



Appeal Decision

Inquiry held on 5-8 August and 2 September 2014

Site visits made on 4 and 7 August 2014

by John Felgate BA(Hons) MA MRTPI

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

Decision date: 21 October 2014

Appeal Ref: APP/J0405/A/13/2210864

Land off Chapel Drive, Aston Clinton, Buckinghamshire

- 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 The Kler Group Ltd against the decision of Aylesbury Vale District Council.
 - The application Ref 13/02508/AOP, dated 3 September 2013, was refused by notice dated 10 December 2014.
 - The development proposed is the erection of up to 47 dwellings, access, amenity green space and associated works.
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Decision

1. The appeal is allowed, and planning permission is granted for the erection of up to 47 dwellings, access, amenity green space and associated works, on land off Chapel Drive, Aston Clinton, Bucks, in accordance with the terms of the application, Ref 13/02508/AOP, dated 3 September 2013, subject to the conditions set out in the attached Schedule.

Preliminary matters

2. Refusal Reason No 3 (RR3) relates in part to matters of highway safety. Prior to the inquiry, the Council confirmed its intention not to pursue this element of RR3. However, objections on similar grounds are also raised by other objectors, and I consider these under the heading of 'other matters'.
3. RR5 relates to a lack of provision in respect of affordable and low-cost housing, play space, sport and leisure, education, public transport and cycling. During the inquiry, a legal undertaking was entered into by the appellants, which is intended to address these matters. However, some of the obligations within the undertaking are disputed by the Council, and others by the appellants. The obligations are also conditional upon being accepted by the appointed Inspector. I deal with these matters separately, later in this decision.
4. At the Inquiry an application for costs was made by the appellant against the Council. That application will be the subject of a separate Decision.

The appeal site and proposed development

The appeal site and its surroundings

5. Aston Clinton is a large village of around 3,500 population, located just off the A41, about 4 miles from Aylesbury. It has a primary school, two nursery schools, two churches, a village hall, convenience shop, doctors' and dental surgeries, several pubs, and various other facilities. Bus services connect the village to Aylesbury, Hemel Hempstead, Watford, Luton and Dunstable, amongst others. The village was by-passed by a new, dual-carriageway section of the A41 in 2003.
6. The appeal site is a rectangular field of just under 2 ha. On two sides there is existing residential development, in Chapel Drive and New Road. The other two sides are bounded by hedgerows and a small wooded copse, and beyond these are further arable fields. The topography is flat and open. Two public footpaths run through the site, along its south-eastern and south-western boundaries (Footpaths ACL/5/3 and ACL/6/1), and another passes just outside the north-eastern boundary (ACL/4/1). These connect with a network of further public paths that traverse the countryside to the north, including ALC/5/4 and ALC/3/2.
7. Chapel Drive is a short cul-de-sac serving six dwellings, accessed from Green End Street, which is part of the original village core. The cul-de-sac has a turning head adjacent to the site boundary. Another cul-de-sac, The Orchard, lies just to the east. New Road comprises former ribbon development, which has become consolidated into the village. Beyond Green End Street and New Road, there is estate development which is largely suburban in character.
8. The smaller village of Buckland lies immediately to the north-east of Aston Clinton. A few hundred metres to the north-west is the recently-opened Arla Foods' milk processing plant, which is said to be intended to provide 700 jobs when fully operational.

Previous appeal

9. A previous outline application for residential development was refused by the Council in August 1988. The reasons for refusal related to development in the countryside, prematurity in relation to the A41 by-pass, and lack of information on foul and surface water drainage.
10. An appeal against that refusal was dismissed in January 1990 (T/APP/J0405/A/89/117119/P7). In that case, based on the Structure Plan then in force, the Inspector found that there was a presumption against development outside existing settlements, and the case for a housing land supply shortfall was not substantiated. None of the other matters raised was sufficient to warrant refusal, but the policy objection was decisive.

The proposed development

11. The present appeal proposal seeks outline permission for up to 47 dwellings. Vehicular access is proposed to be from the end of Chapel Drive, as shown on Drawing No. CIV14965-100/004. Landscaping, layout, appearance and scale are reserved for consideration at the detailed stage.
12. The application is accompanied by a master plan (Drawing No 101-02) which shows one possible layout, with a central square, 'gateway' feature buildings,

peripheral greenways, a wetland swale drainage area, and a balancing pond in the northern corner. However, all of these details fall within the scope of the reserved matters. I have therefore treated the master plan as purely illustrative. For the avoidance of doubt, given the evident uncertainty regarding these matters amongst some of those at the inquiry, this means that the details shown on the plan are not binding upon either the Council or the developer, unless otherwise provided for by a specific condition.

13. The application is also accompanied by a Design and Access Statement (DAS). Although the DAS contains further illustrative details, generally based on the master plan, this again does not change the fact that all such details except access are reserved matters. In addition it was noted at the inquiry that the DAS also indicates maximum and minimum scale parameters, including a maximum building height of 12m. In this respect the DAS does bind the terms of any subsequent reserved matters application, but only in so far as it sets the upper and lower limits. In any event, the DAS does not prevent building heights and other such details from being limited by condition. I have judged the appeal proposal on this basis.

Planning policy background

The Aylesbury Vale District Local Plan (the AVDLP)

14. The AVDLP was adopted in January 2004, and the plan period expired on 31 March 2011. The only policies still in force are those saved by the Secretary of State's direction dated 24 September 2007, and these now comprise the development plan for Aylesbury Vale District.
15. Aston Clinton is within the Rural Area. Policy RA2 seeks to preserve the separate identity of neighbouring villages and avoid coalescence. The policy also states that development in the countryside should avoid reducing open land that contributes to the form and character of a settlement.
16. Policy RA14 relates to 'Appendix 4' villages. Aston Clinton is one of these. The policy states that on the edges of such settlements, permission may be granted for a development of up to 5 dwellings, on a site not exceeding 0.2 ha, where the site is substantially enclosed by existing development; and where this would satisfactorily complete the settlement pattern without intruding into the countryside. Developments should also use land efficiently and create a well-defined boundary between the settlement and the countryside.
17. The Council also draws attention to Policy GP35, which relates to the design of new development.

The National Planning Policy Framework (the NPPF)

18. The NPPF states at paragraph 6 that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 9 states that sustainable development involves seeking positive improvements in the quality of the environment and in people's quality of life; amongst other things, this includes widening the choice of high quality homes. Paragraph 14 states that there is a presumption in favour of sustainable development.
19. Paragraph 17 sets out core planning principles. These include proactively driving and supporting sustainable economic development to deliver the homes and other development that the country needs. Every effort should be made

objectively to identify and then meet those needs, and to respond positively to opportunities for growth. The core principles also include recognising the intrinsic character and beauty of the countryside, conserving and enhancing the natural environment, and focusing development in sustainable locations.

20. At paragraph 47, the NPPF seeks to boost the supply of housing significantly. Paragraph 49 states that policies for the supply of housing should not be considered up to date if a 5-year supply of deliverable housing sites cannot be demonstrated.
21. Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by, amongst other things, protecting and enhancing valued landscapes, geological conservation interests, and soils. Paragraph 112 requires that account should be taken of the economic and other benefits of the best and most versatile (BMV) agricultural land. Where significant development is necessary, poorer quality land should be used in preference to higher quality.
22. Paragraphs 186 and 187 state that authorities should approach planning decisions in a positive way, looking for solutions rather than problems, and should seek to approve applications for sustainable development where possible.

Planning Practice Guidance (PPG)

23. The national PPG contains relevant guidance on assessing housing needs and land availability. This is referred to further below.

Withdrawn draft development plans and proposed new local plan

24. A draft Core Strategy was submitted in June 2009, but was withdrawn in mid-2010, in the light of the Secretary of State's announcement of the Government's intention to revoke regional strategies.
25. A new draft local plan, the Vale of Aylesbury Plan (the VAP) was submitted in August 2013 and a public examination was held in December 2013. However, in a letter dated 7 January 2014, the inspector found that the proposed level of housing provision took inadequate account of planned employment growth, and the potential unmet needs of neighbouring authorities. He concluded that the plan had not been prepared positively, was not justified or effective, and was inconsistent with national policy. On 5 February 2014 the plan was withdrawn.
26. A further new plan, the Vale of Aylesbury Local Plan (the VALP), is in the early stages of preparation, but has not yet reached the issues and options stage. The Council is aiming for adoption in summer 2017.

Main issues

27. In the light of the above matters and all the submissions made, both orally and in writing, the main issues in the appeal appear to me to be:
 - i. Whether Aylesbury Vale has an adequate supply of land for housing;
 - ii. And the effects of the proposed development on the character and appearance of the area.

Main issue (i): housing land supply

The matters in dispute

28. The Council acknowledges that, in the absence of an up to date local plan, it is unable to measure the supply of housing land against any policy requirement figure. Instead, it has adopted an interim approach, as set out in the Position Statement¹ dated June 2014, which involves using the DCLG's 2011-based Household Projections, published in April 2013, as a proxy for the level of housing need.
29. In the light of the evidence presented at the inquiry, the main areas of dispute in relation to housing land supply break down into the following:
- As a matter of principle, whether it is acceptable to use the household projections as the basis for a 5-year supply calculation; and how much weight should be given to the results;
 - And in any event, whether the Council's calculations on this basis are borne out by the evidence.

The principle of using household projections for 5-year supply calculations

30. In Aylesbury Vale, the Council is in the regrettable position of having no up-to-date adopted development plan, no emerging draft plan, and as yet very little by way of an up-to-date evidence base for the new plan that it now wishes to bring forward. In that situation, it is not possible for the land supply to be measured against any relevant policy requirement.
31. Recent case law, including the *St Albans*² and *Solihull*³ cases, suggests that where there is no up-to-date policy, the basis for the 5-year supply calculation should be the full, objectively assessed need ('FOAN'). But neither of these judgements directly addresses the position that may arise where the FOAN figure itself has not yet been determined.
32. Given the importance that the NPPF places on the 5-year land supply, it seems to me that until a FOAN figure is available, at least as a draft proposal, the Council has little choice but to adopt some other measure. The DCLG household projections are endorsed in the PPG as the starting point for assessing housing needs and land availability⁴. They are therefore an important component of the overall assessment, albeit only one of many. As such, although calculations carried out on this basis should be treated with some caution, they are not irrelevant as the appellants suggest.
33. Such calculations are unlikely to carry as much weight as ones based on FOAN. But that does not mean that no such exercise should be attempted. Nothing in the NPPF or PPG precludes calculations from being carried out on that basis. Nor, as far as I am aware, does anything in the relevant case law.
34. In the circumstances, the Council's interim approach seems to me a pragmatic one. In the absence of anything further, the household projections are the most relevant figures approximating to need that the Council currently has to work with. Those figures are better than nothing. To that extent, it seems to me that it was helpful to have them placed before the inquiry, and I have taken them into account on that basis.

¹ Five-Year Housing Land Supply Position Statement, June 2014

² *Hunston Properties Ltd v St Albans Council*: [2013] EWHC 2678 (Admin) and [2013] EWCA Civ 1610

³ *Gallagher Homes Ltd & Lioncourt Homes Ltd v Solihull Council* [2014] EWHC 1283 (Admin)

⁴ PPG: 2a-015, and 3-030

Weight due to the Council's interim calculations

35. Although the PPG advocates the use of the DCLG projections as the starting point for assessing housing needs and land availability, it also makes it clear that they will rarely amount to anything more than that.
36. Firstly, this is because since the projections are trend-based, they take no account of any factors that may affect demographic behaviour in the future⁵. These may include changes in government policies, economic circumstances and household formation rates. And, importantly, past trends may have been suppressed by a previous under-supply of housing, and the consequential effects on affordability. As the PPG notes, estimates of need based on household projections may require adjustments to reflect these factors, and particularly to reflect the consequences of any past under-delivery.
37. The Guidance then also goes on to note that projections may require sensitivity testing, specific to local circumstances, using alternative assumptions as to migration rates, employment growth, and expected changes in demographic structure⁶. And in addition, the assessment of housing needs will need to bring in other factors including other employment trends, commuting patterns and market signals⁷. As the PPG points out elsewhere, the household projections have not been tested or moderated against any other considerations, and the weight afforded to them needs to take this into account⁸.
38. It is clear from this guidance that, although the household projections are an important step in the process of assessing the FOAN figure, that process is potentially lengthy and complex. The projections in their 'raw' form are only the first step, and it is quite possible that the ultimate figure may bear little or no resemblance to them.
39. The Council, very fairly, accepts that the projection-based 5-year supply calculations in their Position Statement do not fully meet the NPPF's aims. But nonetheless, it maintains that significant weight should be given to those calculations, simply because no more authoritative figures are currently available. I have considered that argument carefully. However, it is clear from the NPPF that the purpose behind the requirement for a 5-year land supply is to increase the level of housing delivery, so as to bring it more closely into line with actual demand. A calculation which measures the supply against anything other than the FOAN (or against a policy requirement derived from FOAN), will not serve that purpose.
40. It follows that, even if the Council's calculations succeeded in proving a 5-year land supply against the requirement figure in the Position Statement, that would not demonstrate that a satisfactory supply exists in terms of the NPPF's aims. In relation to the present appeal, for the reasons that I have given above, I consider that the figures contained in the Position Statement provide a useful background, and I have had due regard to them as such. But on the important question of whether there is a 5-year supply, in terms that could meet the aims of the NPPF, it seems to me that the Position Statement cannot provide the answer. Consequently, irrespective of any view that I might take on the matters that now follow, I conclude that the Council's 5-year supply calculations should carry only limited weight.

⁵ PPG: 2a-015

⁶ PPG: 2a-017

⁷ PPG: 2a-018 and 019

⁸ PPG: 3-030

The Council's land supply calculations

The interim Position Statement

41. On the 'requirement' side of the calculations, the Council has taken the household projections, and has firstly added 3% for vacancies and second homes. This gives a 5-year base requirement of 5,088 dwellings (1,018 per annum). Next, the Council has added the 'pre-2014 undersupply' of 27 dwellings, and then it has applied a 5% buffer in response to NPPF paragraph 47. For the period 2014-19 (the most favourable period from the Council's point of view), this gives an adjusted 5-year requirement of 5,371 dwellings (or 1,074 units p.a.).
42. On the 'supply' side, the Council's figures are made up from sites with planning permissions or subject only to S106 negotiations, plus local plan allocations, and permitted development sites (notified under prior approval procedures), totalling 5,822 units; plus a windfalls allowance of 200 units. The total of these, at the base date of 1 April 2014, is therefore 6,022 dwellings.
43. This equates to a surplus of 651 dwellings⁹. On this basis, the Council claims a 5.6 years' supply.

The NPPF buffer

44. Where there has been a record of persistent under-delivery of housing, NPPF paragraph 47 requires a 20% buffer rather than the 5% that applies in other cases. The Council's case for the lower buffer is based on its record against the AVDLP, before April 2011, and since then against the 2011 household projections.
45. Looking first at performance against the AVDLP, the Council relies on the completions achieved during the last four years of that plan period, 2007-11. However, the completions in all but one of those years fell short of the 810 units per annum that the plan sought to provide. And from the other evidence before me, it appears that the shortfalls were not limited to these latter years: in the immediately preceding year of 2006/07, the completions figure appears to have been only 616¹⁰; and in the five years before that, 2001-06, although the figures are not broken down to individual years, the average appears to have been about 652 per annum¹¹. These figures are well short of the annual target.
46. If one looks at the cumulative deficit that these shortfalls produced, it is true that over the four years that the Council refers to, 2007-11, the shortfall was only 124 units (although this in my view is not an insignificant figure). But that ignores the much larger deficit which had already accumulated since 2001. Over the whole plan period 2001-11, the total completions were 6,991¹², against the target of 8,101¹³, a shortfall of 1,110 dwellings. In that situation, as the appellants point out, measuring delivery in the later years only against a constant annual requirement of 810 units p.a, results in understating the true extent of the under-delivery.

⁹ 6,022 minus 5,371 = 651 dwellings

¹⁰ Mr Bateman's proof, para 5.46

¹¹ Based on: 10,758 completions in 1991-2006 (Mr Bateman, 5.46), minus 7,499 completions in 1991-01 (AVDLP Table 2, p15), = 3,259 completions in 2001-06; over 5 years = 651.8 p.a.

¹² Based on: 3,259 in 2001-06 (as above); plus 3,732 in 2006-11 (Mr Bateman, 5.46)

¹³ AVDLP Table 2, p15

47. If a residual basis were used, the annual requirement in the last 5 years of the plan period, 2006-11, would have been 968 units per annum¹⁴. On that basis, the shortfalls in the annual completions would be even greater. I appreciate the Council's reservations about this addition to the methodology. But nevertheless, I note that the AVDLP requirement itself is based on the same residual principle, having been adjusted downwards to take account of an overprovision during the previous plan period, in 1991-2001¹⁵. In any event, it seems to me that, either with or without applying this residual approach, the evidence points to a sustained failure to meet the AVDLP's housing targets over any part of that plan period since 2001.
48. Turning to the 2011-14 period, which the Council has measured against the 2011 household projections, completions in this most recent period have been higher than previously. But even so, two out of these three years were still below the Council's annualised 'requirement', of 1,018 dwellings per annum. Cumulatively, the total completions in this 3-year period are only just below that implied requirement. But in the context of the previous 10 years, this does not significantly change the overall picture, which since 2001 has been one of under-performance. Consequently, measured against the Council's own preferred benchmarks, of the Local Plan and the household projections, all the evidence points to a finding that there has been persistent under-delivery.
49. Furthermore, the Council's method of assessing past delivery takes no account of the South East Plan (SEP), which was in force from May 2009 to March 2013. I appreciate that the SEP was under threat of revocation for part of this time. And I am well aware that its housing provisions included induced growth, which was not directly generated by Aylesbury Vale's own local needs, but was part of the top-down approach which is no longer favoured by government. However, the plan formed part of the statutory development plan, and indeed was the most recently-adopted component of it. I can therefore find no good reason to disregard the SEP for this purpose. The annual requirement based on the SEP was 1,345 units per annum, starting from a base date of 2006. During that time, annual completions ranged from as low as 616 to 1,103, and the average was 824 p.a.¹⁶. At no time therefore did housing delivery come close to the SEP requirement. This further reinforces the view that I have already come to above, that the District has a record of persistent under-delivery.
50. I appreciate that throughout much of the period covered by the above figures, there have been outstanding planning permissions for between 7,000 – 9,000 units. This remains the case now. These are very large numbers. But the fact remains, for whatever reason, that these permitted dwellings have not yet been constructed. The aim of the NPPF's housing policies is to get houses not just permitted but built and occupied. For this reason, I consider that outstanding commitments should not count towards the assessment of past under-delivery.
51. I conclude that Aylesbury Vale District has a record of persistent under-delivery. Applying NPPF paragraph 47, this means that the buffer to be added to the 5-year housing requirement should not be 5%, but should instead be

¹⁴ Mr Bateman's para 5.46

¹⁵ AVDLP Table 2, p15

¹⁶ Mr Bateman's figure at 5.48 is 834 p.a., but this appears to include the year 2013/14, which was after the SEP's revocation.

20%. I appreciate the Council's concerns regarding the impact of this, but the buffer is not an additional requirement, it is merely the bringing-forward of part of the overall housing provision from later in the next plan period, to increase the chances that actual delivery will keep up with the required rate.

52. Based on the Council's own figures, the increase from 5% to a 20% buffer adds an additional 767 dwellings to the requirement¹⁷. This is enough to turn the claimed surplus of 651 units into a deficit of around 116. Consequently, there will not be a 5-year supply, even if all the Council's other figures are accepted.

Affordable housing unmet need

53. The appellants draw attention to the figure of 1,457 households in housing need identified in the 'HEGA' study¹⁸. These represent the pre-existing baseline level of unmet need in the affordable sector. Although the HEGA study is now somewhat dated, nothing more recent is available, and there seems no reason to think that the level of need in this category is likely to have reduced since 2011.
54. The Council points out that there is not a direct correlation between the number of households in need and the number of new dwellings required, because some of those households are likely to be already occupying a dwelling, which can be freed up for a new occupier. But the Council also acknowledges that this will not apply in all cases; some of the unmet need will relate to concealed households, and that element ultimately can only be met by net additions to the housing stock¹⁹. This has not been factored into the Council's present calculations. Unless some allowance is made for this element, the scale of the unmet need is unlikely to be reduced. It is difficult to see how the District's full and objective needs can be assessed without addressing this issue.
55. Although the size of this element cannot be quantified at this stage, given the numbers in the HEGA report, it is not unreasonable to assume that it is likely to be significant. And whilst the 2011 data will need to be brought up to date, that alone is not a good reason for failing to make any estimate or allowance in the meantime.
56. From the evidence presently available, it seems probable that there is a significant element of unmet need in this category which needs to be taken into account. Its effect is almost certain to further increase the deficit between the claimed land supply and the size of the requirement.

Other factors affecting the requirement side

57. The appellants contend that account should be taken of a possible upturn in household formation rates as the recession eases, suggesting a return to the higher, 2008-based projections for the period beyond the year 2021. However, this seems largely speculation. The 2011-based projections are the latest available. Although demographic trends may always change in the future, there is no certainty as to which direction they will take. Neither is there any clear need to try to look beyond 2021 for the purposes of the present appeal.

¹⁷ 5-year requirement, without buffer: 5,115 units (Position Statement, Table 7); 5% buffer = 256 units, 20% buffer = 1,023 units; difference = 767 units.

¹⁸ Housing and Economic Growth Assessment: GL Hearn, Sept 2011

¹⁹ Council's closing submissions, para 38

58. With regard to the vacancy/second homes allowance, I note the appellants' suggestion that this should be increased to 3.7%, based on the Census, rather than 3% based on Council Tax records. To my mind there is no clear basis for preferring one of these sources over the other. The difference is not significant in any event.
59. I also note the appellants' submissions regarding the possible additional housing needs arising from future employment growth, and from the duty to cooperate with adjoining authorities. The inspector who examined the VAP found that the Council had given inadequate consideration to both of these matters. But the evidence before me now does not attempt to quantify their effects. Until the new VALP has progressed further, there is no basis on which to make any assumptions regarding their effects on housing need.
60. All of these matters may be relevant, to a greater or lesser degree, to the process of determining the FOAN, and ultimately the housing requirement figure, in the context of the VALP examination. But at this stage I cannot pre-empt that process. Nor do I need to do so, in the light of the conclusions already reached above.

The supply side

61. On sites of over 10 units, the Council has not applied a 10% 'discount' or 'fall-out' rate, as it has on sites below this size. Instead, these larger sites have been individually assessed, taking account of discussions with the relevant parties, and officers' own knowledge and experience. The appellants contend that this results in over-optimistic assumptions regarding start dates, delivery rates and market capacity.
62. I have no reason to doubt that, in carrying out these assessments, officers have sought to be realistic. And I note that as a result of this process, some sites have been excluded from the 5-year period, because of uncertainties over these very issues. However, it seems to me that whatever the level of expertise of the officers involved, they will still be heavily dependent on the quality and accuracy of the information that is provided by third parties, including developers, landowners and their agents. In many cases, officers will have no means of qualifying the opinions or intentions that are stated by those parties, nor of verifying the facts on which these are based. Not all of the respondents will necessarily share the Council's aims. It is therefore difficult to judge the reliability of the information gained.
63. In these circumstances, it seems to me that a good deal of caution is needed in relation to estimating delivery rates, especially on the largest sites, where hundreds or even thousands of dwellings may be involved. Even though the Council's assessment process has already weeded out those sites which are known to have particular difficulties, there is still likely to be an element of uncertainty about many of those that remain.
64. Applying a further percentage reduction across the board, whether it be 10% or some other figure, after the assessment process has been completed, would help to counter the risk of unexpected delays, or some sites simply not performing as anticipated. In other words, it would make the assessment more robust. 10% is a figure that has often been supported elsewhere, and in the absence of any other justified alternative, I consider that this would be the

most appropriate percentage to apply here too. The result would be to reduce the deliverable supply by around 580 units.

65. I note the appellants' comments on some of the specific sites in the supply schedule. I agree that the assumptions made regarding the Berryfields, Newton Leys and Broughton Crossing sites may be a little optimistic, but this would be sufficiently offset by applying the 10% adjustment discussed above. In the case of the Aston Clinton MDA, the Council seems to accept that the original scheme is no longer likely to proceed to planning permission, and no other scheme has yet got to the application stage. This site can therefore no longer be counted as deliverable, resulting in the loss of a further 30 dwellings.
66. With regard to windfalls, the Council has produced substantial evidence regarding the past contribution from this source. And the Council's supply calculation relies on future windfalls only in years 4 and 5. I am satisfied that this meets the requirement in NPPF paragraph 48.
67. I note that a number of further planning permissions have been granted since March 2014 which are not included in the supply calculation. But these were not in existence at the base date of 1 April 2014. If they were to be added in now, the other elements of the calculation, including completions, would require adjustment too, to bring them to a consistent base date. In the absence of any such fully updated calculations, it would be wrong to take these latest permissions into account.
68. The deletion of 610 units from the supply side, for the reasons set out above, further widens the deficit between the requirement and the available supply.

The Stoke Hammond decision

69. I appreciate that some of my findings on these matters relating to land supply differ from those of the Inspector who dealt with the appeal at Stoke Hammond²⁰, which was heard in February 2014. However, on the central issue, I note that he concluded that there was not a 5-year supply. I do not know how far the evidence that is before me now was available to that Inspector, some 6 months ago. But in any event, I must determine this appeal on the evidence that I have.

Conclusions on housing land supply

70. The Council's reliance on the 2011-based household projections does not invalidate the calculations in the Position Statement as one source of evidence of the state of play in the District. However, a 5-year supply measured in that way cannot demonstrate the existence or otherwise of a sufficient land supply to meet the purposes of the NPPF. For this reason, even if the Council's calculations were able to show such a supply, that would carry little weight in the present appeal.
71. And in any event, the evidence does not show a 5-year supply even on this limited basis. Given the history of under-delivery, the correct buffer should be 20%. This alone is more than enough to negate the Council's claimed surplus. On the other side, the application of a 10% discount rate, and the exclusion of the undeliverable Aston Clinton MDA scheme, widens the gap further.

²⁰ Appeal ref. APP/J0405/A/13/2198840: Land to the rear of Brook Farm, Leighton Road, Stoke Hammond

72. Based on these adjustments only, and based on the Council's figures in all other respects, the minimum 5-year requirement figure that can be justified is around 6,138 units²¹, and the maximum deliverable supply appears to be around 5,410 units²². These figures exclude the additional unmet need for affordable housing, which is admitted by the Council but is currently unquantifiable; if this element were included, its effect would be to increase the shortfall. The above figures therefore seem to me to represent the most favourable scenario, giving the benefit of the doubt to the Council wherever possible. On this basis, it appears that the supply equates to no more than about 4.4 years.
73. I fully accept that Aylesbury Vale District has an exceptionally large number of outstanding planning permissions. But that in itself means little unless it can be shown that the deliverable element of that supply is sufficient to meet the 5-year supply requirement. In all the circumstances, I am satisfied that at the present time it cannot be demonstrated that Aylesbury Vale has a 5-year supply of land for housing. This is a consideration that attracts substantial weight in favour of the proposed development.

Main issue (ii): effects on the character and appearance of the area

The matters in dispute

74. The concerns expressed by the Council and local residents in relation to character and appearance relate to the following inter-related matters:
- the quality and value of the landscape of which the appeal site forms part;
 - the proposed development's effects on the landscape
 - the development's effects on views from public footpaths around the site;
 - the effects on the footpaths within the site itself;
 - the effects on the form and character of the village;
 - and the risk of coalescence between Aston Clinton and Buckland.

Quality and value of the landscape around the site

75. The landscape to the north of Aston Clinton comprises a series of flat arable fields, stretching from the village edge to the A41 bypass. The fields are mostly of small to medium-size, rectilinear in shape, and divided by hedgerows. The land has a well-managed and orderly appearance, and there is a sense of openness and space. However, beyond these fairly ordinary characteristics, there is little else that can be said. The landscape is reasonably agreeable, but no more than that. The spaces formed by the individual fields and hedgerows have no particular visual or compositional qualities. None of the evidence put to the inquiry identifies anything about the landscape that could be described as notable or distinctive.
76. Furthermore, the characteristics identified above are typical of those ascribed to the 'Southern Vale' character area, in the district-wide landscape

²¹ Based on: the Council's interim policy requirement of 5,371, plus 767 for 20% buffer, = 6,138 (ignoring any addition for unmet affordable housing need)

²² Based on: the Council's interim supply figure of 6,022, minus 580 for 10% reduction on large sites, and minus 30 for Aston Clinton MDA, = 5,410

assessment report²³. That report sums up the Southern Vale area as follows: "Overall, the moderate sense of place and moderate visibility combine to give the landscape a moderate degree of sensitivity". In this context, I note the dictionary definition of 'moderate', which includes "not extreme, not strong, average, middle-rate...". Although the landscape report is referring to the Southern Vale as a whole, to my mind the same description applies equally well to the appeal site itself and its immediate surroundings. The fact that the Southern Vale area is described in these terms in the Council's own assessment reinforces my view that the appeal site and its environs have no particular landscape qualities.

77. Away to the south lie the Chiltern Hills, and there are occasional distant views or glimpses towards the higher ground in that area. The Chilterns are designated as an Area of Outstanding Natural Beauty (AONB), and as such are of national importance. But views of them are not subject to any special designation. From the vicinity of the appeal site, the views of that area are not especially dramatic or noteworthy. They provide some background interest, but they do not change the fairly mundane nature of the landscape seen in the foreground.
78. I appreciate that the landscape is valued by many local residents and, as I have already noted, 'valued' landscapes are amongst those that the NPPF seeks to protect. But the value put on the area by those persons is at odds with the independent assessment in the Council's landscape report, and also conflicts with my own view, for the reasons given above. On the evidence before me, I can see no objective justification for treating the appeal site as part of a valued landscape.
79. All in all, it seems to me that the landscape of which the appeal site forms part is of no more than average quality, and lacks any recognisable visual interest or distinctiveness. On its own, as the Council and objectors rightly say, that is not sufficient reason for allowing residential development in the countryside. But in the present case, the landscape considerations do not have to stand alone, because the housing land supply is in shortfall. In the light of that situation, it is more than likely that additional greenfield land will be required. In these circumstances, the lack of quality and distinctiveness in the landscape at the appeal site becomes a highly relevant consideration.

The effects of the proposed development on the landscape

80. The proposed development would extend the village into the open countryside. But the site is well contained, by existing development on two sides, and on its other two by the existing boundary hedgerows and woodland. Although the village edge would be pushed outwards, the new housing would be well related to the development pattern, and the compactness of the built-up area would be maintained. The development would thus be no more intrusive into the countryside than the existing settlement.
81. The area that would be taken by the proposed development is small in relation to the broad expanse of countryside between the village and the A41. The loss of this single field would not significantly affect the character or quality of the remaining open land in the area.

²³ Aylesbury Vale Landscape Character Assessment: Jacobs, May 2008

82. The effect on the character and quality of the area's landscape would therefore be fairly slight.

Effects on views from public footpaths around the site

83. From the north and north-west, there are views from various points on footpaths ALC/6/1 and ALC/4/1, in which the appeal site is seen at close or medium range. These points include Mr Wright's viewpoints Nos 6, 7, 10, 11 and 12. From the closest of these, points 11 and 12, the effect of the proposed development would be that the existing views towards the village would be largely lost, whilst from points 6, 7 and 10 the views would be noticeably altered. In all of these cases, the changes to the existing views would be significant; the magnitude of change would vary from medium to substantial. I agree that these particular views would suffer some harm.
84. However, the degree of that harm also depends on the quality and sensitivity of the views that would be affected. In this case, the views in question are those obtained when looking back from the countryside, towards the village edge. At present, the focus of those views is nothing more than an irregular line of buildings. With very few exceptions, those existing buildings are undistinguished. Along this edge, the village turns its back on the countryside, creating no positive relationship between the two. Like the surrounding landscape, it cannot be said with any force that the existing views which would be most affected by the proposed development contain anything of any particular visual interest. It therefore seems to me that these views are of relatively low sensitivity. Consequently, the harm that would result would be of relatively low significance.
85. From viewpoint 10, the view also includes the distant backdrop of the Chiltern Hills, which are seen in the far background, beyond the village. If the proposed development were built to the stated maximum height of 12m, there would be a possibility that the hills would be partially obscured from this viewpoint. However, it seems to me that this could be largely avoided if the height limit were reduced to 10m, which could be imposed by condition. Trees planted as part of a landscaping scheme within the site might still grow to 12m or more, but if necessary, that could be avoided by the choice of species; and in any event, it seems to me that trees would be unlikely to be perceived as visually harmful in the same way as tall buildings. This existing view of the Chilterns therefore need not be unduly affected.
86. From the more distant north-western viewpoints, Nos 8 and 9, on footpath ALC/3/2, there are pleasant rural views. However, from this range the appeal site is only a minor element in the view as a whole. From here, the existing views of the village and adjoining countryside would not be altered significantly.
87. From the north-east, including viewpoint 14 on footpath ALC/5/4, the majority of the appeal site is screened by the existing woodland on its boundary. The site's northernmost corner is more exposed, and housing in that part of the site could appear intrusive. But it was agreed at the inquiry that this corner would be the most likely location for the proposed balancing pond, as shown on the master plan, and it seems probable that this would preclude any built development in that particular area. In the circumstances, it seems to me that the concern about this northern corner could be overcome by means of a condition restricting the type of development permissible in that area.

88. I acknowledge that many of those who use these external footpaths around the appeal site do so for recreational purposes, and for the enjoyment of the countryside. As such, they are likely to be particularly sensitive to changes in the landscape. However, from all of the external footpaths and viewpoints that I have referred to, even if the appeal site were developed, it would still be possible to enjoy unobstructed countryside views in other directions. Indeed from most of the identified points, the views to the north are arguably more attractive than those towards the site. All of these paths would therefore remain mainly rural in character, and would continue to provide for those seeking countryside walks.
89. I accept that a strict application of the Landscape Institute's GLVIA²⁴ might result in the effects on footpath users being given a high weighting. But that methodology is not planning policy, and is not necessarily appropriate in all cases. In the present case, the issue that I have identified is not the effect on particular receptors, but on the character and appearance of the area itself.
90. For the reasons that I have given, I find that the effects on the views from the external footpaths and their users are tempered by the fact that neither the landscape itself, nor the particular views that would be most affected, are of high quality. The harm arising in these respects would therefore be relatively slight.

Effects on public footpaths within the site

91. The effects on the two public footpaths, ALC/6/1 and ALC/5/3, which pass through the site itself, would be more substantial. The character of the site would be changed from an open field to a housing estate. This change would particularly affect users of the paths within the site; from their point of view, the magnitude of change would be very high.
92. However, as above, to put this impact into perspective, it is relevant in my view to consider objectively the value of what would be lost. The existing views from the two paths in question, including viewpoints 4, 5 and 17, are limited ones. Primarily, the views from these points extend only as far as the site's own boundaries. For the reasons already described, although what is seen within the site itself is not unattractive, neither does it hold any particular attraction or visual interest. Only from the vicinity of viewpoint 4 is there any visibility to any other open land beyond the site, and even from there, the view extends no further than the next field. From nowhere within the appeal site is there any meaningful visual connection with the wider landscape, nor any appreciation of the site's setting within that landscape. Consequently, whilst the existing view from these two sections of footpath would be lost, that view is largely an uninteresting one, which contributes little to the users' experience of the countryside.
93. As well as the loss of view, there would also be a loss of rural character. However the two sections of path in question are fairly short lengths, of about 180m and 100m respectively, out of the much longer network available in the area. Functionally, there is no reason why these two paths should not continue to provide access to the wider countryside, by connecting with the other existing paths, as they do at present; and indeed there may be scope for an additional connection to footpath ALC/4/1, near the proposed balancing pond.

²⁴ Guidelines for Landscape and Visual Impact Assessment, edition 3 ('GLVIA 3')

I also note that both of the paths through the site already originate from points within the built-up area, and run between gardens for party of their respective routes. This does not appear to impair their function or deter usage.

94. I have taken full account of the nature of these existing paths through the appeal site, and the extent of the change in their character, and the likely sensitivity of the footpath users. But I am drawn back to a conclusion similar to that above. In terms of the actual nature and substance of the harm, the length of path affected would be short; the views that would be lost are limited in extent of indifferent quality; and the area which would change in character is relatively small. The harm to the area's character and appearance would therefore be limited.

Effects on the form and character of the village

95. Although the appeal site is on the edge of the village, it is enclosed by existing development on two sides, and yet is close to the village centre. As such, the site is well related to the existing pattern of development, and well integrated with the village. In townscape terms, the only public views of the site from within the village are from Chapel Drive. The site is therefore not prominent, and in its undeveloped state, it contributes nothing to the village's character. Development on it would not be likely to significantly affect any internal views. In terms of scale, the development would represent only a marginal increase in the village's size and extent.
96. The immediately adjoining properties in New Road and Green End Street have longer back gardens than most modern development, providing a gradual transition from the village to the countryside. I agree that this is a reasonably attractive feature of this part of the village. But in my view it is not such an attractive or important feature that this should prevent development beyond that line. Those gardens themselves would not be affected by the appeal proposal, and there seems no reason why the proposed development should not be designed to form an equally attractive new village edge on its outer boundary. In this respect I note the comments of the Inspector who dealt with a previous appeal at 8A New Road, but that was for a different form of development, in different circumstances.
97. The development now proposed would involve a higher density than most of the existing development adjoining the site. But the efficient use of land is an important aspect of sustainable development, and in other parts of the village, areas of lower and higher densities sit side-by-side. I note the other concerns of the Council and local residents regarding the prospect that the proposed development would be unsympathetic and out of character with its surroundings. But many of these concerns relate to aspects of the illustrative master plan which are reserved matters. I see no reason why an acceptable design and layout for the site could not be achieved.

Coalescence

98. The gap between Aston Clinton and Buckland is quite narrow. Indeed, at one point, that gap is already effectively bridged, by the ribbon development further along New Road. But to all intents and purposes, the gap is defined, on the Aston Clinton side, by the rear gardens of the properties in Beechwood Way, Chestnut Close, and Rosebery Road, to the south-east of New Road. These form a clear, well-defined straight line, leaving a clear swathe of open land between the two villages, of about 250m in width.

99. The present appeal site does not breach that line, and indeed it steps back from it by about 200m, and stops a similar distance short of the extent of the development in this part of New Road. The existing separation at this point would therefore be effectively preserved.
100. I appreciate that there is concern as to the effects of any further development in this direction, beyond the appeal site. But that would be a separate matter. The present appeal site is well contained by the existing development and woodland. I see no logical reason why any further development should automatically follow, nor why such development would become more difficult to resist. And in any event, I can only consider the appeal that is before me, which I must decide on its own merits.

Conclusions on character and appearance

101. The appeal site forms part of a pleasant, average landscape, which is typical of the area. But it amounts to nothing more than that. The proposed development would cause some limited and localised loss of landscape and rural character within the site itself, and some change to the views from surrounding footpaths. However, because of the lack of landscape quality or distinctiveness, the resultant harm would be slight. The form and character of the existing village would not be significantly affected, and there would not be any actual or threatened coalescence with Buckland.
102. Overall, therefore, I conclude that the proposed development would have only a minor impact on the area's character and appearance. Although the NPPF contains policies relating to the recognition of local character and the intrinsic character and beauty of the countryside, none of these suggest that all landscapes should be protected equally regardless of quality; nor that land on the edge of settlements should never be taken for development.
103. In this context, it seems to me that since the harm that would result from the present proposal is limited, this harm should carry only modest weight in the planning balance.

Other planning issues raised

Loss of agricultural land

104. The Council has now conceded that the appeal site does not fall within the category of 'best and most versatile' (BMV) agricultural land, but nevertheless contends that the loss of agricultural production should be counted as a disbenefit to the local economy, partially offsetting the claimed benefits. I see no reason to disagree with that approach in principle, although in the absence of any financial appraisal the weight that I can give to this is limited.

Traffic

105. I note the comments made by a County Councillor and local residents, regarding traffic issues in the village. I appreciate that some local of the village roads are narrow, and off-street parking is limited. I saw on my visits that at school times, and in other peak periods, there is congestion, delay and frustration on some local routes. I have no doubt that this could pose a potential source of danger to children going to and from school.

106. However, these problems are not confined to Aston Clinton. From my observations, albeit based on a limited number of visits, I saw nothing to suggest that the problems here are more severe than in many other similarly-sized settlements.
107. I note that the Highway Authority's original objection relating to visibility concerns has been withdrawn, and the provision of appropriate splays can be secured by condition. The NPPF's advice is that development should only be prevented on transport grounds where the impact would be severe. In the circumstances, I find no justifiable reason to refuse permission on these grounds.

Effects on neighbouring occupiers

108. The appeal site is adjoined by residential properties in Chapel Drive, Green End Street, The Orchard, and New Road. On my final site visit, I viewed the site from a number of these. Several of the properties in question have views over the site from first floor windows. Some also have rear gardens that could potentially be overlooked or overshadowed by development on the site.
109. I fully accept that residential occupiers are likely to be highly sensitive to change in their surroundings. However, the impacts on these adjoining properties and their occupiers will depend on the details of design and layout which are not before me at this stage. The loss of private views over open land is not usually a material planning consideration, and I can see no reason why that should be any different here.

Effects on Barn Owls Nursery School

110. Similar considerations apply in the case of the Barn Owls Nursery School. I appreciate Mrs Snookes' desire to ensure privacy for the children in her care. However, that is a matter to be considered at a later stage. This does not justify preventing development from taking place on a site that is otherwise suitable.

Dormer Cottage

111. Dormer Cottage, also known by some as The Dormers or just 'Dormers', is a grade II listed building in Green End Street, whose rear garden backs onto the appeal site. The building is sited well away from the site boundary, within its own spacious curtilage. There is limited intervisibility with the appeal site, due to existing trees and vegetation. The Council does not suggest that the appeal site is within the listed building's setting, and I agree that it is not. The building's setting would therefore be preserved.

Disputed matters relating to AVDLP policies

Policy RA2

112. Given my conclusions above with regard to the proposed development's lack of impact on the form or character of the settlement, and on the risk of coalescence, I find no conflict with Policy RA2.
113. I note the appellants' contention that RA2, or failing that, the first part of it, is a policy for the supply of housing, to which paragraph 49 of the NPPF applies. In my view, that is not so, because the policy should be read as a

whole, and as such its purpose is to protect the character of villages, rather than anything to do with the supply of housing. But in view of my finding that the policy is complied with, I need not pursue that argument further.

Policy RA14

114. If Policy RA14 is interpreted negatively, i.e. that it is intended to preclude developments that fall outside the stated size parameters, then the appeal proposal conflicts with the policy, due to the size of the site and the number of dwellings proposed. I note that this interpretation is not disputed by any of the parties in the present case.
115. However, if the policy is to be read in that way, then its effect is principally to restrict housing development, and in the light of the approach taken by the Courts in the *South Northants*²⁵ case, it seems to me that it should therefore be treated as a housing supply policy. In that case, in accordance with NPPF paragraph 49, Policy RA14 must now be considered out of date. I note the Council's argument that the criteria within RA14 remain relevant for the purposes of landscape assessment, but in my view the whole policy should be read as one. On this basis, it is the whole policy that is out of date. As such, it now carries little weight.
116. Alternatively, if this policy is read literally, then on any development above the threshold sizes, it is silent.
117. Either way, it seems to me that in the present appeal Policy RA14 has little effect. Despite their view about the criteria, the Council appears to concur.

Policy GP35

118. I have considered carefully the Council's submissions regarding Policy GP35. However, it is evident from the policy itself, and its preamble, and its context within the plan, that the subject matter of this policy is concerned with design. As such, it seems to me to have very little application to the present appeal, given that all such matters are reserved. I note that this was the approach taken in at least one other appeal²⁶, and I have no hesitation in aligning myself with the Inspector's comments on Policy GP35 in that decision.
119. But even if a different view were taken as to the policy's applicability, in view of my conclusions on the issues relating to character and appearance, I can see no grounds on which any conflict could be substantiated.

The undertaking

120. The legal undertaking entered into by the appellants provides for the payment of financial contributions to education, sport and leisure, and off-site highway works, and bonds in respect of each of these, plus two monitoring fees, and the provision of affordable housing.
121. As noted earlier, some of these obligations are disputed by the Council, and others by the appellants themselves. All of the obligations are conditional upon being found to comply with the relevant tests, which are contained in

²⁵ *South Northamptonshire Council v SoS and Barwood Land and Estates Ltd* [2014]EWHC 573 (Admin)

²⁶ APP/J0405/A/10/2135746: Land east of Winslow

the CIL Regulations²⁷ and in paragraph 204 of the NPPF. These state that each obligation must be necessary to make the development acceptable in planning terms; and be directly related to the development; and be fair and reasonable in scale and kind.

The education contribution

122. The education contribution would be calculated according to the formulae set out in Schedule 2, depending on the mix of types and sizes of dwellings permitted at the detailed stage. The formulae are derived from the County Council's non-statutory planning guidance²⁸, and the monies paid would be used to increase capacity at local primary and secondary schools. The contribution would be phased, from commencement to the occupation of 75% of the market dwellings.
123. The contribution is not disputed by either side, but is conditional upon a specific finding by the appointed Inspector, that it accords with the relevant legal and policy tests. The undertaking also contains provision for the formulae to be amended by the Inspector.
124. The evidence presented shows that if additional school capacity were not provided for in this way, children from the proposed development could not be accommodated within reasonable travelling distance. Saved Policy GP94 of the AVDLP provides for planning obligations to be sought towards necessary community facilities, including schools, to support new housing.
125. In the light of the above, and having regard to the provisions in paragraph 2 of Schedule 4, I am satisfied that the education contribution accords with the tests referred to therein. Having regard also to paragraph 4 of Schedule 2, I am satisfied that the formulae are acceptable as set out in that schedule.

The sport and leisure contribution

126. The sport and leisure contribution would again be calculated according to a formula, depending on the eventual mix of dwellings. The formula is derived from the Council's SPG Companion Document²⁹. The contribution is conditional on a specific finding that it accords with the relevant legal and policy tests, and contains provision for the formula to be amended by the Inspector's decision.
127. The Council draws attention to AVDLP policies GP 86-88, which require the provision of outdoor play space and equipped play areas, through a combination of on-site provision and off-site contributions.
128. The Council argues that the obligation fails to include any specific requirement for a 'LEAP' play area to be provided within the site. However, it was accepted at the inquiry that the development is below the threshold size at which a play area is normally required to meet the full LEAP standard. In any event, provision for an on-site equipped play area is envisaged in one of the jointly proposed conditions, which I will consider shortly.
129. I have considered the sport and leisure contribution carefully. There is little by way of detail from either side as to how the contribution would actually be

²⁷ Regulation 122 of the Community Infrastructure Levy Regulations 2010

²⁸ Guidance on Planning Obligations for Education provision: Bucks County Council, 2010

²⁹ Sport & Leisure Facilities SPG Companion Document: Ready Reckoner, August 2005

used. But nonetheless, I am satisfied that some provision for outdoor and equipped play needs to be made, and that there is a basis for such provision in development plan policies. Although the SPG document is now somewhat elderly, its use as a basis for the necessary calculations is not objected to by either side. Whilst it might have been better if the on-site play area had been secured through the undertaking, I see no reason why a condition should not be a workable alternative. I can only consider the obligations that are before me. On balance therefore, it seems to me that in respect of these matters the undertaking is acceptable.

130. In the light of the above, and having regard to the provisions in paragraph 7 of Schedule 3, I am satisfied that the sport and leisure contribution meets the relevant tests.

The off-site highway works contribution

131. The off-site highway works contribution would be £32,000, to be used for the provision of real-time information displays at four local bus stops. The contribution is again provisional on a specific finding that it accords with the relevant tests.
132. The bus stops in question are beyond the preferred radius of 400m from the appeal site, but are nevertheless within reasonable walking distance. A good range and frequency of services is available from the stops in question. From the evidence presented, I am satisfied that the upgrading of passenger information in the way proposed would be likely to make these existing transport facilities more attractive to residents of the proposed development, and others in the village, in keeping with the NPPF's aims for the promotion of sustainable modes of travel. I note that the contribution is not disputed by any party.
133. Having regard to the provisions in paragraph 5 of Schedule 4, I am satisfied that the off-site highway works contribution complies with the tests referred to.

Affordable housing

134. The undertaking provides that not less than 35% of the total number of dwellings will be affordable housing, as defined in the NPPF. Of these, at least 25% of the affordable units are to be intermediate housing, and the remainder affordable rented tenure. The affordable housing is all to be constructed and transferred to a registered provider, on or before the occupation of 50% of the market dwellings, and thereafter are to be retained as affordable housing.
135. From the evidence, I am satisfied that there is a local need for affordable housing in Aston Clinton. The 35% specified slightly exceeds the minimum requirement in AVDLP Policy GP2, but accords with the more recent SPD³⁰. The percentage is not disputed by either party.
136. I note the Council's concerns as to the lack of further details regarding types, sizes and location. But these are provided for in one of the proposed conditions, and given the outline status of the appeal proposal, this seems an appropriate way to proceed. The Council also raises a number of other

³⁰ Affordable Housing SPD, November 2007

detailed issues relating to the provisions in respect of insolvency of the registered provider, and arrangements for the recycling of grant money. I agree that it might have been better if agreement could have been reached on all of these items. However, looking at the undertaking as it stands, I do not consider that any shortcomings in these respects are so serious as to materially detract from the benefits that it provides.

137. I therefore conclude that the provisions relating to affordable housing meet the relevant legal and policy tests.

The bonds

138. With regard to the education, sport and leisure and highways contributions, the undertaking requires a bond in respect of each of these sums to be provided to the Council prior to the commencement of development. These requirements are provisional upon being endorsed in my decision.
139. The appellants argue that such bonds are burdensome and unnecessary. The Council contests this, pointing to the potential difficulties that can arise in the event of a default. However, it seems to me that, whatever the bond system's practical merits, an obligation to that effect goes beyond what is strictly necessary to make the development acceptable in planning terms.
140. I note the Council's contention that the CIL and NPPF tests are not relevant in this case. But, be that as it may, it seems to make little difference in this case, because the obligations to provide bonds can only come into effect if they are specifically endorsed by me. For the reasons indicated above, I am unable to give that endorsement in this case.
141. Consequently, having regard to paragraph 13.2 of Schedule 3, and paragraphs 11.2 and 14.2 of Schedule 4, I conclude that the provisions in respect of bonds do not meet the test of necessity in relation to either the CIL Regulations or the NPPF.

Monitoring fees

142. The undertaking provides for two monitoring fees, to be paid to the District and County Councils respectively, totalling £7,600. These requirements are again conditional upon being endorsed in my decision.
143. I appreciate that the Councils would incur some costs in administering the various obligations and monitoring the development to ensure compliance. But the decision to require such obligations is one for those authorities. To my mind, the monitoring fees provided for in the undertaking fail the relevant tests, for the same reasons as the bonds: that is, they exceed what is necessary to make the development acceptable. I note that this accords with the view taken by the Secretary of State in the Bloxham appeal³¹ cited by the appellants.
144. Having regard to paragraph 10 of Schedule 3, and paragraph 8 of Schedule 4, I conclude that the provisions in respect of monitoring fees do not meet the relevant tests for planning obligations.

³¹ APP/C3105/A/12/2189191

Other matters relating to the undertaking

145. I note all the other matters raised by the Council regarding the undertaking, including those relating to the definition of commencement, the trigger for the undertaking to take effect, the provisions relating to enforcement against occupiers, and the extent to which the developer is bound as well as the landowners. I accept that these matters are not resolved in the way that the Council would ideally have wished. But in my view none is such as to prevent the undertaking from being effective.

Conditions

146. I have considered the draft conditions suggested by the parties in the light of the advice on conditions at paragraph 206 of the NPPF, and in the PPG, and I have taken account of the discussions on these at the inquiry. Those that I consider should be imposed are set out in the attached Schedule.

147. Conditions 1.1 – 1.3 incorporate the standard requirements relating to outline permissions and reserved matters. At the appellants' suggestion, I have shortened the time periods for submission and commencement, to reflect the fact that the proposed housing is needed urgently.

148. Condition 2 prevents built development in the site's extreme northern corner, and Condition 3 restricts the maximum height of buildings to 10m. These conditions are necessary to protect the landscape, for the reasons discussed elsewhere in this decision.

149. Condition 4 secures the provision of an appropriate amount of public amenity land, including a play area and other on-site open space, in accordance with the Council's standards. In the absence of any similar on-site provision in the undertaking, this condition is necessary to meet the needs of future occupiers and to ensure a satisfactory standard of development.

150. Conditions 5 and 6 deal with highway matters, to ensure that the site access and visibility splays are constructed in accordance with the submitted details, and to secure the provision of the necessary roads, footways and associated highway infrastructure within the site. These are needed in the interests of highway safety and to ensure a satisfactory standard of development. Condition 7 secures the provision of adequate surface water drainage, to protect occupiers of the development, and neighbouring properties, from any risk of flooding.

151. Conditions 8-10 relate to landscaping. Condition 8 clarifies the nature of the landscaping details required as reserved matters, secures their implementation, and provides for replacement planting if necessary. Condition 9 secures the retention and protection of the existing trees and hedgerows during construction. These conditions are needed in the interests of ensuring a satisfactory internal environment and minimising any external visual impact. Condition 10 secures the provision of a landscape and ecological management plan, which is necessary to provide for the long-term management of the landscaped areas and open spaces, and to ensure that the interests of ecology and biodiversity are met.

152. Condition 11 ensures that the existing public footpaths within the site are retained and appropriately upgraded for the increased usage that they are

likely to receive. The condition is necessary in the interests of public safety and amenity.

153. Condition 12 secures control over the type and location of the affordable housing, in the absence of any similar provisions in the undertaking. These controls are needed to ensure that the affordable housing meets local housing needs, and to promote social inclusivity.
154. Condition 13 restricts the hours of work on the site during construction, in the interests of protecting neighbouring occupiers from noise at unsocial times.
155. I note that the suggested conditions also include conditions relating to materials and levels, but these are details that can reasonably be left to the reserved matters stage. Boundary treatments are covered in Condition 8, and a separate condition is therefore not necessary. There is no reason to think that any contamination is present, and a requirement for investigations in this respect is therefore unjustified.

Planning balance and conclusions

156. Judged against the Development Plan, the only relevant policy that still carries any weight is AVDLP Policy RA2, relating to coalescence and village character. The appeal proposal does not conflict with that policy. On the key matters of housing provision, housing needs, and the approach to development in the countryside, the plan is out of date or silent.
157. The proposed development would result in the loss of 2ha of open countryside, and it would have some minor adverse effects on the landscape, and on local views, and on the enjoyment of the two public footpaths that pass through the site. It would also cause a loss of open views for surrounding residents. However, these effects would be very localised in their extent, and they would affect only land with little intrinsic landscape or townscape value. Any interference with longer views, including those of the Chilterns, could be avoided through conditions.
158. On the other hand, the housing land supply, so far as it can be measured in the absence of any up to date policies, is well below the required 5 years. And given the need for the Council to start its forward planning over again, after two abortive attempts, it will clearly be a matter of some years before the supply can be balanced through the plan-making process. In this situation, the provision of 47 dwellings, including 35% affordable, on a site that is ready for immediate development, is a substantial benefit. The NPPF makes it clear that boosting the supply of housing is a very important policy aim.
159. A development of this size would also have economic benefits. Locally, it would bring new investment and jobs, extra demand for goods and services, and increased local spending power. Although the direct employment effects would be temporary, the other benefits would be lasting. The development would thus make a contribution to economic growth and recovery at national level. The NPPF again makes it clear that these are important matters which should be given weight in planning decisions.

160. With regard to the NPPF's aims for sustainable development, for the reasons identified above, the proposed development would contribute positively to the social and economic dimensions of sustainability. With regard to the environmental dimension, although there would be some limited harm, the site's environmental quality is modest, and given the need for more housing in Aylesbury Vale, the development of lower-value land of this kind is likely help to avoid the loss of more sensitive land elsewhere. The Council accepts that Aston Clinton is a sustainable location, and given the range of services there, I agree. I therefore find that the development now proposed would be sustainable development. As such, it benefits from the NPPF's presumption in favour of such development.
161. In weighing up the competing considerations, for and against the development, I take full account of the NPPF's expressed aim to recognise the character and beauty of the countryside. But the NPPF does not rule out development in the countryside, especially when such development is necessary to meet a proven need. Such a need exists here. The appeal site is not subject to any specific restrictive policies, of the kind referred to in footnote 9.
162. Consequently, applying the approach advocated in NPPF paragraph 14, I am satisfied that in this case the housing and economic benefits of the proposed development are not significantly or demonstrably outweighed by the limited harm.
163. I have considered all the other matters raised, but none outweighs these conclusions or alters my decision.
164. In the light of all the above, I conclude that the appeal should be allowed, subject to the conditions listed in the attached schedule.

John Felgate

INSPECTOR

SCHEDULE OF CONDITIONS

The planning permission to which this decision relates is granted subject to the following conditions:

1) *Reserved matters and time limits*

1.1 Details of the appearance, landscaping, layout, and scale of the development, (hereinafter called "the reserved matters") shall be submitted to the local planning authority and approved in writing before any development is begun. The development shall thereafter be carried out in accordance with these approved details.

1.2 Application for approval of the reserved matters shall be made to the local planning authority not later than 18 months from the date of this permission.

1.3 The development shall begin not later than 18 months after the date of approval of the last of the reserved matters to be approved.

2) *Restriction of development in northern corner*

2 The area in the northernmost corner of the site, shown on Drawing No 101-02 as the location for a proposed surface water balancing pond, shall be used only for that purpose, or for landscaping and open space; and no built development shall take place either in that area itself or between the proposed pond and the site's northern boundary.

3) *Building heights*

3 Notwithstanding the details given in the submitted Design and Access Statement, no dwelling shall exceed a maximum height of 10.0m from existing ground level.

4) *Amenity land*

4 No development shall take place until an amenity land scheme has been submitted to the Local Planning Authority and approved in writing. The scheme shall make provision within the site for an equipped play area for children and other public open space and landscaped areas, calculated in accordance with Table 4 of 'Sport & Leisure Facilities SPG Companion Document Ready Reckoner, August 2005'. The scheme shall also include details of the amount and location of the amenity land, the timing of its provision, and the arrangements for its long-term management and maintenance. Thereafter, the amenity land shall be provided and retained for that purpose, and shall be managed and maintained, all in accordance with the details and timing thus approved.

5) *Access and highway works*

5.1 The access to the site shall be laid out as shown on the approved plan, Drawing No CIV14965-100/004. No other development shall be carried out until the first 10m of the proposed access road and footways have been constructed to at least base course level, and a timetable for the full completion of these access works has been submitted to the local planning authority and approved in writing. These works shall thereafter be completed in accordance with the timetable thus approved.

5.2 No development, other than works required for the construction of the site access, shall take place until visibility splays of 2.4m x 43m in both directions have been created at the junction of Chapel Drive with Green End Street, in accordance with Drawing No. CIV14965-100/006. Thereafter, clear visibility shall be maintained within these splay areas, above a height of 600mm from ground level.

6) *Estate roads and parking*

6.1 The layout details to be submitted under Condition 1 above shall include details of all necessary on-site highway infrastructure, including access roads, turning areas, footways, street lighting and highway drainage, together with a timetable for the implementation of these works. No dwelling shall be occupied until the highway infrastructure serving that unit has been provided, in accordance with the approved details, and the relevant roads and footways finished to at least base course level. These works shall thereafter be fully completed in accordance with the approved timetable.

6.2 The layout details to be submitted under Condition 1 shall also include details of car parking and garaging to serve the proposed new dwellings. No new dwelling shall be occupied until the car parking spaces or garages to serve that dwelling have been constructed in accordance with these approved details. These facilities shall thereafter be retained and kept available for the parking of vehicles associated with the development.

7) *Surface water drainage*

7.1 No development shall take place until a detailed scheme of surface water drainage has been approved in writing by the local planning authority. The scheme shall provide for the attenuation of surface water run-off, in accordance with the general principles outlined in the submitted 'Flood Risk Assessment' by Michael W Conway, dated August 2013. The scheme shall also include details of how the proposed drainage system will be managed and maintained throughout the lifetime of the development.

7.2 No dwelling shall be occupied until the surface water drainage works to serve that dwelling have been installed and brought into use, in accordance with the details thus approved. Thereafter, the surface water drainage system shall be managed and maintained in accordance with the approved arrangements.

8) *Landscaping works*

8.1 The landscaping works to be approved under Condition 1 shall include details of all planting and seeding, the surfacing of all hard surfaced areas, all boundary treatments, any earth mounding or re-contouring of the land, and any signage and street furniture. The landscaping works thus approved shall be carried out in accordance with the approved details, and in accordance with a phased programme to be submitted to and approved in writing by the local planning authority.

8.2 Any tree or plant forming part of the approved landscaping scheme which dies, or becomes seriously damaged or diseased, or is removed for any reason, within a period of 5 years after planting, shall be replaced during the next planting season with others of similar size and species.

9) *Retention of trees and hedgerows*

9.1 No development shall take place until a tree and hedgerow protection scheme has been submitted to the local planning authority and approved in writing. The scheme shall contain details of proposed measures for the protection and retention of the existing trees and hedgerows on the site boundaries.

9.2 These details shall include protective fencing, and such fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought on to the site, and shall remain in place until the latter have been removed from the site and the development has been completed. Nothing shall be stored or placed in any area fenced in accordance with this condition, and the ground levels within these areas shall not be altered, nor shall any excavation be made.

9.3 No retained tree or hedgerow shall be cut down, uprooted or destroyed, nor be topped, lopped or pruned, other than in accordance with the approved details. Any works which may be thus approved shall be carried out in accordance with BS 5837.

9.4 If any retained tree or hedgerow is removed, uprooted or destroyed or dies, within a period of 5 years from the date of completion of the development, replacement planting shall be carried out in accordance with details to be approved in writing by the local planning authority.

10) *Landscape and ecological management*

10 The development shall not be brought into use until a landscape and ecological management plan has been submitted to the local planning authority and approved in writing. The plan shall include fully detailed proposals for the ecological enhancement and on-going management of existing and proposed wildlife habitats, following from the recommendations in the submitted Ecological Assessment report by Aspect Ecology (dated September 2013), together with a timetable for their implementation. The plan shall also include proposals for the long-term management and maintenance of all new landscaped and open space areas. The required measures shall be implemented in accordance with the scheme and timetable thus approved.

11) *Footpath upgrading*

11 No development shall be carried out until a scheme has been submitted to the Local Planning Authority and approved in writing, for the upgrading of the two public footpaths within the site. The scheme shall include proposals for the surfacing and landscaping of the said paths, the timing of these works, and the proposed arrangements for the paths' long-term management and maintenance. The necessary works shall be carried out, and shall thereafter be managed and maintained, in accordance with these approved details.

12) *Affordable housing*

12 No development shall take place until an affordable housing scheme has been submitted to the Local Planning Authority and approved in writing. The scheme shall contain details of the locations, numbers, types, sizes and tenures of the affordable housing to be provided. The affordable housing shall be provided in accordance with these approved details and the submitted legal undertaking.

13) *Hours of construction work*

13 In carrying out the development, no construction works, site preparation or related works shall be carried out on the site outside the following hours:

Mondays to Fridays: 07.30 – 18.00

Saturdays: 08.00 – 13.00

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Ned Westaway, of Counsel	Instructed by Ms Sally Fleming, Senior Solicitor
He called:	
Mr Jonathan Bellars BA DipLA(Hons) DipUD CMLI	Senior Landscape Architect & Urban Designer
Miss Claire Harrison BA(Hons) PGDip MA MRTPI	Senior Planning Officer and Acting Team Leader
Mrs Charlotte Morris MSc BA(Hons) PGDip MRTPI	Senior Planning Officer

FOR THE APPELLANT:

Mr Satnam Choong, of Counsel	
He called:	
Mr Ben Wright BA(Hons) DipLA CMLI	Aspect Landscape Planning
Mr Anthony Bateman BA(Hons) TP MRICS MRTPI MCMi MIOd FRSA	Pegasus Group
Mr Michael Robson BA(Hons) DipTP MRTPI	Cerda Planning

FOR 'LIMIT ASTON CLINTON EXPANSION' (LACE):

Cllr Philip Yerby	District Councillor for Aston Clinton
Mr Peter Radmall MA BPhil MLI	Consultant Landscape Architect
Mrs Lucy Whicker	Local resident
Mr Peter Hirst	Local resident

OTHER INTERESTED PERSONS:

Cllr Bill Chapple OBE	County Councillor for Aston Clinton & Bierton
Mrs Colleen Snookes	'Barn Owls' Nursery

DOCUMENTS TABLED AT THE INQUIRY

THE APPELLANTS

APP-1	Mr Choong's opening submissions
APP-2	Revised housing tables – Mr Bateman
APP-3	S Northants Council v SoS and Barwood Land & Estates, judgement dated 10 March 2014: <i>[2014] EWHC 573 (Admin)</i>
APP-4	Briefing Note by Mr Wright – review of site area and development calculations
APP-5	Landscape and visual impacts summary table - Mr Wright
APP-6	Appeal decision – Leonard Stanley, Stroud (<i>APP/C1625/A/13/2207324</i>)
APP-7	Draft unilateral undertaking
APP-8	Extracts from the Housing and Regeneration Act 2008
APP-9	SoS appeal decision – Bloxham, Oxfordshire (<i>APP/C3105/A/12/2189191</i>)
APP-10	Unilateral undertaking – executed 8 August 2014
APP-11	Costs application against the Council
APP-12	Costs decision – Rushwick, Worcs (<i>APP/J1860/A/12/2187934</i>)
APP-13	[not used]
APP-14	[not used]
APP-15	Balancing pond location plan - Drawing No. 101-10
APP-16	Legal submissions on the undertaking – Howes Percival Solicitors
APP-17	Costs application – final comments
APP-18	Mr Choong's closing submissions
APP-19	Visibility splays - Drawing No CIV14965-100-006

THE COUNCIL

COU-1	Opening statement by Mr Westaway
COU-2	List of cross-references between proofs and core documents
COU-3	Land at Brook Street – officers' report (including previous appeal decision relating to Brook Street – <i>APP/J0405/A/10/2131283</i>)
COU-4	Table of housing commitments at Aston Clinton – Mrs Morris
COU-5	Table of housing completions and commitments in Aylesbury Vale district – Mrs Morris
COU-6	Table comparing past projections with actual completions – Mrs Morris
COU-7	Gladman Developments v Wokingham BC, 11 July 2014: <i>[2014] EWHC 2330 (Admin)</i>
COU-8	Extract form 'Fields in Trust', NPFA 2008
COU-9	Aylesbury Vale Landscape Character Assessment Report: Jacobs consultants, for AVDC and Bucks County Council, May 2008
COU-10	Comments on the draft S106 undertaking
COU-11	Zurich Assurance v Winchester CC and South downs NPA, judgement dated 18 March 2014: <i>[2014] EWHC 758 (Admin)</i>
COU-12	AVDC 5-year housing land supply position statement, January 2014 version
COU-13	Table of demographic projections and housing options (from G L Hearn report, May 2013)
COU-14	Final comments on the S106 undertaking
COU-15	Suggested standard wording for mortgagee in possession clause
COU-16	Guidance Note on sections 144-159 of the Housing and Regeneration Act 2008
COU-17	SoS appeal decision – the Shell Centre (<i>APP/N5660/V/13/2205181</i>)
COU-18	Response to appellants' costs application
COU-19	Objectively Assessed Need and Housing Targets: technical advice note; PBA for the Planning Advisory Service
COU-20	Mr Westaway's closing submissions

'LACE'

L-1	Cllr Yerby's opening submissions
L-2	Cllr Yerby's closing submissions

JOINTLY AGREED DOCUMENTS

J-1	Statement of Common Ground (version 5), July 2014
J-2	Conditions – draft list, submitted 14 August 2014
J-3	Conditions – final list, submitted 29 August 2014

Richborough Estates