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## Appeal Decision

Inquiry held on 5-8, 12 and 13 December 2017, 26 January and 2 February 2018  
Accompanied site visit made on 5 December 2017

**by John Felgate BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 27 March 2018**

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**Appeal Ref: APP/Y0435/W/17/3175391**

**Land at Linford Lakes, off Wolverton Road, Milton Keynes, Bucks**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Templeview Developments Limited against the decision of Milton Keynes Council.
  - The application Ref 16/02270/OUTEIS, dated 10 August 2016, was refused by notice dated 6 April 2017.
  - The development proposed is described as residential development (up to 250 units), with access and provision for drainage, open space and amenity areas; and the creation of an area for car parking (25 spaces) off Little Linford Lane, for use in association with the use of land for an extension to the River Valley Park.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The appeal site is defined by the red line on Plan No D16, and is in two parts: the main site, of around 15 ha, lying immediately to the north of Wolverton Road; and a much smaller area, of 0.2 ha, fronting onto Little Linford Lane. The area proposed for residential development is the larger of these two parcels. The smaller site is proposed to become a public car park.
3. The permission sought is in outline, with all matters reserved except for access. Access to the residential development would be from two points on Wolverton Road, as shown on Drawings numbered BU404-10M-002 and 003. The access to the car park would be from Little Linford Lane, in accordance with details yet to be defined. In so far as the submitted plans also include details of matters other than access, it is agreed that these are all illustrative.
4. The land outlined in blue on Plan D16 ('the blue land') is adjoining land in the same ownership, amounting to nearly 60 ha. No permission is sought for any operational development or material change of use on this land. Under the terms of a Section 106 agreement (S.106) entered into by the appellants and the Council, this area would be dedicated as an extension to the existing Ouse Valley Linear Park (OVLN), and within this area provision is made for landscaping, ecological management, and public access, in accordance with details yet to be agreed.
5. In addition to the OVLN extension, the S. 106 agreement also includes provisions relating to the proposed affordable housing, off-site highway works, and financial contributions to health, education and community facilities.

## **Planning Policy Background**

### *The Milton Keynes Local Plan (MKLP), adopted December 2005*

6. In the adopted MKLP, the two appeal sites and the 'blue land' all lie within the open countryside, and within an Area of Attractive Landscape (AAL), a Wildlife Corridor, the OVLP, and the Linford Lakes Area.
7. In the open countryside, saved Policy S10 restricts development to that which is essential for agriculture, forestry, countryside recreation, or other development appropriate to a rural area. There is no dispute that the proposed housing development in the appeal scheme is contrary to this policy.
8. In the AALs, saved Policy S11 requires that development should protect and enhance the Areas' special character, landscape features, and nature conservation interests. Development should also provide opportunities for public access and countryside recreation.
9. Wildlife Corridors are described in the MKLP as linear pathways containing habitats that encourage the movement of plants and animals between important wildlife sites. Under saved Policy NE1, development in these Corridors is only permitted where its importance outweighs the site's wildlife value.
10. The OVLP is one of the city's Linear Parks, which are intended to provide formal and informal recreation, diverse habitats, and flood storage capacity. Saved Policy S12 requires that development within the Linear Parks contributes to protecting and enhancing the landscape and nature conservation, and improving public access.
11. The Linford Lakes Area forms part of the OVLP. Saved Policy KS3 requires, amongst other things, that leisure and recreation development should provide for increased public access, including a footpath route along the Ouse Valley.

### *The Milton Keynes Core Strategy (MKCS), adopted July 2013*

12. In the MKCS, Policy CS1 sets out the overall development strategy for the Borough. Most development is to be focussed on, and adjacent to, the city's existing main urban area, including a strategic allocation for a major urban extension area to the south-east of the city. Pending a full review of the MKCS, Policy CS1 states that other, non-strategic sites will be brought forward through a Site Allocations Plan, to provide short-term flexibility and contingency.
13. Policy CS2 requires land to be allocated as set out in table 5.2, for a total of 28,000 dwellings over the period 2010-26, at a rate of 1,750 units per annum. This is referred to as an interim target, pending a review of the plan.
14. In the Borough's rural area, Policy CS9 provides that development will be focussed on the Key Settlements which form the next tier in the hierarchy.
15. Policy CSA incorporates a presumption in favour of sustainable development. Where relevant policies are out of date, decisions are to take into account whether the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework (NPPF).

### *Emerging plans*

16. The draft Milton Keynes Site Allocations Plan (MKSAP) was submitted for examination in April 2017, and the examination is on-going. The draft plan does not propose any allocations or other policies directly relevant to the appeal site.
17. The submission draft 'Plan MK' was published in October 2017, and addresses the Borough's development needs up to 2031. The plan is to be submitted for examination in spring 2018.
18. In view of their relatively early stage of preparation, I have given both of these emerging plans limited weight.

### **Main Issues**

19. The main issues in the appeal are as follows:
  - whether the Borough has an adequate supply of land for housing;
  - the proposed development's effects on the character and appearance of the landscape;
  - the effects on the ecology and biodiversity; and
  - the effects on the MKLP's policy aims for the Ouse Valley Linear Park.

### **Reasons for Decision**

#### *The supply of land for housing*

##### *Agreed matters*

20. A number of matters relating to the housing land supply are agreed between the Council and the appellants, and it is therefore not necessary for me to set these out in detail. In summary, it is agreed that the relevant 5-year period is 2017-22, and that the starting point is the MKCS requirement of 1,750 dwellings per annum. Applying that figure back to the start of the plan period in 2010, and taking account of completions since then, there was a backlog at 1 April 2017, of 3,231 dwellings. It is agreed that this amounts to persistent under-delivery, triggering the need for a 20% buffer, and also that the buffer should be applied to both the basic requirement and the backlog. These agreed matters are based on the Council's published Housing Land Supply statement<sup>1</sup>, dated July 2017, and the Statement of Common Ground agreed between the parties in November 2017.

##### *Liverpool or Sedgefield method*

21. Based on these agreed elements, the Council argues that the requirement figure for the 5-year period is 12,654 units, using the 'Liverpool method', whereby the past shortfall is split evenly over the remaining years of the plan period.
22. I appreciate that Milton Keynes is heavily reliant on very large sites, and in some cases this has been held to justify this method. I also accept that the disadvantages of the Liverpool method are to some extent offset by the front-loading inherent in the 20% buffer. However, the Planning Practice Guidance

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<sup>1</sup> 'Assessment of 5-Year Land Supply': MKDC, July 2017

(PPG) expresses a clear preference for dealing with any undersupply within the first five years where possible, and in this case there is no clear evidence as to why that approach could not be adopted here. It might well be true that merely increasing the requirement during these five years, and by implication, forcing the release of further sites, would not necessarily increase the rate of delivery. But in the absence of conclusive evidence either way, it seems to me that it is this alternative approach, the 'Sedgefield method', that should be applied. On this basis, it is common ground that the 5-year requirement would increase to 14,377 units

23. In the Council's evidence, the maximum deliverable supply within the relevant 5-year period is 13,727 units. The published Land Supply statement then applies what it refers to as an 'optimism bias adjustment', which is an across-the-board deduction of 697 units, to allow for slippage on the larger identified sites; alternatively, the Council's witness Mr Goodall argued at the inquiry for site-specific adjustments totalling about 670 units, to reflect his assessment of the slippage risk on individual sites. But on either basis, the maximum deliverable supply that can be counted on would fall to just over 13,000 units. Consequently, if the Sedgefield method is used, there is not a 5-year supply.

*Draft allocations without planning permission*

24. The sites at Harrowden (SAP14), Townergate (SAP 18) and Walton Manor (SAP 20) are identified as proposed housing allocations in the draft MKSAP. However, the Public Examination of that plan is still on-going. At least one of the sites, Townergate, is subject to formal objections which are as yet unresolved. All three sites have been the subject of specific questions raised by the examining inspector, including issues relating to the possible needs for other uses. Until the Inspector publishes his recommendations, there is no basis for speculation as to the outcome of the Examination process.
25. The Townergate and Walton Manor sites are identified as 'potential' housing sites in the Walton Neighbourhood Plan (WNP), which was 'made' in January 2017. But the WNP also states that it does not seek to formally alter their status as employment allocations in the adopted MKLP, in advance of the outcome of the MKSAP. None of the three MKSAP sites has planning permission.
26. The lack of a planning permission need not prevent a site being included in the 5-year supply, provided that there is a realistic prospect of development within the relevant period. But to be considered deliverable, the sites must be suitable for housing. In the absence of either an outline permission, or an unambiguous allocation in a development plan that has reached an advanced stage, the suitability of these three sites remains to be seen. As such, none can currently be counted as deliverable. These three sites should therefore be deleted from the Council's land supply, resulting in the loss of 312 units.

*Lead times*

27. A number of the sites in the Council's supply are challenged by the appellants on the basis of unrealistically short lead-times for the start of development. I agree that large sites often take a long time to come through the planning process, and for all the practicalities of building contracts, detailed design, discharge of conditions, site preparation and infrastructure works, to take their course. Whilst most of these activities are outside the Council's control, it is important to ensure that the assumptions made are realistic.

28. One of the sites that are challenged is the Wavendon Golf Course, which forms part of the Eastern Strategic Reserve area. In this case the Council's supply assumes that the first 30 dwelling completions will come in 2018/19, and will continue at 50 p.a. thereafter, to produce 180 completions within the 5-year period. But at the inquiry it was accepted that the site is dependent on access being provided through two other developments (Glebe Farm and Haynes Land), and that the developers of those other sites are under no obligation to provide such access until their respective sites reach 150 dwellings. Although the Glebe Farm site has recently started infrastructure works, no other reserved matters have yet been submitted; and the Haynes site is even less far advanced. This dependency on other developments seems to me a significant obstacle to any early progress on the Golf Course site. To my mind it is questionable whether the site can properly be regarded as deliverable at the present time. But in any event it seems unrealistic to expect any dwelling completions on this site before 2021/22 at the earliest. On this basis, I consider that the projected delivery within the 5-year period should be reduced by 150 units, from 180 to 30, to reflect the likely slippage of three years.
29. Another of the sites challenged on this basis is the Land West of Stockwell Lane. Here the Council relies on achieving 50 dwellings p.a. in 2018/19, and continuing at the same rate throughout the remainder of the 5-year period. But some infrastructure works are required, and no reserved matters applications of any kind have yet been received. In my view it seems unlikely that any significant numbers of completions can now be delivered in 2018/19. There is no evidence to suggest that the numbers lost due to a delayed start would be likely to be made up in subsequent years; indeed it is clear that the build rates on all sites are already set at the highest levels that are regarded as reasonable. I therefore conclude that the overall number expected from the Stockwell Lane site should be reduced by 50, to 150 dwellings, to reflect one year's slippage.
30. In the case of the Tickford Fields site, the Council anticipates 250 completions in the 5-year period, with the first 50 of these coming in 2019/20. However, the site does not yet have planning permission, and the Council has determined that any application must be accompanied by an environmental statement. To my mind, this requirement is bound to mean that the timescale for submission and determination of any such application will be more protracted than previously expected. The land is owned by the Council, and a development partner has yet to be selected. Even on the most optimistic assumptions, it seems unlikely that the first dwelling completions will be achieved much before 2021/22. From the information available, I consider it more realistic to assume two years' slippage from the Council's current assumptions. This would mean a reduction of 200 dwellings, to just 50 within the 5-year period.
31. With regard to the other sites that are challenged, I agree that the Council's assumptions are generally geared towards the more optimistic end of the scale, but to my mind this is acceptable provided that they are not unrealistic. I see no strong case for any other adjustments in respect of lead times. But nevertheless, the adjustments that I have set out above require a combined reduction totalling 400 units from the Council's claimed land supply.

### *Build rates*

32. In the light of the above findings, it is not necessary for me to reach detailed conclusions on the projected build rates of each individual site. However, it is notable that there are a number of cases where the build rates suggested by the Council, in the evidence of Mr Goodall, depart markedly from those in the Council's own published Land Supply statement. For example, in the case of Tattenhoe Park, Mr Goodall anticipates 624 dwellings in the 5-year period, whereas the published statement claims only 562, a difference of 62 units. Similarly on the Brooklands site, his forecast exceeds the Council's published figure by 36, and at Eagle Farm by 41. At the Haynes Land, Campbell Park and Canalside sites, Mr Goodall seeks to exceed the published figures by 25, 15 and 28 respectively. In total, these differences amount to 207 units.
33. I appreciate that, for the purposes of this appeal, Mr Goodall's evidence is given on behalf of the Council, and implicitly with their approval. But the Council has not indicated any intention to withdraw the Land Supply statement, and as far as I can tell, that published document remains their formal position outside of the present inquiry. In any event, the Land Supply statement forms part of the evidence before this inquiry, and was clearly relied on by both the Council and the appellants in drawing up the agreed Statement of Common Ground in November 2017. At the very least therefore, there is an apparent conflict between the evidence on build rates that the Council now puts forward, through Mr Goodall, and the other evidence which is also endorsed by them in the Land Supply statement.
34. Although Mr Goodall's evidence is supported by extensive and detailed statistical analysis, none of this explains how the Council can hold two different views on the same subject at the same time. No matter how well researched Mr Goodall's build rate figures might be, they are undermined by the fact that, as far as the above sites are concerned, the Council's official view is less optimistic.
35. I appreciate that, on some of the other sites that have been referred to, Mr Goodall's build rates produce lower figures than those in the Land Supply statement. But to my mind the greater risk is in the likelihood of over-estimating the housing delivery rather than under-estimation. Hence it seems to me prudent, where there is a difference between the Council's own forecasts, to attach greater weight to the more cautious figure, whatever its source.
36. For these reasons I conclude that a further deduction of 207 units should be made from the Council's overall supply figure in response to the discrepancies in the evidence regarding build rates.

### *Conclusion on housing land supply*

37. For the reasons explained above, I conclude that deductions should be made from the Council's claimed 5-year supply, in respect of lead times, build rates, and sites with uncertain suitability for housing. These deductions total just under 920 units. Subtracting this figure from the Council's supply of around 13,000, leaves an adjusted supply total of around 12,100. This falls well below the 5-year requirement, on either the Liverpool or Sedgefield methods.
38. It follows that there is an unmet need for more housing land in Milton Keynes Borough. The appeal scheme, if approved, would be capable of making up part

of that unmet need. In this context it is also relevant that 30 per cent of the dwellings would be affordable. These are significant benefits, weighing in favour of the proposal.

39. The lack of a 5-year supply also brings into play the advice in NPPF paragraph 49, that in these circumstances policies for the supply of housing should not be considered up to date. This in turn potentially triggers the 'tilted balance' provisions in NPPF paragraph 14 and MKCS Policy CSA.

### The effects on the landscape

#### *Landscape value of the Ouse Valley*

40. The Great Ouse valley to the north of Milton Keynes comprises a broad, shallow plain, containing the meandering river itself, and numerous flooded gravel pits. This section of the valley, between the M1 motorway at Newport Pagnell and the main line railway at Wolverton, defines the extent of the main urban area, and separates the new city from the undulating clay farmland to the north. For the most part, this portion of the valley comprises a patchwork of pasture, meadows, established and emerging woodland, scrub and water bodies. From the valley slopes, at various points, there are extensive views across and along the valley.
41. In the most recent Landscape Character Assessment (LCA) report<sup>2</sup>, this part of the valley is identified as part of 'LCA 2c: the Ouse Urban River Valley'. The report describes this as a restored landscape that has been established over the last 25 years, with lakes, semi-natural vegetation and "a complex mosaic of mixed land uses, providing important wildlife and recreational uses". Its key characteristics include the "slow-flowing, meandering river in a sinuous valley floor", with extensive areas of open water, and wide accessibility. An earlier Landscape Character Study (LCS)<sup>3</sup>, described the Linford Lakes area as a man-made wetland landscape of "high scenic quality". Despite being unmanaged and poorly maintained in parts, the overall effect was of "an attractive and diverse wetland landscape".
42. To my mind, these assessments accurately describe this part of the Ouse valley. The valley and its floodplain are among the most significant and influential landscape features of the Milton Keynes area. The interplay of the land form, the winding river course, and the mosaic of different land cover types, with water bodies, woodlands, tree groups, and open spaces, all combine to create a landscape that is both distinctive and attractive. Furthermore, despite the area's proximity to the built-up area, it retains a sense of relative solitude and tranquillity; indeed this juxtaposition, and the contrast with the busyness of the urban area, seems to add something further to the valley's other qualities.
43. In my view these are demonstrable physical attributes that more than justify the area's designation as an AAL and OVLP, and the protection given to it by Policies S11 and S12. It follows, in my view, that this section of the Ouse Valley may justifiably be regarded as a 'valued landscape', falling within the terms of the advice in NPPF paragraph 109.

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<sup>2</sup> Milton Keynes Landscape Character Assessment – Gillespies, June 2016

<sup>3</sup> Milton Keynes Landscape Character Study – Landscape Design Associates, October 1999

*Landscape contribution of the appeal site*

44. The appeal site itself is fairly typical of the Ouse Valley's worked-out and flooded gravel pit areas, and has many characteristic features of the valley as a whole. It lies on the lower slopes, where the valley landform is clearly evident. It contains a mixture of semi-improved pasture, natural woodland, plantation, dense scrub, the Arboretum Lake, and the margins of Blackhorse, Heron and Rocla Lakes. This mix of land cover and vegetation types is essentially a microcosm of the larger mosaic found elsewhere throughout this section of the valley. The appeal site is thus an integral part of the valued landscape of this broader valley area.
45. Internally, the appeal site is divided by the superimposed patterns of trees, lakes, ditches and rough tracks, into a series of discrete compartments, each with its own different qualities of shape, aspect, vegetation type, and degree of enclosure. Some are highly attractive spaces in their own right. The main central space (the northern part of Areas B5/B6<sup>4</sup>), has a parkland character, with small groups of trees and changes of levels. The grassland areas to the east of Heron Lake (Areas C1/C2), and to the south of Blackhorse Lake (Area B3/B4), have similar attractive qualities, with wooded lake margins and filtered views across open water. The semi-natural and emergent woodlands in the site's south-east and south-west corners, and around Arboretum Lake, are attractive and dominant landscape features. The planted woodland further along the fringes of Blackhorse Lake (Area A3) creates a series of semi-concealed small spaces and changing views around the water's edge. Seen from within, the individual qualities of these various interconnected but distinct spaces, makes for an internal landscape of considerable visual interest and subtlety, whilst also adding to the site's sense of intimacy and isolation. These qualities reinforce my view as to the site's role as part of a valued landscape.
46. The appeal site is not open to the public, and there are no public rights of way through it. However, it is used by a good many people for various leisure purposes, including members of the angling and shooting clubs based at the site, patrons of the bar and restaurant facilities at The Viewpoint<sup>5</sup>, and those using the tackle shop and clubhouse there. Moreover, visitors to the Linford Lakes Nature Reserve and Study Centre<sup>6</sup> must pass through the appeal site to reach these facilities. Persons using or accessing the site for these types of purposes are likely to be particularly conscious of its visual and other sensory qualities as part of the Ouse Valley landscape.
47. In addition, parts of the site are potentially visible, depending on the season, from a number of adjacent or nearby leisure routes. These include the bridleway BW47, which forms part of the Hanslope Circular Ride, the Grand Union Canal and its towpath walk (FP47), and the Millennium Circular Route, which forms part of the national cycle route system. Although the views into the site from these routes are limited, users of designated routes of this type are likely to be particularly aware of their countryside surroundings, and thus sensitive to change. Seen from Wolverton Road, although inward views are filtered, there is nevertheless an appreciation that the appeal site forms part of the Ouse Valley, and that it marks a transition from the urban area to the countryside beyond. Consequently, the limitations on public access and

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<sup>4</sup> As numbered on Mr Berry's 'Overlay' plan (Doc. AP/6)

<sup>5</sup> Formerly known as the Marle Inn

<sup>6</sup> Formerly the Hanson Environmental Study Centre



visibility do not alter my overall view as to the site's value as part of the wider landscape.

48. I acknowledge that the appeal site is not entirely undeveloped, and not all parts of it are equally attractive. The Viewpoint and its car park are substantial features. But the building is nevertheless a single-storey, wooden structure, whose appearance and function are in keeping with the rural surroundings. In a few areas of the site, there are also some small disused buildings, hardstandings and occasional mounds of deposited material. But because of the site's compartmentalised nature, the visual impact of these industrial artefacts is limited. None of these therefore alters my view as to the landscape value of the site or the valley as a whole.
49. I note the appellants' view that the 'Box 5.1' criteria<sup>7</sup> for valued landscapes are not met. However, the appeal site lies within the designated AAL and, OVLP and thus in planning policy terms, its value is already established. The GLVIA, although a respected source of advice, has no policy status, and does not outweigh development plan policy. Moreover, the GLVIA itself acknowledges that the Box 5.1 criteria are not exhaustive, and indeed that no single approach is likely to be suitable in all cases. But in any event, the Great Ouse is one of Britain's largest and most important river systems, and for the reasons that I have identified, I consider that this part of the valley has a high landscape and scenic quality. These considerations alone are enough to elevate the value of this landscape above ordinary countryside.
50. To conclude on this point, I have formed the view that the appeal site should be treated as valued landscape. This opinion is based firstly on its location as an integral part of the wider landscape of the Ouse Valley, and secondly on the site's own intrinsic qualities and its contribution to that wider landscape. I have judged the impact of the proposed development in this context.

#### *Landscape impact of the development*

51. The appellants' Framework Plan and Landscape Masterplan, although both illustrative, make it clear that the proposed development of up to 250 dwellings would be likely to fill most of the site, from the frontage tree belts through to the lake edges. Built development on this scale would thus represent a major incursion into the Ouse Valley. To my mind, such a development by its very nature and presence would be fundamentally at odds with the valley's open character, and with the prevailing settlement pattern which leaves the valley floor largely clear of built development.
52. I appreciate that there are some other pockets of development to the north of Wolverton Road, such as Oakridge Park and Redhouse Park, but those are on higher ground and further from the river channel. In contrast, the development now proposed would intrude onto the lower and flatter land, adjacent to the valley bottom. And in any event, I must judge the present proposal on its own merits. Irrespective of these other developments, it seems to me that the appeal proposal would undermine the integrity and legibility of the landscape of this part of the Ouse Valley.
53. In addition, whilst the illustrative plans seek to show how some of the site's important landscape features could be retained, neither is wholly convincing as

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<sup>7</sup> In the Guidelines for Landscape and Visual Assessment, 3rd edition ('the GLVIA'), published by the Landscape Institute and the Institute of Environmental Management and Assessment

to how far this would actually be possible. Whilst both plans seek to retain the main areas of existing natural woodland, it is not clear whether the scale of development proposed would also allow the retention of the smaller planted woodlands in Areas A3 and B4, or the other important trees and tree groups in those areas and in B3 and B5/6. The loss of these trees and woodlands would significantly detract from the site's existing landscape character.

54. Although the Landscape Masterplan suggests rather more tree retention than the Framework Plan, this is at the expense of the water margin areas around the lakes, and alongside the linear channel linking Blackhorse and Heron Lakes. Even on the Framework Plan, these water margins are proposed to be reduced to 5m in several areas, which would entail the loss of some of the existing banks and aquatic vegetation. But the Landscape Masterplan goes further, and would effectively eliminate these areas altogether, by incorporating them into the built development, and in oral evidence, it was suggested that they would become 'managed habitat' within private gardens<sup>8</sup>. In addition, the Framework Plan also seeks to utilise the lake margins to meet part of the scheme's open space requirement, and to accommodate 'SUDS' basins and swales, whereas the Landscape Masterplan is silent on where these would go. Neither of these plans satisfactorily shows that the development could accommodate 250 dwellings, plus all of the necessary requirements, whilst also preserving the existing naturalistic appearance and contours of the lake margin areas. This would detract significantly from the lakes' landscape value and their contribution to the landscape and visual character of the valley.
55. I appreciate that the Framework and Landscape plans, like any other illustrative plans, are not determinative of the details that might eventually be submitted or approved. But the role of such plans is to show how the development's potential adverse effects could be overcome, and in the present case, a good deal of effort has clearly been taken to attempt to demonstrate that very point. But if the scheme were carried out as currently shown, it seems to me that the likely result would be a largely unrelieved expanse of roads and buildings, in which most of the site's existing landscape character would be lost. This therefore reinforces my concerns as to the development's effects on the surrounding landscape.
56. I have no doubt that the proposed scheme would be able to incorporate some new planting within the development itself, and some small areas of open greenspace, as indicated. And in addition, the S.106 provisions would potentially be able to secure further landscape enhancements within the 'blue line' land to the north. However, none of these measures would be likely to change the fact that the appeal site would become largely urbanised, and would represent an intrusion of intensive built form into the mainly open valley. None of the evidence before me suggests that this type of harm to the landscape, on the scale now proposed, could be adequately mitigated by new planting either within the appeal site or in the extended area.
57. Overall therefore, I conclude that the proposed development would fail to protect or enhance the special landscape character of the AAL and OVLP, or that of the appeal site itself, or their respective landscape features. In this respect the scheme would conflict with the aims of MKLP Policy S11, and the relevant landscape provisions of Policy S12.

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<sup>8</sup> Mr Berry's oral evidence on behalf of the appellants

*Policy considerations relating to landscape impact*

58. The appellants contend that Policy S11 should carry reduced weight. I accept that methods of assessment may have changed since the AAL was first designated, and I note that the Local Plan Inspector in 2004 recommended that Policy S11 be deleted. But since then, the policy has been saved by the SoS's Direction, made in October 2008. The emerging Plan MK does not propose to carry forward Policy S11 or any equivalent, but as yet that draft plan carries little weight, for the reasons that I have already stated. Until the MKLP is superseded, Policy S11 remains part of the statutory development plan.
59. As far as the NPPF is concerned, paragraph 113 advocates criteria-based landscape policies that distinguish between designations made at different levels and give commensurate protection. But the NPPF does not preclude local landscape designations, and indeed the same paragraph expressly acknowledges the scope for such policies. Paragraph 109 also seeks to ensure that valued landscapes are properly protected. I see no inconsistency between Policy S11 and any of this advice. Furthermore, although there is a housing land shortfall, S11 is not concerned with housing supply. Nothing in the NPPF therefore justifies giving Policy S11 reduced weight.
60. I agree that Policy S11 does not completely rule out development in the AAL, but nonetheless, it does seek to avoid development that causes harm to the area's special character. It is difficult to see how a development of 250 dwellings on the appeal site could avoid conflict with that element of the policy. And in any event, for the reasons already set out, in the present case the conflict that I have identified in terms of landscape policy is not only with Policy S11, but also with the relevant provisions of Policy S12.
61. None of these submissions alters my view that the proposed development conflicts with the relevant development plan policies relating to the protection of the Ouse Valley landscape, nor do they change my view that those policies carry full weight.

*Other matters relating to landscape impact*

62. I fully accept that the position adopted by the Council with regard to landscape matters has been inconsistent and contradictory, especially in the light of the Statement of Common Ground. As such, the Council's arguments on these matters are unconvincing. But the Council is not the only objector to raise landscape issues. In any event, landscape impact was included amongst the main issues that I identified to the participants at the opening of the inquiry, and I am satisfied that all parties have had the opportunity to address the relevant landscape issues in their evidence.
63. Although no other party has presented expert or detailed evidence on landscape issues, apart from the appellants, I am satisfied that I have sufficient information on these matters from which to form my own judgement. In coming to that judgement, I have taken account of the evidence of the appellants' landscape witness Mr Berry<sup>9</sup>, and the Landscape and Visual Impact Assessment (LVIA)<sup>9</sup>, and also the submitted Design and Access Statement (DAS)<sup>10</sup>, together with my own observations from my site visits, both accompanied and unaccompanied.

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<sup>9</sup> LVIA prepared for Templeview Developments Ltd, by the Landmark Practice, dated July 2016

<sup>10</sup> DAS prepared by DLP Planning, dated July 2016

64. I have also had regard to the October 2016 Landscape Sensitivity Study<sup>11</sup>, in which the part of the Ouse Valley which includes the appeal site is classed as having medium sensitivity to development. But that report makes it clear that the potential that is identified relates to land on the north side of the valley, around Haversham. Nothing in this report supports development in the vicinity of the appeal site.

*Conclusion on landscape issues*

65. For the above reasons, I conclude that the proposed development would cause serious harm to the character and appearance of the landscape of the Ouse Valley, and to the landscape character and landscape features of the site itself. Having regard to the scheme's scale and intensity, this harm could not be adequately mitigated within the context of the development now proposed, or its associated proposals for the adjoining land. In all these respects, the appeal proposal conflicts with the aims of Policy S11 and the landscape provisions of Policy S12.

*The effects on ecology and biodiversity*

*The site's ecological value*

66. As well as lying within the Wildlife Corridor designated under MKLP Policy NE1, the appeal site also falls within a Biological Notification Site (BNS)<sup>12</sup>, and a Biodiversity Opportunity Area (BOA)<sup>13</sup>, and close to the Linford Lakes Nature Reserve, all of county-wide importance in Buckinghamshire. Within the appeal site there are substantial areas of semi-improved neutral grassland (including Lowland Meadow) and semi-natural broadleaved woodland, which are identified as habitats of principal importance. The grassland is said to have a significant diversity of floral species, due to its relatively non-intensive management regime. The lake shore areas, with their reed beds and marginal aquatic vegetation, also have some habitat value.
67. Together these habitats support a wide range of wildlife. This range includes 66 species of wintering birds, and 57 species of breeding birds, of which 43 are known or considered likely to be breeding on the site itself. The breeding species also include two Schedule 1 listed species<sup>14</sup>, in the Cetti's Warbler and the Kingfisher, which are both of county-level importance, as well as being protected by national legislation. The Cetti's Warbler in particular is noted as being a scarce breeder in Buckinghamshire, and the appeal site is known to contain a high proportion of the county's breeding pairs. The site and its immediate surrounds also support populations of otter, grass snake, slow worm, great crested newt, bats, badgers and invertebrates. The majority of these species are legally protected, and the site is of either county or local importance for each.
68. These factual matters are undisputed, and indeed are acknowledged in the appellants' single-issue Environmental Statement (ES)<sup>15</sup>. From this it seems to me that in terms of ecology and biodiversity, the appeal site in its existing condition has considerable value and significance.

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<sup>11</sup> Landscape Sensitivity Study to Residential Development in the Borough of Milton Keynes and Adjoining Areas: Gillespies, October 2016

<sup>12</sup> The Great Linford Gravel Pits BNS

<sup>13</sup> The Ouse Valley BOA

<sup>14</sup> Under the Wildlife and Countryside Act 1981

<sup>15</sup> Environmental Statement for Templeview Developments Ltd, by the Landmark Practice, November 2016

*Ecological impact of the development*

69. The proposed development would require the permanent loss of some 8.5% of the Wildlife Corridor area, and a similar proportion of the BNS area. The semi-improved neutral grassland within the site would be largely lost, as would most of the other habitat types except for the semi-natural broadleaved woodland. In the light of the evidence discussed above, there is also doubt as to whether any of the aquatic margin areas could be retained. The loss of these existing habitats would be irreversible.
70. As a result, the development would also have adverse impacts on the majority of the protected and priority species present at the site. The ES identifies that the loss of habitat alone would have significant negative effects on wintering birds, breeding birds (including Cetti's Warbler), otter, reptiles, and bats. In most of these cases, there would also be impacts during construction, due to disturbance. In addition, water birds and otter would suffer on-going disturbance after completion; breeding birds and reptiles would be subject to predation by domestic cats and dogs; slow worm in the south-eastern woodland would become isolated from other suitable habitat areas; and bats would suffer from disruption to commuting routes.
71. Furthermore, the ES is based on an assumption that a minimum 5m waterside margin would be retained around all of the lake areas. If this margin were not provided, as now suggested by Mr Berry's evidence, this would further reduce the nesting habitat for water birds, and further increase the disturbance, pet predation, and people pressure on those areas. In this respect, it seems to me that, in the light of the evidence now given, the ES potentially under-estimates the development's likely impact.
72. In addition, development at the appeal site would be little more than 200m from the Linford Lakes Nature Reserve, which is acknowledged to be an ecological resource of countywide importance. Although measures could be taken to limit unauthorised access to the Reserve by people and domestic animals, it is by no means certain that these would be fully effective. Indeed such measures might well be difficult to reconcile with the desirability of facilitating access to the countryside for occupiers of the new development. In addition, construction activities and residential occupation would bring noise, vehicles, and emissions much closer to the Reserve, and it seems to me that impacts of this kind would be difficult to control. In any event it is clear that the Nature Reserve is a highly sensitive use, and one which is potentially vulnerable to the effects of nearby development. Based on the evidence presently before me, I am not convinced that the proposed development's effects on it have been fully evaluated.
73. In all these respects, the proposed development would cause harm, or likely harm, to wildlife, and to the ecology and biodiversity of the site and the Ouse Valley Wildlife Corridor.

*Mitigation and compensatory works*

74. Within the confines of the appeal site itself, some minor mitigation would be possible, by improving the management of the retained semi-natural woodlands, and the Arboretum Lake. But these retained areas would be much smaller than the grasslands, water margins, and other habitat areas that would be lost to the development. Any other new open space areas that might be

created within the site itself would be likely to have to be managed for public access and amenity purposes. On their own, it seems unlikely that any such measures within the development would be able to fully mitigate or compensate, to any meaningful extent, for the much larger areas of valuable habitats that would be lost.

75. To attempt to make up for this deficit, the S. 106 agreement provides for the 'blue' land to the north of the appeal site to be re-sown, planted and managed as replacement habitat. In terms of its physical extent, this new area would be much larger than the appeal site, and thus the area of new or improved habitat that could potentially result would be significantly greater than the habitats that would be lost. On this basis, the appellants' biodiversity gain/loss calculations show a net benefit. Based on Dr Wray's evidence, a planting and management scheme on this scale appears to be technically feasible, and in the Milton Keynes Parks Trust, the appellants have identified a body with the capability to carry out and manage the works. There is no question that considerable care and expertise has gone into this mitigation strategy, and I do not doubt the appellants' commitment to seeing it through if permission were granted.
76. But nevertheless, the fact remains that the proposed development would mean the loss of an existing habitat mosaic of significant ecological and biodiversity value, and would substitute for it land of lesser value. The appeal site is enclosed and contained by the landscape, it is secluded, varied and well-vegetated. As such, it is relatively rich in wildlife and ecological complexity. The proposed scheme would involve the permanent and irreversible destruction of this existing resource. In contrast, the replacement site is mostly open grazing land, far less vegetated, and comparatively homogenous. Consequently, it seems to me that the net biodiversity gain claimed by the appellants, would in reality mean a net loss of quality, at least well into the medium term, which is masked in the calculations by a gain in quantity.
77. Moreover, to replicate the habitats that would be lost, on such different terrain, would take a considerable investment, and concerted effort, over several decades. The success of this mitigation would be dependent on a chain of actions: the present draft mitigation plan being translated into fully detailed proposals; that plan being implemented and being followed through to completion; and thereafter, the continuing and consistent application of the necessary management regime over many years. Consequently, even though the mitigation plan may be deliverable in theory, it seems to me that in reality the outcome is far from guaranteed.
78. Overall therefore, I am not persuaded that the proposed mitigation scheme would compensate for the harm that the development would cause to ecology and biodiversity at the appeal site itself.

*Policy considerations relating to ecology and biodiversity*

79. Although NE1 does not preclude development in Wildlife Corridors altogether, nevertheless, the policy's main purpose is to protect biodiversity within these and various other types of designated areas. Policy NE1 is also supported by the nature conservation element of Policy S12, which applies within the OVL. In the light of the above considerations, the appeal proposal conflicts with the relevant aims and provisions of these development plan policies.

80. I note the appellants' argument that Policy NE1 conflicts with NPPF paragraph 113. But Policy NE1 distinguishes between the levels of protection given to the different levels of designation, as required by that paragraph. The protection that NE1 gives to the Wildlife Corridors also seems to me to be proportionate to their status as locally-important sites. I therefore consider the policy to be consistent with paragraph 113. I note that no similar criticism is made in relation to Policy S12.
81. Having regard also to other relevant NPPF advice, including paragraphs 17, 109, 117 and 118, it is clear that national policy puts a high priority on conserving and enhancing the natural environment, minimising impacts on biodiversity, preserving priority habitats and ecological networks. To my mind the approach to these matters in Policies NE1 and S12 is consistent with these NPPF aims, and the appeal proposal therefore conflicts with these policies.
82. NPPF Paragraph 118 in particular makes it clear that harm to biodiversity is to be avoided, or adequately mitigated, and only as a last resort compensated for; and that where these are not possible, permission should be refused. In the present case, the proposed off-site works within the 'blue land' would be more properly described as compensatory measures rather than mitigation. The proposed works on that land are therefore to be seen as a last resort. But in any event, for the reasons that I have given, I do not consider that they would adequately compensate for the loss of the appeal site. The appeal proposals therefore conflict with this approach.

*Conclusion on ecological impact*

83. I therefore conclude that the appeal proposals would cause significant harm to the ecology and biodiversity of the Ouse Valley area, by virtue of the loss of existing habitats within the appeal site, and the potential effects on wildlife both within the site and at the Linford Lakes Nature Reserve. This harm could not be adequately mitigated by any on-site measures, and would not be outweighed by the potential benefits of the proposed off-site works. The scheme would conflict with MKLP Policy NE1 and the relevant provisions of Policy S12.

*The effects on MKLP policy aims for the Ouse Valley Linear Park*

84. As well as the landscape and nature conservation objectives discussed above, Policy S12 and its supporting text<sup>16</sup> make it clear that the purposes of the OVLP are also concerned with providing for public access and recreation. However, this appears to be a secondary purpose, since the policy's main objective is stated to be simply to protect and enhance the city's valleys. The text also goes on to say that the Linear Parks are intended to include a mix of public and private land ownerships, and that designation does not imply a right of public access to all the land within them.
85. The appeal scheme's proposals for the 'blue land' would potentially provide for public access to a very large tract of land within the OVLP, where no such access exists at present. Even though access to some parts of this area might need to be restricted to protect the Nature Reserve, and to allow continued grazing, nevertheless, there would be the potential for a network of informal

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<sup>16</sup> MKLP paragraphs 3.62 – 3.64

paths, with access to the river bank and lake shores, for walking, fishing and other countryside pursuits. There would also be the opportunity to complete a further section of the Ouse Valley riverside walk, which is a specific aim for the Linford Lakes area, under Policy KS3. The provision of the proposed car park at Little Linford Lane would also support these proposals. Visually, the 'blue land' area is highly attractive, and the opportunity for members of the public to enjoy it at close quarters would be a significant benefit.

86. There is no evidence to suggest that public access to this land could be achieved in any other way than through the development now proposed, and the Council appears to have no alternative proposals in this regard. I also note that there are said to have been some other precedents for using housing as enabling development to bring forward proposals for sections of the OVLP, such as the Stanton Low Country Park, which was linked to the Oakridge Park housing development.
87. On the other hand, the development now proposed would take up around 15 hectares of land from within the OVLP. Although there are currently no public access rights within the appeal site, the site does provide for some forms of countryside recreation. It also contributes to the Linear Park's purposes in other ways, including its landscape and biodiversity. In the future, opportunities could yet arise for increased access, or new recreational uses, in line with the Policy S12; whereas, if the site were developed now for housing, any such opportunities would be lost for ever.
88. To my mind, this issue is finely-balanced. Judged in isolation, the benefit of providing access to a large and attractive area of countryside would be significant. But there is no clear evidence that the development now proposed is the only way of achieving this end. In the present scheme, the price of taking the benefit now would be to close off other possible, but as yet unknown, opportunities in the future. The OVLP is a finite resource, and as the city continues to grow, the demands on it may well increase. To deplete its land area, and thus its potential to meet those demands in future years, might prove to be a short-sighted step when viewed in the long-term context. In the context of the development as a whole therefore, the benefit of increased access to the blue land is at least partly offset by the loss of any future potential within the appeal site itself.
89. Furthermore, returning to Policy S12, although increasing public access and recreation is one of the policy's key aims for the OVLP, this is only one aim amongst others. Nothing in the policy or supporting text suggests that this should have priority over the other aims including landscape and nature conservation.
90. Overall therefore, I conclude that the appeal proposal would further the aims of Policy S12 with regard to providing for public access to the OVLP. However, having regard to the aims of the policy as a whole, this benefit carries only moderate weight.



### Other matters

91. The development would give rise to both direct, indirect and induced construction-related employment, with an estimated gross value to the economy of almost £50m. After completion, the new occupiers would generate further employment, with a gross value of over £9m, and household expenditure amounting to around £3.5m per year. These figures are largely unchallenged, and I have no reason to disagree with them. These would be net benefits arising from the development. The Section 106 contributions would mitigate the development's own impacts, and thus would not count as benefits.
92. I agree that developing the appeal site would not be inconsistent with MKCS Policy CS1's aim to focus development at the main urban area. The site is also reasonably well-placed for access to local facilities and public transport. But policy CS1 does not indicate that all land adjacent to the urban area will be acceptable for development. Neither do these considerations overcome the conflicts that I have found with other policies.
93. I accept that MKCS Policy CSAD1 anticipated an early review, to be adopted by 2015, and clearly this has not yet happened. However, this does not make all of the MKCS's other policies out of date, as suggested. In the light of the matters discussed elsewhere in this decision, the most relevant policies in this case are MKLP Policies S10, S11, S12 and NE1. None of these relate to housing, and despite the lack of a 5-year land supply, there is no cogent evidence to suggest that any of these policies are inconsistent with the NPPF, or that any should have less than full weight.
94. I note that the Council's planning officers are said to have supported the appeal proposal at one stage, prior to a change in the land supply figures. And in the light of my findings on that issue, I can appreciate the appellants' frustration. But nonetheless, I must judge the appeal on its planning merits, including the relevant policies, and in the light of the evidence presented to this inquiry.

### **Inspector's Conclusions**

#### *Compliance with the development plan*

95. The appeal proposal would conflict with MKLP Policy S10 by being located in the countryside. It would also conflict with Policy S11 by failing to protect or enhance the Area of Attractive Landscape, and with Policy NE1 by adversely affecting the Wildlife Corridor's biodiversity.
96. In relation to Policies S12 and KS3, the scheme would to some extent advance the aims of those policies in respect of public access to the Ouse Valley Linear Park and Linford Lakes areas. But it would conflict with S12's requirements as to landscape and nature conservation matters.
97. Looking at all of these relevant policies together, I find that the appeal proposal is in clear conflict with the development plan as a whole.

#### *Other material considerations*

98. The Council has been unable to demonstrate a 5-year supply of land for housing, and the development plan is silent as to how this shortfall is to be made up. Consequently, even though none of the policies directly affecting

the appeal site are concerned with housing, the 'tilted balance' in NPPF paragraph 14 is engaged.

99. On the positive side, the appeal proposal would provide 250 dwellings towards the Borough's housing shortfall, and 30 per cent of these would be for affordable housing. In the light of the evidence, these dwellings are required to meet housing needs that would otherwise be unmet, and this carries significant weight. The economic benefits carry moderate weight. For the reasons already explained, the provision of public access to the 'blue' land also carries moderate weight; but any proposed landscaping or new habitat creation, either on- or off-site, would be essentially mitigatory or compensatory, and these therefore carry no more than neutral weight.
100. But on the other hand, the development would intrude into the countryside, and into a designated AAL and Wildlife Corridor. It would cause substantial and irreversible harm to the Ouse Valley's valued landscape. It would permanently destroy priority habitats, threaten important wildlife, and weaken ecological networks. It would also take 15 ha of land from the Linear Park, reducing the scope for informal and passive recreation uses in the future.
101. Cumulatively, it seems to me that these adverse impacts would significantly and demonstrably outweigh the benefits that have been identified. The scheme therefore does not benefit from the NPPF's presumption in favour of sustainable development.

*Overall conclusion*

102. Having regard to the requirements of section 38(6) of the 1990 Act, these other material considerations do not indicate a decision contrary to the development plan. I have taken account of all the other matters raised, but none changes this conclusion. The appeal therefore fails.

*John Felgate*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Daniel Stedman Jones	Of Counsel (instructed by the Borough Solicitor)
Assisted by Ms Stephanie David	Of Counsel

### They called:

Mr Paul Keen	Senior Planning Officer
BA(Hons) MA MRTPI	
Mr Jonathan Goodall	Troy Hayes Planning
MA MSc MRTPI	

### FOR THE APPELLANT:

Mr Peter Goatley	Of Counsel (instructed by DLP Planning)
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### He called:

Mr Roland Bolton	DLP Planning
BSc(Hons) MRTPI	
Dr Stephanie Wray	Tyler Grange Consultants
BSc(Hons) PhD MBA CEnv CEnv	
Mr Jonathan Berry	Tyler Grange Consultants
BA(Hons) DipLA CMLI AIEMA MArborA	
Mr Simon James	DLP Planning
MRTPI MIEMA	

### OTHER INTERESTED PERSONS:

Mr Paul Sedgwick	Local resident
Mr Richard Bridgen	Local resident
Mr Tony Bedford	Local resident and Chairman of the Friends of Linford Lakes Nature Reserve
Mr Martin Rushton	Local resident
Mr Andy Harding	Local resident and Licensed Bird Recorder
Mr Andrew Floyd	Local resident
Ms Janet Grisdale	Local resident
Cllr David Stabler	Parish Councillor, Gt Linford PC
Mr Leonard Lean	Local resident
Cllr Andrew Geary	Ward Councillor, Milton Keynes BC

## **DOCUMENTS TABLED DURING AND AFTER THE INQUIRY:**

### FOR THE APPELLANTS

- AP/1 List of appearances
- AP/2 Opening submissions
- AP/3 Draft S.106 agreement (Day2, tabled at inspector's request)
- AP/4 Appeal decision re land at Lavendon (APP/Y0435/W/17/3178790)
- AP/5 'MKFM Snow Watch' item re homelessness
- AP/6 Overlay plan: Landscape Masterplan/Development Framework (Plan 1105/P07)
- AP/7 Note on S.106 leisure, recreation and community contribution
- AP/8 Executed Section 106 agreement, dated 2 February 2018
- AP/9 Closing submissions
- AP/10 Letter dated 21 February 2018 – in response to Mr Bedford's representations

### FOR THE COUNCIL

- CO/1 Update to Mr Goodall's Appendix 19: housing starts/completions to Sept 2017
- CO/2 Table : 'Applications activity on main sites'
- CO/3 *St Modwen Developments v SoS and Others*: [2017]EWCA Civ 1643
- CO/4 'Partnering for Prosperity': National Infrastructure Commission
- CO/5 'Delivering Change': Centre for Cities, 2014
- CO/6 Justification for Section 106 contributions
- CO/7 Draft conditions list (tracked changes version), received 1 February 2018
- CO/8 *Cawrey Ltd v SoS and Hinckley & Bosworth*: [2016] EWHC 1198 (Admin)
- CO/9 Closing submissions

### FOR OTHER PARTICIPANTS

- OP/1 Speaking notes of Mr Tony Bedford, with attachments, as below:
- OP/1a Written statement by Mr Kenneth Cramer, licensed Bird Ringer; with list of birds ringed since 2014
- OP/1b Email from Mt D Foster, Chief Executive of MK Parks Trust, dated 21 Aug 2017
- OP/1c Letter from Berks, Bucks and Oxon Wildlife Trust, dated 7 Aug 2017
- OP/2 Speaking notes of Mr Andy Harding, with attachment:
- OP/2a Mr Harding's list of bird species recorded at Linford Complex
- OP/3 Speaking notes of Mr Martin Rushton
- OP/4 Speaking notes of Cllr David Stabler, with attached notes and extracts on local bus services
- OP/5 Consultation response from M Baker, dated 18 Dec 2017 (received 15 Jan 2018)
- OP/6 Letter from The Parks Trust, 9 January 2018
- OP/7 Representation from Mr Bedford, received on 1 February 2018
- OP/8 LLFA response to application 17/01937/OUT (submitted by Mr Bedford)

### GENERAL AND OTHER DOCUMENTS RECEIVED DURING THE INQUIRY

- GE/1 List of disputed housing supply sites, with parties' estimated delivery figures
- GE/2 Plan of disputed sites' locations
- GE/3 SAP Examination – letter from Inspector, dated 3 November 2017
- GE/4 SAP Examination – Council's response dated 17 November 2017
- GE/5 Tickford Fields – Screening Opinion dated 4 May 2017
- GE/6 Tickford Fields – Development Brief
- GE/7 Walton Neighbourhood Plan, November 2016
- GE/8 Walton Manor – Development Brief, November 2015
- GE/9 Newport Pagnell Neighbourhood Plan (undated)
- GE/10 Lakes Estate Neighbourhood Plan, 2015
- GE/11 SAP Emerging Preferred Options Consultation, Oct 2015