



Department for  
Communities and  
Local Government

Mr Paul Roberts  
Gladman Developments Ltd  
Gladman House  
Alexandria Way  
CONGLETON  
Cheshire  
CW12 1LB

Our Ref: APP/J0405/A/13/2205858

20 November 2014

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL BY MR PAUL ROBERTS, GLADMAN DEVELOPMENTS LTD– LAND TO  
SOUTH OF VERNEY ROAD, WINSLOW  
APPLICATION REF: 12/04597/OUT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Clive Sproule BSc MSc MRTPI MEnvSc CEnv, who held a public local inquiry on dates between 18 April and 14 May 2014 into your client's appeal against the refusal of Aylesbury Vale District Council ('the Council') to grant outline planning permission for outline application for up to 211 residential units, associated infrastructure and defined access with all other matters reserved, in accordance with application ref: 13/01672/AOP, dated 19 June 2013.
2. On 11 March 2014 the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involved proposals for residential development of over 150 units, or on sites of over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high-quality, sustainable, mixed, and inclusive communities.

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

3. The Inspector recommended that the appeal be allowed and planning permission granted subject to conditions. For the reasons given below, the Secretary of State disagrees with the Inspector's recommendation, dismisses the appeal and refuses planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Julian Pitt  
Planning Casework Division  
Department for Communities and Local Government  
3rd Floor, Fry House  
2 Marsham Street  
London SW1P 4DF

Tel 0303 444 41630  
Email [pcc@communities.gsi.gov.uk](mailto:pcc@communities.gsi.gov.uk)

## **Procedural matters**

4. The Secretary of State agrees with the Inspector that no party would be disadvantaged by the revisions to the location plan and block plan referred to at IR4. He has determined the appeal on the basis of the revised plans.

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

5. On 2 October 2014 the Secretary of State wrote to the main parties who appeared at the inquiry to seek representations on the fact that the Winslow Neighbourhood Plan was made by Aylesbury Vale District Council on 10 September. He received responses from Aylesbury Vale Council and Winslow Town Council dated 16 October, and from the appellant dated 17 October. These responses were recirculated for further comment under cover of an email dated 20 October and further responses were received from the appellant dated 22 October and the Council dated 28 October. The Secretary of State has taken account of all these responses in his consideration of the appeal before him.
6. The Secretary of State has carefully considered the request of the appellant to delay the decision on this appeal until the outcome of the judicial review to the Winslow Neighbourhood Plan is known. However, the Secretary of State considers that there is no need to delay this decision and has proceeded on the basis that full weight is attributed to the Winslow Neighbourhood Plan, as part of the statutory development plan. As the responses to the Secretary of State's communications of 2 and 20 October were circulated to the main inquiry parties he does not consider it necessary to summarise the responses here or attach them to this letter. Copies of the correspondence can be obtained upon request to the address at the bottom of the first page of this letter.

## **Policy considerations**

7. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the saved policies in the Aylesbury Vale District Local Plan adopted in 2004 and the Winslow Neighbourhood Plan. He considers that the Local Plan policies most relevant to this case are those identified at IR9-10 and that the most relevant policies in the made Neighbourhood Plan are Policies 1, 2, 3 and 4.
8. Material considerations which the Secretary of State has taken into account include the National Planning Policy Framework, March 2012 (The Framework); the associated planning practice guidance, the Community Infrastructure Levy (CIL) Regulations 2012 as amended and the Written Ministerial Statement on Neighbourhood Planning of 10 July 2014.
9. The Secretary of State notes that the Council is currently preparing a review of the Local Plan, but as this is at an early stage and any proposals are liable to change, he attributes little weight to the emerging Plan.

## **Main issues**

### *Housing land supply and the presumption in favour of sustainable development*

10. The Secretary of State agrees with the Inspector's assessment of housing land need issues at IR120-134. He has had regard to the Council's position, stated in its letter of 28 October 2014 that it cannot demonstrate a Framework-compliant 5 year housing land supply, and that it estimates the supply to be about 4.4 years. Having regard to

Framework paragraph 49, the Secretary of State therefore considers that the relevant development plan policies for the supply of housing are out of date. This includes saved Policy RA14 in the Adopted Aylesbury Vale Local Plan and the relevant policies in the Winslow Neighbourhood Plan, notably Policies 2 and 3, even though that Plan was made very recently. The Secretary of State considers that the presumption at paragraph 14 of the Framework applies to this appeal. He agrees with the Inspector that the proposal would provide sustainable homes that would have economic, social and environmental benefits (IR135), and that in the absence of a 5 year housing land supply the resulting social benefits attract significant weight in favour of the development (IR136).

#### *Landscape and the intrinsic character of the countryside*

11. For the reasons given at IR137-152, the Secretary of State agrees with the Inspector that the intrinsic character and beauty of the countryside on the appeal site would be lost, and there would be a resulting element of harm to a landscape that is valued by local people. He agrees that value is high due to the proximity of this countryside, and the associated rights of way, to the community (IR153).

#### *Visual impact*

12. The Secretary of State agrees with the Inspector's assessment of visual impact at IR154-156. He accepts that the visual impact from the appeal scheme would not be harmful to local living conditions (IR156).

#### *The relevance of Local Plan Policy GP.35*

13. For the reasons given at IR157-162, the Secretary of State considers that criteria (a), (c), (d) and (e) in policy GP.35 are applicable to this outline proposal in regard to the first step in the design process, that is, the principle of a development in a particular location and whether it would have respect for and complement key features in the built environment and/or rural landscape. For the reasons above in regard to the harm to a highly valued landscape, he considers that this harm conflicts with policy GP.35 (IR181).

#### *Best and most versatile agricultural land (BMV)*

14. For the reasons at IR167-169 the Secretary of State agrees with the Inspector that permanent loss of BMV on the appeal site weighs against the proposal. However, he also agrees that this consideration alone does not outweigh the benefits of housing provision (IR169).

#### *Winslow Neighbourhood Plan*

15. The Secretary of State has given careful consideration to the Inspector's assessment in regard to the Winslow Neighbourhood Plan at IR170-178. However events have moved on since the Inspector prepared his report and the Neighbourhood Plan was made in September 2014, so the Secretary of State considers that prematurity issues are no longer relevant.

16. The Secretary of State agrees with the Inspector that the Winslow Neighbourhood Plan deals with a wide range of issues, some of which are not affected by the appeal proposal, and that the appeal proposals are not wholly incompatible with it (IR175-178). Having carefully considered the Inspector's reasoning and the representations following the making of the Winslow Neighbourhood Plan, the Secretary of State concludes that the appeal proposal conflicts with Neighbourhood Plan Policy 2 which designates a settlement boundary for the purposes of directing future housing,

economic and community related development and states that proposals for housing outside the settlement boundary will only be granted in exceptional circumstances (IR178), and conflicts with Policy 3 which states that proposals for housing development outside the boundary will not be supported unless they require a countryside location and maintain the intrinsic character and beauty of the countryside. The Secretary of State considers these to be very important policies in the Neighbourhood Plan which seek to shape future development in Winslow and that the granting of planning permission for the present appeal proposal would undermine the spatial strategy upon which the Winslow Neighbourhood Plan is based. For the reasons given in this decision letter the Secretary of State does not consider that exceptional circumstances in Policy 2 or the exceptions in Policy 3 have been shown. Accordingly, he concludes that the conflict between the appeal proposal and the Neighbourhood Plan as a whole is significant.

#### *Other considerations*

17. The Secretary of State agrees with the Inspector's assessment of consultation, economic, flooding, ecology, footpath and highway matters at IR108-118 and the assessment of matters covered by planning obligations at IR119. He agrees that these matters provide no reasons to dismiss the appeal.
18. The Secretary of State agrees with the Inspector's consideration of the benefits of a design code at IR163-164 and conclusion that the setting and significance of Winslow Conservation Area would be preserved (IR165).

#### **Conditions**

19. The Secretary of State agrees with the Inspector's reasoning and conclusions on conditions at IR93-105. He agrees with the Inspector that conditions 1 - 20 as set out in Annex A of the IR meet the tests of paragraph 206 in the Framework (IR93). However, for the reasons set out in this decision letter, he does not consider that these conditions overcome his reasons for dismissing the appeal.

#### **Section 106 Obligation and agreement**

20. The Secretary of State agrees with the Inspector's assessment at IR85-92 of the executed unilateral planning obligation dated 14 May 2014 and the executed Section 106 agreement dated 30 May 2014. He agrees that all of the contributions would be necessary to make the proposal acceptable in planning terms and would accord with the CIL Regulations 2010 and the tests in paragraph 204 of the Framework (IR91). However, for the reasons set out in this decision letter, he does not consider that the undertakings in the agreement are sufficient to overcome his reasons for dismissing the appeal.

#### **Overall balance and conclusion**

21. As the relevant housing policies in the Winslow Neighbourhood Plan are out of date, the presumption in favour of sustainable development in the Framework means that the appeal should be allowed unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
22. The Secretary of State agrees with the Inspector that the contribution to housing supply attracts substantial weight (IR182 and 185). In this case he gives only limited weight to the additional open and play space provision to support healthy communities in view of the considerable opportunities for outdoor recreation on and around the

appeal site. He gives significant weight to the other social and the economic benefits associated with housing provision and considerable weight to the provision of dwellings to Code Level 3 and the potential benefits from measures that would encourage the use of alternative forms of transport to the private car (IR182).

23. The Secretary of State does not agree with the Inspector that favourable weight also results from the neutral effect that would preserve the setting of the Winslow Conservation Area (IR182). As this is a neutral consideration he attaches it no weight.
24. Weighing against the proposal, the Secretary of State agrees with the Inspector that though the appeal site is not protected by any national or local landscape designation, the identified harm to landscape conflicts with LP policy GP.35 and attracts considerable weight against the appeal scheme due to the value that local people place on this countryside (IR181). He also agrees that some weight attaches to the loss of BMV agricultural land (IR180). In view of the Framework principle and Neighbourhood Plan policy to support the use of previously developed land, he also agrees with the Inspector that some weight against the proposal attaches to the lack of clarity on whether the appeal scheme would be an effective use of land (IR166 and 179).
25. The Secretary of State notes the Inspector's conclusions on neighbourhood planning at IR183, but the Winslow Neighbourhood Plan is now made and is part of the development plan. The Secretary of State has given consideration to the policies on neighbourhood planning at paragraphs 183-185 and 198 of the Framework. Paragraph 183 states that Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need. Paragraph 184 states that neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community. Paragraph 185 states that, outside the strategic elements of the Local Plan (which is not up to date in Aylesbury Vale District), neighbourhood plans will be able to shape and direct sustainable development. The Secretary of State regards this purpose as more than a statement of aspiration. He considers that neighbourhood plans, once made part of the development plan, should be upheld as an effective means to shape and direct development in the neighbourhood planning area in question. Paragraph 198 is clear that, where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted.
26. In view of the Framework policy on neighbourhood planning, and after having had regard to all the representations in response to his communications of 2 and 20 October 2014, the Secretary of State places very substantial negative weight on the conflict between the appeal proposal and the Winslow Neighbourhood Plan even though its policies relevant to housing land supply are out of date in terms of Framework paragraph 49. He concludes that this and the other adverse impacts, together, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. He therefore concludes that there are no material circumstances that indicate the proposal should be determined other than in accordance with the development plan.

### **Formal decision**

27. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation and hereby dismisses your client's appeal and refuses outline planning permission for up to 211 residential units, associated infrastructure

and defined access with all other matters reserved, in accordance with application ref: 13/01672/AOP.

**Right to challenge the decision**

28. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

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

Yours faithfully

**Julian Pitt**

Authorised by Secretary of State to sign in that behalf

Richborough Estates



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

**by Clive Sproule BSc MSc MSc MRTPI MIEnvSc CEnv**

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

**Date: 11 August 2014**

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**TOWN AND COUNTRY PLANNING ACT 1990**

**APPEAL BY MR PAUL ROBERTS, GLADMAN DEVELOPMENTS  
LTD**

**OUTLINE APPLICATION FOR UP TO 211 RESIDENTIAL  
UNITS, ASSOCIATED INFRASTRUCTURE AND DEFINED  
ACCESS WITH ALL OTHER MATTERS RESERVED**

**AT LAND TO SOUTH OF VERNEY ROAD, WINSLOW**

Inquiry held on 18, 19, 20, 21 April and 8 and 14 May 2014

Land to south of Verney Road, Winslow

File Ref(s): APP/J0405/A/13/2205858

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**File Ref: APP/J0405/A/13/2205858**

**Land to south of Verney Road, Winslow**

- 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 Mr Paul Roberts, Gladman Developments Ltd against the decision of Aylesbury Vale District Council.
- The application Ref 13/01672/AOP, dated 19 June 2013, was refused by notice dated 13 September 2013.
- The development proposed is outline application for up to 211 residential units, associated infrastructure and defined access with all other matters reserved.

**Summary of Recommendation: That the appeal be allowed**

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**Procedural Matters**

1. The inquiry sat on 18, 19, 20, 21 April 2014 and 8 and 14 May 2014, with an accompanied site visit after the closing submissions on the last of these days.
2. When the inquiry opened AVDC confirmed that in relation to the second reason for refusal, it was agreed that improvement works to Furze Lane were necessary. Rather than calling Mr Marshall to present the County Council's evidence on this matter, AVDC noted that parties would seek to determine how best to address the provision of the works. A Unilateral Undertaking (ID-42) and an Agreement (ID-43) under section 106 of the Act, both executed, were submitted on the final sitting day of the inquiry. The Agreement is with the County Council and includes highway works for the improvement of Furze Lane.
3. The inquiry was closed in writing on 13 June 2014 following the receipt of: comments in relation to suggested planning conditions discussed on the final sitting day on the inquiry; and, a replacement section 106 Agreement (ID-53) that addresses an error in the initially executed document (ID-43).
4. A Revision 'A' Block Plan (ID-6) was provided to clarify and echo the red line boundary shown on the Location Plan (CD-1.2) for land at the end of Langley Close (see also CD-28.1 & 2). Following this, a request was made to change the application area to reflect the wishes of a property owner in the eastern most part of the site whose home had been included within the red line boundary. The appellant highlighted that no development was ever intended in that part of the site, which is reflected in the application's Block Plan. A modified red line was included on a Revision A Location Plan and a Revision B Block Plan. Given the nature of and the background to the proposed modification of the application area, no party would be disadvantaged by it and the Revision A Location Plan and a Revision B Block Plan were accepted as (ID-31) and (ID-32) respectively.
5. Proposed site access details are supplied at CD-1.6. A larger copy of this plan was requested to provide clarity on the detail of what is proposed and this is ID-33.
6. WTC appeared at the inquiry as an interested party and asked to make a closing submission. Given the level of WTC's involvement throughout the inquiry and the matters that are relevant to it, WTC were given the opportunity to make a closing submission (ID-48).

**The Site and Surroundings**



7. This appeal concerns a 9.92ha site on the south western edge of Winslow. The land comprises fields around the buildings of Glebe Farm. These fields are enclosed by hedgerows and fencing. Undulations, including areas of ridge and furrow, can be seen within the grassland. Winslow town centre is approximately 850m from the site.<sup>1</sup> Existing residential development that includes Langley Close lies to the east of the northern part of the site. Fields and Verney Road bound the remainder of the application area. Topographic levels fall towards the south from the area of Verney Road and the farm buildings. A footpath crosses the site from east to west.
8. For the most part, Winslow sits in an elevated position within a rolling rural landscape that includes isolated buildings, small settlements and infrastructure. Trees and hedgerows around fields and along highways provide a layered structure in views across this landscape that is emphasised by verdant summer foliage.

### **Planning Policy**

#### Aylesbury Vale District Local Plan – January 2004

9. At the time of the inquiry the LP was the development plan for the District Council area. The following LP policies were within reasons for refusal or were mentioned in the Council Officer's report to Committee on the proposal.<sup>2</sup> The policies included within the reasons for refusal are:
  - Policy GP.2 – Affordable housing – in developments of 25 or more dwellings on sites of 1ha or more in area, the policy states that the District Council will seek 20-30% of the total number of dwellings to be affordable homes.
  - Policy GP.35 – Design of new development – is expected to respect and complement a variety of matters within five criteria.
  - Policy GP.86 – Play space provision for new residential development & Policy GP.88 – Funds provided in lieu of providing outdoor play space – these policies seek new housing proposals to provide sufficient outdoor play space to meet the requirements associated with the development, and where necessary, enable it to be provided off-site.
  - Policy GP.94 – Community facilities and services – states that planning proposals will be determined with regard to the need for community facilities arising from the proposal.
10. Other policies mentioned were:
  - Policy GP.8 – Protection of the amenity of residents
  - Policies GP.38 and GP.40 – Planting and soft landscaping, and Black Poplars
  - Policy GP.45 – Safe and secure development
  - Policy GP.53 – Conservation areas
  - Policy GP.59 – Archaeology and ancient monuments

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<sup>1</sup> Paragraph 2.2.1 of the SoCG

<sup>2</sup> LP policies have been provided within CD-8.1 to CD-8.5, and in the appeal Questionnaire

- Policy GP.64 – Wildlife and habitats
- Policy GP.84 – Footpaths
- Policy GP.87 – Play space provision for new residential development
- Policy RA.14 – (Housing) At settlements outside the Metropolitan Green Belt

#### Winslow Neighbourhood Plan

11. The inquiry closed following the examination hearing in relation to the draft WNP, and prior to the publication of the Examiner's report.<sup>3</sup> A copy of the Submission Plan has been supplied as ID-5. It contains the following policies that are relevant to this case:

- Policy 1 is entitled the presumption in favour of sustainable development, and the policy outlines what this is within the terms of the draft WNP and the Framework.
- Policy 2 provides the purposes for the Winslow Settlement Boundary, and states that housing proposals outside it will only be permitted in exceptional circumstances.
- Policy 4 requires all allocated housing sites within draft WNP Policy 3, that are not extra care homes and subject to viability to provide a minimum of 35% affordable homes, with at least 20% of the affordable homes to be delivered and controlled by a Winslow Community Land Trust or equivalent body.
- Policy 20 prioritises the financing and delivery of listed infrastructure projects through Community Infrastructure Levy and other sources of funding. Listed projects include the Winslow Community Centre, which is the subject of draft WNP Policy 11.

#### National Planning Policy Framework

12. Reference has been made to the presumption in favour of sustainable development as described by paragraph 14 of the Framework, and to various other parts of the document and its associated policies. These include paragraphs 6 to 17, 47, 49, 66, 109, 112, 156, 183 to 185, 197 and 216, which address matters such as: sustainable development and *Core planning principles*; the provision of housing; the expectation on applicants to consult; the natural environment; BMV; setting strategic priorities in Local Plans; Neighbourhood Plans; decision taking and the presumption in favour of sustainable development; and, attributing weight to policies in emerging plans.

13. Sections of PPG that the main parties considered to be relevant have been supplied as CD-27.

### **Planning History**

14. The SoCG confirms there to be no relevant planning history for the appeal site, and that following the decision which led to this appeal, a second proposal was refused planning permission in January 2014.

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<sup>3</sup> Further background is set out in Section 5.6 of the SoCG

## **The Proposal**

15. The description of development confirms the appeal scheme to be an outline proposal for a residential development of up to 211 dwellings, associated infrastructure and access, with all other matters reserved.

## **Other Facts not in Dispute**

16. These are set out in the SoCG (ID-1).

## **The Case for Gladman Developments Ltd**

17. The appellant considers there to be matters of agreement that should shape the consideration of the evidence in this case. The appeal concerns a proposal for housing in a local planning authority area where a 5 year supply of deliverable housing land cannot be demonstrated. In such circumstances, previous decisions have attached substantial weight to any scheme that would make a contribution towards the five year supply. Paragraph 14 of the Framework is engaged, with its fourth bullet point stating that where the development plan is absent, silent or relevant policies are out of date, planning permission must be granted unless the adverse impacts of doing significantly and demonstrably outweigh the benefits.
18. Benefits of the scheme include delivery of market and affordable housing in an area without a five year supply of housing and a very acute affordability crisis. This is with the background of the withdrawn VAP, where the Inspector made it clear that the local planning authority would have to provide significantly more housing. The appeal scheme would provide homes in Winslow, which is one of the four second tier settlements in the District, and is agreed to be sustainable in regards to accessibility to jobs, services and public transport.
19. There are no technical or 'in-principle' planning policy constraints that suggest the site should not be developed. It is not designated in regard to its ecology or from a landscape perspective. There are no flooding or drainage issues. It is ordinary countryside on the edge of a settlement, and is the very place where a housing need would be expected to be met.

### *Development Plan*

20. Following the planning obligations within ID-42 and ID-53, the only remaining alleged breach of adopted development plan policy is in regard to LP policy GP.35, which is the first reason for refusal. However, LP policy GP.35 deals with matters of detailed design and is not relevant to an outline proposal of this type. If the appellant's case is accepted on this matter, or the policy can be complied with, no breach of the development plan has been identified and, subject to other considerations, planning permission should be granted.
21. The District Council's case fails to focus on the policies that should be central to the inquiry, namely those in regard to housing. The development plan is clearly out of date, the VAP was found to be unsound and a local policy vacuum exists for the supply of housing land.

### *National Policy*

### Need for housing

22. Significantly boosting the supply of housing is central to Government's planning policy and part of the broader objective to ensure that the planning system supports economic growth. This is reflected in Chapter 6 of the Framework and the associated *core planning principle*. AVDC accepts that there is not a five year supply of deliverable sites for housing in its area, and indeed, the local planning authority is not in a position to identify its housing requirement. It was also accepted that the development plan is out of date, and so in any event, paragraph 14 of the Framework is engaged through paragraph 49. In such circumstances national policies dictate that in this case there is a strong presumption in favour of granting planning permission.

#### Housing supply position

23. Differing views have been given on the 'health' of the housing supply position. Regardless of these, there is not a five year supply and Framework paragraphs 49 and 14 are engaged, but the level of supply is relevant in relation to the weight to be given to arguments made in relation to prematurity and the draft WNP.

24. The decision maker needs to consider what the full objectively assessed need would be based on best evidence and the methodology in the PPG, and not try to arrive at a housing requirement. It was agreed that Dr Gomez had followed the PPG methodology, and even if the needs of other authorities are ignored, the full objectively assessed need for the district is 1,070 to 1,300 dpa.<sup>4</sup> This rises to 1,370 and 1,600 dpa when affordability and market signals are taken into account. This is substantially above the Council's 1,018 dpa based on household projections.<sup>5</sup> PPG indicates that household projections are the starting point for deriving such a need. Also, 20% needs to be added to any resulting requirement figure for persistent under delivery in previous years, which should be assessed against the RS from 2009, and not 2011 as the District Council has sought to do in CD-15.3. Accordingly, the appellant's work suggests the HLS is between 2.5 and 3.9 years, which is a significant shortfall.

#### Sustainable development

25. Given the circumstances that apply in this case, paragraph 14 of the Framework states that the presumption in favour of sustainable development means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

#### Benefits

26. The proposed contribution to the five year housing supply, along with social and economic benefits through job creation and economic expenditure, should attract significant weight. These benefits should be considered against the three dimensions of sustainable development. With the social and economic benefits, the District Council had only concerns regarding the environmental dimension and these are addressed below. However, there would be environmental benefits through: the provision of buildings that would meet Code Level 3 with an element of renewable energy; the sustainability of the location and the transport links to

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<sup>4</sup> Appendix 22 to Ms Tilston's proof, page 385 paragraph 8.1(2) and (4)

<sup>5</sup> Table 1 of CD-15.3

be provided; and, there would no net loss in biodiversity. The appellant considers these to outweigh the adverse impacts.

#### Adverse impacts

27. Loss of countryside is not accepted as an adverse impact as there is no Framework policy that seeks to protect the countryside for its own sake, and the third core planning principle regarding recognising the intrinsic character and beauty of the countryside is not supported by a policy in Framework paragraphs 18 to 219.
28. There is no failure to use PDL, as the Framework does not mandate a sequential approach to its use and there is no evidence that the housing need could be met on PDL.
29. It was conceded that the loss of BMV would not outweigh the benefits, and accordingly it could not be a reason for refusal in and of itself. Only 2.5ha of the land on the appeal site could be farmed as BMV. The loss would be an adverse impact that can only be attributed limited weight for the reasons given. Indeed, when decisions were taken in regard to the Glade and land at Furze Lane the presence of BMV was not considered to warrant refusal of planning permission.
30. In relation to landscape and visual harm, it was agreed that the landscape is of medium sensitivity and moderate value. The area of disagreement is a fairly narrow one: whether the magnitude of change at the local level is, as the appellant believes, medium with a moderate impact after 15 years; or, whether as the District Council considers, the change is high adverse with a moderate/substantial impact. The disagreement regarding the impact on the wider landscape is more marked: the appellant considers it to be slight/negligible; whereas the District Council's view is moderate/substantial. There are varying degrees of disagreement regarding the impact on views, and the reasons for this disagreement are clearly set out in the written evidence and the accompanying photographic material.

#### *The Planning Balance*

31. It is clear from reports to committee and subsequent reasons for refusal that the local planning authority reached a judgement based on the belief that it could demonstrate a five year supply of housing land. While this has changed, the District Council has not genuinely revisited the balancing exercise.

#### Planning obligations

32. The executed unilateral undertaking enabled the local planning authority to agree that the third reason for refusal had been addressed, that is, if the obligations are considered to be CIL compliant.
33. At the outset of the inquiry the only highway matters that were unresolved were in relation to Furze Lane. There is no technical evidence from a relevant qualified individual to show the agreement on these matters had been reached on a misunderstanding of the traffic impact.
34. In view of the above, it cannot be plausible to conclude that the adverse impacts of this proposal significantly and demonstrably outweigh the benefits. The benefits are very substantial indeed, and not in dispute.

### Winslow Neighbourhood Plan

35. Although the draft WNP has been examined the result is not known. There are many objections, including in regard to the legal basis of a plan that would be adopted prior to an up-to-date local plan. Consequently, it follows from paragraph 216 of the Framework that only very limited weight can be attributed to the draft WNP.
36. Turning to prematurity itself, the PPG makes clear that arguments about prematurity have to be judged in the context of the presumption in favour of sustainable development. That presumption is firmly engaged in this case. It is still necessary under PPG Reference ID: 21b-014-20140306 to demonstrate significant and demonstrable outweighing of benefits, and for the authority to indicate clearly how the grant of permission would prejudice the outcome of the plan making process.
37. The first of these tests was addressed in IR paragraphs 78 and 81 and DL 19 of ref: APP/D3830/A/13/2198213 (ID-38). There is no evidence that the current appeal scheme would be harmful to infrastructure or the character of the town, nor does the draft WNP indicate where additional housing should go. If the Examiner or High Court rules the basic conditions are not met, refusing planning permission on grounds of prematurity would cause significant damage for no good reason.
38. If the WNP becomes part of the development plan, the appeal scheme would be contrary to it and the appellant would wish to make further submissions on such an outcome. Regardless of whether WNP becomes part of the development plan, the case for granting planning permission is compelling. This an authority without a five year supply of deliverable sites for housing. Even with the draft WNP, development plan policies for housing remain out of date. Framework paragraph 14 is engaged and the context is reflected in Framework paragraph 197.
39. Reliance is placed on the findings in paragraphs 20, 30 and 72 *Cotswold District Council v Secretary of State for Communities and Local Government and others* [2013] EWHC 3719 (Admin) in regard to settlement boundaries falling under the remit of Framework paragraph 49.<sup>6</sup> This is put beyond doubt in paragraphs 38, 43 and 45-47 of *South Northamptonshire Council v Secretary Of State For Communities and Local Government And Barwood Land and Estates Ltd* [2014] EWHC 573 (Admin) (ID-24).
40. The Secretary of State's reliance on Framework paragraphs 183 to 185 in the *Broughton Astley* case (ID-37) does not address the recognised importance of meeting strategic needs within these paragraphs and elsewhere in the Framework. Despite the lack of a five year supply, it is suggested that there should be a housing moratorium in one of the District's most sustainable settlements until 2020 and cap thereafter without any regard to the level of need in the District as a whole. This would prevent development coming forward to meet the shortfall in housing provision, and signal to towns and villages that they can declare themselves off-limits for development.

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<sup>6</sup> Appendix 20 of Ms Tilston's proof

## The Case for Aylesbury Vale District Council

### *Prematurity*

41. As matters stand at the close of this inquiry, the case for refusing planning permission because of prematurity to the draft WNP is clear cut. The tests for identifying whether harm is likely to occur in terms of prejudice and timing are met. The town and country planning system is intended to be plan-led and not appeal-led. The Ministerial Foreword to the Framework identifies that a problem with the planning system is that it has tended to exclude, rather than to include, people and communities. The introduction of neighbourhood planning helps to address this.
42. PPG addresses prematurity. The general principles in the draft PPG are dealt with in section 5 of Mrs Jarvis' proof, whereas the appellant failed to do so. Indeed, the appellant failed to address the scale of development proposed in the draft WNP or the implications of allowing the appeal for its spatial planning approach. If those matters are considered in the light of the evidence, the appellant's position becomes untenable. Moreover, PPG is explicit that the WNP can be developed ahead of a District wide local plan.<sup>7</sup>
43. In regards to timing, the draft WNP has progressed well beyond the local planning authority publicity period, the point at which the PPG indicates that prematurity may arise. It is agreed that the timing aspect of the PPG has been met.
44. In regards to prejudice, the PPG asks whether the development would be so substantial, or its cumulative effect so significant, that to grant planning permission would undermine the plan-making process by predetermining decisions about scale, location or phasing of new development that are central to an emerging plan. It is common ground that this must be considered within the context of the specifics of the plan in question.
45. In this case, it is a proposal for 211 dwellings set within the scale of Winslow and the allocations within the draft WNP. That would be an approximate 10% increase in the overall number of households in Winslow. It is common ground that this would be a substantial and strategic level increase in the settlement.
46. Draft WNP Policy 2 provides a spatial plan for the town. It includes a settlement boundary and states that development outside the settlement boundary will only be allowed in exceptional circumstances. Draft WNP Policy 3 allocates housing land sufficient for 455 new homes, equivalent to an approximate 20% increase in the size of the settlement, over the plan period. Existing commitments increase the level of growth 2011-2031 to 35%.
47. WTC consider this to be appropriate for Winslow, and that scale of growth was not derived from the VAP.<sup>8</sup> Draft WNP Policies 2 and 3 are central to the draft WNP. If this appeal were to be allowed, the proposed development would undermine the rationale behind these policies and predetermine decisions regarding the scale, location and phasing of new development. It would be the antithesis of what the Government is trying to achieve through neighbourhood

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<sup>7</sup> CD-27.5, Paragraph 009 Reference ID: 41-009-20140306

<sup>8</sup> As explained for example by paragraph 5.13 of CD-18.6

planning. Moreover, it is agreed that it is not the role of this inquiry to seek to determine Winslow's future position in the settlement hierarchy, or how much growth it should take from other settlements.

48. Although Framework paragraph 216 indicates that an emerging policy should attract little weight until the plan-making process has reached a conclusion, it is agreed that this is distinct from the issue of pre-determining decisions.
49. Other cases referred to offer little support to the appellant due to the differences in circumstances between them. This includes within section 6 of Ms Tilston's proof, where none address prematurity within a neighbourhood plan context. In addition, submissions are made to address points of principle if the WNP were to be part of the development plan when the decision on this appeal falls to be made. These draw attention to the *Broughton Astley* appeal (ID-37) where the Secretary of State accepted that a very recent neighbourhood plan was out of date, but placed very significant weight on the conflict with it.
50. The same principle applies in this case. A key part of the Government's reform of the planning system would inevitably be frustrated if the community's efforts were to be brought to nothing by premature grants of planning permission for major developments. In that respect, this is a test case. Winslow has prepared a positive plan that seeks substantial levels of growth in locations considered appropriate by the community. Allowing this appeal would serve as a warning to other communities that considerable time and effort may well be wasted through no fault of their own.

#### *Housing need and supply*

51. The Court of Appeal's decision in *St Albans City and District v Secretary Of State For Communities and Local Government* [2013] EWCA Civ 1610 (see Appendix PJ3 of Mrs Jarvis' proof) clearly established that a decision maker in a section 78 appeal should not seek to carry out some sort of local plan process to arrive at a full objectively assessed need figure. While it went on to consider constraining factors, the plan-making process for an unconstrained objectively assessed need would also be an elaborate one involving many parties who are not present at or involved in the appeal. This is reflected in the intended users of PPG methodology on this matter.<sup>9</sup> PPG is the Government's view. It is unambiguous and its publication followed the *St Albans* case. AVDC's use of CLG figures as an interim approach, whilst recognising their limitations, reflects PPG.
52. Applicants are not prevented from providing their own assessments of need. However, very limited weight can be attached to a unilateral process that lacks the involvement of parties that would be involved in plan-making, and that is untested and based on a number of controversial assumptions. When cases referred to by the appellant are examined carefully, they offer no support in regard to this approach.

#### The South East Plan

53. The *St Albans* case establishes that the RS requirement is not to be treated as equating to a Framework compliant figure. This is also AVDC's position.<sup>10</sup> The

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<sup>9</sup> CD-27.2

<sup>10</sup> CD-15.3 paragraph 1.32



*South Northamptonshire* case (ID-24) cannot be relied on by the appellant as it predates PPG, which does not endorse referring back to the RS.

#### The supply position

54. Section 4 of Mrs Jarvis' proof sets out the HLS position for the District. In accordance with PPG, it draws on 2011 based CLG figures published in April 2013. This provided a 5.2 year supply for 2013-2018, but may go below a five year HLS for 2014-2019. It also indicates why there is no evidence of a shortfall in past delivery against need as defined in paragraph 47 of the Framework. It is acknowledged that an assessment based on the CLG figures is a starting point for full objectively assessed need, but provides an indication of need and supply.
55. This suggests the District is not suffering a severe shortage of HLS, especially when extant planning permissions and the steady supply of housing completions during the economic downturn are taken into account. While significant weight should be given to the benefits arising from the appeal scheme's contribution to HLS, the appellant cannot rely on the *Gallagher Homes* case (ID-39) to give HLS a special position in the planning balance as the decision does not take matters relevant to this case further than the Framework.

#### *Policy Matters*

#### Sustainability

56. It is clear that the Framework's advice on sustainability must be considered as a whole. Framework paragraph 6 refers to paragraphs 18-219 being the Government's view on sustainable development in practice. Even so, there can be no doubt that they need to be read together with paragraphs 7-17, which are under the title *Achieving sustainable development*. Framework paragraph 17 tells us that this concerns one of the *core land-use planning principles* [that] *should underpin both plan-making and decision-taking*.
57. Specific submissions are made in regard to the relevance of the intrinsic character and beauty of the countryside to the consideration of sustainability, within the context of Framework paragraphs 7, 8 and 17, and PPG. Ultimately this matter of law will be for the Secretary of State to resolve, but AVDC would be very surprised if the intrinsic character and beauty of the countryside was found not to be relevant to sustainability, including the *conservation and enhancement of the natural and historic environment, including landscape*.<sup>11</sup> This does not prevent development on the edge of settlements as not all sites are of equal importance, nor all equally valued.
58. Appeal ref: APP/D0840/A/13/2209757 (ID-36) is of no assistance to the appellant as, in contrast to the current appeal, the local planning authority in that case raised no arguments in relation to landscape harm and visual impact.

#### LP policy GP.35

59. The Secretary of State shall need to make a decision on the proper scope and application of LP policy GP.35 in regard to the 2013 conjoined appeals. Relevant extracts of AVDC's submissions in those appeals are supplied as Appendix PJ2 to

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<sup>11</sup> Framework paragraph 156 in regard to the relevant (i.e. fifth) *Core planning principle*

Mrs Jarvis' proof and, following the evidence in this inquiry, they remain the District Council's view on the applicability of LP policy GP.35.

60. Nevertheless, LP policy GP.35 is unlikely to be determinative in an appeal applying paragraph 14 of the Framework. In the absence of a relevant development plan policy, harm would be considered within the context of the Framework as a whole. PPG is clear that conserving and enhancing the natural environment, including landscape, is not just for designated landscapes, but also wider countryside and constitutes the application of the relevant *Core planning principle*. Accordingly, significant harm in terms of landscape and visual impact would be capable of justifying refusal of planning permission.

#### The SHLAA

61. A site's inclusion within the SHLAA may suggest suitability against criteria that include impact on landscape and settlement identity. Nevertheless, paragraph 2.1 of the 2013 SHLAA (CD-14.1) is unambiguous that a site's inclusion in the SHLAA does not imply that the District Council will grant planning permission for it. This is reflected in appeal decisions for the site east of Little Norwood Road in Winslow. Moreover, the SHLAA considered parts of the current appeal site to be unsuitable and other parts were omitted.

#### Landscape and visual impact

62. The District Council's evidence (from Mr Bellars) on this matter provides a systematic analysis, and concludes with a summary of the impacts. Where there is difference between the two main parties, Mr Bellars provides a fairer and more balanced appraisal for the reasons given. Cross-examination demonstrated it to be coinciding with common sense. The current appearance and character of the appeal site, which is consistent with the LCA, would be lost through prominent development on the Winslow slopes. Detailed submissions were made in relation to the approaches on this matter (ID-50).
63. The appellant's LVIA underestimates the number and sensitivity of residential receptors close to the site, undervalues the sensitivity of users of long distance cycle route 51, and overestimates the success of proposed mitigation measures.

#### Loss of best and most versatile agricultural land

64. The loss of BMV is a factor that must weigh in the balance against the overall sustainability of the proposed development. AVDC's approach reflects what is said in paragraph 112 of the Framework. There is approximately 3.7ha of BMV in three locations on the 9.92ha appeal site. Closing submissions address each of the appellant's arguments. The District Council concludes that the loss of this BMV to agricultural production would be a significant adverse impact that counts against the sustainability of the proposed development.

#### Transportation

65. Improvements to Furze Lane to enable the narrow highway to accommodate the proposed traffic movements are agreed to be necessary to provide safe and convenient access to the appeal scheme. Therefore, it was not necessary to call Mr Marshall to present evidence, and a planning obligation has been entered into in relation to the County Council's concerns.

### Overall planning balance

66. Other necessary planning obligations have been provided. The District Council relies on Mrs Jarvis' consideration of the planning balance, which it considers to be fair and reasonable. It acknowledges the economic and housing benefits that would accrue from the proposed development, but these are significantly and demonstrably outweighed by the substantial adverse impacts in this case. That is the case regardless of the fate of the draft WNP as the landscape and visual impacts, along with those on settlement pattern, are sufficient to tip the Framework paragraph 14 balance decisively in favour of refusal of planning permission. The appeal scheme would not be sustainable development.

### **Cases for interested parties**<sup>12</sup>

67. **Graham Bowe** – *Local resident* Mr Bowe has lived in Winslow for over 30 years. He has witnessed the town's growth and the associated highway pressures and considers the draft WNP would provide the basis for acceptable housing growth within the settlement boundary. (ID-13)
68. **Gill & Bob Dickins** – *Local residents* WNP would indicate where housing should go, which would minimise any loss of town character. Local people should not be dictated to by outside developers.
69. **Gaynor Richmond** – *Local resident* Raises concerns regarding the appellant's level of consultation, the scale of the development proposed, and that amendments to the scheme do not reflect responses to the consultation carried out. Reference is made to paragraph 66 of the Framework. In contrast to the appeal scheme, the draft WNP is considered to reflect community views. (ID-13)
70. **Sue Collins** – *Headteacher of Furze Down School* Believes the appellant to have failed to recognise the impact of the appeal scheme on existing infrastructure and there to be insufficient mitigation. Specific concerns include a lack of regard for the needs of vulnerable children and young people, and highway matters. It is Ms Collins' view that the draft WNP provides a more pragmatic and considered approach to housing provision.
71. **Malcolm McPartlan** – *Local resident* Mr McPartlan highlights that the appeal site has always been open countryside, and endorses the approach to housing provision within the draft WNP. Attention is drawn to the wide community support for the draft WNP, and it is suggested that the appellant failed to engage sufficiently with the local population.
72. **Michael Sadler** – *Local resident* Emphasises the time and community effort that has resulted in the draft WNP, which reflects Government policy and takes into account the need for more housing in Winslow. Mr Sadler considers that the appeal scheme will not add to the community, or infrastructure in the locality.
73. **Trish Cawte** – *Local resident* Draws attention to the application of Localism through the production of the draft WNP, and that it would provide many new homes in Winslow. The appeal scheme would be outside the draft WNP settlement boundary and would detract from an area of high landscape value.

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<sup>12</sup> Statements are within ID-13, ID-18 & ID-19

Mrs Cawte considers that the proposed development would wholly undermine the draft WNP.

74. **Kevin Sexton** - *Local resident* In accordance with the objectives of the Localism Act, the community is behind the draft WNP which would provide for a significant increase in housing and more than other such plans. The appellant has sought to bring forward other sites too, and threatens a legal challenge against the draft WNP. Representations are made in relation to prematurity, the presumption in favour of sustainable development, and precedent.
75. **Philip Sexton** - *Local resident* Winslow people recognise that new homes are needed in the town. The draft WNP provides more housing than the national target for increased homes in the same period. It prioritises the use of sites and PDL within the settlement boundary, and proximity to the new railway station. The appeal scheme would not be sustainable development and conflicts with the draft WNP, which is aligned with Government policy.
76. **Vicky Reeves** - *Local resident* Reference is made to the Inspector's decision regarding appeal ref: T/APP/J0405/A/91/188776/P8 (ID-14) for residential development in Langley Close, which concluded that the gradient running across part of the current appeal site emphasises the change in character from urban land to countryside. The appeal scheme would conflict with the aims of the draft WNP, which has a high level of housing provision.
77. **David Garlick CBE** - *Local resident* Winslow has a strong community that is evidenced by the number of people who choose to stay in the area, and this is reflected in the draft WNP. Change is an essential product of a growing population, but the draft WNP process has addressed this.
78. **Vic Otter** - *Local resident* The housing provision in the draft WNP is understood to be significantly higher than the average increase required nationally. Sites that are consistent with the draft WNP, such as the land to the east of Furze Lane, have not been the subject of objections. The appellant in this case has submitted other proposals that are also not on sites within the draft WNP. The current appeal scheme runs counter to the true spirit of localism.
79. **Cllr David Barry** - *Mayor of Winslow and Chairman of WTC* The appeal scheme would have significant adverse impacts on landscape to the south and south west of the town, and if Furze Lane remains unaltered, on highway safety. The appeal scheme attracted almost 600 letters of objection. In contrast, local residents are supportive of the draft WNP which has embraced the housing growth agenda. The appeal scheme would set a precedent for other intrusive housing proposals in the countryside.

### **Winslow Town Council**

80. The closing submission (ID-48) sought to: reiterate and update WTC's objections at the application and appeal stages; summarise issues of concern to local residents; address points made by the appellant in regard to the draft WNP; highlight matters WTC would have wished to be included within the planning obligations; and, summarise why WTC considers the appeal should be dismissed.
81. The following points were made in summary. The proposal would: result in an additional 46% of new homes by 2031 and could prevent more sustainable sites identified in the draft WNP coming forward; undermine the interlinked elements

that comprise the draft WNP; fail to reflect the legitimately expressed wishes and needs of the community and the Neighbourhood Planning process described by PPG; and, create a precedent for development outside the settlement boundary, especially until the Local Plan adoption estimated in 2016.

### **Written Representations**

82. The appeal questionnaire includes a large number of written representations that were made at the application stage. These raised concerns including in relation to: prematurity and conflict regarding the objectives of the draft WNP; Localism and levels of consultation; lack of employment opportunities; pressures on existing infrastructure; highway safety; effects on character and appearance, and landscape; effects on local living conditions; effects on users of public rights of way; effects on biodiversity; loss of agricultural land; and, effects on flooding.
83. Application stage consultation responses include those from the Environment Agency. These confirm an initial objection to the scheme in July 2013 due to the absence of an acceptable FRA. However, the objection was withdrawn in August 2013 following the submission of a revised FRA.
84. Representations at the appeal stage include those of WTC and a number of local residents, some of whom also spoke at the inquiry. These written representations are in regard to issues that were raised at the application stage and in public speaking to the inquiry.

### **Conditions and Obligations**

#### Planning obligations

85. Planning obligations should only be sought where they meet the three tests within paragraph 204 of the Framework, which are that the obligation would be: necessary to make the development acceptable in planning terms; directly related to the development, and, fairly and reasonably related in scale and kind to it. These reflect the tests of a planning obligation within CIL Regulation 122.
86. An executed unilateral planning obligation by Jennifer Mary Williams, Michael John Robinson, Frances Margaret Robinson and Gladman Developments Limited, dated 14 May 2014, was provided on the final sitting day (see ID-42). It addresses the provision of open space, a management company for managing and maintaining the open space, affordable housing, an off-site leisure contribution, and a monitoring fee.
87. Justification for matters within the unilateral undertaking is contained within Appendix PJ5 of Mrs Jarvis' proof. It demonstrates that, within the context of relevant LP policies and associated guidance, the: 35% on-site affordable housing provision; on-site open space, play and sports facilities; and, off-site leisure contribution meet the tests of a planning obligation.
88. Supporting text to draft WNP Policy 4 notes that it replaces LP policy GP.2. The wording of draft WNP Policy 4 indicates that it applies to *all the allocated housing sites of Policy 3*. However, the appeal site is not allocated under draft WNP Policy 3, and therefore, if draft WNP Policy 4 were to be adopted it would not be applicable in this case. In the absence of a relevant development plan policy in regard to affordable housing, the District Council's *Affordable Housing*

*Supplementary Planning Document (CD-9)* and the relevant parts of the Framework would remain.

89. An executed Agreement under section 106 of the Town and Country Planning Act 1990 (as amended) between Buckinghamshire County Council and the appellant was supplied as ID-43 and a corrected version was received in early June 2014 (ID-53). It provides for contributions towards education, the Travel Plan (CD-1.7) and highway works. Justification for the education contribution is contained within Mrs Jarvis' Appendix PJ5. Highway works and the Travel Plan are addressed by Mr Marshall's evidence, and the County Council's correspondence in CD-30.1.
90. Evidence confirms, and as observed on-site, that the highway works and the Travel Plan contributions provided for within the agreement are directly related to the appeal scheme, and would be necessary to make the development acceptable in planning terms. The arrangements for the paying of a proportion of the highway works ensure that the sums required would be fairly and reasonable related in scale and kind to the development.
91. For these reasons, it has been shown that planning obligations entered into at the time of the inquiry meet CIL Regulation 122 and the tests of planning obligation within paragraph 204 of the Framework.
92. WTC's closing submissions highlight a number of matters that the Town Council would wish to see provided through planning obligations. These additional matters include: that affordable housing be provided in accordance with draft WNP Policy 4; funds towards the development of a new community centre; and, a sum toward the further development of existing community transport facilities. While the latter two matters are clearly desirable, there is insufficient justification regarding how these would meet the tests of a planning obligation within CIL Regulation 122.

#### Conditions

93. An initial list of conditions was provided by the main parties during the adjournment between the fourth and fifth sitting days of the inquiry. I subsequently circulated my comments for further consideration by the main parties. The re-working of the proposed conditions reflects paragraph 206 of the Framework that conditions should be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects.
94. The following paragraphs address the conditions that have emerged from the above process and that are included in Annex A to this report. Annex A contains the conditions that I recommend should be attached to a planning permission in the event that the Secretary of State is minded to allow the appeal.
95. Representations sought the routing of vehicles to and from the appeal site. A developer would be expected to be able to stipulate suitable delivery times and routes for vehicles delivering materials to the appeal site. Winslow is not a large settlement, and the appeal site is next to open countryside. In these circumstances the construction traffic serving the appeal scheme would be a notable addition to the local highway network, but due to the size of the appeal scheme, the levels and types of vehicle movements would not be expected to be

- of such a scale to necessitate controls that would seek to influence vehicle routing.
96. However, the loading and unloading of plant and materials would take place in close proximity to Furze Down School. These matters would be addressed by the Construction Method Statement that is the subject of Condition 14. Scheduling HGV deliveries outside peak pedestrian and vehicle movements associated with the school would remove the potential for conflict between these highway users. Suggested condition 14 ii) has been modified to include this.
97. In the interests of the character and appearance of the locality conditions are recommended in relation to reserved matters [Conditions 1 & 2], followed by a condition to address commencement [Condition 3].
98. A condition should be imposed which requires the development to be carried out in accordance with the submitted plans. This is important as the submitted plans and drawings define the scope and extent of the development [Condition 4]. For this reason and in the interests of the character and appearance of the locality, a condition should be imposed setting an upper limit on the number of dwellings constructed on the appeal site [Condition 5].
99. A phasing condition should be imposed to ensure that essential infrastructure is in place as each part of the development is completed [Condition 7]. This would protect the character and appearance of the locality, as would the conditions in regard to the provision of a Design Code, existing and proposed site levels, internal finished floor levels and landscaping [Conditions 6, 8, 9 & 10].
100. In the interests of protecting the character and appearance of the area, and local living conditions, a condition is suggested in relation to external lighting provided as part of the development [Condition 11].
101. In the interests of highway safety, conditions are proposed to address the phased provision of estate roads, vehicle manoeuvring areas, visibility splays, accesses and vehicle parking [Conditions 12 & 13]. Highway safety and local living conditions (in regard to possible dust emissions and noise and disturbance) would be protected by a Construction Method Statement [Condition 14].
102. To protect the natural environment and future users of the appeal site and land elsewhere, a condition is proposed to address surface water drainage [Condition 15]. In the interests of the natural environment, a suggested condition would require a ecological enhancement [Condition 16].
103. Ridge and furrow features are present on parts of the appeal site that indicate the potential for archaeology to be present. In the interests of the historic environment, a suggested condition would require a programme of archaeological work [Condition 17].
104. In the interests of providing a sustainable form of development, a proposed condition would require measures to facilitate high speed broadband provision [Condition 18]. Local living conditions would also be protected by the proposed condition in regard to the provision and management of refuse and recycling storage facilities [Condition 19].
105. In the interests of sustainable development and energy use, a condition is proposed in regard to the Code for Sustainable Homes [Condition 20].

## Conclusions

*In the following paragraphs the figures in square brackets refer to earlier paragraphs of my report that contain material of relevance to my conclusions.*

### *The Main Considerations*

106. From the foregoing submissions and representations, and the District Council's reasons for refusal, I am of the view that the main considerations in this case are:

- Whether the proposal would make adequate provision for: affordable housing; sports and leisure facilities; public transport; cycling; and off-site highway measures;
- Whether the proposal would accord with development plan and national planning policies in regard to the provision of land for housing;
- Whether the proposal would be a sustainable form of development, including in relation to: the effect on, to the intrinsic character and beauty of the countryside; the effect on the character and appearance of the locality; visual impact; the use of BMV; the use of PDL; and prematurity in regard to the draft WNP.

107. Prior to concluding on these, I shall address a number of other matters including in regard to: consultation; flooding; ecology; footpaths; and, highways.

### *Other matters*

#### Consultation

108. Concerns have been raised regarding the level of consultation between the appellant and local people, and the extent of the appellant's interests in sites around Winslow. This is an outline proposal with appearance a matter reserved for determination at a later date. Framework paragraph 66 deals with consultation in regard to evolving designs. The first step in the evolution of a design is the proposed location of the development, which in this case would be a substantial area of housing and associated features within the landscape. Through the draft WNP, WTC has emerging development plan policies regarding the evolution of the settlement. Although these are within a draft document, it is apparent that the appellant's level of consultation on the proposal has not met the expectation of many of those with an interest in this case.

109. The appellant company is in the business of bringing sites forward for development. In that respect and with the background of a growing economy, its interest in exploring the development potential of property in this area is to be expected. It is evident that the results of consultation regarding the use of the appeal site were taken into account during the determination of the application. The application was publicised. In addition, the appeal process enabled all parties to make representations and present their views to the inquiry.



### Growth and the economy

110. Paragraph 19 of the Framework is unambiguous that significant weight should be placed on the need to support economic growth through the planning system. The appeal scheme would result in benefits to the local economy during the construction of the dwellings, and when the homes are occupied. Given the scale of the development, the additional expenditure and support for local businesses and services would be considerable. This attracts significant weight in favour of the appeal scheme.

### Flooding

111. The revised FRA (CD-2.1) provides an estimate of Greenfield runoff rate and confirms that all of the appeal site falls within Flood Zone 1 and the proposed drainage strategy would provide flows of 5l/s from the site.<sup>13</sup> In withdrawing its objection to the scheme, the Environment Agency noted that the revised FRA, subject to the imposition of a surface water drainage condition on any planning permission resulting from this appeal, would provide a betterment that addresses concerns regarding flood risk. No matters have been raised that would cause me to take a different view on this matter.

### Ecology

112. Framework paragraph 109 notes that the planning system should contribute to and enhance the natural and local environment. At the application stage concerns were raised regarding the possible presence of badgers on the appeal site. The Council's Biodiversity Officer failed to find evidence that badgers were present.<sup>14</sup> This reflected the results of the earlier *Ecological Appraisal* submitted with the application (CD-1.8), which also addressed other protected species. Some bat activity was recorded around the appeal site, and a number of existing trees could provide roosting opportunities. However, there is no convincing evidence that the proposed development would have an adverse effect on bats (or any other protected species) or would significantly affect the local distribution or abundance of the species.
113. The *Ecological Appraisal* recognises the aims of Framework paragraph 109, noting that the proposal would provide an opportunity to enhance biodiversity on the appeal site by addressing the habitat lost to development.<sup>15</sup> A suggested condition would do this. Accordingly, no conflict has been identified with LP policy GP.64, and the appeal scheme would meet the objectives of Framework paragraph 109.

### Footpaths

114. A footpath crosses the appeal site in an east to west direction, passing close to the farm buildings in the northern part of the application area. It provides

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<sup>13</sup> Paragraph 5.1.5, section 10 and Appendix H of CD-2.1

<sup>14</sup> Appeal Questionnaire - Biodiversity Officer's consultation response, dated 02.09.2013

<sup>15</sup> For example, paragraph 4.23 of CD-1.8

immediate access to the open countryside around Winslow from development on the south western edge of the settlement, including Langley Close, and links to other public rights of way in the locality. These factors ensure that the footpath is a convenient route that provides amenity and public enjoyment. There would appear to be no reason why, in the context of suggested planning conditions that include hard and soft landscape works, the future determination of reserved matters would fail to provide the enhancement sought by LP Policy GP.84 for such a public right of way.

### Highways

115. A description of the local highway network and the need for the agreement has been provided by the County Council.<sup>16</sup> Furze Lane is currently of variable width and narrows sufficiently in locations to prevent HGVs and cars passing each other. Its main function is to provide a link between Verney Road and Buckingham Road. The appeal scheme, along with the type and scale of other developments, such as the new railway station (for the East-West Rail project) and commercial development on Buckingham Road would reinforce this function and place additional pressures on the highway.<sup>17</sup> Inconvenience and risk of collision along the narrow parts of Furze Lane would be reduced by works provided through the planning obligation within ID-53. This would prevent harm occurring to highway safety. Implementation of the Travel Plan (CD-1.7) and the associated planning obligation would also be expected to reduce pressure on local highways and contribute to the sustainability of the development.
116. The location and form of the proposed access onto Verney Road is described within the application documentation and on the large version of the drawing (provided as ID-33). The Highway Authority's consultation response in regard to the application is at CD-4.9. It notes the proposed visibility splays of 2.4m x 90m and layout of the proposed access to be appropriate, along with the intention to extend the 30mph speed restriction to include the whole of the appeal site frontage. Given the nature of the highway and the traffic movements along Verney Road, the proposed junction layout would provide a safe and suitable access to the development.
117. WTC raised concerns regarding the operation of the Vicarage Road junction with High Street (ID-25). However, ID-26 highlights a number of errors in the approach taken by WTC in its consideration of the possible effect of the proposal on the operation of the intersection. These include a focus on only one arm of the junction when deciding on the peak hour, and the mixing of one and two way trips. [33] It was confirmed that the base data for the appellant's modelling is robust and updated, and sufficient capacity would be maintained at the junction of Vicarage Road and High Street.
118. The appeal scheme has been supported by a Transport Assessment (CD-1.6) and the planning obligations referred to above. These indicate that the proposed development would not cause residual cumulative impacts of development on the transport network in this area to be severe. No conflict with development plan policy has been identified and the proposal would meet the relevant objectives of the Framework, including those within paragraph 32.

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<sup>16</sup> For example, in sections 2.0 and 4.0 of Mr Marshall's proof

<sup>17</sup> Appendix C to Mr Marshall's proof

*Provision for affordable housing, sports and leisure facilities, public transport, cycling, and off-site highway measures*

119. The main parties to the inquiry agreed, and the evidence indicates, that adequate provision has been made within the executed planning obligations to address affordable housing, sports and leisure facilities, public transport and cycling, and off-site highway measures. In addition to the highway matters dealt with above, the planning obligations provide compliance with LP Policies GP.2, GP.86, GP.88, and GP.94, and these matters address the second and third reasons for refusal. [32][65][66]

*Provision of land for housing*

120. Paragraph 16 of the District Council's inquiry opening (ID-49) confirmed that the local planning authority is unable to demonstrate a five year supply of deliverable sites for housing against a Framework compliant housing requirement. Indeed, it could be another two years until it can do so.<sup>18</sup> Therefore and in accordance with Framework paragraph 49, Framework paragraph 14 is engaged and LP policies for the supply of housing are considered to be not up to date.
121. Through paragraph 47, the Framework is unambiguous regarding the importance of significantly boosting the supply of housing. However, to address the weight that should be attributed to the proposed contribution to housing land supply, the main parties looked to determine what may be appropriate figures for need and HLS.<sup>19</sup>
122. Paragraph 47 of the Framework indicates that local planning authorities should use their evidence base to ensure that their Local Plan meets the full objectively assessed needs for market and affordable housing in the housing market area.
123. The recent *Broughton Astley* appeal decision dealt with a full objective assessment of current housing needs carried out to inform a Council's plan-making.<sup>20</sup> No such assessment is available in this case. Instead, the appellant has sought to address full objectively assessed needs through the work of Dr Gomez.<sup>21</sup> This work was carried out independently of the plan-making process.
124. While the appellant also refers to appeal ref: APP/H1840/A/13/2203924 (ID-22), it predates PPG, and the evidence in that case was tested through cross-examination. That did not occur in relation to Dr Gomez's work. In addition, the Inspector considering appeal ref: APP/H1840/A/13/2203924 only used the evidence before him to confirm the relevant Examination Inspector's comments

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<sup>18</sup> Paragraph 20 of the appellant's closing submissions (ID-52)

<sup>19</sup> See for example, paragraph 17 of the District Council's opening (ID-49) and paragraphs 23 and 25 of ID-52

<sup>20</sup> Appeal ref: APP/F2415/A/12/2183653, IR paragraphs 15 to 26 for (ID-37)

<sup>21</sup> Appendices 22-24 of Ms Tilston's proof

that as a *general guide* the likely level of the full objectively assessed need would be substantially higher than a certain figure.<sup>22</sup>

125. Paragraph 88 ii) of *Gallagher Homes Ltd and Another v Solihull Metropolitan Borough Council* [2014] EWHC 1283 (Admin) (ID-39) indicates that, in principle, in the absence of a local plan the full objectively assessed need constitutes the housing requirement for the purposes of Framework paragraph 47 (and paragraph 37 of the judgement indicates that this is not necessarily the same as the relevant household projection). Paragraph 24 of the judgement indicates that it was "...common ground that the only extant national policy guidance and advice relevant to this application is found in the NPPF...". However, PPG deals with what should be done in the absence of a robust assessment. [55]<sup>23</sup>
126. Section 4 of Mrs Jarvis' proof looks to CLG household projection data for an interim need figure. PPG confirms such an approach to be a starting point estimate of overall housing need. It will not, for example, address historically reduced formation rates due to under-supply, or have been tested or moderated against relevant constraints. PPG indicates that the weight given to such an interim need figure should recognise this.<sup>24</sup>
127. PPG highlights that local authorities should work with other local authorities in the relevant housing market area or functional economic market area in line with the duty to cooperate.<sup>25</sup> PPG also provides a definition of need.<sup>26</sup> The appellant's objectively assessed housing need exercise has considered the implications of the wider housing market area to arrive at figures of between 1,070 and 1,300 dpa, rising to 1,370 to 1,600 dpa if affordability and market signals are taken into account. However, it has done so without addressing the potential outcomes that would be associated with fulfilling the 'duty to cooperate' (the availability of such information is addressed by paragraph 4.14 of Mrs Jarvis' proof, and paragraph 1.19 of CD-15.3).
128. In the absence of the level of involvement with other parties expected by PPG in regard to plan-making, the appellant's 'evidence base' is incomplete, and potentially significantly so. The weight that can be attributed to it as an exercise in identifying full objectively assessed housing need is further diminished by the lack of testing through cross-examination.
129. In contrast, the District Council's use of CLG projections to arrive at a figure of 1018 dpa reflects PPG, which followed the Court of Appeal's decision in *St Albans City and District v Secretary Of State For Communities and Local Government* [2013] EWCA Civ 1610 (also referred to as the *Hunston* case and provided in Appendix PJ3 of Mrs Jarvis' proof), and the production of CD-15.3.<sup>27</sup>

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<sup>22</sup> Paragraph 32 of ID-22

<sup>23</sup> Paragraph 55 of ID-50

<sup>24</sup> PPG Reference ID: 2a-015-20140306 - Paragraph 015 of CD-27.2, and PPG Reference ID: 3-030-20140306 - Paragraph 030 of CD-27.3

<sup>25</sup> PPG Reference ID: 2a-007-20140306 - Paragraph: 007 of CD-27.2

<sup>26</sup> PPG Reference ID: 2a-003-20140306 - Paragraph: 003 of CD-27.2

<sup>27</sup> The *St Albans* case (Appendix PJ3) is considered within paragraphs 25-31 of *South Northamptonshire Council v Secretary Of State For Communities and Local Government And Barwood Land and Estates Ltd* [2014] EWHC 573 (Admin) (ID-24)

The *St Albans* case established that a RS requirement is not to be treated as equating to a Framework compliant figure for need. It is apparent that parts of PPG and requirements within CD-27.2 are aimed at plan makers. While it may be advantageous for a decision taker to have a full objective assessment of need for housing, it was accepted in cross-examination that if the Government wished a section 78 appeal to carry out a Local Plan process in miniature, PPG would have said so.<sup>28</sup>

130. CD-15.3 outlines the District Council's consideration of past housing delivery rates, which refers to the LP for the period 2007-2011 and CLG projections between 2011 and 2013. This indicates under delivery in four of the last six years. Against the LP requirement of 801 dpa and the 1,018 dpa from CLG household projections, the scale of the under delivery in the four relevant years would not suggest that a 20% buffer would be necessary.
131. A SEP RS Policy H1 requirement of 1,345 dpa applied to Aylesbury Vale between 2009 and March 2013, and was for the period 2006 to 2026 (CD-7.2). It was not a Framework compliant figure for need. Paragraph 37 of the *South Northamptonshire Council* case (ID-24) confirms that despite the *St Albans* judgement, it is lawful to use the RS figure when considering housing delivery rates during the period when it applied. While PPG does not endorse the use of RS requirement in determining persistent under supply, nothing has been identified to suggest that the PPG has overtaken this judgement. Nonetheless, in addressing the *St Albans* case, paragraphs 33 and 34 of the *South Northamptonshire Council* case indicate that a RS requirement cannot be Framework compliant where it goes beyond a full objectively assessed need.
132. In the current appeal, the SEP requirement would indicate a significant under delivery between 2009 and 2013. Whether that amounts to persistent under delivery of housing is a matter of judgement.<sup>29</sup> If the SEP requirement were to be used in Table 2 of CD-15.3 for the years between 2009 and 2013, under delivery would have occurred in five of the last six years at a scale that would suggest, on the face of it, a 20% buffer should be applied in this case.
133. However, the SEP requirement was disaggregated to focus 16,800 dwellings in and around Aylesbury, with 4,700 dwellings in the 'Rest of the District'. Appeal decisions in 2010 and 2011 found that on this basis, there was 10 and 9.5 years deliverable supply of land for housing in the Rest of the District.<sup>30</sup> The District Council's estimated 4.7 year HLS<sup>31</sup> for the period 2014-2019 was based on the application of a 5% buffer, and given the context provided by the SEP disaggregation, it has not been shown that a 20% buffer should be applied in this case.
134. Furthermore, the SEP RS requirement was based on a policy to redistribute growth in the South East. This was more than providing for the full objectively assessed needs of the relevant SHMA for Aylesbury Vale. It is not based on a Framework compliant assessment of need. This endorses the District Council's use of CLG household projections for its HLS position statement (CD-15.3).

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<sup>28</sup> As highlighted in paragraph 50 of the District Council's closing submissions (ID-50)

<sup>29</sup> PPG Reference ID: 3-035-20140306 - Paragraph 035 of CD-27.3

<sup>30</sup> Paragraph 14 of CD-24.1 and paragraph 26 of CD-24.2

<sup>31</sup> Whereas the appellants' approaches result in a 2.5 to 3.9 year HLS (paragraph 36 of ID-52)

While there is reduced weight attached to what PPG identifies as a 'starting point', within the context of judgements referred to above, it is nonetheless a more robust position than the appellant's projection back of a requirement that is not based on a Framework compliant assessment of need.<sup>32</sup>

*Whether the proposal would be a sustainable form of development*

135. WTC sought a condition requiring the proposed dwellings to be compliant with Code for Sustainable Homes Level 4. No supporting policy was referred to in relation to this. A suggested planning condition would provide homes to Code Level 3. While Code Level 4 may be desirable, if the appeal scheme were to be built out at Code Level 3 it would nonetheless provide sustainable homes that would have economic, social and environmental benefits.
136. The appeal site would make a contribution toward HLS in a District Council area that could not demonstrate a 5 year supply of deliverable sites for housing. The resulting social benefits attract significant weight in favour of the appeal scheme.

Landscape and the intrinsic character of the countryside

137. Paragraph 6 of the Framework states that the *policies in paragraphs 18 to 219, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system*. It is Framework paragraph 17 that refers to the twelve core planning principles which include *recognising the intrinsic character and beauty of the countryside*. This sits outside paragraphs 18 to 219, as is paragraph 7 which describes the three dimensions of sustainable development.<sup>33</sup>
138. The District Council's submissions on whether the intrinsic character and beauty of the countryside is relevant to the consideration of sustainability are convincing. These refer to Framework paragraphs 7, 150 and 156. If to deliver sustainable development the conservation and enhancement of the natural environment, including landscape, are to be taken into account in plan making, it follows that these matters also must be germane to decision taking.
139. Paragraph 109 of the Framework seeks to protect valued landscapes. There is no Framework definition of a *valued landscape*. The landscape around Winslow is 'valued' by many who made representations to the inquiry. Support for the relevance of this is to be found in PPG, which states that in relation to the intrinsic character of the countryside this "...includes designated landscapes but also the wider countryside...".<sup>34</sup>
140. For the current appeal, these matters are to be considered within the context of development plan policies for housing that are out of date. The appellant highlights the Inspector's comments within paragraph 33 of appeal decision ref: APP/D0840/A/13/2209757 (ID-36) that in regard to the potential loss of

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<sup>32</sup> Section 9 of Ms Tilston's proof

<sup>33</sup> Submissions from the appellant on this matter include paragraphs 43-45 of ID-52. Relevant submissions from the District Council include paragraphs 71-74 of ID-50

<sup>34</sup> Paragraph 1of PPG on Natural Environment – Landscape - Reference ID: 8-001-20140306

countryside around the edge of a settlement “...Loss of countryside per se does not amount to significant harm. In this case, the site does not lie within any current or even historic area of protected landscape...”. However, landscape and visual impact was not a main issue in that case, and paragraph 33 of the decision confirms that no arguments had been put forward to identify how landscape would be harmed, except through development of the countryside.

141. Part of the appeal site was considered within the 2009 SHLAA (CD-14.2), which Section 4 indicates to have excluded sites that were considered to be open space, or important to settlement character, Conservation Areas or Listed Buildings. Site specific criteria that were used to assess suitability are provided in Table 6.1. These include matters relevant to landscape and the land at Glebe Farm was found to be suitable against these criteria. A greater proportion of the appeal site was found to be suitable for inclusion in the 2013 SHLAA (CD-14.1).
142. The appeal site extends to a larger area than was included within either SHLAA. In addition, the determination of a planning proposal enables further and more detailed consideration of the suitability of such sites. This is recognised by emboldened type in the executive summary to the 2009 SHLAA, and the point is repeated in paragraph 2.1 of the 2013 SHLAA. It highlights that inclusion within the SHLAA does not necessarily mean that planning permission will be granted and this is evident in appeal decisions. [61]
143. Turning to the LVIA for this proposal, there is no substantial methodological or policy difference between the main parties, who agree the landscape to be of medium sensitivity and moderate value.<sup>35</sup>
144. Evidence refers to the national and county level character assessments that highlight the landscape contribution undulating terrain, fields with hedgerows, and agricultural practices that respond to the geology of the area.
145. The District level Aylesbury Vale Landscape Character Assessment – May 2008 (ID-7) places the appeal site mostly within Landscape Character Area (LCA) 5.6 - *Claydon Valley*, with north eastern most parts within Winslow Ridge.<sup>36</sup> Key characteristics of the Claydon Valley are noted to include the shallow valley, meandering brook, a strong irregular field pattern with small to medium sized fields, mixed farming, and the absence of settlement apart from isolated farms above the flood plain. Pylons, the substation and sewerage works are intrusive elements.<sup>37</sup> They were apparent in site visits to the area, along with the ridge line development in Winslow, which extends down the valley slope at Tinkers End and Granborough Road.
146. The application’s LVIA notes the existing landscape character assessments to be thorough examinations that provide a basis for the LVIA, which places the appeal site mostly within a Winslow Slopes and Claydon Brook LCA.<sup>38</sup> This includes land directly to the south of Winslow. The Winslow Slopes are noted to have characteristically small fields, strong hedgerows on steeper ground, parkland and a strong connection to Winslow town. Claydon Brook is notable by

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<sup>35</sup> Paragraphs 49 and 54 of the appellant’s closing submissions (ID-52)

<sup>36</sup> Appendix 1 to Mr Bellars’ proof

<sup>37</sup> Page 14 of Mr Bellars’ proof

<sup>38</sup> Section 6 of the LVIA – Appendix 2 to Mr Taylor’s proof

its strong hedgerows and variable field sizes, isolated dwellings, pylons and a sewerage works. The remainder of the appeal site is placed within a Winslow Settlement LCA.

147. The main parties disagree as to the magnitude of change at a local level and in the wider landscape.
148. Previous appeal decisions referred to by the District Council were made prior to the Framework.<sup>39</sup> While these decisions may have dealt with similar matters to this case, each application and appeal falls to be determined on its own merits with consideration of extant planning policy and other considerations.<sup>40</sup>
149. The Aylesbury Vale Landscape Character Assessment seeks to conserve and reinforce characteristic features of the Claydon Valley LCA. Housing in the appeal scheme would be placed in fields that currently contribute to the landscape character in this location. Even if existing hedges are retained within the proposal, the scale of development described by the Design and Access Statement along with the modification and maintenance of gardens and planting by residents would be likely to obscure the characteristic field pattern.<sup>41</sup>
150. While a comparison has been drawn to the District Council's approach to nearby developments at the Glade and on Furze Lane, these are not in valley side locations where field patterns are more apparent. In any event, a person experiencing the fields on the appeal site following development at the proposed density would consider themselves to be in a residential environment, rather than a field.
151. The appeal scheme would extend development from the ridge that includes existing development in Winslow, down into the valley. Residential development at Tinkers End does this alongside Granbrough Road and is an established pattern of development along a highway at an entrance to the settlement. The appeal scheme would not have comparable circumstances. Nor would the layering of hedges and trees provide effective screening, especially in the absence of summer foliage.
152. The appellant considers there would be moderate change to this landscape, whereas the District Council assessment is one of high adverse change.<sup>42</sup> Characteristic features of the Claydon Valley LCA would not be conserved or enhanced by the appeal proposal. The ridge top settlement would be perceived to substantially enter into the valley landscape.<sup>43</sup> Given the circumstances described above, the landscape change on the site would be high adverse. Within the scale of the wider LCAs that extend from Winslow ridge into the Claydon Valley, there would be a moderate adverse effect.

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<sup>39</sup> Section 3 of Mr Bellars' proof

<sup>40</sup> Reflected in the final sentence of paragraph 14 of CD-24.2

<sup>41</sup> A conclusion also drawn in regard to the Quarrendon Fields, Aylesbury appeals at paragraph 343 of CD-24.3

<sup>42</sup> Paragraph 59 of the appellant's closing submissions (ID-52) and paragraph 532 of Mr Bellars' proof

<sup>43</sup> A point recognised at paragraph 8 of the appeal decision regarding the land at Langley Close (ID-14)



153. The intrinsic character and beauty of the countryside on the appeal site would be lost, and there would be a resulting element of harm to a landscape that is valued by local people. That value is high due to the proximity of this countryside, and the associated rights of way, to the community.

Visual impact

154. Users of the rights of way network, that includes the footpath running across the site, would be highly sensitive to the visual change that would occur. There are also residents of existing dwellings who would be in close proximity to the development. Even though views may principally be from upper floors, these would be less transient than those of public rights of way and cycle route users. In this respect, the sensitivity attributed within the LVIA to these views appears to be low.

155. Aspects of the appeal scheme from within and across the Claydon Valley would not see the development in plan view. It would be in a location where the new dwellings would be set against the existing development on the ridge and it would add to it. Intervening vegetation in more distant views would serve to reduce the visual impact of the scheme to being of moderate or slight significance. However, it is accepted that the LVIA underestimates the significance of effects on views within the site where the change from predominantly edge of settlement and rural views, to within a residential environment, would result in substantial adverse impact.

156. While there would be significant visual impacts in near and on-site views, there is no reason to suppose that they would be anything other than what would be expected from a residential development of the type proposed. They would not be unusual in a residential environment. For people using highways and public rights of way, the impacts would be transient as the viewer moves through that location. Consequently, the visual impact from the appeal scheme would not be harmful to local living conditions.

The relevance of LP policy GP.35

157. Following the provision of the planning obligations that resolved the second and third reasons for refusal, the remaining breached development plan policy referred to within the decision notice is LP policy GP.35. It is within the first reason for refusal which is in regard to sustainable development and refers to the intrinsic character of the countryside, conserving and enhancing the natural environment, reusing PDL, and loss of BMV. It also refers to harm to landscape character, through visual impact and to the settlement identity of Winslow.

158. Submissions refer to a very recent Inspector's report in relation to conjoined appeals that heard detailed evidence on the scope and application of LP policy GP.35. [59]<sup>44</sup> These highlight the differing views of Inspectors in regard to the applicability of the policy, with three out of four determining the policy to be relevant to landscape.

159. LP policy GP.35 is within a section entitled *Conservation of the Built Environment* that indicates in paragraph 4.105 that "...an approach is required that respects the traditional character of towns and villages, and, where

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<sup>44</sup> Paragraphs 77 and 78 of ID-50 referring to submissions in Appendix PJ2

*development in the countryside is necessary or appropriate, the traditional character of rural landscape and buildings...". Under Design Principles in New Development LP paragraph 4.108 states that "...Development that respects and enhances its surroundings will be supported...". Paragraph 4.109 clearly indicates that the District Council's approach to design is *local distinctiveness* which is noted to include qualities of building, landscape and topography.*

160. LP policy GP.35 is under the sub headings that include *Siting and Layout, Scale, and Materials and Design Details*. It seeks the design of new development to respect and complement matters within five criteria. The second of these addresses the building tradition, ordering, form and materials of the locality. This could focus on the detailed design of a building, which is reserved in this case.
161. However, the other criteria look at: the physical characteristics of the site and surroundings; the historic scale and context of the setting; natural qualities and features of the area; and, the effect on important public views and skylines. These are matters with a wider context in relation to *local distinctiveness*. They could address particular local characteristics referred to in LP paragraphs 4.109 and 4.110. Even so, they are equally relevant to LP paragraphs 4.113 to 4.117 and in this respect, are applicable to what reasonably could be considered the first step in the design process, that is, the principle of a development in a particular location and whether it would have respect for and complement key features in the built environment and/or rural landscape.
162. In considering compliance with the policy, an outline proposal will necessarily be judged against the criteria that are relevant to it. Indeed, this is not an unusual circumstance in the application of planning policies in decision taking.

Whether a Design Code would be necessary

163. The appellant questioned whether conditions would be necessary in regard to a Design Code and refuse and recycling storage facilities. While there is a degree of architectural variation within Winslow, section 6.3 of the application's LVIA includes examples of characteristic architecture within the historic core of the town. Given the scale of the proposed development and the size of the settlement, if this appeal were to be allowed, a condition requiring a Design Code would provide the basis for ensuring the development would complement valued architecture and built character within Winslow, and meet Framework Section 7 objectives in regard to good design.
164. Good design should enable future occupiers of the development to use resources effectively. A condition that requires waste and recycling storage facilities to be considered and integrated into the design would be expected to benefit both local character and appearance, and the sustainability of the scheme.

Winslow Conservation Area

165. Paragraph 10.87 of the Council Officer's Report to Committee notes the appeal site to be approximately 250m west of the Winslow Conservation Area.<sup>45</sup> Due to

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<sup>45</sup> The extent and location of the Conservation Area is shown on the final page of CD-1.13

the separation distance between the appeal site and the Conservation Area, along with the intervening development, countryside and topography, the effect of the development would be neutral and the setting and significance of the designated heritage asset would be preserved.

#### PDL

166. It is apparent that the LP *Development Strategy* gives priority to the redevelopment of urban brownfield sites over other areas.<sup>46</sup> The subsequent Framework does not contain a policy that seeks to protect the countryside for its own sake.<sup>47</sup> However, encouragement of the reuse of previously developed 'brownfield' land is a *core planning principle* of the Framework that is reflected in policy that seeks to conserve and enhance the natural environment.<sup>48</sup> Draft WNP Policies 2 and 3 also support the use of PDL.

#### BMV

167. A plan showing where the BMV is located on the appeal site is at page 6 of CD-1.15 and is appended to Mr Reeves' proof. A total of 3.7ha of BMV is distributed in three places across the of the 9.92ha site. Only one of these areas is of sufficient size to be farmed as BMV. It is approximately 2.5ha next to Verney Road and is grade 2 of the Agricultural Land Classification, whereas the other areas of BMV on the appeal site are grade 3a.

168. Also appended to Mr Reeves' proof is mapping that shows the possible extent of BMV around Winslow. It suggests that any extension of the town will require BMV, with much of it grade 2. Also, existing permitted schemes within the draft WNP settlement boundary involve the loss of BMV. However, if the identified need were to be met in other parts of the District it may be possible to use land that is not BMV.

169. The Framework identifies BMV as a resource with economic and other benefits that should be taken into account. Rather than suggesting that smaller parcels of BMV are less important than larger areas, Framework paragraph 112 states that where it is necessary to develop significant areas of agricultural land, poorer quality land should be used first. Accordingly, the permanent loss of BMV on this site weighs against the proposed development, but the appellant highlights previous decisions, including ref: APP/R0660/A/10/2141564,<sup>49</sup> where this was found to not outweigh the benefits of housing provision.

#### *Conclusion on sustainable development and prematurity*

170. Relevant PPG highlights that the presumption in favour of sustainable development means that a prematurity argument is *unlikely to justify a refusal of planning permission other than where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits,*

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<sup>46</sup> LP pages 13 and 14

<sup>47</sup> Submissions from the appellant on this matter include paragraphs 43-45 of ID-52. Relevant submissions from the District Council include paragraphs 71-74 of ID-50

<sup>48</sup> Section 11 of the Framework, including paragraph 111

<sup>49</sup> Appendix 2 to Ms Tilston's proof

*taking the policies in the Framework and any other material considerations into account.* Such circumstances are noted to be likely, but not exclusively, where: (1) the development proposed would be so substantial, or the cumulative effect so significant that granting planning permission would undermine the plan-making process by predetermining decisions about the scale, location and phasing of new development that would be central to the new plan; and (2) the emerging plan is at an advanced stage but is not formally part of the development plan.<sup>50 51</sup>

171. In regard to the second of these tests, when the inquiry closed, parties were awaiting the outcome of the WNP examination. The appellant has highlighted objections and areas of possible legal challenge against the draft WNP. However, the plan is at an advanced stage of production. The process is well beyond the end of the local planning authority publicity period and the examination hearing has been held. Therefore, the draft WNP policies attract some weight in the consideration of this appeal. In addition, the second test regarding prematurity has been met.
172. Turning to the first test. The draft WNP contains a clear spatial strategy for the town through draft WNP Policy 2. It would see the delivery of new homes within the draft WNP settlement boundary, only allowing development outside it in exceptional circumstances. Whether there ought to be a settlement boundary, and its role in shaping future development in Winslow, are clearly matters that are central to the draft WNP. Both main parties agree that draft WNP Policies 2 and 3 are policies for the supply of housing in regard to Framework paragraph 49.
173. WTC confirmed the draft WNP settlement boundary to represent its vision for the town's growth during the term of the WNP. Future growth that could include development of the appeal site was not ruled out, but WTC see it as a matter for subsequent phases in the town's development. The settlement boundary is intended to provide a planned response to the need for growth in Winslow that would focus development for the most part outside the Claydon Valley and to the north around a future re-opened East-West railway line. It would produce a compact settlement form that would work within the existing physical boundaries around the town.
174. It is apparent that the approach taken to the provision of housing through the WNP process is based on what WTC considers to be an appropriate level of growth for Winslow. This is expressed by the settlement boundary, rather than seeking to meet an identified need for housing in relation to another development plan document. The appeal scheme would significantly alter the proposed settlement boundary and the focus that it would provide for the draft WNP phase of development.
175. In regard to scale, the draft WNP seeks to provide 455 new homes. This would be a 20% increase in the settlement that rises to 35% with existing commitments.<sup>52</sup> The appeal scheme would result in an approximate 10%

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<sup>50</sup> Paragraph 14 of CD-27.1, PPG Reference ID: 21b-014-20140306

<sup>51</sup> Both main parties have provided lengthy closing submissions on prematurity within ID-50 and ID-52

<sup>52</sup> The planned provision is to be found in WNP paragraph 4.17

increase in the number of homes in Winslow. Accordingly, there could be a near 50% growth in Winslow by the end of the WNP period. This would be a substantial increase in the scale of a settlement that has not previously been the focus of strategic growth through an adopted development plan. However, this level of growth would occur within the context of an expanding settlement that will have development and increased accessibility associated with the re-opened railway that will further improve its sustainability.

176. Two recent Secretary of State decisions that addressed NPs have been provided. In the *Broughton Astley* case (ID-37) recent housing policies in the NP were accepted to be out of date resulting in substantial weight in favour of the appeal proposal, but that was outweighed by the conflict with the NP which had passed referendum following the sitting days of the inquiry. In contrast to the *Broughton Astley* case where a Core Strategy was in place, there is no recent strategic plan for the area that includes Winslow.
177. In the second decision (refs: APP/D3830/A/13/2198213 and 2198214 (ID-38)) the Secretary of State agreed with the Inspector's conclusion that the NP tackled a much wider range of issues than those affected by the appeals, which would not be fundamentally incompatible with that NP.<sup>53</sup> The draft WNP also deals with a wide range of issues. The current appeal scheme would modify the planned extent of the settlement, but the focus of development within the draft WNP strategy would remain. Factors that are expected to result in the town's planned growth also remain, and if the appeal scheme were to be allowed, there is no reason to doubt that the draft WNP planned scale of development would be delivered.
178. Consequently, while the appeal scheme conflicts with the proposed settlement boundary that is the subject of draft WNP Policy 2, the likely delivery of the remainder of the draft WNP strategy confirms that the appeal scheme is not wholly incompatible with it.
179. PDL could be available elsewhere in Winslow, or in the District, and the appeal scheme would not reuse it. In this respect the lack of clarity on whether the appeal scheme would be an effective use of land provides some weight against the proposal.
180. The loss of BMV adds some weight against the appeal scheme, and while many small losses of such land would be likely to result in a significant loss, the appeal proposal needs to be considered within the context of the other factors in this case.
181. The appeal site is not protected by any national or local landscape designation, but the identified harm to landscape conflicts with LP policy GP.35 and attracts considerable weight against the appeal scheme due to the value that local people place on this countryside.
182. Factors in favour of the proposal include: the substantial weight from housing provision; other social benefits that attract considerable weight include the additional open and play space provision to support healthy communities (although it is apparent that this is a rural settlement with considerable

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<sup>53</sup> Paragraph 19 of the decision letter at ID-38

opportunities for outdoor recreation on and around the appeal site); and, the significant weight that the economic benefits attract. Considerable weight in support of the appeal scheme also results from the provision of dwellings to Code Level 3, and the potential benefits from measures that would encourage the use of alternative forms of transport to the private car. Some favourable weight also results from the neutral effect that would preserve the setting of the Winslow Conservation Area.

183. The presumption in favour of sustainable development requires consideration of the proposal against the policies in the Framework when read as a whole. Framework paragraphs 183 to 185 highlight: that neighbourhood planning gives communities direct power to develop a shared vision; and, the importance of meeting strategic needs. The inquiry was left in no doubt that local people are seeking to take advantage of the opportunities provided by the NP process, but there are objections to the draft WNP.
184. The appellant's evidence has not provided a full objectively assessed housing need that can attract significant weight in this case. Nonetheless, while the District Council's five year housing land supply position statement (CD-15.3) reflects PPG, housing policies in the development plan are out of date and the strategic needs for this area have yet to be confirmed.
185. The Framework is unambiguous regarding the importance of housing delivery. It attracts substantial weight in favour of the appeal scheme, to which other factors identified above, including the associated significant economic benefits, are added. No matters have been identified in this case to indicate that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits taking relevant planning policy and other considerations into account. It is apparent from these considerations that the first PPG prematurity test is not met.
186. Having taken the policies within the development plan and the Framework, and any other material considerations into account (including the scope of the suggested planning conditions in Annex A of this report), for the reasons above the appeal scheme would be a form of sustainable development.

### **Recommendation**

187. I therefore recommend that the appeal be allowed.

*C Sproule*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Hereward Phillpot, of Counsel	Instructed by Joanna Swift, Head of Legal and Estate Services, AVDC
He called	
Jonathan Bellars	Senior Landscape Architect and Urban Designer, AVDC
BA DipLA(Hons) DipUD	
CMLI	
Philippa Jarvis	Principal, PJPC Ltd (Planning Consultancy)
BSc DipTP MRTPI	

### FOR THE APPELLANT:

Satnam Choong, of Counsel	Instructed by Gladman Developments Ltd
He called	
Nigel Weeks	Director of Stirling Maynard Transport Consultants
BSc	
Malcolm Reeve	Director and Principal Consultant, Land Research Associates Ltd
BSc FISoilSci CSci	
MBIAC MCIWEM	
Carl Taylor	Director, TPM Landscape
BA(Hons) DipLA CMLI	
Laura Tilston	Planning Manager, Gladman Developments Ltd
BSc(Hons) MA MRTPI	

### INTERESTED PERSONS:

Graham Bowe	Local resident
Brenda Otter	Local resident
- who also spoke for:	
Bob & Gill Dickens	Local residents
Gaynor Richmond	Local resident
- who spoke for:	
Sue Collins	Headteacher, Furze Down School
Malcolm McPartlan	Local resident
Michael Sadler	Local resident
Liz van de Poll	Local resident
- who also spoke for:	
Vicky Reeves	Local resident
Trish Cawte	Local resident
Michael Shelton	
Kevin Sexton	Local resident
- who also spoke for:	
Philip Sexton	Local resident

Vic Otter	Local resident
- who also spoke for:	
David Garlick CBE	Local resident
Town Cllr Roy van de Poll for Cllr David Barry	Mayor of Winslow
Cllr Llew Monger	Winslow Town Council
Town Cllr Roy van de Poll	Winslow Town Council
Neil Homer	RCOH Limited re: Winslow Neighbourhood Plan

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## DOCUMENTS

- 1 Statement of Common Ground between Gladman Developments Ltd and AVDC
- 2 Statements to the Public Inquiry by Winslow Town Council – Cllr L Monger, Mr N Homer, Cllr R van de Poll
- 3 A plastic wallet containing various documents from Winslow Town Council, including in regard to a Public Meeting held 27 January 2009 and EastWestRail
- 4 A report entitled *Winslow Town Plan* – Winslow Town Plan Steering Committee – September 2011
- 5 Winslow Neighbourhood Plan 2014-2031 – Submission Plan – December 2013
- 6 Block Plan - Revision: A – March 2014 – tpm landscape
- 7 Aylesbury Vale Landscape Character Assessment – May 2008
- 8 Core Documents CD27.1 - CD31.6
- 9 Aylesbury Vale: Areas of Sensitive Landscape – October 2008
- 10 A draft Unilateral Undertaking between the appellants and Jennifer Mary Williams, and Michael John Robinson and Frances Margaret Robinson
- 11 Location Plan – Drawing No. 2013 – 014 / 004 – May 2013
- 12 Rebuttal of proof of evidence by Carl Taylor
- 13 A list of interested persons, and those representing them, for public speaking on 18 March 2014, and associated statements from:
  - Graham Bowe
  - Gill & Bob Dickins
  - Gaynor Richmond
  - Sue Collins
  - Malcolm McPartlan
  - Michael Sadler
  - Liz van de Poll
  - Vicky Reeves
  - David Garlick CBE
  - Vic Otter
  - Cllr David Barry
- 14 Appeal decision ref: T/APP/J0405/A/91/188776/P8 regarding the land at Langley Close
- 15 Winslow Summary Map – showing possible development sites
- 16 GLIVIA2 extracts – Summary page, pages 12, 46, 47, and paragraphs 9.1 to 9.4
- 17 The decision letter regarding ref: APP/R0660/A/10/2141564 and page 20 of the Inspector’s report
- 18 Statement of Kevin Sexton
- 19 Statement of Philip Sexton
- 20 Page 205 of the Aylesbury Vale District Local Plan – January 2004 – *Areas of Attractive Landscape and Local Landscape Areas*
- 21 E-mail from Cllr Monger dated 06 March 2014 15:53 and associated documents regarding DCLG guidance on Neighbourhood Plans
- 22 Appeal decision ref: APP/H1840/A/13/2203924 – Land between

- Leasowes Road and Laurels Road, Offenham
- 23 Tewkesbury Borough Council v Secretary of State for Communities and Local Government, Comparo Limited, Welbeck Strategic Land LLP – [2013] EWHC 286 (Admin)
- 24 South Northamptonshire Council v Secretary of State for Communities and Local Government, Barwood Land and Estates Limited – [2014] EWHC 573 (Admin)
- 25 Submission by Winslow Town Council Regarding the Proposed Development at Glebe Farm, Winslow Leading to Severe Traffic Harm – Roy van de Poll
- 26 Rebuttal by Mr Weeks re: Winslow Town Council Statement on Traffic
- 27 Glebe Farm Inquiry Site Visit - Plans 1 & 2
- 28 Addendum to evidence from Cllr Llew Monger, Winslow Town Council
- 29 Drawing No.10000/03/29 – Preliminary Junction Layout – May 2012
- 30 GLVIA2 extracts – pages 12 to 15
- 31 Drawing number: 2013 - 014 / 005A – Location Plan
- 32 Drawing number: 1686 Revision B – Block Plan
- 33 Drawing Number: 10000/03/29 – Preliminary Junction layout
- 34 Verney Road, Winslow – Landscape and Visual Assessment – pages 21 and 24
- 35 An extract from the closing submissions on behalf of the LPA – Appeal ref: APP/H1840/A/13/2203924
- 36 Decision letter regarding Appeal ref: APP/D0840/A/13/2209757 – Land north of Upper Chapel, Launceston
- 37 Decision letter and Inspector's report in relation to Appeal ref: APP/F2415/A/12/2183653 – Broughton Astley
- 38 Decision letter and Inspector's report regarding Appeal refs: APP/D3830/A/13/2198213 & APP/D3830/A/13/2198214 Hallam Land Management Ltd and the Hyde Estate regarding land At Handcross, West Sussex
- 39 Gallagher Homes Limited and Lioncourt Homes Limited vs. Solihull Metropolitan Borough Council - [2014] EWHC 1283 (Admin)
- 40 A s.106 Agreement regarding planning application ref: 13/02837/AOP for land adjacent to Furze Lane, Winslow – dated 30 April 2014 – addressing matters including highway works and an education contribution
- 41 A s.106 Agreement regarding planning application ref: 13/02837/AOP for land adjacent to Furze Lane, Winslow – dated 30 April 2014 – addressing matters including affordable housing and open space
- 42 A Unilateral Undertaking in regard to the current appeal scheme – planning application ref: 13/01672/AOP
- 43 A s.106 Agreement in regard to the current appeal scheme – planning application ref: 13/01672/AOP
- 44 An unexecuted draft Unilateral Undertaking containing objectives sought by the local planning authority
- 45 A public open space bond value calculation by the local planning authority's Planning, Monitoring & Compliance Officer

- 46 A document entitled – Comments on the unilateral undertaking submitted by the appellant as regards District matters
- 47 (1) BDW Trading Limited (T/A Barratt Homes) (2) Wainhomes Developments Ltd and (1) Cheshire West & Chester Borough Council (2) Stephen Robinson (The Counting Officer For CWCBC) And (1) Tattenhall & District Parish Council (2) Taylor Wimpey Uk Ltd [2014] EWHC 1470 (Admin)
- 48 Closing submission from Winslow Town Council
- 49 Opening submissions on behalf of Aylesbury Vale District Council
- 50 Closing submissions on behalf of Aylesbury Vale District Council
- 51 Opening submissions on behalf of the appellant
- 52 Closing submissions on behalf of the appellant
- 53 A corrected s.106 Agreement in regard to the current appeal scheme – planning application ref: 13/01672/AOP – executed 30 May 2014

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## **ANNEX A**

### **LIST OF PLANNING CONDITIONS**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - Drawing number: 2013 - 014 / 005A – Location Plan
  - Drawing number: 1686 Revision B - Block Plan
  - Drawing Number: 10000/03/29 - Preliminary Junction layout
- 5) No more than 211 dwellings are hereby permitted to be constructed within the application site.
- 6) A Design Code for the development hereby permitted shall be submitted to and approved in writing by the local planning authority prior to the first Reserved Matters application for the development. The Design Code shall demonstrate how the objectives of the Design and Access Statement (2013) for the development hereby permitted will be met, and it shall take account of the drawings referred to in condition 4 above. The Design Code shall include:
  - i) principles for determining the quality, colour and texture of external materials and facing finishes for roofing and walls of buildings and structures including opportunities for using recycled construction materials;
  - ii) principles of built-form strategies to include density and massing, street grain and permeability, street enclosure and active frontages, type and form of buildings including relationship to plot and landmarks and vistas;
  - iii) principles of hard and soft landscaping including the inclusion of important trees and hedgerows;
  - iv) principles for determining the design of structures (including street lighting, lighting and boundary treatments for commercial premises, street furniture and play equipment);
  - v) principles for determining the design of the public realm, areas of public open space, areas for play (including LEAPs, NEAPs);
  - vi) principles of conservation of flora and fauna interests and encouragement of biodiversity;

- vii) principles of a hierarchy of streets and spaces;
- viii) principles for the alignment, width, and surface materials (quality, colour and texture) proposed for all footways, cycleways, bridleways, roads and vehicular accesses to and within the site (where relevant) and individual properties;
- ix) principles for on-street and off-street residential vehicular parking and/or loading areas;
- x) principles of cycle parking and storage; and,
- xi) principles for the provision of public art as an integral part of the development.

Development shall be carried out in accordance with the principles established in the approved Design Code.

- 7) No development shall take place until a phasing plan for the development hereby permitted has been submitted to and approved in writing by the local planning authority. The phasing plan shall include details of:
- i) the phasing of the development hereby permitted in relation to the location and amount within each phase;
  - ii) the dwellings to be provided in each phase, including affordable housing;
  - iii) the green infrastructure, including areas of public open space and areas for play (including the NEAP);
  - iv) the sequence in which the phases are to be developed individually or concurrently; and for each phase,
  - v) the provision of vehicular and pedestrian access, drainage and flood risk infrastructure, utilities, and household waste storage and recycling facilities.
- Development shall be carried out in accordance with the approved phasing plan.
- 8) No development shall take place until full details of existing and proposed ground levels have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 9) No development shall take place until details of the internal finished floor levels of the dwellings hereby permitted in relation to the existing and finished ground levels have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 10) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and thereafter these works shall be carried out as approved. These details shall include:
- i) means of enclosure/boundary treatments;
  - ii) hard surfacing materials;

- iii) minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting, etc.);
  - iv) existing landscape features such as trees, hedges and ponds to be retained, and measures for their protection before and during the course of development
  - v) existing landscape features such as trees, hedges and ponds to be removed
  - vi) planting plans (including written planting specifications and plans with schedules of plants noting species, plant sizes and proposed numbers/densities where appropriate); and
  - vii) an implementation programme/Management and Maintenance Plan.
- 11) No development shall take place until a scheme of external lighting (including any floodlighting) has been submitted to and approved in writing by the local planning authority. Such details shall include the location, height, type, direction and intensity of the illumination, the hours at which the lighting within the approved scheme is to be operated, and a phasing programme for its installation. External lighting shall be installed in accordance with the approved details before the phase of development to which it relates is first occupied or brought into use.
- 12) No development shall take place until a scheme for the laying out, construction, surfacing, drainage, and where relevant adoption, of the vehicular, cycle and pedestrian accesses to the site and its buildings, vehicle manoeuvring areas and visibility splays, and the phasing of these works, has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme and the vehicular, cycle and pedestrian accesses, manoeuvring areas and visibility splays shall be retained thereafter. No dwelling hereby permitted shall be occupied until the estate roads which provide access to it from the existing highway have been laid out in accordance with the approved details.
- 13) No development shall take place until a scheme for the provision of parking for cars, cycles and powered two-wheelers has been submitted to and approved in writing by the local planning authority. Details shall include the number, type and design of all parking facilities. The parking facilities in relation to any single dwelling shall be implemented as approved prior to first occupation of that dwelling, and shall be retained and remain available for use by the occupiers of the development at all times thereafter.
- 14) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall take into account the phasing of development and provide for:
- i) the parking of vehicles of site operatives and visitors
  - ii) the loading and unloading of plant and materials, and the scheduling of HGV deliveries to avoid peak times of highway use associated with Furze Down School
  - iii) storage of plant and materials used in constructing the development

- iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate, and lighting
  - v) measures to prevent mud from vehicles being deposited on the highway
  - vi) measures to control the emission of dust, dirt and noise during construction
  - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works, and
  - viii) hours of construction and demolition works.
- 15) No development shall take place until a scheme for surface water drainage works has been submitted to and approved in writing by the local planning authority. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development. The drainage strategy shall demonstrate the surface water run-off generated up to and including the 100 year critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall include details of: all elements of the proposed drainage systems; overland flow routes and subsequent flood risk in the event of surface water system failure; provide a timetable for its implementation; and provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. The surface water drainage scheme shall be implemented in accordance with the approved details and any phasing within them.
- 16) No development shall take place until a scheme of ecological enhancement in accordance with the *Ecological Appraisal* by FPCR Environment and Design Ltd, dated June 2013, for the development hereby permitted, has been submitted to and approved in writing by the local planning authority. The scheme shall make provision for: the planting of new hedgerow to compensate for that lost through the development hereby permitted; areas to be seeded with wildflower meadow that shall include locally native species of grass and flowers; details of the pond and associated planting; the installation of bat and swift boxes; and, an implementation programme. Development shall be carried out in accordance with the approved details.
- 17) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 18) No development shall take place until details of measures to facilitate the provision of high speed broadband for the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 19) No development shall take place until details of refuse and recycling storage facilities for the dwellings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and any phasing within them.

- 20) The dwellings hereby permitted shall achieve Level 3 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 3 has been achieved.

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## **ANNEX B**

### **ABBREVIATIONS USED IN THE REPORT**

AVDC	Aylesbury Vale District Council
BMV	Best and most versatile agricultural land
CIL	Statutory Instrument 2010 No.948, The Community Infrastructure Levy Regulations 2010
CLG	Department for Communities and Local Government
The County Council	Buckinghamshire County Council
DL	Decision letter
Dpa	Dwellings per annum
FRA	Flood Risk Assessment
The Framework	National Planning Policy Framework
HGV	Heavy Goods Vehicle
HLS	Housing land supply
ID	Inquiry Document
IR	Inspector's Report
LCA	Landscape Character Assessment
LP	Aylesbury Vale District Local Plan – January 2004
LVIA	Landscape and Visual Impact Assessment
NP	Neighbourhood Plan
Of the Act	Of the Town and Country Planning Act 1990 (as amended)
PDL	Previously developed (or 'brownfield') land
Proof	Proof of Evidence
RS	Regional Strategy
SEP	South East Plan
SHLAA	Strategic Housing Land Availability Assessment

SoCG	Statement of Common Ground
VAP	Vale of Aylesbury Plan Strategy
WNP	Winslow Neighbourhood Plan
WTC	Winslow Town Council

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## Department for Communities and Local Government

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

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

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

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

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

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

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

#### **SECTION 2: AWARDS OF COSTS**

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

#### **SECTION 3: INSPECTION OF DOCUMENTS**

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