of its scale, location or the phasing of new development which has yet to be examined and adopted as part of the emerging TP<sup>44</sup>.
32. Planning Practice Guidance<sup>45</sup> sets out that in the context of the Framework and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission, other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and other material considerations into account. I will return to this balanced judgement later in the decision.
33. Therefore, the development plan includes the Wycombe Development Framework Core Strategy dated July 2008 (CS), the Adopted Delivery and Site Allocations Plan dated July 2013 (DSAP), and the saved policies of the Wycombe District Local Plan (2004) (WLP), which is some four years beyond its intended end date.
34. The appeal site lies outside of the defined settlement boundary for Monks Risborough/Princes Risborough in the WLP and so would be considered as open countryside<sup>46</sup>. The settlement boundaries would have been fixed, having regard to the need to accommodate development planned over the plan period. Therefore, logically, as the Council is currently unable to demonstrate a five year housing land supply (5YHLS), the WLP defined settlement boundaries would have the effect of constraining development, including housing, within settlements. On that basis, with reference to paragraph 215 of the Framework, the settlement boundaries are out of date.
35. The underlying purpose of these policies is recognition of the countryside as being a highly valued resource which should be protected for its own sake, safeguarding it from the increasing pressures of development. On the face of it the appeal proposal would be contrary to this aim, with development being restricted to within the settlement boundaries, not extending development into the countryside.
36. Nonetheless their overall objective is to protect the character and amenity of the countryside outside the defined settlement boundaries from indiscriminate development. This policy approach does reflect the spirit of the terms of one of the relevant core planning principles of the Framework, that being to recognise

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<sup>44</sup> Planning Practice Guidance - Determining a planning application – ID 21b-014-20140306.

<sup>45</sup> Determining a planning application – ID 21b-014-20140306.

<sup>46</sup> WLP Policies C9 & C10.

the intrinsic character and beauty of the countryside<sup>47</sup>. To this extent these WLP policies are consistent with the aims set out in the Framework and are relevant.

37. However, they are inextricably linked with the constraining effect of the settlement boundaries on the housing requirement. Therefore, I consider WLP saved Policies C9 and C10 are relevant policies for the supply of housing within the meaning of paragraph 49 of the Framework.
38. The relevant policies of the CS and the DSAP<sup>48</sup> are, in the main, criteria based to be applied to the assessment of whether the proposal can be considered sustainable development. Notwithstanding the relevant policies of the CS and the DSAP, in the circumstances where the Council has readily accepted that it is unable to demonstrate a 5YHLS, through the operation of paragraph 49 of the Framework the relevant policies for the supply of housing are out of date and I shall appraise the weight to be attributed to them accordingly.

#### *Housing need*

39. Paragraph 47 of the Framework seeks to boost significantly the supply of housing. It identifies that Councils should ensure that their local plans meet the FOANs for market and affordable housing in the housing market area, as far as is consistent with the policies of the Framework. In addition, they must identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements, with an additional buffer of either 5% or 20% (moved onward from later in the plan period), to ensure choice and competition in the market for land.
40. It was common ground at the Inquiry that the Council was unable to demonstrate the provision of five years worth of deliverable housing land, measured against their housing requirements<sup>49</sup>. The Housing and Economic Development Needs Assessment (HEDNA) (January 2016)<sup>50</sup> provides the most recent assessment of the FOAN for housing and economic growth for the district. The resultant FOAN of 15,011 units for the period of 2013 to 2033 (or 751 dwellings per annum (dpa)) is above that used in the production of the LP and significantly above that set out in the CS<sup>51</sup>. The five year land supply position statement (CD14.3) dated November 2015<sup>52</sup> identifies a supply of 3.8 years assessed against the HEDNA FOAN. However this figure has been calculated on the basis of applying the buffer (5%) before the backlog has been added in to the overall calculation of the housing land supply position. The Council's current approach will be a matter for examination through the LP process. However, the Council did recalculate their 5YHLS position applying the buffer to the sum of the 5 year requirement and the backlog<sup>53</sup>. This calculated out at 3.74 years supply. The difference between the outcomes of the two approaches to the application of the buffer is not significant and does not change the weight that may be ascribed to the extent of the shortfall in the

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<sup>47</sup> Paragraph 17, bullet point 5 of the Framework.

<sup>48</sup> The main relevant policies - CS Policies CS1, CS13, CS16, CS17, CS18, CS19, CS20 and CS21 & DSAP Policies DM1, DM17 and DM2.

<sup>49</sup> Joint Housing Land Supply Statement.

<sup>50</sup> CD9.11.

<sup>51</sup> Statement of Common Ground General para 4.3.1 - it is agreed the CS requirement of 7,800 dwellings does not represent the FOAN for the district.

<sup>52</sup> Position as of 1 April 2015.

<sup>53</sup> Inquiry Doc 15.



overall 5YHLS. Therefore, I do not consider it necessary to dwell on this aspect of the matter further.

41. The appellant company considers a much higher FOAN of 830 dpa is appropriate and justified. The supply of housing is also considered to be substantially less than that promoted by the Council.
42. However, FOAN/land supply are matters which require further work, consideration, consultation and examination<sup>54</sup>. It is not the role of a decision-maker in a Section 78 appeal to set a housing requirement for the district. To the extent that it has been considered at the Inquiry, the HEDNA represents a source of base data to establish the housing requirement<sup>55</sup>. As a result the Council's FOAN, in all probability would not be less than 15,011 dwellings, although I do acknowledge that the constraining effect of the land designations of much of the district could result in some of the requirement being met beyond its boundaries. I am also conscious that the Council has accepted that to meet future housing requirements, some development on sustainable greenfield land will be necessary<sup>56</sup>.
43. However, with the LP being in its early stages this is an unknown element within the plan making process. Nonetheless, this does add weight to the assertion that the Council must make best use of land which would appropriately accommodate sustainable development.

*Conclusion on this issue*

44. The Council is unable to demonstrate the required provision of five years worth of deliverable housing land, measured against their promoted housing requirements. As a result, the relevant policies for the supply of housing should not be considered up to date in so far as they relate to this specific matter. Whilst a lack of a five year land supply of deliverable housing land does not provide an automatic 'green light' to planning permission, a balance must be struck. The deficiency in land supply would carry substantial weight in that balancing exercise.
45. For the above reasons, the weight given to the harm caused by a breach of WLP saved Policies C9 and C10 is reduced by the relevant policies being out of date and by virtue of the lack of the 5YHLS.
46. Framework paragraph 14 confirms that, where the relevant policies of the development plan are out of date, permission should be granted unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework, taken as a whole or specific policies in the Framework indicate development should be restricted. It is necessary then to consider whether the impacts arising from granting planning permission are adverse and whether they would significantly and demonstrably outweigh the benefits of that permission in addressing the housing shortfall.

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<sup>54</sup> Particularly taking into account the need for affordable housing in the district and the, as yet, undetermined outcome of the duty to co-operate.

<sup>55</sup> 751 dpa.

<sup>56</sup> Green Belt review & TP.

## *Impacts*

### *Flooding*

47. It is common ground that the appeal site is located within an area identified by the Environment Agency (EA) as Flood Zone 1; that is, it is at the lowest risk of flooding by fluvial means<sup>57</sup>. Nonetheless, the EA raised various concerns in respect of development on the appeal site centred mainly on building in the south western section. The concerns focus on surface and ground water as a source of flood risk. I heard anecdotally and saw photographic evidence that Mill Lane and the south western section of the appeal site were susceptible to some degree of flooding, as were properties in Kingsmead. The water logging of the fields to the west of the railway line with visible ponding of water is reported most winters. The EA risk of flooding from surface water map<sup>58</sup> shows that there are surface water flows across the north western and south western parts of the appeal site. The level of risk of flooding ranges from an annual probability of between 1 in 100 and 1 in 1000. In addition, the Strategic Flood Risk Assessment shows the site also falls within the area of groundwater emergence<sup>59</sup> and has a high susceptibility to groundwater flooding<sup>60</sup>.
48. The topography of the appeal site lends itself to water collecting in the south western corner. The existing overland flow routes<sup>61</sup> show water collecting<sup>62</sup> in a significant area of the frontage of the appeal site, including areas of land shown on the development framework and illustrative masterplan<sup>63</sup> for housing; the main access road; as well as onto Mill Lane. The main access route could be constructed in an elevated position which may overcome issues of flooding to this important route into and out of the appeal site. However, this would still need to be assessed in the context of a wider drainage strategy to be certain of the impact of the elevation of the roadway to water flows.
49. The appellant company submitted as part of the appeal proposal revised surface water outline drainage strategy plans - dwg no 300-001 Revs i and H<sup>64</sup>. That considered by the Council was dwg no 300-001 Rev G. Rev G in essence reflects the general development framework set out on dwg no 5692-L-02 Rev K, the amended plan accepted above at paragraphs 11-16 of this decision and the illustrative masterplan 5692-L-03 D<sup>65</sup>. Rev i indicates there would be no residential development within the south western section of the Mill Lane site. Rev H qualifies this restriction unless its suitability has been demonstrated at the reserved matters stage<sup>66</sup>. To accept either Rev i or H of the drainage strategy plan would set up a tension between the amended development framework which shows development within the south western section of the appeal site, whilst the drainage strategy shows none. Therefore, for the reason of consistency between the appeal plans I have considered the surface water

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<sup>57</sup> Statement of Common Ground Flood Risk & Surface Water Drainage para 3.1.1 – Inquiry Doc 19.

<sup>58</sup> Landricombe proof appendix EA2 & CD15.1 Figure 4 page 11.

<sup>59</sup> CD9.15 page 26 – Figures 12, 15 & 15A.

<sup>60</sup> Daykin proof, para 2.3.3.

<sup>61</sup> CD13.1 Appendix 2.

<sup>62</sup> Up to 300mm in depth.

<sup>63</sup> Versions K and D respectively.

<sup>64</sup> Submitted to overcome EA concerns in relation to the risk of flooding to proposed homes within the south western section of the site - Inquiry Plans G and H.

<sup>65</sup> This amended development framework had been the subject of public consultation.

<sup>66</sup> Secured by means of a planning condition.

outline drainage strategy plan Rev G<sup>67</sup>. However, I have deliberated upon whether it would be possible to limit the extent of the area for building by means of a condition, either preventing built development in the south western section, or leaving that decision to the reserved matters stage as suggested by the appellants company.

50. The event which seems to have heightened concerns in respect of flooding on, and close to, the Mill Lane site occurred in February 2014 following a prolonged period of above average rainfall. This caused groundwater levels in the underlying aquifer to rise to unusually high levels and the surrounding land to become saturated. Subsequent rainfall caused flooding where the flow was unable to pass through restricted culverts and drains and from direct runoff from land where there was no defined watercourse. Buckinghamshire County Council, the lead local flood authority at that time, undertook a flood investigation report<sup>68</sup> (Section 19 report), the recommendations of which related predominantly to improving watercourses and culverts on the watercourses and improve maintenance of the piped drainage system.
51. However, even bearing in mind that the levels of rainfall in the February 2014 flooding event were usually high, in combination the evidence of surface water originating from the appeal site, that from overland flows; and emerging groundwater presents a propensity for repeated flooding to varying degrees, especially within the south western section of the appeal site.
52. The building of homes in this area, as well as to a lesser degree, across the appeal site's wider area would result in water displacement, both within the appeal site as well as to its surroundings, including Mill Lane, Kingsmead and the land beyond.
53. Framework paragraph 103 requires the consideration of off-site impacts of development to ensure flood risk is not increased elsewhere. The evidence addressing both the off-site impacts and the more localised overland flows and groundwater emergence is generalised, assumptive and imprecise. The surface water drainage strategy is only provided in outline. Even taking into account the Proposed Surficial Water Storage Compensation Strategy plan<sup>69</sup>, no convincing evidence has been provided of an assured appropriate solution. This is particularly important given that I heard from local people that it is not unusual for Mill Lane to flood, particularly in front of the appeal site and beneath the railway bridge. This being so it is important that the drainage strategy for the development addresses some of the issues which came out of the Section 19 report so as to ensure that the impact of the proposed development does not add to an already recognised flooding issue in the immediate locality. In addition, even if flooding issues were satisfactorily addressed on the appeal site, Mill Lane could present a barrier for both general access, as well as escape, for pedestrian and vehicles, and for future residents, were the issues relating to highway flooding to remain unresolved.
54. The Section 19 report identifies that surface water flowed towards Kingsmead without any defined drainage network and consequently flowed in and around the properties and along the roads. It recommended that the diversion of the

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<sup>67</sup> The Statement of Common Ground flood risk & surface water drainage – Inquiry Doc 19 – relates to amended plans Rev H and i.

<sup>68</sup> CD15.1 – Section 19 of the Flood and water management Act 2010.

<sup>69</sup> Inquiry Plan E.

flow away from properties should be a specific aim. The appeal proposes a surface water flood protection bund running behind the houses at the turn-round end of Kingsmead. This would serve to divert surface water flow away from Kingsmead, channelling it into the series of proposed attenuation ponds protected by further bunding. This would be a positive benefit of the appeal proposal and should be afforded positive weight accordingly<sup>70</sup>.

55. Paragraph 99 of the Framework sets out that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.
56. Paragraph 100 identifies a sequential risk-based approach to the location of development to avoid, where possible, flood risk to people and property and manage any residual risk. This involves the application of, amongst other things, the sequential test. The aim of the sequential test is to steer new development to areas within the lowest probability of flooding. However, a sequential approach should be used in areas known to be at risk from any form of flooding<sup>71</sup>.
57. The appeal site has been identified previously as a possible housing site<sup>72</sup>. It is reasonable to suppose that some sequential assessment was undertaken when considering promoted development options. Nonetheless, in respect of this appeal proposal the detail of the drainage strategy for the development and its impacts is a fundamental matter of importance which can not be reserved to be considered at a later date. Possible technical solutions require careful consideration in the context of the appeal site, the design and extent of the proposed development, and of the wider surroundings. Even if the south western section of the appeal site was left undeveloped, the understanding of the way that water flows across and beneath the appeal site, the impact of the proposed built form on that water movement, particularly in relation to the roadway/access, the positioning and design of the bunding and attenuation ponds, and the wider impact of the scheme on the surroundings is primary to the understanding and assessment of whether the appeal site could appropriately and sustainably accommodate the proposed development.
58. As a result, even taking into account the positive benefit for Kingsmead of the proposed protective bunding, the appeal proposal lacks the detail to convince me that the proposal would achieve a high quality environment protecting the quality of life of future generations<sup>73</sup> and avoiding increased risks of or from flooding. In this way the terms of CS Policies CS 1 and CS 18 would be compromised. This would weigh negatively in the balance of assessing the environmental role of the proposed development.

#### *Character and appearance*

59. As established above (paragraphs 11-16) the quantum of development to be considered in this appeal is up to 170 dwellings. It would be possible to build a lesser number of units within this parameter and this would be the subject of a reserved matters application which would be open to public consultation/comment, determined by a future decision-maker. I am charged with considering the development proposed which is described as 'for up to 170

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<sup>70</sup> Environmental role of sustainability.

<sup>71</sup> Framework Para 101.

<sup>72</sup> CD8.1.

<sup>73</sup> CS Policy CS 1 & CS 18.

- dwellings'. To consider a lesser scheme within the overall stated maximum number, at this stage, would be ill-defined and imprecise. Therefore, I shall consider the maximum quantum of development in this instance.
60. The appeal site lies on the north western side of Monks Risborough, separated from the built up urban development of the settlement by the railway line and station. It is made up of an undistinguished, L-shaped agricultural field, with a direct frontage onto Mill Lane. Adjoining the appeal site to the west is Kingsmead, a long established cul-de-sac of houses, currently incongruously isolated from the main town, penetrating out into its surroundings of open fields. The appeal site would essentially fill the gap between Kingsmead and Monks Risborough. Whilst the illustrative masterplan shows only limited development in the foreground of the appeal site this would be sufficient to create a visual linkage between the houses in the depth of the site and the existing frontage development on Mill Lane.
61. The wider open countryside setting is characterised by a broad rolling vale landscape to the east of the Chilterns escarpment. The escarpment (AONB) rises steeply above Monks Risborough and provides clear and panoramic views across the Vale, particularly from Whiteleaf Cross. From here the appeal site is prominent in views, but it is seen in the context of the urban development within Princes Risborough and Monks Risborough which spreads out close to the foot of the escarpment. It is also seen in the context of the isolated development of Kingsmead which does appear out of place as the countryside opens out into the distance<sup>74</sup>.
62. Framework paragraph 115 indicates that great weight should be given to conserving landscape and scenic beauty in AONBs. However, the appeal site lies outside of the AONB. There is, however, strong intervisibility with the Chiltern escarpment (AONB). Nonetheless in views from both within and outside of the AONB the development of the appeal site would be seen in the context of the existing established urban development of the town, and Kingsmead, as well as the railway line. Whilst the proposed development would change views in both directions, particularly that of the Vale as the setting for the AONB escarpment, the extension of the town in this way would not have a demonstrably detrimental effect on its special character and appearance<sup>75</sup>.
63. Miss Breith, the Council's landscape witness, accepted that there was no in principle landscape objection to development on the appeal site<sup>76</sup> and that the appeal site was not valued in the terms of paragraph 109 of the Framework. I would agree. Housing on the appeal site has been considered and promoted as part of the initial LP process<sup>77</sup>, although I appreciate the approach to the site has changed within the TP<sup>78</sup>. Nonetheless, the proposed development of the Mill Lane site would create a linkage between Kingsmead and the main town.

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<sup>74</sup> Breith proof Appendix HB-5.

<sup>75</sup> WLP saved Policy L1 – CD6.4 page 91.

<sup>76</sup> Council's closing paragraph 38 – Inquiry Doc 28.

<sup>77</sup> CD8.1 – paragraphs 20 & 21 of this decision.

<sup>78</sup> The TP in its draft plan form identifies the appeal site for local open space. However, I have noted that the TP Concept Plan identifies a frontage strip of land along Mill Lane, beyond Kingsmead to the west for low density housing, which, in landscape terms, would further extend the uncomfortable detached penetration of Kingsmead into the wider open landscape.

It would be seen in the context of the existing frontage development along Mill Lane and the urban development on the eastern side of the railway line which gives the sense of being dense, albeit that a numerical analysis of density immediately adjacent to the appeal site may belie this impression<sup>79</sup>. The proposal would take built form to the edge with open countryside, but this would marry up with the extent of development along Crowbrook Road to the east of the railway line and could be softened by means of sympathetic design solutions and landscaping.

64. The north western section of the site is shown on the illustrative masterplan<sup>80</sup> as being mainly open space. The Council was concerned that this area, which effectively is the toe of the L-shape, should remain un-built upon. It is regarded as a sensitive corner where development would be a fundamental encroachment on the countryside. The appellant company's approach was to promote a more organic design style which might include some straying of built development into this area as a transition between the built-up area and the open countryside beyond. The latter approach presents the opportunity for a sense of synergy to appropriately absorb the development into the landscape and I see no convincing reason to consider otherwise.
65. I am also conscious that the Council is promoting the land on the southern side of Mill Lane for a large urban extension of housing, employment land, retail and supporting services, infrastructure and facilities<sup>81</sup>. This would have a particular visual prominence when seen from the AONB and on the character and appearance of the wider landscape.
66. The Council's concern in landscape terms to the appeal proposal centres on whether the site could appropriately accommodate a development of up to 170 units. The appeal site does present some constraints to the design and layout of the development. These include the safeguarding of the piece of land for Network Rail, planting strips along the outer boundaries of the site, including a buffer between the trees on the site frontage, covered by a tree preservation order<sup>82</sup>, open space and the area required to deal with water drainage.
67. However, the masterplan<sup>83</sup>, whilst illustrative, does indicate how a development of the maximum quantum could be accommodated. I am also aware that a change in the dwelling type to include flats might reduce the area required to be built upon. However, the appellant company has promoted a scheme through the illustrative masterplan and the Design and Access Statement<sup>84</sup> which is predominantly focused on houses as the main dwelling type, and I have considered the scheme accordingly.
68. My pause for concern as to whether the proposed development could be appropriately accommodated on the appeal site relates to my conclusions above on matters relating to how water drainage would be dealt with across the site. Were the area in the south west section to be found unsuitable for

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<sup>79</sup> Breith proof HB6a – there are, however, pockets of development within Princes Risborough and Monks Risborough which would be of a comparable density to that proposed ie 30+dw/ha. The TP also proposes pockets of high density development within the promoted urban extension.

<sup>80</sup> CD5.2.

<sup>81</sup> CD8.1 – TP – Concept Plan page 38.

<sup>82</sup> Were permission to be granted these trees would need to be safeguarded in respect of the impact of construction works, as well as in the long term (future tree management) particularly in relation to the impact of the proposed access and roadway.

<sup>83</sup> CD5.2.

<sup>84</sup> CD2.3.

building upon and/or greater areas for attenuation were required, the developable area of the appeal site could be significantly reduced. In this vacuum of a firm and detailed strategy for dealing with the drainage of the site I cannot be sure that the proposed maximum quantum of development can be appropriately accommodated on the appeal site so as to create a positive, attractive environment with locally distinctive qualities which would enhance the landscape and built characteristics of the site and wider context. Therefore, there is a conflict with the terms of CS Policy CS 19 and WLP Policies G3 and L1 which all seek to conserve the landscape quality and character by careful assimilation of new development where appropriate.

#### *Loss of agricultural land*

69. Paragraph 112 of the Framework identifies that the economic and other benefits of the best and most versatile agricultural land (BMVAL) should be taken into account. Significant development of agricultural land, where demonstrated to be necessary, should utilise areas of poorer quality land in preference to that of a higher quality. The appeal site has been in active agricultural use.
70. The Mill Lane site is classified as grade 3 land, with 60% of the site being grade 3a and 40% 3b<sup>85</sup>. BMVAL is a finite resource and the Framework makes it clear that the economic and other benefits of such land must be weighed in the balance. The Council has already indicated that, in meeting their housing need, it is likely that greenfield sites, including agricultural land<sup>86</sup>, will have to be developed to produce housing growth areas.
71. In this case the loss of the BMVAL would, at worst, be modest, taking into account the general quality of agricultural land across the county<sup>87</sup>. I am also mindful that the appeal site has already been identified in the LP Consultation Document<sup>88</sup> for housing and within the TP as part of the urban expansion of the town<sup>89</sup>. In both cases this would have resulted in the loss of BMVAL. Nonetheless, there would be an obvious conflict with the terms of the Framework. In these circumstances, the loss of BMVAL would be a disbenefit of the proposal that must be weighed into the overall balance of the decision<sup>90</sup>, although I would afford it only limited weight against the proposal.

#### *Impact on future railway infrastructure*

72. The appeal proposal includes a strip of land of some 10 metres wide, adjacent to the railway line and station<sup>91</sup>. This land has been safeguarded to accommodate the East West Rail project, which includes the increasing of the frequency of service and line speed along the route. The evidence of Network Rail<sup>92</sup> was that this was a committed project with the necessary funding secured. This may involve the double tracking of the line through Monks Risborough. As a result a new station platform and bridge or underpass would be required, amongst other things. This is a strategic aspiration and would

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<sup>85</sup> CD1.19.

<sup>86</sup> Some of which may be BMVAL.

<sup>87</sup> Inquiry plans C & D.

<sup>88</sup> CD8.1.

<sup>89</sup> CD8.3.

<sup>90</sup> Environmental role.

<sup>91</sup> This increases in width in the vicinity of the station itself – intended to accommodate a new platform – Development Framework Plan 5692-L-02 K.

<sup>92</sup> Mr Winter in cross-examination.

certainly promote a sustainable means of transport in the context of potential economic growth locally, regionally and nationally<sup>93</sup>. The importance of this project is a weighty matter for the economic well-being of the nation.

73. Mr Winters<sup>94</sup> accepted in cross examination that the 15 metres strip requested by Network Rail would be the ideal to accommodate the new infrastructure as well as an associated haul road, needed whilst construction works were in progress. The proposal only makes provision for a 10 metres strip. However, he did concede that whilst the 15 metres would be preferable it would be possible to do the same job within the safeguarded 10 metre strip proffered by the appellant company. However, in the circumstances of the less ample rail extension strip additional costs could be incurred. The extent of those exact costs nor precisely what they would be for was not known, but it would seem that were there to be such additional costs due to the lesser width of the strip of land adjacent to the railway line, this would not be a determinative matter in whether the whole project would go ahead or not.
74. Therefore, the 10 metre strip of land proffered to accommodate rail network improvements is not a factor which would prejudice the development of this important sustainable transport link. In this way the terms of CS Policy CS 16, which seeks to deliver transport strategies as part of the vision for the district, whilst addressing the travel consequences of new development, would not be compromised.

*Pedestrian safety and access to public rights of way*

75. Just to the north east of the appeal site is an 'at grade' pedestrian level crossing (un-gated) on footpath PR31. This footpath runs along the northern boundary of the appeal site with an almost continuous intervening hedgerow. The appellant company has indicated that the design of the proposed layout would include either a physical or a design barrier to prevent pedestrians accessing footpath PR31 directly from the appeal site. This could be secured by condition and I ascribe weight to the intention to limit access to the footpath and consequently to the level crossing from the development site.
76. However, footpath PR30 diagonally crosses the appeal site and links into PR31 beyond the site boundaries to the north west. At present walkers can use footpath PR30 to access the wider countryside from Mill Lane and also cross back into Monks Risborough via PR31 and the level crossing. Equally existing residents of Monks Riborough or those using the footpath network going to and from the AONB could walk along footpath PR31, crossing the railway line as they go.
77. Network Rail is concerned that the proposed development would increase the usage of the level crossing principally by the fact that future residents or visitors to the new homes may use the footpath and level crossing. This may be so. The footpath would give access to the station and Askett and could form part of a circular recreational walk from the Mill Lane site.
78. Safety is at the heart of Network Rail's national strategy. Their starting point is always whether the level crossing is safe. It is safe if used correctly. Deliberate mis-use events or accidents, as well as the fallibility of the human

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<sup>93</sup> This line would significantly improve services from Milton Keynes to London Marylebone.

<sup>94</sup> Witness on behalf of Network Rail (Council's case).



- mind with our susceptibility to distraction are some of the elements which effectively present a level of risk at every crossing of the kind in question.
79. Network Rail undertook a survey of usage of the level crossing on footpath PR31 during the months of January and October. The data collected suggested usage of 2 persons every three days. Network Rail take the view that an increase of one person using the crossing is sufficient to warrant a reassessment of safety which might result in measures to improve visibility or signage/education or even consideration of closure.
80. The railway in the UK includes 6200 crossings of all types with 3000 pedestrian crossings. Nationally on average there are some 9-10 fatalities per year of which some 7 are pedestrian. With the thousands of miles of train line in the UK this is a small number of fatal incidents. Obviously any death is one too many and this is the purest view that Network Rail take. The model for calculating risk (ALCRM) does not take into account the general risk of living that we all carry with us through our daily lives such as crossing the road or a trip and fall accident. To my mind this would place the calculated Network Rail risk in a more realistic and considered light.
81. The usage of footpath PR31 and the level crossing are likely to be seasonal and weather dependant. The survey carried out in autumn and winter months is not particularly representative of an all year round usage. Therefore, it is reasonable to assume a higher degree of usage in the summer months.
82. I do not doubt that the appeal proposal would result in an increased usage of the footpath network in the locality, including footpath PR31. However, this equally applies to any new development on the east side of the railway line in addition to the urban extension promoted through the TP.
83. The footpath beneath the railway bridge on Mill Lane does provide an alternative crossing point, and the proposed pavement improvements would improve the attractiveness and accessibility for pedestrian usage.
84. With larger numbers of people using the level crossing, which could include future residents of the development, the risk by reason of usage would increase. However, the tipping point at which the risk of usage of a crossing warrants reactionary measures to improve safety is not clearly defined in the ALCRM. Network Rail did allude to the appellant company providing a footbridge over the railway line, although justification for such a measure in respect of costs and environmental impact had not been weighed against the actual benefit to safety related to usage. It is also not clear whether the proposed development alone would justify a footbridge, or some level of contributory funding towards the bridge would be required. Nonetheless, the appellant company did try to engage with Network Rail to ascertain what level of funding might be required but were unable to establish a dialogue. The witnesses for Network Rail were unable to assist me in establishing whether a footbridge was justified in the context of the risk v funding and what level of funding was required as 'it was not their department'.
85. I have noted that the promoted development within the TP does include a footbridge as a replacement for the level crossing on PR31. I have also noted that the East-West Rail project<sup>95</sup> will require the closure of level crossings along

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<sup>95</sup> Referred to at para 72 of this decision.

this part of the route. The twin-tracking includes a new platform and bridge or under-pass at the station. There seems a high degree of certainty that the Rail project will go ahead and the urban extension, including the footbridge, is the Council's preferred option for initial expansion within the District.

86. Contradictorily with Network Rail arguing that the proposed development could require the closing of the level crossing with increased usage of footpath PR31, the County Council as Highway Authority wanted to encourage the use of the footpath network both for future residents of the appeal site and for the wider population. Ms Francis<sup>96</sup> was concerned that the level crossing could be under threat of closure were the development to go ahead due to increased usage, thereby restricting access to the network of footpaths. She was of the mind that there should be an encouragement to walkers and that she did not consider the level crossing to be a safety concern. However, the closure of the level crossing under the terms of the East-West project or in response by Network Rail to greater usage were matters which would need to be considered by the County Council under the Highways Act, and she could not say what the outcome of such applications might be. She also admitted that her appraisal of the proposal did not take account of the improvements to the footpath under the railway bridge as an alternative crossing point, even though Mill Lane linked into footpath PR30 and the wider network beyond. It was not part of her remit to consider 'highway' improvements even though they may impact on the usage of the footpath network. She was also unaware of the urban extension proposals in the TP and how this may impact on the level crossing and footpath network.
87. In the absence of convincing justifying evidence that a footbridge is required solely as a mitigating measure for this appeal proposal, what level of identified expenditure there would be in this regard, and in the likelihood that the bridge would be provided by other means, I do not consider that the calculated increase in usage of the level crossing and resultant risk is a factor which weighs heavily in the balance of this decision. Therefore, the terms of CS Policy CS 20, which seeks to minimise problems arising from development on traffic and the environment and maximise benefits of accessibility and new infrastructure to the wider community, is not undermined in these circumstances.

#### *Highway matters*

88. Concern has been expressed by residents in relation to the impact of traffic generated by the proposed development on the existing highway network. However, the Highway Authority has reached agreement with the appellant company on a range of mitigating improvements<sup>97</sup>. These include:
- that the Transport Assessment<sup>98</sup> presents an acceptable evaluation of traffic generation and distribution of development traffic;
  - the Highway Authority is satisfied that the existing road capacity is sufficient to accommodate the additional flow from the new development;
  - mitigation is required at the roundabout junction of A4010/A4129/U636 as a result of traffic generated by the proposal and a contribution within the S106

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<sup>96</sup> Witness for Buckingham County Council - Definitive Footpath Map evidence - (Council's case).

<sup>97</sup> Statement of Common Ground Highways.

<sup>98</sup> CD1.8 in conjunction with CD2.7.

agreement will go towards the design and or implementation of highway capacity improvements;

- that there is an appropriate range of facilities and services within walking and cycling distance of the appeal site, including the train station. Some facilities are located at a greater distance, in particular bus stops and the town centre. To maximise the opportunities for sustainable travel the following package of improvements have been secured through the S106 agreement<sup>99</sup>. It secures improvements to the footway beneath the Mill Lane railway bridge; provision of pavement along part of Mill Lane; a cycle way extension in Wellington Avenue, Place Farm Way and Westmead; improvements to the zebra crossing on Longwick Road; traffic light controls at the junction of Mill Lane, Crowbrook Road and Place Farm Way; and bus stop improvements with an upgrade of the bus shelters, provision of real time information and the provision of cycle stands. A travel plan would also be brought forward for the development.
89. The evidence before me leads me to the view that the appeal proposal would be located where there is physical and environmental capacity to accommodate the type and amount of traffic generated<sup>100</sup>. The proposals also would improve walking and cycling routes to nearby services and facilities, and public transport links are readily available. On that basis I consider the residual and cumulative impacts of the proposals would not be severe in highway terms<sup>101</sup>. In this way the terms of CS Policies CS 16 and CS 20 would be met.

*Contribution to the achievement of sustainable development*

90. The purpose of the planning system is to contribute to the achievement of sustainable development<sup>102</sup>. Paragraph 49 of the Framework sets out that housing applications should be considered in the context of the presumption in favour of sustainable development. There is a positive weighting in favour of sustainable development in the sense that the proposal would be assessed as such unless planning harm significantly and demonstrably outweighs planning gain. There are three dimensions to sustainable development: economic, social and environmental.
91. *Economic role*<sup>103</sup> – The proposal would enhance/contribute to the economic role by the creation of jobs associated with the construction stage. New residents are also likely to support existing local services and businesses, with a possible increase in local jobs as a result.
92. In addition, the new dwellings would offer homes to residents who would contribute to the labour supply, some of whom would be likely to be local.
93. Having sufficient land available of the right type in the right places and at the right time to support growth and innovation is part of the economic role in achieving a sustainable development. There is a good prospect that some of the proposed housing could be delivered on the site within five years.

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<sup>99</sup> Inquiry Doc 6 – justification Inquiry Doc 5.

<sup>100</sup> I do accept that some traffic may spill over into the village of Askett to access the roundabout at the junction of the A4010 and Cadsdean Road. Nonetheless, the existing capacity within the network would allow for such routing.

<sup>101</sup> The Framework paragraph 32.

<sup>102</sup> Para 6 of the Framework.

<sup>103</sup> CD14.6 – Revised Socio-Economic Report (March 2016).

94. It is also agreed that the market and affordable housing would contribute to the vitality of the town.
95. The loss of BMVAL would be a disbenefit of the proposal, although in these circumstances I afford it limited weight<sup>104</sup>.
96. Notwithstanding the negative weighting of the loss of BMVAL, all of the other above elements, in combination, provide a positive outcome for the economic role which should be ascribed considerable weight in the assessment of sustainability.
97. *Social role* - The proposed housing would fulfil a social role by contributing to the support, strengthening, health and vibrancy of the local community by providing towards a supply of housing to meet the needs of present and future generations. This would include much needed affordable housing.
98. The proposal would also be likely to provide a mix of housing which would meet the social needs of the population of the District and, in particular, that of Princes Risborough<sup>105</sup>.
99. The development also includes the introduction of open space accessible to future residents of the appeal site, as well as other locals and visitors, including the introduction of an equipped play area, and enhanced public access along improved footpath links into the wider countryside (PR30)<sup>106</sup>. These would serve to maintain and enhance access for recreational purposes promoting the wellbeing of the local population.
100. The proposed improvements to footpaths and cycleway in the immediate locality would also encourage sustainable modes of transport, the safety of pedestrians, particularly en-route to school and other local facilities, and encourage recreational activities.
101. These elements would enhance local facilities and support the well-being of the local community and warrant a positive weighting of substance.
102. *Environmental role* – Princes Risborough has been identified as a sustainable settlement for additional housing growth into the future<sup>107</sup>, in part, due to the range of facilities and services in and around the town, along with ready access to public transport. Although the appeal site lies on the edge of the settlement, it is within walking distance of many of these facilities. The promoted road/junction improvements, along with the sites location add to the movement to a low carbon economy, making the sustainability of the appeal site positive in this regard.
103. The proposal would provide some public open space, including an equipped area of play, structural landscaping and habitat creation. The long term management of these areas would improve the biodiversity of the location as well as offering opportunities for recreation and improvements in individual's well-being<sup>108</sup>. The Ecology and Biodiversity Report<sup>109</sup> examines the ecological

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<sup>104</sup> See paras 69-71 of this decision.

<sup>105</sup> Would promote mixed and inclusive communities in accordance with para 50 of the Framework.

<sup>106</sup> This includes the improvements to the Mill Lane footpath.

<sup>107</sup> CD8.1 and TP CD8.3.

<sup>108</sup> These factors cross-over with the Social Role and have been accordingly weighed into both aspects as positive benefits.

<sup>109</sup> CD 1.11.

value of flora and fauna within and close to the appeal site. Through the environmental enhancements and mitigation proposed these factors would positively contribute to the overall sustainability of the appeal site<sup>110</sup>.

104. The appeal site is suitably distant to the conservation areas of Monks Risborough and Askett, in a location where intervening modern urban development is a characterising feature of the wider setting of these designated heritage assets. Therefore, the proposal would have a neutral impact on the significance of the heritage assets.

105. The above positive factors in the balance of the environmental role do contribute to the overall sustainability of the appeal site. This is, however, heavily tempered with the identified harm to:

- the safety of future residents of the proposed development in respect of water drainage; to buildings and their contents; and the potential to increase flood risk to the site and offsite areas, even given the positive benefits to residents of Kingsmead by reason of the provision of the protective bunding; and
- to a lesser degree to the character and appearance of the landscape.

These factors will be weighed into the balance of the overall sustainability of the development, taking into account its performance in respect of the other roles, as well as other planning considerations.

### **Planning balance**

106. The Council is unable to demonstrate a 5YHLS. Consequently, the relevant development plan policies for the supply of housing should not be considered up to date in the context of paragraph 49 of the Framework<sup>111</sup>. The TP is the main thrust of the Council's interim policy response to bring forward new housing and associated economic growth. This is, however, being promoted outside of the emerging LP which, in respect of progress towards examination and adoption, is at a very early stage and does not appear in step with the work and efforts being made to move the TP forward. The rationale behind bringing forward the TP in advance of the LP and its possible consequences of how the two plans may dovetail together in respect of consistency and contemporary nature of the base data, is a matter for the Examining Inspector.

107. However, the Framework is clear that weight should be given to relevant policies in emerging plans according to its stage in preparation (the more advanced the preparation, the greater the weight that may be given), the extent to which there are unresolved objections to relevant policies, and the degree of consistency of the relevant policies in the emerging plan to the policies in the Framework.

108. The TP is not part of the statutory development plan. The TP has not reached the stage of examination and is some way off adoption. The extent of objections to the TP is unclear, as is the degree of consistency of the policies to those within the Framework. The TP whilst moving forward in the process is not at an advanced stage. The examination has not started and it is not known what the outcome of that process might be, particularly in the context of the

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<sup>110</sup> The mitigation measures could be secured by the terms of a condition were the appeal to be allowed.

<sup>111</sup> In the main WLP Policies C9 & C10 in so far as they relate to the supply of housing.

duty to co-operate and the finalising of the FOAN and resultant housing land supply for the District<sup>112</sup>.

109. This is not a substantial development. Were permission to be allowed I do not consider it would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging LP<sup>113</sup>. Those matters have still to be examined. The appeal site is peripheral to the promoted TP development area and is a site which has been previously identified for residential development. The Council's argument that the development of the appeal site is premature, in the current circumstances of emerging local plan policy, does not justify the dismissal of this appeal<sup>114</sup>. As the Council is still some way off achieving a tested policy response I afford little weight to the emerging policies within the TP and LP.
110. Sustainable development is about change for the better. Paragraph 14 of the Framework identifies that at its heart is a presumption in favour of sustainable development. The sustainability of the proposed development should be judged by a positively weighted balancing of the benefits and adverse impacts against the policies of both the Framework and development plan as a whole<sup>115</sup>.
111. The appeal proposal would assist in the provision of much needed housing<sup>116</sup> in the local area, the District, as well as nationally. This is a highly significant material consideration and carries substantial weight in the context of paragraph 49 of the Framework.
112. The three identified dimensions to sustainable development<sup>117</sup> should not be considered in isolation, because they are mutually dependant. The appeal proposal would have a social and economic role to play in achieving positive growth now and into the future. However, notwithstanding the positively weighed elements of the environmental role, overall these would be less weighty due to the identified harms to the safety and quality of life of future residents, to buildings and contents, to flood risk on the appeal site and in the vicinity, and to a lesser degree to character and appearance.
113. Conflict with the development plan has been identified<sup>118</sup>. This, along with the identified harms, and all other considerations set out above, including the contribution of the proposal to addressing the shortfall in housing supply, on balance, I conclude that the adverse impacts of the appeal proposal would significantly and demonstrably outweigh the benefits of granting planning

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<sup>112</sup> Framework para 216.

<sup>113</sup> The TP promotes up to 2,500 dwellings. The appeal proposal is for up to 170 units a small part of the TP development in terms of scale.

<sup>114</sup> Planning Practice Guidance ID 21b-014-20140306.

<sup>115</sup> Cheshire East BC v SSCLG and Renew Land Ltd [2016] EWHC 571 (Admin). Paragraph 14 of the Framework sets out how to decide whether the proposal, if approved, would constitute sustainable development. It is about process, not outcome. An integral part of the process is a positive weighting in favour of sustainable development in the sense that the proposal would be assessed as such unless the planning harm clearly and significantly outweighs the planning gain.

<sup>116</sup> Including affordable housing.

<sup>117</sup> Economic, social and environmental.

<sup>118</sup> In the main, WLP Policies C9 & C10; CS Policies CS 1 & CS 18; CS Policy CS 19 and WLP Policies G3 & L1.

permission<sup>119</sup>. Therefore, the proposed development cannot be regarded as sustainable development and the appeal fails<sup>120</sup>.

*Frances Mahoney*

Inspector

Richborough Estates

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<sup>119</sup> In reaching this conclusion I have taken into account the terms of APP/K0425/W/15/3018514 issued on the 19 May 2016. Neither party provided a commentary on the submitted case. I have considered my decision on the basis of the circumstances of this case (APP/K0425/W/15/3011900) which does not precisely mirror those of this earlier appeal decision, in my view.

<sup>120</sup> The presumption in favour of sustainable development set out in paragraph 14 of the Framework applies only to sustainable development.

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Andrew Fraser-Urquhart QC      Instructed by the Head of Democratic, Legal and Policy Services

Alex Greaves

He called

Peter Winters      Sponsor - Network Rail Infrastructure Limited

Darren Cottrell      Head of Level Crossing Safety (National) - Network Rail Infrastructure Limited

Paul Haggett      Senior Operational Modelling Specialist (National) - Network Rail Infrastructure Limited

Gemma Lavery      Route Level Crossing Manager London North Western - Network Rail Infrastructure Limited

Neil Landricombe      Environment Agency

Haidrun Breith      Natural Environment Officer – Wycombe District Council

Helen Francis      Senior Definitive Map Officer – Buckingham County Council

Philippa Jarvis      Philippa Jarvis Planning Consultancy Ltd for Wycombe District Council

### FOR THE APPELLANT:

John Barrett Of Counsel      Instructed by Anthony Bateman of the Pegasus Group

He called

Nigel Weeks      Director Stirling Maynard Transportation

Paul Daykin      Technical Director Idom Merebrook

Timothy Jackson      Director FPCR Environment and Design Ltd

Anthony Bateman      Managing Director Pegasus Group & Pegasus Planning Division



INTERESTED PERSONS:

Jeremy Holmes	Secretary Askett Society
Cllr Alan Turner	Chairman Risborough Town Council & Member for Risborough Ward

**INQUIRY DOCUMENTS**

- Doc 1 Council response to Inspector's questions raised on 26 February 2016
- Doc 2 Opening statement of Wycombe District Council
- Doc 3 Opening statement on behalf of the appellant company
- Doc 4 Circulation list of consultation on planning application 14/06162/OUT
- Doc 5 S106 Summary Schedule – CIL Regulations 122 & 123 justification
- Doc 6 S106 agreement dated 17 March 2016
- Doc 7 Replacement paragraphs for economic figures – Bateman proof
- Doc 8 Landscape Sensitivity and Capacity – February 2016
- Doc 9 Developable area/dwelling numbers comparison – Strategic Site Assessment, Wycombe District Council
- Doc 10 Developable areas comparison table
- Doc 11 Extract from Planning Practice Guidance - Flood risk and coastal change
- Doc 12 Draft schedule of conditions
- Doc 13 Network Rail response to Princes Risborough Town Plan
- Doc 14 Summary of relevant plans
- Doc 15 Council's calculation on 5YHLS – Applying buffer to requirement + shortfall
- Doc 16 APP/L2440/A/14/2216085
- Doc 17 Amended plan consultation letter dated 5 February 2016
- Doc 18 Agenda for flooding round table session
- Doc 19 Statement of Common Ground – Flood risk & surface water drainage – dated 9 March 2016
- Doc 20 Conservation Area Character Survey Monks Risborough
- Doc 21 Conservation Area Character Survey Askett

Doc 22 Clarification on the Lead Local Flood Authority

Doc 24 Statement of Cllr Turner

Doc 25 Statement of Mr Holmes on behalf of the Askett Society

Doc 26 CD21.3 – replacement Executive Summary based on 170 unit scheme

Doc 27 Representations on amended scheme plans for 170 units

Doc 28 Closing for Wycombe District Council

Doc 29 Closing on behalf of appellant company

### **INQUIRY PLANS**

Plan A Conservation Area map

Plan B AONB and Green Belt in the District

Plan C Agricultural land

Plan D Grade of agricultural land

Plan E Proposed Surficial Water Storage Compensation Strategy –  
dwg ref 300-017

Plan F Proposed Surface Water Outline Drainage Strategy – dwg no 300-001 H

Plan G Proposed Surface Water Outline Drainage Strategy – dwg no 300-001 i

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