



Department for  
Communities and  
Local Government

Our Ref: APP/J0405/A/14/2213924

Mr Paul Roberts  
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25 February 2015

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL BY MR PAUL ROBERTS, GLADMAN DEVELOPMENTS LTD  
LAND TO EAST OF LITTLE HORWOOD ROAD, WINSLOW, BUCKS  
APPLICATION REF: 13/02174/AOP**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, John Felgate BA(Hons) MA MRTPI, who held a public local inquiry between 9-16 September 2014 into your client's appeal against the refusal of Aylesbury Vale District Council ('the Council') to grant permission for outline application for up to 100 residential units, associated infrastructure and defined access with all other matters reserved, in accordance with application ref: 13/02174/AOP, dated 28 July 2013.
2. On 23 June 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 (IR4).

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

3. The Inspector recommended that the appeal be dismissed and planning permission refused. For the reasons given below, the Secretary of State agrees with the Inspector's reasoning, except where stated otherwise, and agrees with his 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.

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## Procedural matters

4. The Secretary of State notes the revisions to the location plan and block plan referred to at IR2. Like the Inspector, he has determined the appeal on the basis of the revised plans.
5. The Secretary of State has also had regard to the Inspector's notes on matters relating to the Winslow Neighbourhood Plan at IR7-10. He has decided that it would not be appropriate to delay the decision on this case pending the outcome of legal proceedings in relation to that Plan.

## Policy considerations

6. 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 (AVDLP) adopted in 2004 and the Winslow Neighbourhood Plan which was made on 10 September 2014.
7. The Secretary of State has considered the Inspectors assessment of relevant policies in the AVDLP at IR25-28. As the Inspector notes at IR26, the Council's first reason for refusal cited the conflict with AVDLP Policy GP.35. Whilst acknowledging that different views have been taken on this policy, the Secretary of State considers that Policy GP.35 does have relevance to the appeal for the following reasons.
8. 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 development in the countryside is necessary or appropriate, the traditional character of rural landscape and buildings...". Under *Design Principles in New Development*, AVDLP 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. 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.
9. 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 AVDLP paragraphs 4.109 and 4.110. Even so, they are equally relevant to AVDLP 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.
10. 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. For reasons considered at paragraphs 18-21 below, the Secretary of State considers that some of

the criteria in Policy GP.35 are relevant to this appeal and that the proposal conflicts with those criteria and therefore the Policy.

11. The Secretary of State agrees with the Inspector's assessment of other saved AVDLP policies at IR27-28.
12. The Secretary of State considers that the most relevant policies in the made Neighbourhood Plan are Policies 1, 2 and 3 as identified by the Inspector at IR29-32.
13. 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; and the Community Infrastructure Levy (CIL) Regulations 2012 as amended. He agrees with the Inspector that the most relevant parts of the Framework and associated guidance are identified at IR39-46.
14. The Secretary of State notes that the Council is engaged in a review of the local plan (IR33-35). However, as this is at an early stage and any proposals are liable to change, he attributes little weight to the emerging Plan. Likewise the Secretary of State has had regard to the 5-year Housing Land Supply Position Statement published in January 2014 and updated in June 2014 (IR36), and which was the basis of the Council's Housing Land Supply at the Inquiry as set out at IR37-38. The Secretary of State also has regard to the further updated Housing Land Supply Position Statement published in October 2014, but he attributes limited weight to the figures presented in the Position Statement for the reasons referred to below.

#### **Main issues**

15. The Secretary of State agrees that the main issues in this decision are those identified by the Inspector at IR145.

#### *Housing land supply*

16. The Secretary of State agrees with the Inspector's assessment of the principle of using the household projections at IR147-154. For the reasons given he agrees that the calculations in the position statement carry only limited weight (IR154), and he considers that this continues to hold true for the further updated figures published in October 2014. Turning to the Framework buffer, the Secretary of State agrees with the Inspector's assessment of the Council's land supply calculations at IR155-168 and conclusion at IR169 that a five year supply has not been demonstrated.
17. The Secretary of State agrees with the Inspector's assessment of matters at IR170-172, including that there is sufficient evidence before him to come to a view on the adequacy of the 5-year land supply without needing also to reach a definitive view on the appellant's submissions on issues that should be debated in the context of the emerging local plan.

#### *Effects on the character and appearance of the area*

18. The Secretary of State agrees with the Inspector's assessment regarding viewpoints, the visibility of the site and the limitations of the illustrations in the Landscape Visual Impact Assessment (LVIA) at IR175-177. He also agrees with the Inspector's analysis of the effect of the proposed development on expanding the town beyond Little Horwood Road at IR178-181, and his critique of the LVIA at IR190-193. For all the reasons given, he agrees that the sharp transition from town to countryside, particularly on the east of Winslow is a valued feature of the towns character, and that the proposed development would appear as incongruous, intrusive and on the 'wrong' side of the most obvious and logical boundary. As such the Secretary of State agrees

with the Inspector that the development would be visually harmful to the distinctiveness of the landscape, and to the setting and character of the town itself (IR181).

19. For the reasons at IR182-184, the Secretary of State agrees with the Inspector that the relationship of the site to the hamlet of Shipton, and the potential consequences in terms of ultimate coalescence with Winslow, reinforces the conclusion that the development now proposed would have an adverse effect on Winslow's landscape setting and the character and appearance of the area.
20. The Secretary of State agrees with the Inspector's further reasoning at IR186-188. He agrees that those reasons reinforce the view that the proposed development would result in the almost total loss of the site's contribution to the area's distinctive landscape and its rural charm, and as such would result in substantial harm to the locality (IR189).
21. The Secretary of State agrees with the Inspector's conclusion regarding character and appearance and landscape impact at IR194. He agrees that the appeal site makes a very valuable contribution to the landscape of the area and its distinctiveness. He agrees that neither the absence of special designation for the site, nor the fact that inward views are relatively limited in both number and range, affect that conclusion. In summary, he agrees that the site is important not only for its key location relative to the settlement pattern, but also for its own intrinsic landscape qualities (IR194). He agrees that the development proposed would be highly damaging to the area's attractive character and appearance, and that this would be in direct conflict with Framework aims to recognise the different roles and character of different areas, to protect the character and beauty of the countryside and to conserve and enhance the natural environment, including landscapes (IR195).

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

22. For the reasons at IR196-197 the Secretary of State agrees with the Inspector that permanent loss of 3.6 hectares of best and most versatile agricultural land on the appeal site weighs against the proposal (IR198).

#### *Winslow Neighbourhood Plan*

23. The Secretary of State has given very careful consideration to the Inspector's assessment in regard to the Winslow Neighbourhood Plan at IR227-232. The Secretary of State considers that the appeal proposal conflicts with Neighbourhood Plan Policy 2 which designates a settlement boundary for the purposes of directing future housing and states that proposals for housing in settlement boundary will only be granted in exceptional circumstances, and conflicts with Neighbourhood Plan 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 that these policies are very important policies in the Neighbourhood Plan which seek to shape the development in Winslow and that granting planning permission would undermine the spatial strategy. For the reasons given in this decision letter, the Secretary of State does not consider that the exceptions in Policy 2 and 3 have been shown. He considers that the conflict between the appeal proposal and the Neighbourhood Plan is significant.

### *Other matters*

24. The Secretary of State also has regard to the Inspector's summary on issues around local services and community infrastructure at IR199-200; Effects on Conservation areas at IR201-202; traffic, parking and road safety at IR203-205; living conditions at IR206 and assimilation at IR207. The Secretary of State sees no reason to disagree with the Inspector on these issues.

### *The development's benefits*

25. The Secretary of State agrees with the Inspector's assessment of benefits at IR208-213. He agrees that the provision of 100 dwellings has added weight given the lack of a proven 5-year supply, especially as the site could be brought forward relatively quickly, and that the 35% affordable housing is a further added benefit. In addition to the related economic benefits at IR210-211, the Secretary of State agrees that the improvements in bus services, footpath widening, contribution to traffic calming and additional public open space are benefits that would all serve the existing community as well as the needs of the development itself (IR212).

### *Sustainable development*

26. The Secretary of State agrees with the Inspectors assessment of the proposed scheme against the definition of sustainable development in the Framework at IR214-217. For the reasons given, he agrees that in Framework terms the development would not constitute sustainable development.

### **Conditions**

27. The Secretary of State agrees with the Inspector's reasoning and conclusions at IR226. He agrees that conditions in the draft schedule of conditions, provided that they were amended as suggested by the Inspector at IR226, would meet the tests of paragraph 206 in the Framework. However, for the reasons set out in this decision letter, he does not consider that the recommended conditions overcome his reasons for dismissing the appeal.

### **Section 106 Obligations**

28. The Secretary of State agrees with the Inspector's assessment at IR218-225 of the executed Section 106 agreement dated 18 September 2014. With the exception of the agreement's provisions in respect of a Bond (IR223), he agrees that all of the other 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. For the reason at IR222 he also agrees with the Inspector's view that a neighbourhood equipped area for play ('NEAP') would be the appropriate level of provision for the proposed play area. 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**

29. The Secretary of State has given careful consideration to the Inspector's assessment of the planning balance at IR227-232 and the weightings that the Inspector ascribes earlier in his report to the various benefits and harms arising from the proposed development.

30. Having regard to Framework paragraph 49, the relevant development plan policies for the supply of housing are out of date. This includes saved policies in the Adopted

Aylesbury Vale Local Plan (IR27) and the relevant policies in the Winslow Neighbourhood Plan, notably Policies 2 and 3, even though that Plan was made very recently.

31. As the relevant housing supply policies in the development 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.
32. Weighing in favour of the proposal, the Secretary of State agrees with the Inspector that the contribution to housing supply, including 35% affordable dwellings, attracts substantial weight (IR174 and 208-209). In this case he gives significant weight to the related economic benefits (IR210-211). He gives modest weight to the improvements to the No 60 bus service, the footpath widening, the contribution to traffic calming and the provision of on-site public open space and a play area (IR212). He agrees that the development would fulfil the economic and social roles of sustainable development (IR215).
33. Weighing against the proposal, the Secretary of State agrees with the Inspector that the irreversible harm to the area's attractive landscape character and appearance would be significant in terms of their scale and severity (IR231) and attracts substantial weight (IR195). He considers that this harm conflicts with AVDLP Policy GP.35. He also agrees that the loss of high grade agricultural land carries moderate weight (IR197). He agrees with the Inspector that both these harms conflict with Framework aims identified at IR195 and 198 to protect and enhance the natural environment and use resources prudently (IR246).
34. The Secretary of State has also considered the Inspector's conclusions on neighbourhood planning and to the neighbourhood planning policies 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. In view of the Framework policy on neighbourhood planning, the Secretary of State accords significant weight to the conflict with the neighbourhood plan policies which designate a settlement boundary, even though its policies relevant to housing land supply are out of date in terms of Framework paragraph 49. He considers that this adds to the already compelling rationale to dismiss the appeal.
35. Overall, the Secretary of State agrees with the Inspector that the development cannot be regarded as sustainable (IR230) and that the adverse impacts would significantly and demonstrably outweigh the scheme's benefits (IR231) when assessed against the policies of 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**

36. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation and hereby dismisses your client's appeal and refuses outline planning permission for up to 100 residential units, associated infrastructure and defined access, with all other matters reserved, in accordance with application ref: 13/02174/AOP.

**Right to challenge the decision**

37. 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.

38. 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*

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

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

Date: 24 November 2014

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TOWN & COUNTRY PLANNING ACT 1990

AYLESBURY VALE DISTRICT COUNCIL

APPEAL BY:

GLADMAN DEVELOPMENTS LIMITED

RE:

LAND TO THE EAST OF LITTLE HORWOOD ROAD, WINSLOW, BUCKS

Inquiry held between 9-16 September 2014

Proposed development of up to 100 dwellings, associated infrastructure, and access

File Ref(s): APP/J0405/A/14/2213924

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## **ABBREVIATIONS USED IN THIS REPORT**

AVCS	Aylesbury Vale Core Strategy
AVDC	Aylesbury Vale District Council
AVDLP	Aylesbury Vale District Local Plan
BCC	Buckinghamshire County Council
'BMV'	best and most versatile (agricultural land)
CA	Conservation Area
DAS	Design & Access Statement
DCLG	The Department for Communities and Local Government
EIA	Environmental Impact Assessment
FALP	Further Alterations to the London Plan
'FOAN'	full, objectively assessed need
JR	Judicial Review
LCA	Landscape Character Assessment
LDS	Local Development Scheme
LEAP	Local Equipped Area for Play
LVIA	Landscape and Visual Impact Assessment
NEAP	Neighbourhood Equipped Area for Play
NPPF	The National Planning Policy Framework
ONS	Office of National Statistics
PPG	Planning Practice Guidance
RR	Refusal Reason
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SoS	The Secretary of State (for Communities and Local Government)
SEP	South East Plan
TPO	Tree Preservation Order
VALP	Vale of Aylesbury Local Plan
VAP	Vale of Aylesbury Plan
WNP	Winslow Neighbourhood Plan
WTC	Winslow Town Council

**File Ref: APP/J0405/A/14/2213924**

**Land to the east of Little Horwood Road, Winslow, Buckinghamshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Gladman Developments Limited against the decision of Aylesbury Vale District Council.
- The application Ref 13/02174/AOP, dated 28 July 2013, was refused by notice dated 13 November 2013.
- The development proposed is: "Outline application for up to 100 residential units, associated infrastructure and defined access, with all other matters reserved".

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

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**PRELIMINARY MATTERS**

**Procedural Matters**

*Matters relating to the appeal and inquiry*

1. The application which is the subject of the appeal seeks outline planning permission, with all matters reserved except for access. In so far as the submitted plans<sup>1</sup> include details relating to matters other than access, I have treated these as illustrative.
2. Prior to the Inquiry, the site boundary as shown on the submitted Location Plan and Block Plan was amended slightly, to include the whole of the existing tree belt on the site's eastern boundary. This change is not significant in terms of area, and has not been objected to by any party. It does not affect any of the issues in the appeal. I have therefore dealt with the appeal based on the amended plans<sup>2</sup>.
3. Prior to the submission of the application, a request was made for a screening opinion with regard to the possible need for an Environmental Impact Assessment (EIA). In a letter dated 10 May 2013, the Council determined that an EIA was not required<sup>3</sup>. When the appeal was lodged, a further screening exercise was carried out by the Planning Inspectorate. In a determination dated 19 May 2014, it was concluded that the proposed development was not EIA development<sup>4</sup>.
4. Jurisdiction over the appeal was recovered by the Secretary of State (SoS) in a Direction dated 23 June 2014<sup>5</sup>. The reason was that the appeal involves a site 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.
5. Refusal Reason No 2 (RR2) relates to a lack of provision in respect of affordable housing, on-site and off-site sport and leisure facilities, secondary education, public transport and cycling, and off-site highway measures. These matters are

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<sup>1</sup> The application plans are listed amongst the Inquiry Documents at the rear of this report.

<sup>2</sup> The amended versions are denoted by the suffix 'Rev. A'

<sup>3</sup> In the Questionnaire file, under 'Screening' tab

<sup>4</sup> Main file, blue sub-folder

<sup>5</sup> Main file, blue sub-folder

now addressed in a Section 106 legal agreement<sup>6</sup> between the appellants, the District Council (AVDC), and Buckinghamshire County Council (BCC). At the inquiry AVDC confirmed that the agreement fully overcomes RR2. However, some aspects of the agreement are disputed by Winslow Town Council (WTC). In any event, the obligations within the agreement are conditional upon being accepted by the SoS<sup>7</sup>. I deal further with these matters elsewhere in this report.

6. The inquiry sat on five days, 9-12 and 16 September 2014, and I carried out an accompanied site visit on 12 September. During the inquiry period, I also carried out unaccompanied visits on a number of occasions, in which I was able to familiarise myself with the town of Winslow and the surrounding area, including those sites proposed for development in the Winslow Neighbourhood Plan (WNP), and various others in the area that are referred to in the evidence.

#### Matters relating to the Winslow Neighbourhood Plan

7. In an 'informative' attached to the refusal notice, the Council reserved the right in the event of an appeal, to raise a possible issue regarding prematurity in relation to the then emerging WNP. Since then however, the Neighbourhood Plan has progressed through all of its remaining procedural stages, and on 10 September 2014, just before the close of the present inquiry, the plan was 'made'<sup>8</sup>. The WNP therefore now forms part of the statutory development plan for the area. In these circumstances, although there are still a number of matters relating to the WNP which are disputed between the parties, prematurity as such is no longer an issue in the appeal.
8. Although the final 'making' of the WNP came at a late stage in the appeal process, the effects of the relevant policies have been fully addressed in the parties' evidence. It is therefore not necessary to seek any further comments on this change in the plan's status.
9. The Council's decisions with regard to the making of the WNP are the subject of proceedings for Judicial Review (JR), brought by the present appellants, Gladman Developments<sup>9</sup>. As at the close of the present inquiry, the case was expected to be heard in December 2014. An agreed note has been tabled regarding the range of possible outcomes and their implications for the WNP<sup>10</sup>.
10. The appellants suggest that the SoS should await the outcome of the JR before determining the present appeal<sup>11</sup>. However, any recommendation on that suggestion would be outside my remit. And in any event, this would be no reason for me to delay my report. I have therefore based my report on the position of the WNP as it stood at the close of the inquiry.

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<sup>6</sup> Doc. J4: the S.106 agreement

<sup>7</sup> See paragraph 3 of the Recitals, on p23 of the agreement (Doc. J4)

<sup>8</sup> The Officers' report recommending that the WNP be made is exhibited at Doc. CO-4; the Minutes of the Council meeting were not available before the close of the inquiry.

<sup>9</sup> Doc. CD 18.18: Judicial Review of the WNP - statement of facts and grounds

<sup>10</sup> Doc. J2: agreed note re the Judicial Review

<sup>11</sup> Doc. AP-14: the Appellants' closing submissions, para 7

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## **The Appeal Site and Proposed Development**

### *The site and its surroundings*

11. The appeal site is located on the eastern edge of Winslow, and has an overall area of around 5 ha. It comprises two fields. The first is a rectangular enclosure, amounting to just over 3 ha. The second, of just under 2 ha, forms an L-shape, wrapping around the rectangular field on its western and southern edges. Both parts are currently used for grazing sheep<sup>12</sup>.
12. The site's outer boundaries on its northern, southern and western sides comprise managed hedges, with occasional larger trees. The eastern boundary is formed by a dense tree belt. The southern and eastern boundaries have been supplemented within the last few years by some further new tree and hedge planting, which at present is still in the early stages of growth. There is also a further area of new planting in the south-western corner. The internal boundary between the two fields is formed by a taller row of substantial, mature trees, including horse chestnut, ash, lime, oak and field maple<sup>13</sup>. These are seen from the surrounding roads and footpaths, rising above the outer boundary vegetation. A number of these trees are protected by a Tree Preservation Order (TPO)<sup>14</sup>, made in 1990.
13. Immediately to the west of the appeal site is the town of Winslow, where Little Horwood Road forms the edge of the built up area. The housing area in this part of the town is known as the Elmfields Estate. The Winslow Conservation Area (CA) extends from the town centre, along Sheep Street, up to the site's south-west corner. In the opposite direction, about 100m to the east of the appeal site, is the small hamlet of Shipton, which also has a CA<sup>15</sup>. Elsewhere, to the north, south and east of the site, there is open countryside.
14. Directly to the north of the appeal site is a field of around 3.5 ha, which is in the appellants' ownership<sup>16</sup>. This field is traversed by two public rights of way, one running along its northern boundary, and the other crossing it diagonally from corner to corner. These two paths provide connections from the town into the countryside, and on towards Milton Keynes. The more northerly path also forms part of the national 'Sustrans' network of cycleway routes. The eastern part of this northern field, amounting to approximately one-third, has been recently planted with young trees.
15. Along the site's southern boundary runs Sheep Street, which forms part of the A413 from Aylesbury to Buckingham. Part of the Bucks Trail runs alongside this section. Winslow Road<sup>17</sup>, which passes through Shipton, is classified as the B4032, and provides a secondary route to Milton Keynes and Leighton Buzzard. Little Horwood Road is a 'C' class local road, providing access to the neighbouring villages of Little and Great Horwood.

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<sup>12</sup> The site and its context are most easily appreciated from the plans and photographs contained in the Design & Access Statement (Doc. CD 1.4) and the Landscape Report (Doc. CD 1.5); see also the plan at Mrs Jarvis's Appendix PJ1 (Doc. CO-1/Appx 1)

<sup>13</sup> Further details of the trees are in the Arboricultural Report (Doc. CD 1.9); and the Planting Plan (Doc. AP-13)

<sup>14</sup> A copy of the TPO can be found in the Questionnaire file

<sup>15</sup> The boundaries of both CAs are included in Doc. CD 8.5 (AVDLP)

<sup>16</sup> Shown on the ownership plan at Doc. AP-8

<sup>17</sup> Also known locally as Shipton Road or Shipton Lane

### Winslow

16. Winslow is a small market town with a population of around 4,500. It has schools for all age groups<sup>18</sup>, a town centre with a range of local shops, doctors and dentists' surgeries, a community hall, a library, places of worship, and an industrial area.
17. In the adopted Aylesbury Vale District Local Plan (the AVDLP), Winslow is identified as one of a very large number of second-tier settlements, behind the single main settlement, Aylesbury<sup>19</sup>. In a review of the District's settlement hierarchy carried out in 2009, Winslow was proposed to be classified as one of three third-tier settlements, behind Aylesbury and Buckingham<sup>20</sup>. In a similar exercise in 2012, Winslow was proposed to be one of five 'strategic settlements'<sup>21</sup>. Neither of these more recent proposals has yet become adopted policy, and the AVDLP hierarchy remains in force. Nevertheless, the Council does not dispute that Winslow is, in principle, a sustainable location for housing development.
18. Winslow is on the route of the planned East-West Rail Link scheme, and a new station is proposed at the town<sup>22</sup>. The route has Government support and will provide services to Aylesbury, Milton Keynes, Oxford and Bedford, amongst other destinations. Construction work has started on the western section of the route, between Oxford and Bicester. The timing of the section which includes Winslow is not yet known.

### Planning History

19. In 2003, the appeal site formed part of a larger site that was promoted for residential development at the Local Plan Inquiry into the AVDLP. The Inspector found that development on the site would constitute a major incursion into open countryside, beyond the clearly defined and established boundary of Little Horwood Road, in a manner unrelated to the existing development pattern, or to the settlement as a whole. Development would thus be visually intrusive in the landscape, and would have an overbearing effect on the rural setting of Shipton. The Inspector also found concerns with regard to the distance from some bus services, and the loss of high quality agricultural land. Consequently, despite being able to provide part of the inner relief road that was then proposed, the Inspector concluded that the site should not be allocated for development<sup>23</sup>.
20. In April 2010 an appeal relating to a proposal for residential development was dismissed<sup>24</sup>. The site again comprised the present appeal site plus the field immediately to the north. On this occasion, the Inspector found that the proposed development would fundamentally affect the attractive rural landscape abutting this part of the built-up area, causing significant harm to the area's character and appearance. Although she found no harm to the settings of either of the CAs, there was no housing need in the rural part of the District, and thus

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<sup>18</sup> The Sir Thomas Freemantle Free School takes pupils up to age 14, but is planned to expand to take all secondary age groups by 2018

<sup>19</sup> Doc. CD 8.5 (AVDLP)

<sup>20</sup> Doc. CD 13.2: Review of Rural Settlement Hierarchy, Jan 2009

<sup>21</sup> Doc. CD 13.1: Settlement Hierarchy Assessment, Sept 2012

<sup>22</sup> East-West Rail route details at Doc. CD 24

<sup>23</sup> Doc. CD 7.2.1 (AVDLP Inspector's report, section 12.21)

<sup>24</sup> Doc. CD 7.2.2 (2010 appeal decision – APP/J0405/A/09/2115860; esp. paras 24, 26, 31 and 33 )

no justification for the development. She concluded that it would suburbanise this part of the countryside and constitute an unnecessary intrusion.

21. In June 2011, a second appeal was dismissed<sup>25</sup>. In this case the proposal included up to 175 dwellings. The site was the same as in the previous appeal. The Inspector found that the site had a well-defined field pattern, with a distinctive shape and configuration, underpinned by the consistent lines of the hedgerows and trees, so as to form a legible, cohesive whole. These elements combined to create an attractive landscape, with intrinsic rural qualities. These positive attributes would be obscured and eroded. He also considered that the legibility of the existing sharp transition between the town and countryside, along Little Horwood Road, would be lost. There was no pressing need for housing in this part of the District. Overall, he concluded that the proposed development would have a fundamentally intrusive and disruptive effect on the attractiveness of the rural landscape.

### The appeal proposals

22. The present proposal seeks outline permission for up to 100 dwellings and related infrastructure. Detailed approval is sought for access via two new proposed road junctions onto Little Horwood Road, as shown on Drawing No. 10000/07/03A. Landscaping, layout, appearance and scale are reserved matters.
23. The application is accompanied by a Block Plan, which shows a possible arrangement, in which the southern section of the L-shaped field, alongside Sheep Street, is kept free for open space, balancing ponds and a play area. The plan also suggests how the main tree belts and hedgerows, around and within the site, could be retained largely intact except for a small number of openings for vehicular and pedestrian movement. A central village green is suggested within what is now the rectangular field, forming part of a possible chain of smaller green spaces and pedestrian routes running east-west across the site. In the Design & Access Statement (DAS)<sup>26</sup> there is also a Framework Plan and Master Plan, which show how this approach could be worked up in more detail. However, with the exception of the proposed accesses, the details shown in all of these plans fall within the scope of the reserved matters, and are therefore purely illustrative, unless made binding by condition.

### The Section 106 agreement

24. The Section 106 agreement<sup>27</sup> provides for 35% of the proposed dwellings to be affordable housing, and specifies the mix of tenures and the arrangements to be put in place for controlling other aspects through an affordable housing plan. The agreement also provides for financial contributions to off-site sport and leisure, education, bus services and bus stops, off-site highway improvements, and traffic calming. In addition, there are provisions relating to on-site open space provision, a play area, a phasing plan, a travel plan, a design code, a sustainable drainage scheme, and the Code for Sustainable Homes.

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<sup>25</sup> Doc. CD 7.2.3 (2011 appeal decision – APP/J0405/A/10/2135746; esp. paras 9-18)

<sup>26</sup> Doc. CD 1.4: the DAS (Figs 32 and 33)

<sup>27</sup> Doc. J4 (the S.106 agreement)



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## **Planning Policy Background**

### *The Development Plan*

#### *The Aylesbury Vale District Local Plan (the AVDLP)*

25. The AVDLP was adopted in January 2004, and the plan period expired on 31 March 2011. The only policies still in force are those saved by the SoS's direction dated 24 September 2007<sup>28</sup>.
26. For the purposes of RR1, the Council relies only on Policy GP35<sup>29</sup>. However, that policy is concerned with design, which is a reserved matter. As such, it does not seem to me that Policy GP35 has much relevance in this appeal<sup>30</sup>.
27. As regards the remaining saved policies, the Council accepts that there are no others relevant to RR1 that are still up-to-date. At the inquiry, reference was made to Policy RA14, which permits developments of up to 5 units on the edge of Winslow and various other settlements, subject to certain criteria. However, none of the parties places any reliance on this policy. I have therefore considered RR1 on the basis that there are no relevant policies in the AVDLP.
28. Various other policies are referred to in relation to RR2, but in the light of the completion of the Section 106 agreement, I need not recite those here.

#### *The Winslow Neighbourhood Plan*

29. As noted above, the WNP was made on 10 September 2014, and now forms part of the development plan<sup>31</sup>.
30. Policy 1 expresses a presumption in favour of sustainable development, in terms similar to those of paragraph 14 of the National Planning Policy Framework (the NPPF).
31. Policy 2 designates a settlement boundary around the town. The purposes of this are to direct future development, to contain the town's spread, and to encourage the use of previously-developed land. Development outside the boundary is to be permitted only in exceptional circumstances. In the vicinity of the appeal site, the boundary is aligned along Little Horwood Road. The appeal site is therefore outside the boundary as thus defined.
32. Policy 3 allocates land for residential development on various specific sites, and also gives support in principle to development on other sites within the settlement boundary, where these are on previously developed land. The appeal site is not within either of these categories. The policy goes on to state that proposals for housing outside the boundary will not be supported unless they require a countryside location and maintain the countryside's character and beauty.

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<sup>28</sup> Doc. CD 8.7 (the Saving Direction)

<sup>29</sup> Doc. CD 8.2 (AVDLP Policy GP35)

<sup>30</sup> This view is disputed by the Council, and it appears that other Inspectors have expressed differing views; however, the approach that I have taken follows that of the Inspector in the 2011 appeal (Doc. CD 7.2.3, para 20)

<sup>31</sup> Doc. 18.16 (WNP Referendum version)

## Emerging policies

### *Withdrawn plans*

33. A draft Aylesbury Vale Core Strategy (AVCS) was submitted for examination in June 2009<sup>32</sup>, but was withdrawn in mid-2010, in the light of the SoS's announcement of the Government's intention to revoke regional strategies.
34. A new draft local plan, the Vale of Aylesbury Plan (the VAP)<sup>33</sup> was submitted in August 2013 and a public examination was held in December 2013. However, in a letter dated 7 January 2014<sup>34</sup>, the examining Inspector found that the proposed level of housing provision took inadequate account of planned employment growth, and the potential unmet needs of neighbouring authorities. He concluded that the plan had not been prepared positively, was not justified or effective, and was inconsistent with national policy. On 5 February 2014 the plan was formally withdrawn<sup>35</sup>.

### *Proposed new Local Plan*

35. The Council has now embarked on the preparation of a further new local plan, the Vale of Aylesbury Local Plan (the VALP). That plan is in the early stages of preparation. A scoping consultation was held in April-May 2014, together with a 'call for sites'. The Council's programme, as set out in the Local Development Scheme (LDS)<sup>36</sup>, is to carry out an Options consultation in summer 2015, and then to submit the plan in autumn 2016, with a view to adoption in summer 2017.

### *Interim housing policy*

36. In January 2014, recognising the policy gap resulting from the Inspector's findings on the VAP, the Council published a '5-Year Housing Land Supply Position Statement'<sup>37</sup>. In June 2014, this was updated to take account of the latest completions and permissions up to a base date of 1 April 2014<sup>38</sup>. This June 2014 version now effectively represents the Council's non-statutory interim housing policy.
37. In the absence of any up-to-date development plan or emerging plan policies, the approach taken in the Position Statement involves using the DCLG's 2011-based Household Projections, published in April 2013, as a proxy for the level of housing need. On the 'requirement' side of the calculations, the Council has taken the household projections, and has firstly added 3% for vacancies and second homes. This gives a 5-year base requirement of 5,088 dwellings (1,018 per annum). Next, the Council has added the 'pre-2014 undersupply' of 27 dwellings, and then it has applied a 5% buffer in response to NPPF paragraph 47. For the period 2014-19 (the most favourable period from the Council's point of view), this gives an adjusted 5-year requirement of 5,371 dwellings (or 1,074 units p.a.).

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<sup>32</sup> Doc. CO-1 (Mrs Jarvis's proof): Appx PJ2 - Submission draft CS, June 2009

<sup>33</sup> Doc. CD 16.1 (The VAP submission draft, Aug 2013))

<sup>34</sup> Doc. CD 17.4 (The VAP Inspector's letter 7 Jan 2014)

<sup>35</sup> Doc. CD 17.5 (VAP Notice of Withdrawal, Feb 2014)

<sup>36</sup> Doc. CD 30.1 (the LDS)

<sup>37</sup> Doc. CD 15.3: Housing Land Supply Position Statement, January 2014

<sup>38</sup> Doc. CD 15.4: Housing Land Supply Position Statement, June 2014

38. On the 'supply' side, the Council's figures are made up from sites with planning permissions or subject only to S106 negotiations, plus local plan allocations, and permitted development sites (notified under prior approval procedures), totalling 5,822 units; plus a windfalls allowance of 200 units. The total of these, at the base date of 1 April 2014, is therefore 6,022 dwellings. This equates to a surplus of 651 dwellings<sup>39</sup>. On this basis, the Council claims a 5.6 years' supply.

### National policy

#### *The National Planning Policy Framework (the NPPF)*

39. The NPPF states at paragraph 6 that the purpose of the planning system is to contribute to the achievement of sustainable development. Paragraph 9 states that sustainable development involves seeking positive improvements in the quality of the environment and in people's quality of life; amongst other things, this includes widening the choice of high quality homes. Paragraph 14 states that there is a presumption in favour of sustainable development.
40. Paragraph 17 sets out core planning principles. These include proactively driving and supporting sustainable economic development, to deliver the homes and other development that the country needs. Every effort should be made objectively to identify and then meet those needs, and to respond positively to opportunities for growth. The core principles also include recognising the intrinsic character and beauty of the countryside, conserving and enhancing the natural environment, and focusing development in sustainable locations.
41. At paragraph 47, the NPPF seeks to boost the supply of housing significantly. Local plans should aim to meet the full, objectively assessed need for market and affordable housing, as far as is consistent with other NPPF policies. Paragraph 49 states that policies for the supply of housing should not be considered up to date if a 5-year supply of deliverable housing sites cannot be demonstrated.
42. Paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by, amongst other things, protecting and enhancing valued landscapes, geological conservation interests, and soils. Paragraph 112 requires that account should be taken of the economic and other benefits of the best and most versatile (BMV) agricultural land. Where significant development is necessary, poorer quality land should be used in preference to higher quality.
43. Paragraphs 183-185 draw attention to the role of neighbourhood planning in empowering local communities to decide the types and locations of sustainable development that they wish to see in their areas. Paragraph 184 states that once a neighbourhood plan has been brought into force, its policies take precedence over any non-strategic policies for that area in the local plan. Paragraph 198 states that where a planning application conflicts with a neighbourhood plan, permission should not normally be granted.

#### *Planning Practice Guidance (PPG)*

44. The national PPG states that, in establishing the need for housing, the DCLG household projections should provide the starting point. However, these may

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<sup>39</sup> 6,022 minus 5,371 = 651 dwellings

require adjustment, to reflect factors affecting local demography and household formation rates that are not captured in past trends<sup>40</sup>. These may include past under-delivery, and the effects on affordability, unmet needs, and suppressed household formation.

45. The Guidance notes that the household projections may require sensitivity testing, specific to local circumstances, using alternative assumptions as to migration rates, employment growth, and expected changes in demographic structure<sup>41</sup>. It then goes on to give detailed guidance on the need to take account also of employment trends and market signals, and different types of housing need, including current unmet need<sup>42</sup>.
46. Where there is no robust recent assessment of full housing needs (and no up-to-date local plan), the PPG reiterates that the household projections should be used as a starting point. But in those circumstances, the Guidance advises that the weight given to the projections should take account of the fact that they have not been tested or moderated<sup>43</sup>.

## **THE PARTIES' CASES**

### **The Case for the Appellants**

#### *Submissions on housing needs and land supply*

47. On behalf of the appellants, it is argued that it is clear from *Gallagher v Solihull*<sup>44</sup> and *Hunston v St Albans*<sup>45</sup> that, where there is no Local Plan in place, the housing land supply calculation should be based on the full, objectively assessed need ('FOAN'). The interim policy approach embodied in the Council's Position Statement does not measure the supply against FOAN, but only against a slightly adjusted household projection figure. That approach does not take account of other demographic factors, market signals, existing unmet housing need, economic growth, or the duty to co-operate with neighbouring authorities. The Council's calculations are therefore not NPPF compliant.
48. The appellants' estimate of FOAN starts from a demographic analysis<sup>46</sup>, based on the DCLG 2008-based, as well as 2011-based, household projections, plus Census data and ONS mid-year estimates. Applying what the appellants consider to be robust assumptions regarding migration and headship rates, the analysis points to a baseline demographic need for between 935 – 1,125 dwellings per annum<sup>47</sup>. The higher end of this range assumes that household formation rates return to 2008 levels by year 2013, whereas the lower end assumes that the 2011 rates continue.
49. The appellants' assessment then factors in employment growth<sup>48</sup>, taking account of alternative data sources including forecasts for the local area by Experian and

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<sup>40</sup> PPG: 2a-015

<sup>41</sup> PPG: 2a-017

<sup>42</sup> PPG: 2a-018 et seq

<sup>43</sup> PPG: 3-030

<sup>44</sup> Doc. CD 16.13: *Gallagher Homes and others v Solihull Council* [2014 EWHC 1283 Admin]

<sup>45</sup> Doc. CD 16.23: *Hunston Properties v SoS & St Albans Council* [2013 EWHC 2678 Admin]

<sup>46</sup> Mr Nicol's proof, paras 5.2 – 5.15 (Doc. AP-2); and his Appendix, Chaps 3 and 4 (Doc. AP-3)

<sup>47</sup> Mr Nicol's proof, para 5.15 (Doc. AP-2)

<sup>48</sup> Mr Nicol's proof, paras 5.16 – 5.36 (Doc. AP-2); and his Appendix, Chap 5 (Doc. AP-3)

Oxford Economics, and at national level by the Office of Budget Responsibility. Employment growth of 1.2% pa would generate around 1,140 new jobs in the District each year. This would be similar to the rate achieved locally in the early 2000s, but well below the current national forecasts. Part of this labour demand is assumed to be met by falling unemployment and increased activity rates in the over-55s; these assumptions go some way to reduce the need for housing. However, no evidence is found that claw-back of out-commuting will occur. Indeed the appellants argue that a failure to provide sufficient housing would increase the amount of unsustainable in-commuting, and put pressure on housing in other districts; or alternatively it would act as a brake on the local economy, contrary to national policy aims and the Government's 'pro-growth agenda'<sup>49</sup>. With these employment factors brought into the calculation, the dwelling requirement rises to a range of 1,270 – 1,480 pa<sup>50</sup>.

50. Next the appellants examine a range of 'market signals'<sup>51</sup>. These include the rate of increase in local house prices and rents; the ratio of housing costs to local incomes; the affordable housing delivery rate compared to need; falling home ownership; overcrowding; waiting lists; and land values. All of these are compared to national or regional average figures. From this analysis, the appellants contend that the local housing supply is falling to meet demand. To address this, and to bring the local affordability ratio<sup>52</sup> down from its present level of 8.4:1 to around 5.0:1, the appellants estimate that an additional 270 dwellings per year would be needed<sup>53</sup>. Adding this 'market signals adjustment' to the bottom end of the range previously suggested, increases the minimum housing requirement to around 1,540 dwellings per annum<sup>54</sup>.
51. By way of comparison, the appellants point to the annual net increase in the need for housing in the affordable sector, which in the Council's own housing needs study is estimated at around 588 dwellings per annum<sup>55</sup>. If these were to be provided through market-led developments, at 35% across the board, it would require an overall provision of 1,680 dwellings per annum<sup>56</sup>.
52. In addition, the appellants identify potential unmet needs in the Luton /Milton Keynes strategic housing market area, and other adjoining districts including Bedford, Chiltern and Wycombe<sup>57</sup>. Based on its current share of the resident labour force in the travel-to-work area, it is suggested that Aylesbury Vale's share of this unmet need, could amount to a further 50 – 300 dwellings per annum. Attention is also drawn to the potential unmet needs of in Greater London<sup>58</sup>, as identified in the draft Further Alterations to the London Plan (FALP), of which it is suggested that Aylesbury Vale's minimum share might be in the order of a further 200 dwellings p.a.

<sup>49</sup> Mr Mackenzie's proof, Appendix 1 (Doc. AP-1)

<sup>50</sup> Mr Nicol's proof, para 5.33 and Table 5.3 (Doc. AP-2)

<sup>51</sup> Mr Nicol's proof, Chap 7 (Doc. AP-2)

<sup>52</sup> Affordability ratio is defined as the ratio of average house price to average local income: Mr Nicol's Appendix, para 7.23 (Doc. AP-3)

<sup>53</sup> Mr Nicol's proof, para 7.13 (Doc. AP-2)

<sup>54</sup> Mr Nicol's proof, paras 7.14 and 8.1(5) (Doc. AP-2); and his Appendix, Chap 7 (Doc. AP-3)

<sup>55</sup> Mr Nicol's proof, Table 7.1 (Doc. AP-2); and the Housing & Economic Growth Assessment (HEGA), para 6.76 (Doc. CD 12.1)

<sup>56</sup> Mr Nicol's proof, para 7.12 (Doc. AP-2)

<sup>57</sup> Mr Nicol's proof, paras 6.1 – 6.12 (Doc. AP-2)

<sup>58</sup> Mr Nicol's proof, paras 6.13 – 6.18 (Doc. AP-2)

53. Notwithstanding these latter issues relating to affordable housing and the needs of other areas, the appellants propose that for the purposes of calculating the 5-year supply, the district's FOAN be taken as 1,540 dwellings per annum, or 7,700 units over the relevant 5-year period<sup>59</sup>. In the appellants' view, this is a robust figure. Although the assumptions are consistent with planning for growth, they are also realistic and conservative; they err on the side of caution. The appellants point out that the bulk of the work presented for this appeal has previously been tabled at the VAP Examination, and has not been seriously challenged at any time. The conclusions regarding the relationship of housing to employment growth and the needs of adjoining authorities, are seen as being consistent with the VAP Inspector's comments.
54. Comparing this proposed FOAN figure of 1,540 pa to the completions achieved since 2011, the appellants calculate that there is a backlog of 1,593 units<sup>60</sup>. Added to the above 7,700 dwellings, this gives a total requirement for the 5-year period of 9,293 dwellings<sup>61</sup>.
55. With regard to the NPPF buffer, the appellants argue<sup>62</sup> that past performance against the AVDLP should be measured over the whole plan period, 2001-11. In that period, delivery fell short of the annualised requirement of 810 pa in eight out of the ten years<sup>63</sup>. And against the South East Plan (SEP) requirement<sup>64</sup>, it is said that completions fell well short of the target of 1,345 pa, in every year from 2006 to 2013, with a cumulative shortfall of 3,646 units over this period<sup>65</sup>. The appellants therefore argue for a 20% buffer, which requires the bringing forward of a further 1,859 units. On this basis, it is contended that the total 5-year requirement is 11,152 dwellings<sup>66</sup>.
56. Against this requirement, the Council's claimed supply figure of 6,022 dwellings, for the period 2014-19, would only represent 2.7 years' worth<sup>67</sup>. The appellants point out that the Council's Position Statement shows that the situation in 2015-20 will get worse<sup>68</sup>.
57. In addition, the appellants raise doubts as to three of the identified sites<sup>69</sup>. The Aston Clinton Road site (150 dwellings) is said to have stalled since 2008, when the Council resolved to grant permission subject to a legal agreement. The agreement has never been completed. The land south of Newton Leys (321 units) is said to have been permitted, on appeal, to meet part of the needs of Milton Keynes district. The site at Pitstone Cement Works is said to include 36 units for which there is no planning permission and no identified location. However, the calculations set out above do not rely on these detailed concerns about individual sites.

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<sup>59</sup> Mr Nicol's proof, para 8.1(5) (Doc. AP-2); and Mr Mackenzie's proof, para 9.3.8 (Doc. AP-1)

<sup>60</sup> Mr Mackenzie's proof, para 9.3.13 and Table 9.2 (Doc. AP-1)

<sup>61</sup> Mr Mackenzie's proof, Table 9.4 (Doc. AP-1)

<sup>62</sup> Mr Mackenzie's proof, paras 9.3.15 9.3.17 (Doc. AP-1)

<sup>63</sup> Completions for 2007-14 are given in Table 2 of the Position Statement (Doc. CD 15.4); and earlier years can be seen as a graph in Doc 17.3, p17 (AVDC evidence to VAP examination, Nov 2013)

<sup>64</sup> Doc. CD 28.1 (the South East Plan – Policy H1)

<sup>65</sup> Mr Mackenzie's proof, Table 9.3 (Doc. AP-1)

<sup>66</sup> Mr Mackenzie's proof, Table 9.4 (Doc. AP-1)

<sup>67</sup> Mr Mackenzie's proof, para 9.3.22 and table 9.6 (Doc. AP-1)

<sup>68</sup> See Table 8 of the HLS Position Statement (Doc. CD 15.4, p8)

<sup>69</sup> Mr Mackenzie's proof, para 9.3.20 (Doc. AP-1)

58. It is also argued that there is no compelling evidence to justify the inclusion of a windfalls allowance (200 units)<sup>70</sup>, and that based on the Council's past record, its forecasts of future housing completions are likely to be over-optimistic<sup>71</sup>.
59. Overall, the appellants argue that, on any basis, there is not a 5-year supply of land as required by the NPPF. This in itself carries substantial weight in the planning balance. Furthermore, all the evidence points to a FOAN which is far in excess of, and possibly more than double, the projection-based figure that the Council is currently using as its interim target. The appellants contend that this further increases the weight that should be afforded to the need for housing.

*The appellants' submissions on landscape and visual impact*

60. The appeal site has no landscape designation and is not within any designated area. In the appellants' view, it has no special landscape qualities, and does not form part of a valued landscape<sup>72</sup>. The Landscape and Visual Impact Assessment (LVIA)<sup>73</sup> assesses the site and surrounding area as having no more than medium landscape sensitivity and moderate landscape value.
61. The site itself is regarded as well contained within the landscape. The site adjoins the urban area and is bounded by roads, hedgerows and tree belts. In the appellants' view, it is well related to the town, and is not part of the 'open' countryside. Little Horwood Road already has suburban development on its other side, and Sheep Street is a busy main road. Development on the ridges is typical of the existing settlement pattern. For all these reasons, residential development in this location is seen as being in keeping with the character of the surroundings.
62. The LVIA demonstrates that the site has limited visibility, due to the topography and the level of screening by existing mature vegetation. The key viewpoints are all either on the edge of, or just outside, the existing built up area. Most of the available views are from close range and are filtered by trees or hedges. The appellants therefore argue that the impact of development would be limited and localised, and as such, it would not dominate its surroundings.
63. The new planting carried out in 2012 around the site's boundaries and in the adjoining field to the north, has already become well established. This gives it a few years' start, ahead of any other new planting that may be carried out as part of the development. In a relatively short time, this will significantly increase the existing screening and help to assimilate development into the landscape. By Year 15, the appellants suggest that the landscape impact, and most of the identified visual impacts, would reduce to slight or negligible<sup>74</sup>.
64. The appellants go on to contend that the development's impact could be mitigated not only through additional new landscaping, but also by the design and layout of the scheme itself. The Framework Plan and Master Plan, contained in the DAS<sup>75</sup>, illustrate how this could be achieved. The retention of the internal and external boundary hedges and trees, it is suggested, would preserve the

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<sup>70</sup> Mr Mackenzie's proof, para 9.3.20.4 (Doc. AP-1)

<sup>71</sup> Mr Mackenzie's proof, para 9.3.20.5 and Appendix 2 (Doc. AP-1)

<sup>72</sup> Doc. AP-4 (Mr Taylor's proof)

<sup>73</sup> Doc. CD 1.5 (the LVIA)

<sup>74</sup> Doc. CD 1.5 (LVIA, section 9.2 - Tables 3 and 4); and Mr Taylor's Appendix 2.1 (Doc. AP-5)

<sup>75</sup> Doc. CD 1.4 (the DAS)

existing field pattern and ensure that it remained legible. These could be further strengthened if required. The hedge alongside Little Horwood Road could be managed at a lower height, and the housing in that part of the site could be laid out to face the road. This would emphasise the site's relationship with the town, and make the development more integrated. Keeping the southern part of the L-shaped field open would soften the impact on views from Sheep Street and the A413. Views to the countryside beyond could be protected by aligning open space and movement corridors, including a 'village green', to create vistas running east-west and north-south through the site. The development could be tied to these principles by conditions.

65. Given the proposed development's low landscape and visual impact, the appellants argue that it would not adversely affect the visual separation of Winslow and Shipton, nor their separate identities. Nor would it harm the character or appearance of either of their CAs.
66. In 2009, the Council appeared not to object to the site being developed, because it formed part of a much larger area to the east of Winslow, that was identified in the Strategic Housing Land Availability Assessment (SHLAA) as suitable for development, subject only to further consideration of transport matters<sup>76</sup>. No landscape objection was suggested at that time. The site was only taken out of the later SHLAA, in 2013<sup>77</sup>, because of the adverse appeal decisions in 2010 and 2011.
67. The appellants argue that the Council's present objection is no more than a generic opposition in principle to any development in the countryside. But that should be balanced against the need to find suitable sites to meet the local housing need. Some of those sites are likely to have to be in the countryside. In the appellants' submission, the present appeal site would have no greater impact than any others that are likely to be found.

*The appellants' submissions on the loss of agricultural land*

68. The appeal site includes a mixture of agricultural grades, including some BMV land and some of lesser quality<sup>78</sup>. The appellants submit that the land's full potential is restricted by the presence of some Grade 3b land within both fields<sup>79</sup>. In this context, it is argued that the lower-grade land precludes the use of either field for arable production. There are also said to be constraints in terms of field shape and access.
69. A high proportion of the land around Winslow is in the BMV grades. In this context, the appellants argue that the appeal site represents a negligible loss.
70. The site is let on a grazing licence to the operator of a nearby farm holding. It is contended that the site is not viable as an independent unit, and is not an integral or important part of any other agricultural operation.
71. Although some weight was given to the loss of agricultural land in the 2003 AVDLP Inspector's report, that was in the context of the former PPG7, which has long since been withdrawn.

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<sup>76</sup> Doc CD 14.2 (SHLAA March 2009 – table 12.1, p45; and plan following p104)

<sup>77</sup> Doc CD 14.1 (SHLAA March 2013 – table 11.0, p119; and plans at Appendix 3)

<sup>78</sup> Doc. CD 1.15 (Agricultural and Soils report)

<sup>79</sup> Doc. AP-6 (Mr Reeve's proof)



72. Overall, the appellants contend that the loss of BMV land should attract little weight.

*The appellants' submissions on the development's benefits*

73. The proposed development would provide up to 100 dwellings to meet local needs. The appellants say that the site could be brought forward quickly, because it is in a single ownership and has no major infrastructure requirements or other abnormal costs<sup>80</sup>. It was assessed in the 2009 SHLAA as developable and deliverable<sup>81</sup>. It is argued that this would be a substantial benefit, particularly given that in Aylesbury Vale the planning system has failed to provide sufficient housing in the past, and will continue to do so for at least the next three years, until the new VALP is progressed to adoption.
74. Around 35 of those dwellings would be provided as affordable housing. The housing needs study shows that affordable housing provision is not keeping pace with the increasing need<sup>82</sup>, and the appellants suggest that this will get worse, as grant funding has been withdrawn from some schemes<sup>83</sup>. Here, provision would be at no cost to the public purse. The Council's interim affordable housing statement recognises that the delivery of affordable housing is an important sustainability benefit, which should be reflected in the planning balance, especially where the affordable element is at a 'higher level', i.e. exceeding 30 per cent<sup>84</sup>. The appellants suggest that this should again be seen as a significant public benefit.
75. In economic terms, the appellants argue that the development would benefit the local and national economy, by directly creating £11.5m worth of investment, and supporting 76 construction jobs per annum over a 3-year building period. Following completion, it is argued that the addition to Winslow's resident population would benefit the town and the wider locality, through the household expenditure that it would bring to the area, and the demand for local services. The annual value of this is estimated at £0.77m, of which around one-third would be spent in Winslow itself. This is said to be likely to support about 20 permanent full-time jobs<sup>85</sup>, as well as helping to underpin the viability of local services. In addition, it is argued that the District would also benefit from the New Homes Bonus, which would be worth around £0.75m.
76. The contributions provided in the S.106 agreement would provide for an increased frequency of bus services on the No 60 route, to Aylesbury and Buckingham, the provision of two new bus stops on Sheep Street, improvements to the existing footway on the west side of Little Horwood Road, and a contribution to a future traffic calming scheme<sup>86</sup>. The agreement would also deliver on-site open space, including a play area. These would all benefit the existing community as well as providing for the new development.
77. It is also argued that the development would offer the opportunity to introduce a wider range of habitats, thus benefitting wildlife and enhancing biodiversity.

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<sup>80</sup> Doc AP-1 (Mr Mackenzie's proof – para 10.2.2)

<sup>81</sup> Doc CD 14.2 (SHLAA March 2009 –plan following p104)

<sup>82</sup> Doc. CD 12.1 (the HEGA report)

<sup>83</sup> Doc. AP-1 (Mr Mackenzie's proof, para 10.3.3)

<sup>84</sup> Doc. CD 9.1, para 3.2 (Affordable Housing Interim Policy Statement, June 2014)

<sup>85</sup> Doc. AP-1 (Mr Mackenzie's proof, para 10.4.1); and Doc. CD 1.18 (Socio-Economic Impacts report, chap. 4)

<sup>86</sup> Doc. AP-1 (Mr Mackenzie's proof, para 10.5.1); and Doc. J4 (S.106 agreement)

*The appellants' submissions on sustainability*

78. Winslow is seen as a sustainable location, because of its good range of facilities, employment, and transport links to surrounding towns. The East-West rail link will provide improved connections to the main growth centres in the sub-region, where substantial numbers of new jobs are expected. The S.106 funding would improve the existing bus services to the two nearest larger towns. These prospects further enhance the town's sustainability credentials.
79. The appeal site is sustainably located in relation to the town, being only 10 minutes' walk from the centre and most local facilities. Good pedestrian and cycle links already exist. The S.106 funding for new bus stops would ensure that all the main local bus services were easily accessible from the development.
80. The benefits set out above, to housing delivery, economic growth, transport, community facilities, and ecology, all contribute to the scheme's sustainability.
81. The appellants therefore submit that the proposal represents sustainable development.

*The appellants' submissions on the planning obligations*

82. The S.106 agreement leaves it for the SoS to decide whether the play area should be a LEAP or a NEAP<sup>87</sup>. The appellants consider a LEAP to be sufficient<sup>88</sup> to comply with the rate of provision required by AVDLP Policy GP86<sup>89</sup>.
83. The agreement also includes provision for the payment of a Bond in respect of the cost of providing the required on-site open space<sup>90</sup>. The appellants consider this to be unduly onerous, and also unnecessary, given the range of other measures available to the Council to secure compliance<sup>91</sup>.

*The appellants' submissions on policy matters and the planning balance*

84. The appellants argue that because of the lack of a 5-year land supply, the relevant housing supply policies are therefore out of date. In their submission, these include WNP Policies 2 and 3. Even if this was not already clear from NPPF paragraph 49, it is reinforced by WNP Policy 1, which effectively dis-applies Policies 2 and 3 where there is a land supply shortfall.
85. The SoS's decision on a recent appeal at Broughton Astley<sup>92</sup> shows that a neighbourhood plan's housing policies may be found out of date, even where the plan has only just been made. The same applies here.
86. The presumption in favour of sustainable development is therefore engaged. Permission should therefore only be refused if the adverse impacts would significantly and demonstrably outweigh the benefits. This distinguishes the present appeal from the two previous appeals, which pre-dated the NPPF.

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<sup>87</sup> Doc. J4 (the S.106 agreement – p15)

<sup>88</sup> Doc. AP-14 ( Appellants' Closing submissions, para 70)

<sup>89</sup> Doc. CD 8.2 (AVDLP - Policy GP86)

<sup>90</sup> Doc. J4 (the S.106 agreement – 2<sup>nd</sup> Schedule)

<sup>91</sup> Doc. AP-14 ( Appellants' Closing submissions, para 71)

<sup>92</sup> Doc. CD 6.9, para 14 (Broughton Astley appeal decision – APP/F2415/A/12/2183653)

87. Here, in the appellants' view, the reverse is the case; the harm to the landscape and agriculture is outweighed by the benefits identified above. This leads the appellants to conclude that permission should be granted.

### **The Case for the Council**

#### *The Council's submissions on housing land supply*

88. The Council accepts that it is unable to carry out a 5-year land supply calculation in terms that fully satisfy the requirements of the NPPF. However, the Council argues that this is because, following the need to withdraw the draft VAP, the Authority has found itself in the position of having to go back to square one, and to re-think the District's housing requirement for the new VALP from scratch.
89. The Council submits that it has lost no time in starting on this process, and relevant studies are in hand. But there is a considerable amount of work to be done, including an updated SHMA, updated economic forecasts, joint working with other authorities, community and stakeholder engagement and sustainability appraisal<sup>93</sup>. The process is necessarily complex and lengthy, and requires the involvement of other parties. None of this necessary work can be rushed or skimmed. Until the work has been carried out, the Council will not know the size of its FOAN, and will not properly be able to take a view as to what the FOAN is likely to be.
90. This is why, as an interim measure, the Council has published its Housing Land Supply Position Statement<sup>94</sup>. In the absence of a bona-fide FOAN figure, or any up-to-date housing policies, the Council argues that the DCLG household projections are the best evidence available, and their use as a starting point accords with the PPG advice. It is also pointed out that the requirement figure thus adopted, based on an annual rate of 1,018 dwellings pa, is well within the range of options suggested by the most recent demographic analysis<sup>95</sup>. On this basis, the Council contends that the supply, as shown in the Position Statement, is 5.6 years.
91. The calculations set out in the Position Statement include an allowance for windfalls. But in the Council's view this is justified because windfalls have consistently contributed to the supply. The potential for double-counting is acknowledged, but the Council's calculations avoid this by restricting the windfall allowance to years 4 and 5 only. And even if windfalls are omitted altogether, it is argued that there would still be a supply of 5.4 years<sup>96</sup>.
92. The calculations also allow for making up the pre-2014 backlog within the first five years. The period over which the backlog is counted is limited to 2011-14, because it is argued that any under-provision before that date is taken into account in the 2011 household projections. But even if the backlog calculation were extended back to 2007, it is again contended that there would still be a 5-year supply<sup>97</sup>.

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<sup>93</sup> Doc. CO-1 (Mrs Jarvis' proof), paras 7.16 – 7.18

<sup>94</sup> Doc. CD. 15.4 (Housing Land Supply Position Statement, June 2014)

<sup>95</sup> Doc. CD. 12.4 (Updated Demographic Projections Report, GL Hearn, April 2013 – Fig. 28)

<sup>96</sup> Doc. CO-1 (Mrs Jarvis' proof, paras 7.34 – 7.35)

<sup>97</sup> Doc. CO-1 (Mrs Jarvis' proof, para 7.25)

93. As far as the NPPF buffer is concerned, the Council has chosen to look at past performance up to 2011 against the AVDLP requirement; and since then, against the household projections, because that is the only credible yardstick available. On this basis, it is argued that the under-delivery is small, justifying only a 5% rather than 20% buffer addition<sup>98</sup>. With regard to the SEP, the Council argues that past performance against that plan is no longer relevant, since the plan did not reflect the District's own needs, and was based on a regional redistribution strategy which has now been discredited and abandoned; reference to the SEP would therefore be contrary to the principles in *Hunston v St Albans*<sup>99</sup>. And in any event, it is argued that the most relevant figures in the SEP were those that disaggregated the district's housing provision between Aylesbury town, the Milton Keynes fringe, and the rural remainder. On that basis, the Council had always met the SEP requirement. It is also argued that, even though the revocation of the SEP did not take effect until 2013, it was clear that the plan was to be revoked from 2010 onwards.
94. The Council also points to the fact that the District's total capacity on sites with planning permission is in excess of 8,500 units<sup>100</sup>. This far exceeds the projection-based 5-year requirement figure. It also exceeds any theoretical backlog, even assessed against the SEP. In the Council's view, the reason why more of these permissions have not been implemented already, and why many are not regarded as deliverable within the next 5-year period, is largely because of adverse market conditions rather than any physical constraints. The Council argues that adding to this stock of outstanding permissions would not necessarily increase housing delivery.
95. In addition, the Council submits that permissions have been granted on a number of sites since the base date of 1 April 2014, which are not included in the published figures. A number of these, totalling 300 dwellings, are listed in the evidence<sup>101</sup>, and a further 250 dwellings have recently been permitted on a WNP allocated site at Furze Lane, Winslow. Some or all of these are likely to be deliverable within 5 years, and will therefore add to the published 5-year supply.
96. With regard to the appellants' evidence and calculations regarding the FOAN, the Council argues that these are of only marginal relevance to the appeal. In their view, determining the FOAN is matter for the plan-making process, not least because any figures that are put forward in the context of an individual proposal cannot be subject to proper testing or consultation. The Council draws support for this proposition from the judgements in both *Gallagher v Solihull*<sup>102</sup> and *St Albans v Hunston* (Court of Appeal)<sup>103</sup>. In the latter, the Court expressly declared that in a S.78 appeal, it is not for the Inspector to seek to replicate the local plan process. Moreover, the Council contends that neither of these judgements deals directly with the situation in the present appeal, where the FOAN has not yet been decided.

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<sup>98</sup> Doc. CO-1 (Mrs Jarvis' proof, paras 7.26 – 7.31); and Table 2 of the Position Statement (Doc. CD. 15.4)

<sup>99</sup> Doc. CD 6.1 (*Hunston Properties v St Albans*)

<sup>100</sup> Doc. CD 15.4 (June 2014 Position Statement – Appendix 1); and Doc. CO-1 (Mrs Jarvis' proof, para 7.32)

<sup>101</sup> Doc. CO-1 (Mrs Jarvis' proof – Appendix PJ3 and para 7.43)

<sup>102</sup> Doc. CD 6.13 (*Gallagher Homes and others v Solihull MB Council*, para 88)

<sup>103</sup> Doc. CD 6.1 (*Hunston Properties v St Albans*) – Court of Appeal judgement, para 26

97. The Council draws particular attention to a recent appeal decision at Stoke Hammond<sup>104</sup>, in which the Inspector endorsed the Council's interim policy approach, including the use of the household projections, and a 5% buffer.
98. In the circumstances, whilst the Council accepts that the provision of additional housing should be treated as a benefit, it is suggested that this should attract only limited weight.

*The Council's submissions on landscape and visual impact*

99. The site lies within the Winslow Ridge character area as defined in the Landscape Character Assessment (LCA) report for the district<sup>105</sup>. The key characteristics of the area, as identified in that report, include mixed farming, a good field pattern, strong hedgerows, and a sharp transition between the town and the countryside. The area is variously described as having a balanced and well-structured character with strong visual unity, good cultural and functional integrity, a settled agricultural nature, and a sense of historic continuity. Overall, the landscape of the Winslow Ridge is assessed in the report as being in very good condition and of good quality, with a distinctive character and a sense of place. The field pattern and hedgerows are particularly emphasised as defining features. The guidelines for the area's future management are aimed towards conserving and reinforcing its key characteristics and overall landscape character.
100. The Council argues that the appeal site exhibits many of these key characteristics. The site is actively grazed pasture land that forms part of the settled agricultural landscape. It has a distinctive field pattern made up of smallish, irregularly-shaped enclosures, defined by strong hedgerows and tree belts. These are an attractive feature of the area's landscape reflecting the character of the wider Winslow Ridge area that the Jacobs report describes. In the Council's view, Little Horwood Road exemplifies the type of sharp, crisp transition between town and the country that is identified as being important to Winslow's identity. The site lies beyond this clear, logical and defensible boundary, and is thus an integral part of the surrounding countryside. No alternative boundary is available that could perform the function of providing the urban edge as effectively as the present one, in a manner in keeping with the character of the landscape.
101. The Council goes on to argue that although the site and surrounding area are not formally designated, that does not mean that the landscape is not of value. The significance of the Winslow Ridge landscape is recognised in the Jacobs report, and the representations on the present appeal show that the appeal site itself is valued locally as part of that landscape. The site's proximity to the urban area gives it particular importance to local people, in that it is amongst the most accessible and most frequently experienced parts of the surrounding countryside. The two previous appeal decisions on the site<sup>106</sup> gave significant weight to the harm to the landscape<sup>107</sup>.

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<sup>104</sup> Doc. CD 6.8 (Stoke Hammond Appeal decision – paras 26 and 27)

<sup>105</sup> Aylesbury Vale Landscape Character Assessment – Jacobs, 2008: extracts at Mr Taylor's Appx 6 (Doc. AP-5); and quoted more extensively in Mr Bellars' proof, paras 51 – 75 (Doc. CO-2); and identification plan at p25 of the LVIA (Doc. CD 1.5)

<sup>106</sup> Docs. CD7.2.2 and 7.2.3 (previous appeal decisions on the appeal site)

<sup>107</sup> Doc CO-2 (Mr Bellars' proof), paras 90 - 113

102. The proposed development would jump across the clear boundary of Little Horwood Road, and would form an isolated pocket of housing, within the otherwise tranquil countryside on the other side. As such, in the Council's submission, it would appear incongruous and intrusive; it would not be well integrated with the existing built-up area. Although the hedgerows might be nominally retained, the field pattern would be obscured, and the legibility of the landscape would be totally lost. And whilst the appeal site is only a small part of the Winslow Ridge as a whole, the integrity of the wider landscape area would be eroded. The retention of the existing hedges and trees would not effectively or significantly mitigate this impact. The appeal relating to Quarrendon Fields<sup>108</sup> turned on a similar impact, and was dismissed by the SoS<sup>109</sup>.
103. Whilst the appellants suggest that the development could be laid out to retain longer views across the site to the distant hills, the Council contends that this would be likely to conflict with the retention of existing trees, or would limit the extent of new planting that could be undertaken. In any case, in the Council's opinion, the retention of outward views would not compensate for filling the immediate view with built development in place of the existing attractive landscape and field pattern. Especially as the proposed density would be around double that of the existing development on the Elmside estate.
104. The Council also argues that the development would create coalescence between Winslow and Shipton. This would undermine the separate identities of both settlements. Concern is also expressed that, once development has bridged Little Horwood Road, there would be nothing to prevent it from spreading further north, and thus exacerbating the landscape harm.
105. In the Council's view, the appellants' LVIA is flawed<sup>110</sup>, because the development is not properly assessed against the existing baseline of open countryside, and the loss of the identified key characteristics is not fully taken into account. And in addition, the study under-estimates the sensitivity of receptors, including nearby residents and pedestrians on Little Horwood Road, and thus the sensitivity of some of the chosen viewpoints; and it understates the magnitude of the change that would be experienced at the majority of those points. The Council also contends that the LVIA over-states the effectiveness of the proposed mitigation.
106. In any event, the LVIA admits that the development would be seen prominently, and that there would be some significant adverse impacts. In the Council's assessment, the effect would involve major change to significant landscape features, and the introduction of substantial new elements; it would thus degrade the landscape's quality. Applying the GLVIA criteria<sup>111</sup>, the Council suggests that this must equate to a high magnitude of change, leading to an assessment of substantial landscape and visual impact<sup>112</sup>. There would therefore be significant adverse harm to landscape character and visual amenity.

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<sup>108</sup> Doc. CD 6.12 (Quarrendon Fields appeal - APP/J0405/A11/2155042)

<sup>109</sup> Doc CO-2 (Mr Bellars' proof), paras 114 - 131

<sup>110</sup> Doc. CO-2 (Mr Bellars' proof), Chaps 5-8

<sup>111</sup> Doc. CD 1.5 (LVIA - Appendix 1: Methodology)

<sup>112</sup> Doc. CO-2 (Mr Bellars' proof) - summary tables, pages 85 and 88

107. Consequently, in the Council's view, the proposal conflicts with the NPPF in that it would not preserve the countryside's intrinsic character and beauty, nor would it conserve or enhance the natural environment.

*The Council's submissions on loss of agricultural land*

108. From the appellants' soil report<sup>113</sup>, it can be seen that the scheme would result in the loss of 3.6ha of land in grades 2 or 3a, which are amongst those grades classed as BMV land. This represents about 75% of the site area. Even if this high quality soil were re-used within the open space areas, it would be lost from food production or any other productive agricultural use, contrary to the aims of NPPF paragraphs 109 and 112. The Council sees this as a significant adverse impact, reducing the development's sustainability.

*The Council's submissions on the planning obligations*

109. The Council is satisfied that the S.106 agreement overcomes RR2, and that its provisions all meet the relevant tests.
110. In the Council's view, the proposed play area should be to the higher NEAP standard, because the site is outside the recommended catchment distances from the nearest existing facilities<sup>114</sup>.
111. The Bond is sought by the Council because of past experience of developers defaulting on similar obligations<sup>115</sup>.

*The Council's submissions on policy matters and the planning balance*

112. With regard to the AVDLP, the Council accepts that the Local Plan's housing policies are out of date. With the exception of Policy GP35<sup>116</sup>, no other specific AVDLP policies are relied on in the appeal. Nevertheless, it is argued that the role of Winslow in the Local Plan is as a small market town, not a location for major growth, and the scale of the present proposal is therefore in conflict.
113. Regarding the WNP, the Council contends that the appeal proposal would be in conflict with both policies 2 and 3, by virtue of its location outside the settlement boundary. In the Council's view, the plan already makes more than adequate provision for housing on other, more preferable sites in the town. To go beyond the settlement boundaries now would be directly contrary to the plan's strategy for urban containment. And also, given the appeal scheme's size, there is a risk that it would prejudice the achievement of the sites that are allocated in the plan.
114. The Council does not accept that any of the relevant WNP policies are out of date. The plan has only just been through its examination, and during that process the Examiner was made aware, by the present appellants as well as others, of the problems encountered with the VAP<sup>117</sup>. The Examiner acknowledged receipt of these<sup>118</sup>. In the light of that situation, it must have

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<sup>113</sup> Doc. CD 1.15 (Agricultural and Soils report)

<sup>114</sup> Doc. CO-1 (Mrs Jarvis' proof – paras 9.56 – 9.58 and Appendices PJ4b and PJ5)

<sup>115</sup> Doc. CO-7 (Council's closing submissions, para 59)

<sup>116</sup> My conclusion on the relevance of Policy GP35 is presented earlier. In the interests of economy, I have taken the view that it is unnecessary to report in detail on the parties' submissions on this matter.

<sup>117</sup> Docs. CD 18.9, 18.10 and 18.13 (Gladman representations and legal submissions on WNP, Jan – Feb 2014)

<sup>118</sup> Doc. CD 18.14 (WNP Examiner's letter, 10 Feb 2014)

been clear to him that at District level there could not be a fully NPPF-compliant 5-year housing land supply. But the plan was allowed to proceed in the full knowledge of this<sup>119</sup>. The land supply issue is therefore not a new factor. In these circumstances, there is no reason why the WNP policies should not be given full weight. And even if any of those policies are now judged out of date, the Council submits that it is still necessary to weigh up the benefits to housing provision against the harm to the landscape and the loss of BMV land.

115. The Council points to the NPPF policies relating to the plan-led system, and the important role of neighbourhood planning. In the Council's view, it is clear from this that the Government intends neighbourhood plans and localism to carry considerable weight in decision making. In the Broughton Astley<sup>120</sup> appeal decision, referred to earlier, the SoS attached 'very substantial negative weight' to conflict with the neighbourhood plan. And in another very recent appeal at Sayers Common<sup>121</sup>, the SoS concluded that the potential conflict with the neighbourhood plan was enough to tip the balance, despite a lack of housing supply. The Council submits that the same principles should apply to the appeal scheme's conflicts with the WNP. In Winslow, local people have invested time and effort in producing a credible plan that promotes sustainable growth and has the community's support. Their wishes should in turn be supported by the SoS.
116. In the light of the harm to the landscape and agricultural land, the Council argues that the appeal proposal would not constitute sustainable development. In the Council's view, these adverse impacts would significantly and demonstrably outweigh the scheme's benefits.

### **The Case for Winslow Town Council**

#### *WTC's submissions on the Neighbourhood Plan*

117. The Town Council submits that the WNP has overwhelming support amongst Winslow residents. The plan is said to have been approved by over 98% of those voting in the local referendum, with a turnout of almost 60%<sup>122</sup>. Both of these figures are believed to be the highest recorded for any Neighbourhood Plan. The plan now forms part of the statutory Development Plan. This status was achieved only after extensive and wide-ranging public consultation and stakeholder involvement, followed by a rigorous independent examination. Large numbers of local people have contributed their time, energy and creativity to this process. It is argued that the credibility of the neighbourhood planning system is now at stake, and that local people are entitled to expect the plan to be upheld.
118. In WTC's view, the WNP has achieved the difficult task of being not only popular but also positive. In their view it is a forward-looking blueprint for all aspects of the town, embracing the need for growth and sustainable development, as well as seeking to conserve what is best about the town now.

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<sup>119</sup> Doc. CD 18.15 (WNP Examiner's report, May 2014)

<sup>120</sup> Doc. CD 6.9 - Broughton Astley appeal decision, para 19 (APP/F2415/A12/2183653)

<sup>121</sup> Doc. CO-5, para 16 - Sayers Common appeal decision (APP/D3830/A/12/2189451)

<sup>122</sup> Doc. TC-1 (Cllr Monger's proof)



To that end, the plan allocates new sites for over 450 homes, including affordable housing, self-build, and elderly care. Together with other sites already permitted, these provisions allow for an overall increase of around 35% in the town's population over the whole plan period. That is believed to be more than a proportionate share of the district's growth requirement. It is also estimated to be equal to 10 years' worth in terms of Winslow's historic building rate<sup>123</sup>.

119. Provision is also made in the WNP for employment land for up to 600 new jobs, a new railway station, new secondary school, retail development, and sites for a new medical centre, community centre and sports facilities. Capacity will also remain within the proposed boundary for further infilling and redevelopment on brownfield land; the plan does not impose any ceiling on the overall levels of housing or other growth. WTC contends that this represents just the kind of positive and committed response to localism that the Government was hoping for.
120. The Town Council also argues that the WNP goes even further than this, by ensuring that its underlying aims and strategy are well conceived and justified in planning terms. The scale of growth has been planned to meet the town's perceived needs, without compromising the existing community spirit or market town character. The direction of growth, to the west and north-west, has been chosen to take advantage of the new rail link and less constrained land. WTC submits that all of these issues have been thoroughly debated and thought through. It is also argued that in all of these respects, the WNP was never intended to be reliant on the emerging VAP, and so was not unduly affected by the latter's withdrawal.
121. Against this background, WTC contends that the development now proposed would conflict with the WNP in several ways. It would breach the settlement boundary. It would cause harm to the town's countryside setting and identity. It would conflict with the strategic direction of growth, and compete with the more preferable and sustainable locations chosen in the plan. It would exceed the town's needs and put pressure on local infrastructure and services. And it would set a precedent for further development, extending to the north of the present appeal site.
122. If any further development is needed to meet AVDC's requirements at District level, WTC suggests that such development should be allocated through the forthcoming VALP.
123. The Town Council draws attention to the support for neighbourhood planning in NPPF paragraph 198, and in the Broughton Astley decision, and also another appeal decision by the SoS, relating to a site at Park Road, Malmesbury<sup>124</sup>, in which the SoS concluded that despite the lack of a 5-year supply, greater weight should be given to the potential impact on the emerging plans, including the neighbourhood plan<sup>125</sup>. Attention is also drawn to the Written Ministerial Statement in July 2014<sup>126</sup>, which reaffirms the Government's commitment to devolve powers to local communities through neighbourhood

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<sup>123</sup> Doc. TC-8 (WTC closing submissions)

<sup>124</sup> Doc. AP-9 (Malmesbury appeal decision, paras 14-18)

<sup>125</sup> Doc. TC-2 (Mr Homer's proof)

<sup>126</sup> Doc. TC-3 (Statement on neighbourhood planning, by the Parliamentary Under-Secretary for CLG, 10 July 2014)

planning; and the Technical Consultation published in the same month<sup>127</sup>, which amongst other things proposes that the adverse impact of allowing development that conflicts with a neighbourhood plan should be regarded as substantial. In the light of these indications, WTC submits that the present appeal proposal strikes at the heart of neighbourhood planning, and accordingly, the conflict with the WNP should be given the highest weight.

WTC's submissions on the effects on the landscape and townscape

124. The landscape to the east of Winslow is seen by the Town Council as attractive and sensitive. Its proximity to the urban area contributes significantly to local residents' enjoyment and quality of life. Little Horwood Road is a clear natural boundary. The sharp contrast between the town and countryside is valued by local people. These features would be lost.
125. Shipton is regarded as a separate community. In WTC's view, housing on the appeal site would visually join it up with Winslow, detracting from the identities of both settlements. But conversely, such development would not be well integrated with either. As such, the Town Council submits, the proposed scheme would appear not as a part of the town, but as an island of development, separated by Little Horwood Road.
126. The existing views from the two footpaths to the north are seen as important, providing views across the site to the hills beyond. These would be heavily obscured. If development of the northern field followed, that would obliterate the most important views completely.
127. Development in this area has been consistently opposed by WTC on landscape and other grounds, and for this reason was rejected by three previous inspectors.

WTC's submissions on other matters

128. The Town Council supports the District Council's objection to the loss of agricultural land.
129. WTC is concerned about the possible effects on traffic, and particularly the potential for rat running through the Elmfields and Magpie Farm<sup>128</sup> estates. The proposed £20,000 contribution to traffic calming is seen as inadequate. In one of the previous proposals, £80,000 was agreed<sup>129</sup>. The S.106 agreement also fails to provide for any new pedestrian crossings, which would be needed to link the development safely with the town centre.
130. WTC envisages an increase in pressure on Winslow's existing community facilities, including the town's existing public hall. The WNP provides a site for a new community centre to replace it, but the Town Council still needs to raise £3m. The proposed development would make the need for this facility more urgent, but the S.106 makes no provision for any contribution.

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<sup>127</sup> Doc. TC-4 ('Technical Consultation on Planning': DCLG, July 2014

<sup>128</sup> Magpie Farm is the area to the north of the Elmfield estate, to the west of Little Horwood Road.

<sup>129</sup> Doc. TC-7 (WTC letter 16 Sept 2014)

131. In WTC's view, the play area to be provided on the site should be a NEAP rather than a LEAP, for the reasons given by the District Council.
132. The Town Council also sees a need for a youth shelter, and would have wished to see some provision in the S.106 agreement for this.
133. Although the S.106 provides for a contribution to some local bus services, WTC argues that the agreement is inadequate in not also providing for an improved service to Milton Keynes.
134. The Town Council welcomes any genuine economic benefits resulting from development, but argues that those claimed for the appeal scheme are largely speculative. There is no guarantee of any economic benefits specific to Winslow.
135. Although the scheme would provide 35% affordable housing, that is the minimum required from any scheme under WNP Policy 4. This is therefore not a benefit specific to the appeal scheme. Policy 4 also requires part of the affordable housing to be provided through a Community Land Trust, but in the present case the S.106 fails to provide for this.

### **The Submissions by Other Interested Persons**

#### *Oral submissions at the inquiry*

##### *Mrs Gaynor Richmond*

136. Mrs Richmond, speaking as a local resident of 35 years' standing, drew attention to a number of statements by Government ministers with regard to localism and the importance of allowing local communities to take a key role in decisions about development affecting their areas<sup>130</sup>. She emphasised the amount of work that had gone into preparing the WNP, and the disheartening effect that decisions contrary to its aims would be likely to have.

##### *Mr Kevin Sexton*

137. Mr Sexton also spoke as a local resident for over 30 years. He reviewed the site's planning history and the importance that previous inspectors have given to the role of Little Horwood Road as a de-facto boundary, a role which is now reinforced by its designation as such in the WNP<sup>131</sup>.

##### *Mrs Cathy Tracy*

138. Mrs Cathy Tracy, a local resident of over 20 years, presented details of what she regards as shortcomings in the community consultation exercise carried out by the appellants<sup>132</sup>. Mrs Tracy objects to the proposed development on the grounds that the site is outside the settlement boundary, in what she describes as delightful open countryside.

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<sup>130</sup> Doc. OP-1 (Mrs Richmond's speaking notes)

<sup>131</sup> Doc. OP-2 (Mr Sexton's speaking notes)

<sup>132</sup> Doc. OP-3 (Mrs Tracy's speaking notes)

*Mrs Elizabeth van de Poll*

139. Mrs van de Poll presented a written statement from Councillor Patricia Cawte, another long-standing local resident<sup>133</sup>, and chairman of WTC's Development Committee, who was unable to attend the inquiry due to work commitments. Cllr Cawte's submission deals principally with the appellants' legal challenge to the making of the WNP, and summarises the Town Council's case in response to that challenge.

*Mr Vic Otter*

140. Mr Otter spoke as another who has been a Winslow resident for more than 30 years. He spoke of the strong local support for the WNP and the level of opposition to the present appeal proposal<sup>134</sup>.

*Councillor Roy van de Poll*

141. Mr van de Poll presented a written statement from Councillor David Barry, the Mayor of Winslow, and chairman of the Town Council<sup>135</sup>. The statement expresses support for the WNP and concern for the future of neighbourhood planning if the appeal is allowed.

Written Representations

142. The matters raised in the written representations at the appeal stage cover much of the same ground as those summarised above. Gillian and Robert Dickins state that in their view the area in question forms a natural and visually pleasing boundary between Winslow and Shipton. Philip Sexton raises concerns regarding the impact on views from the A413 when approaching from the south, and regarding safety at the Little Horwood Road/A413 junction. Alistair Marshall writes of his concern relating to the safety of children using Elmfields Gate to access schools and play facilities.
143. Harry Chambers raises issues with regard to the effects on car parking in the town centre, and increasing pressure on the town's schools and doctors' services. Similar points are made by Mrs LG Quin and Mrs R J West. The latter also expresses concern that the scale and pace of development may hinder social integration, to the detriment of community spirit.
144. The representations made at the initial application stage include a letter from the Rt Hon John Bercow MP, in his capacity as the member for the Buckingham constituency. The letter raises concerns in relation to the effects on the neighbourhood planning process. The representations made at this earlier stage are summarised in the officers' report<sup>136</sup>.

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<sup>133</sup> Doc. OP-4 (Ms Cawte's submission)

<sup>134</sup> Doc. OP-5 (Mr Otter's speaking notes)

<sup>135</sup> Doc. OP-6 (Cllr Barry's submission)

<sup>136</sup> Doc. CD 3.1 (Officers' report on the appeal application)

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## **INSPECTOR'S CONCLUSIONS**<sup>137</sup>

### **The Main Issues**

145. In the light of all the submissions made, both orally and in writing, the main issues in the appeal appear to me to be:
- (i) Whether Aylesbury Vale has an adequate supply of land for housing; and
  - (ii) the proposed development's effects on the character and appearance of the area and its landscape.

### **Issue (i): Housing land supply [47-59, 88-98]**

#### *Scope of the housing supply issue and sub-issues*

146. In the light of the evidence summarised above, the issue in relation to housing land supply breaks down into the following sub-issues:
- as a matter of principle, whether the Council's 5-year supply calculation, based on the household projections, should carry any weight; and if so, how much;
  - whether the Council's detailed calculations on this basis stand up to scrutiny;
  - whether the appellants' alternative figures are more robust;
  - and in the overall planning balance, how much weight should be given to the delivery of housing.

#### *The principle of using the household projections as the housing requirement*

147. As will be clear from the foregoing, Aylesbury Vale District is in the position of having no up-to-date adopted development plan, no emerging draft plan, and as yet very little by way of an up-to-date evidence base for the new plan, the VALP, that the Council now wishes to bring forward [25-38]. In that situation, it is clearly not possible for the supply of housing land to be measured against any relevant policy requirement.
148. Recent case law, including the *Hunston/St Albans* and *Gallagher/Solihull* cases, suggests that where there is no up-to-date policy, the basis for the 5-year supply calculation should be the full, objectively assessed need ('FOAN') [47]. But here, the Council has not yet come to a view as to what figure would constitute Aylesbury Vale's FOAN. As the Council points out, this is a different situation from that in either of the above cases. Given the importance that the NPPF places on the 5-year land supply, it seems to me that until the Council has reached a position where it can take a view as to the level of the FOAN, it has little choice but to adopt some other measure.
149. In the PPG advice on assessing housing needs and land availability, the DCLG household projections are endorsed as the appropriate starting point [44]. The projections are therefore an important component of the overall assessment, albeit only one of several. In the present case, they appear to be the only

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<sup>137</sup> In the following sections, the numbers in square brackets [ ] refer to the relevant paragraphs earlier in this report.

relevant figures approximating to need that the Council currently has to work with. As such, it seems to me that the household projections are certainly better than nothing.

150. Clearly, the projections in their raw, or almost raw, form do not represent the FOAN. But the Council does not suggest they do. The Council has simply adopted a pragmatic approach, in order to be able to produce a 5-year supply calculation of some kind, as set out in their Position Statement [36-38], which it otherwise could not have done. Nothing in the NPPF or PPG appears to preclude measuring the supply in this way, when no other option is available. Nor, as far as I am aware, does anything in the relevant case law. It therefore seems to me that the calculations in the Position Statement are a material consideration, and as such, they should carry some weight.
151. However, the real question is, how much weight. Although the PPG advocates the use of the household projections as the starting point, it also makes it clear that they are no more than that. Primarily, this is because the projections are trend-based. As such, they reflect only what has happened in the past. Population and household growth during that period may have been suppressed, either by an under-supply of housing or by other factors such as the economy. Given the acknowledged national housing shortage, this seems likely to have affected trends in many areas. And, importantly, the projections take no account of any future changes, such as changes in government policies or economic circumstances, that may affect demographic behaviour and household formation in the next plan period [44-45].
152. And furthermore, as the PPG itself points out, the household projections have not been tested or moderated against any other considerations [46]. Before the authority can propose either a FOAN or a policy requirement figure, it also needs to take account of existing unmet housing needs, market signals, and the duty to co-operate. Consequently, although the household projections are an important step in the process of assessing housing need and formulating a housing policy, that process is potentially lengthy and complex. The projections in their 'raw' form are only the first step, and it is quite possible that the ultimate figures may bear little or no resemblance to them.
153. The Council accepts that the projection-based 5-year supply calculations in their Position Statement do not fully meet the NPPF's aims [88], but nonetheless it maintains that significant weight should be given to those calculations, on the grounds that no more authoritative figures are currently available. However, it is clear from the NPPF that the purpose behind the requirement for a 5-year land supply is to increase the level of housing delivery, so as to bring it more closely into line with actual demand. A calculation which measures the supply against anything other than the FOAN (or against a policy requirement derived from FOAN), will not serve that purpose.
154. It therefore seems to me that, even if the Council's calculations succeeded in proving a 5-year land supply against the requirement figure in the Position Statement, that would not demonstrate that a satisfactory supply exists, in terms of the NPPF's aims. Consequently, irrespective of any further conclusions that might be drawn from the matters that now follow, I conclude that for the purposes of this appeal, the Council's projection-based calculations should carry only limited weight.

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The Council's land supply calculations

*The NPPF buffer*

155. Where there has been a record of persistent under-delivery of housing, NPPF paragraph 47 requires a 20% buffer rather than the 5% that applies in other cases. The Council's case for the lower buffer is based on its record against the AVDLP, in the period 2007-11; and since then, during 2011-14, against the household projections [93]. Judged on that basis, the cumulative shortfall over those 7 years was 151 dwellings<sup>138</sup>.
156. In percentage terms, the Council may be justified in saying that a shortfall on this scale is relatively small. But nevertheless, in absolute terms, a shortfall of 151 is still a significant number. And in any event, a shortfall on any scale is still under-delivery. Nothing in the NPPF or PPG suggests that the higher buffer is dependent on the scale of the under-delivery, but only on its persistence. And as the appellants point out, on the Council's own figures, under-delivery occurred in five out of the seven years<sup>139</sup>. To my mind, that is a fairly persistent pattern. Consequently, even adopting the Council's own basis for assessment, it seems to me that there is sufficient evidence for me to form the view that District does have a record of persistent under-delivery, justifying the application of the 20% buffer.
157. I appreciate that the Council might regard this as a rather harsh judgement (although I advance it here as representing an entirely literal interpretation of the NPPF policy), but when one also considers the additional arguments made by the appellant, the case for the 20% buffer only becomes stronger.
158. Firstly, with regard to the AVDLP period, the Council bases its case only on the last four years of that plan<sup>140</sup>. But as the appellants point out, the choice of 2007 as a starting point is quite arbitrary. If one instead looks at the whole of the AVDLP period, 2001-11, it can be seen that completions failed to reach the required annual rate in eight out of the ten years [55]. And, although detailed figures for some of these years are not in evidence at this inquiry, it is clear from the information available that the shortfalls in several of those years exceeded the small surpluses in the other two by a considerable margin<sup>141</sup>. Over the whole plan period therefore, the cumulative shortfall must have been substantial.
159. In judging whether persistent under-delivery has occurred, there is no specific guidance as to the length of period that should be looked at. However, if the period chosen starts part-way through a plan period, then it seems to me that it would be preferable to also take some account of what has happened during the earlier part of the same plan. For example, where a cumulative shortfall (or surplus) has already built up, it might be relevant to calculate the remaining requirement on a residual basis. In the present case however, the Council's method involves measuring the 2007-11 performance against only the annualised requirement for the whole plan period<sup>142</sup>. This under-

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<sup>138</sup> Doc. CD 15.4 (the June 2014 Position Statement) - Table 2

<sup>139</sup> Doc. AP-1 (Mr Mackenzie's proof, para 9.3.16)

<sup>140</sup> Doc. CD 15.4 (the Position Statement, para 1.26 and Table 2)

<sup>141</sup> Doc 17.3, graph on p17 (AVDC evidence to VAP examination, Nov 2013)

<sup>142</sup> Doc. CD 15.4 (the Position Statement, para 1.26 and Table 2)

represents the level of development that would be needed to fulfil the plan's overall requirements. As a consequence, the shortfalls indicated during the period 2007-11, although significant, are in my view by no means a true reflection of the full extent of the under-delivery.

160. In the three subsequent years, 2011-14, completions have increased somewhat, but cumulatively they have not achieved the level required to keep pace with the household projections<sup>143</sup>. Consequently, they do not alter my view on any of the above matters.
161. With regard to the now-revoked SEP, it is not disputed that at the District-wide level, Aylesbury Vale's housing provisions in that plan exceeded the District's own needs. In terms of measuring future land supply, the Council is undoubtedly right to say that the SEP now has no relevance [93]. But when it comes to assessing past performance, that is not the point. Although the SEP was under the threat of revocation for much of its time, it was nevertheless part of the statutory development plan from 2009 to 2013. If under-delivery were assessed against that plan, as the appellants show [55], the scale of the shortfalls on a District-wide basis would be far greater than those measured against the AVDLP or the household projections. However, in view of the matters set out above, my conclusion on the NPPF buffer does not depend on the SEP, and I therefore do not propose to deal with this particular line of argument any further.
162. Throughout much of the period covered by the above figures, there have been very large numbers of outstanding planning permissions, and this remains the case now [94]. I appreciate the Council's argument that the reason for the non-implementation, or slow rate of implementation, on these sites has been due to the economy rather than any other problems. I have no further evidence as to whether that is the cause. But in any event, unimplemented permissions cannot affect the assessment of under-delivery.
163. In the light of the above, it is clear to me that whichever way it is assessed, Aylesbury Vale has a record of persistent under-delivery of housing. This means, in accordance with the NPPF, that the buffer should be 20%, which represents housing provision to be brought forward into the 5-year supply, instead of leaving it till later in the plan period. Applying this 20% addition to the Council's proposed figure, would increase the 5-year requirement to 6,445 dwellings<sup>144</sup>.
164. This exceeds the Council's claimed land supply, and so, irrespective of any other considerations, a 5-year supply has not been demonstrated.

*Other matters relating to the Council's land supply figures*

165. With regard to the supply side of the calculation, it appears that although discussions have been held regarding the Aston Clinton Road site, these relate to a new scheme, for which permission has not yet been applied for<sup>145</sup>. And it is not disputed that there is no planning permission for the additional capacity at Pitstone [57]. The uncertainties over these sites reduces the deliverable 5-

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<sup>143</sup> Doc. CD 15.4 (the Position Statement, para 1.26 and Table 2)

<sup>144</sup> Inspector's calculation: Position Statement requirement figure of 5,371, plus 1,074 (20%) = 6,445

<sup>145</sup> From cross-examination of Mrs Jarvis and Mr Mackenzie



year land supply by a further 186 units. Based on the Council's figures, this would make the supply a maximum of 5,836 dwellings<sup>146</sup>.

166. With regard to windfalls, I note the appellants' comments [58]. But the Council's evidence regarding the past contributions from this source is convincing, and future windfalls are relied on only in years 4 and 5<sup>147</sup>. To my mind, this meets the requirement in NPPF paragraph 48.
167. I accept that some further planning permissions have been granted since April 2014 which are not included in the supply calculation [95]. But these were evidently not in existence at the base date of 1 April. If they were to be added in now, the other elements of the calculation, including completions, would require adjustment too, to bring them to a consistent base date. In the absence of any such fully updated calculations, it would not be right to take these more recent permissions into account.
168. On some of these matters relating to land supply, my findings differ from those of the Inspector who dealt with the appeal at Stoke Hammond, which was heard in February 2014 [97]. However, on the central issue, I note that he concluded that there was not a 5-year supply. I do not know how far the evidence that is before me now was available to that Inspector. But in any event, I have dealt with the present appeal based on the evidence that is before me.

#### *Conclusion on the Council's calculations*

169. Based on the Council's preferred approach to the land supply issue, the adjustments set out above lead to a requirement of at least 6,445 dwellings, and a maximum supply of 5,836. This equates to around 4.5 years' worth. Putting aside, for the moment, the question of whether a land supply based on the Council's methodology carries any weight, the conclusion that I draw from this is that a 5-year supply has not been demonstrated in any event.

#### *The appellants' figures*

170. The appellants' evidence on demographic and economic factors, employment growth, market signals, unmet needs, and the potential needs of neighbouring authorities [48-54], represents a substantial body of work. In particular, there is persuasive evidence that housing in Aylesbury Vale has become less affordable in recent years, and that this is at least partly due to supply falling behind the level of demand; and also that a failure to provide sufficient housing could inhibit employment growth and prevent the District from realising its economic potential. None of these submissions is to be dismissed lightly, and it is not my intention to do so.
171. However, these are contentious matters, affecting the district as a whole, on which other parties may hold different views. As a matter of principle, it seems preferable that issues of this kind should be debated in the context of a local plan, rather than in an appeal situation, where only a limited range of opinions are represented.

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<sup>146</sup> Inspector's calculation: Position Statement supply figure 6,022, minus 186 = 5,836

<sup>147</sup> Doc. CD 15.4 (the Position Statement, para 1.34 – 1.40)

172. In the present case, for the reasons discussed above, there is sufficient evidence already before me to come to a view on the adequacy of the 5-year land supply, without needing also to reach a definitive view on the robustness or other merits of the appellants' submissions. I therefore decline to do so. I am confident that this will not in any way affect the strength of the recommendation that I am able to make to the SoS on completion of this report.

*Weight due to housing delivery*

173. To summarise, the housing land supply calculations in the Council's Position Statement are a material consideration, but even if they were substantiated, they could not demonstrate a 5-year supply in terms that would satisfy the aims of the NPPF. And in any event, the Council's calculations do not stand up to scrutiny, because they do not reflect the need for a 20% buffer, and they overstate the extent of the supply that can be counted as deliverable within the 5-year period.

174. In NPPF terms therefore, a 5-year supply has not been demonstrated. In view of the importance that national policy gives to matters of housing supply, it seems to me that this must attract substantial weight in favour of the proposed development.

**Issue (ii): effects on the character and appearance of the area [60-67, 99-107, 124-127]**

*Viewpoints and the visibility of the site*

175. The site is seen to varying degrees from three directions. The principal views are from the west, from Little Horwood Road. In the LVIA<sup>148</sup>, the views from this direction are represented by viewpoints 4 and 5. However, it should be noted that visibility is not limited to these specific points. In reality there are continuous views into the site from along this stretch of road, over and through the roadside hedge. I saw on my visits that in summer conditions, the views from this direction embrace the whole of the L-shaped field, with glimpses through to the rectangular field beyond. In winter, as can be seen from the photographs in the LVIA, the rectangular field is more clearly visible.

176. From the north, there are intermittent partial views from the two footpaths or footpath/cycle routes connecting Little Horwood Road with Winslow Road. The angled views from the ends of these routes are shown in viewpoints 1-3, but straighter views are available from various other points along them, which are not illustrated in the LVIA, and particularly from the diagonal footpath. The views from this direction are partly obscured by the site's northern boundary hedge and trees, and this seems likely to be so in winter too. But despite this, even in summer I saw that the site is easily visible through gaps between and above the boundary vegetation.

177. From the south, close views from the A413 are well screened by the boundary hedge and differences in levels, but the main viewpoints, which are not illustrated, are middle-distance views from the stretch of road between

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<sup>148</sup> Doc. Cd 1.5 (the LVIA)

viewpoints 8 and 9. From this direction, the southern section of the L-shaped field is seen prominently, rising above the hedge. Although the illustrative plans propose to leave this area free from built development, it would need to accommodate balancing ponds, play equipment and managed open space; it would therefore be likely to undergo some degree of urbanisation. In winter, it seems to me that the views from this direction would also give filtered views through to the main rectangular field.

### The development's effects

#### *The effect of extending the town beyond Little Horwood Road*

178. Winslow is a compact town. Its built-up area, for the most part, has a consolidated plan form, with well-defined urban edges. Consequently, on approaching or leaving the town, one is aware of an abrupt change, from town to countryside. This is what is referred to in the LCA report as a 'sharp transition', and is identified as a key characteristic of the Winslow Ridge landscape area [99]. It is not necessarily something that is unique to Winslow, but it is particularly pronounced here. From the evidence of several parties at the inquiry, it is evidently a valued feature of the town's character, and indeed is seen by some as a defining characteristic [100, 102, 124, 137, 142].
179. Nowhere is this sharp transition more apparent than on the eastern side of the town, where Little Horwood Road forms a clear, continuous and unambiguous dividing line, defining the urban edge, all the way from Sheep Street in the south, to the old railway line to the north. The ribbon of development on the south side of Sheep Street, going eastward, also stops at the same point. On the west side of this dividing line is the urban area, and to the east is largely unbroken countryside. The road itself has no houses fronting directly onto it, and thus appears more rural than urban. Previous inspectors have described Little Horwood Road as fulfilling the role of a strong defensible boundary and providing a crisp separation [19-21]. To my mind, it clearly fits the description of the key characteristic identified in the LCA.
180. The appeal site forms part of the large expanse of countryside to the east of the road. To the north, south and east of the site itself, as one travels past on the A413, or on Little Horwood Road or Winslow Road, there are longer views across rolling open land, so that the site's relationship to the urban/rural interface is immediately apparent. So too are the attractive qualities and tranquil, pastoral nature of the landscape context within which the site is set.
181. In this context, it seems to me that the housing development now proposed on the appeal site would not be likely to appear as a natural, organic extension to the town. Rather, it would appear as incongruous and intrusive, and on the 'wrong' side of the most obvious and logical boundary line. As such, the development would be visually harmful to the distinctiveness of the landscape, and to the setting and character of the town itself.

#### *Effect on the separation between Winslow and Shipton*

182. Just beyond the site is the small hamlet of Shipton [65, 104, 125]. Whatever the merits of some of the mid-20<sup>th</sup> century buildings, Shipton clearly has its origins as a separate and distinct settlement. The existing gap between it and

Winslow is at most only about 300m, but in relation to a hamlet as small as Shipton, that is just enough to maintain its separate identity.

183. If the appeal site were developed, the gap would be reduced to around 100m. Indeed, if Jubilee Cottages, on the south side of the A413, are counted as part of Shipton, there would be no gap left at all. Either way, the development would blur the existing separation between the settlements, and dominate the remaining gap, fatally undermining Shipton's claim to any separate identity.
184. And in addition, the blurring or joining of the developments in this area would further erode any sense of a clear and unambiguous urban edge. Instead the pattern of development in this part of the town would appear fragmented, leaving the small pockets of land in between vulnerable to future infilling, which would then be difficult to resist. In that case, there would be a real risk of Winslow Road becoming the new urban boundary, and Shipton becoming wholly subsumed into Winslow town.
185. This relationship of the site to the hamlet of Shipton, and the potential consequences in terms of ultimate coalescence, reinforce my view that the development now proposed would have an adverse effect on Winslow's landscape setting, and on the character and appearance of the area.

*Landscape qualities and landscape value of the site itself*

186. The landscape of the appeal site itself is not spectacular, but that does not mean it has no value. From Little Horwood Road, the L-shaped field is seen framed between the front boundary hedge and the line of mature trees behind [12]. These latter trees are amongst the most dominant in the area. They have been described by others as stately or majestic, and I cannot disagree with those descriptions. The front field, seen from this western boundary, sets off the trees; whilst the trees in turn form a backdrop to this first space, and also allow glimpses through to the more secluded rectangular field behind.
187. To my mind, this juxtaposition of the two enclosed spaces, and their respective shapes and proportions, in relation to the height and beauty of the trees, and the pattern of hedgerows, combines to form a composition that has a most appealing, picturesque quality. In this context, it is worth recalling that the pattern of fields and hedgerows is another of the area's key characteristics identified in the LCA. The appeal site could well be said to typify this characteristic, and indeed it seems to me to be a particularly good example.
188. The trees and hedgerows themselves are protected by the TPO [12], and there is no proposal to remove any of them. But filling the spaces between them with buildings, roads and gardens would completely alter the character of those spaces. The pattern and character of the landscape would thus be lost irreversibly.
189. This again reinforces the view that I have already come to above, regarding the effects on the area's character and appearance. The proposed development would result in the almost total loss of the site's contribution to the area's distinctive landscape and its rural charm. As such it would result in substantial harm to the locality.

The LVIA – points of disagreement

190. The appellants' LVIA [60, 62-64] assesses the impact on the landscape character of the site itself as 'moderate', reducing to 'slight' by Year 15. However, this results largely from the author's view that the magnitude of change to the character of the site would be no more than 'medium'. I appreciate that this takes account of proposed mitigation, including retaining existing trees and hedges, planting new landscaping, and creating views across the site. But my view is that none of these would be likely to prevent the development from producing a 'high' magnitude of change within the site, not just in the first year but permanently.
191. The effect on the landscape character of the wider study area is rated as 'slight', reducing to 'slight-negligible'. But this is based on a 'low' magnitude of change, which appears to give little weight to the breaching of the clear line of Little Horwood Road, or to the relationship with Shipton. For the reasons stated above, I take a different view on these matters.
192. With regard to visual impact, for the reasons explained, I consider the most important of the viewpoints selected in the LVIA to be Nos 4 and 5. The LVIA itself acknowledges that the visual impact at these points in Year 1 would be 'moderate' and 'moderate-substantial', reducing in later years to 'moderate-slight' and 'moderate' respectively. For similar reasons to those above, it seems to me that these terms underestimate the extent of the initial change, and overestimate the reduction over time. And furthermore, the selection of only two viewpoints along Little Horwood Road, and none within the central sections of the two footpaths to the north, has the effect of diminishing the apparent impact.
193. I do not mean in any way to question the genuineness of the views expressed in the LVIA, or the professionalism involved in its production, and likewise the appellants' landscape evidence. But nonetheless, for the reasons that I have given, I have come to different conclusions.

Conclusions on character and appearance and landscape impact

194. Based on my observations of the site and its surroundings, I find that the appeal site makes a very valuable contribution to the landscape of the area and its distinctiveness. The fact that the site has no special designation does not alter this judgement, and nor does that fact that inward views are relatively limited in both number and range. The reasons for my findings on this issue are set out above. In summary, the site is important not only because of its key location relative to the settlement pattern, but also for its own intrinsic landscape qualities.
195. Development as now proposed would be highly damaging to the area's attractive character and appearance. Such development would therefore be in direct conflict with the NPPF's aims to recognise the different roles and character of different areas, to protect the character and beauty of the countryside, and to conserve and enhance the natural environment, including valued landscapes. I therefore give the harm caused in this way substantial weight.

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## **Other Matters**

### *Effects on agriculture [68-72, 108]*

196. There is no dispute that the majority of the appeal site is BMV land, and that this would be lost to productive agricultural use **[68,108]**. The NPPF seeks generally to protect valued soils, and makes it clear that the loss of BMV land should be avoided where poorer quality alternatives are available **[42]**.
197. Whilst the site also contains some small pockets of Grade 3b land **[68]**, that is not an unusual situation, and the practical constraints in terms of access and field sizes and shapes do not seem particularly severe. The fact that there are few areas of lower grade land around Winslow **[69]** is not decisive, as the need for housing land is district-wide, and thus could be satisfied elsewhere than at Winslow. Neither is it particularly relevant that the site does not amount to a viable holding on its own, or an integral part of a larger farm unit **[70]**. It therefore seems to me that the appeal site should be regarded as an agricultural resource of some 'economic and other' value to the nation, both in its present use for livestock grazing, and as a reserve for future food production if the need should arise.
198. The loss of 3.6ha of BMV is therefore a consideration that weighs against the appeal. In view of the way these matters are set out in the NPPF, as part of the Government's concern to conserve and enhance the natural environment, it seems to me that this factor should carry moderate weight.

### *Effects on local services and community infrastructure*

199. I note WTC's comments with regard to the financing of the proposed new community centre **[130]**, and the need for a youth shelter in the town **[132]**, and for enhancements to the bus service to Milton Keynes **[133]**. But there is no evidence that the absence of these facilities or enhancements makes the development now proposed unacceptable.
200. I also note the comments of some other objectors with regard to the additional pressure that would be placed on existing schools and doctors' services **[143]**. But the S.106 agreement includes a financial contribution to education, in accordance with the Education Authority's request. The Council accepts that this would adequately mitigate the impact on local schools. With regard to medical services, no issues have been raised by the providers of those services or any of the agencies responsible for planning such provision.

### *Effects on Conservation Areas*

201. The potential effects on the Winslow and Shipton CAs **[13]** were considered in the two previous appeals relating to the site, but are not directly raised in any of the objections before me in the present case. For the avoidance of doubt, I have had regard to the duty under the relevant legislation relating to CAs<sup>149</sup>.
202. The appeal site is partially visible from some points within both CAs, and is therefore within their settings. However, the development itself would have limited visibility from these points. Having regard to the particular features of the two CAs that appear to be of special architectural or historic interest, it

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<sup>149</sup> Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

seems to me that the CAs' significance as heritage assets would not be materially affected by the development now proposed. The character and appearance of the CAs themselves, and their settings, would thus be preserved.

Other potential impacts

203. The concerns raised by WTC and others regarding traffic, parking and road safety are noted [129, 142]. However, these submissions are not supported by the Highway Authority or any other technical evidence. The S.106 agreement provides for the widening of the existing footway in Little Horwood Road, and a contribution intended to help bring forward a County Council traffic calming scheme for the area [76]. The footway works would provide an improved pedestrian route to the existing and proposed bus stops, amongst other destinations. The contents of the traffic calming scheme have not yet been decided, but would be the subject of local consultations.
204. On my visits, I have looked carefully at traffic conditions in all of the surrounding streets, including Little Horwood Road, Elmfields Gate and Sheep Street. I appreciate that the proposed development would bring an increase in traffic and pedestrians, including children. And it is true that Little Horwood Road currently has no zebra or pelican crossing or other formal crossing place. However, it seems likely that this would be an option that could be considered as part of any traffic calming scheme. From all the evidence before me, and taking account of the proposed contributions, I see no reason to believe that conditions for road users would be unsafe.
205. I note the concerns expressed by a local resident regarding pressure on parking in the town centre [143]. I saw on my visits that the existing car parks are well used at times. I accept that the proposed development would be likely to increase the demand for parking space. However, this seems to me to be offset by the fact that it would also help to underpin the viability of the town's existing shops and services. In any event, I am conscious that the WNP provides for an expansion of local shopping facilities<sup>150</sup>, and it seems to me that the issue of parking capacity is likely to be more appropriately dealt with in the context of those proposals.
206. The proposed development would be visible from the windows of some existing residential properties in the Elmfields Gate area. I visited one such property, at No 2 Elmside, on my accompanied site visit<sup>151</sup>. This property currently has an oblique view over the appeal site from its upper floor front windows. A number of other properties have a similar relationship to the site. I appreciate that the occupants would suffer the loss of this pleasant rural outlook. However, it is unlikely that they would suffer any significant overshadowing or direct overlooking. Impacts of these kinds can be adequately controlled at the reserved matters stage. From all that I saw, I am satisfied that the development's effects on the living conditions of neighbouring occupiers would not be so severe as to be unacceptable.

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<sup>150</sup> Doc. Cd18.6 (WNP, Policies 17 and 18)

<sup>151</sup> In response to a request made at the inquiry

207. I note the concerns of one local resident regarding problems of assimilation [143], but I see no reason why social integration should be any more of an issue on the appeal site than any other site on the town's periphery.

The development's benefits

208. The provision of 100 dwellings would be beneficial whatever the local supply situation. Here, given the lack of a proven 5-year supply, that benefit has added weight, especially as there seems no reason to doubt that the site could be brought forward relatively quickly [73].
209. The fact that 35% of the proposed dwellings would be given over to affordable housing is a further added benefit [24, 74]. The fact that this is the same level as is sought in WNP Policy 4 [135] does not diminish that benefit. A Community Land Trust for Winslow has not yet been established<sup>152</sup>, so there is no mechanism through which the future involvement of such an organisation could be guaranteed. This again does not reduce the benefit of the affordable housing.
210. I see no reason to doubt that the development would have economic benefits, at national and local level. The most important of these, it seems to me, would be the permanent investment in bricks and mortar, since this has lasting value. There would also be direct employment creation in construction jobs, and a significant knock-on effect in terms of the demand for related supply industries [75]. Although some of these effects would be temporary rather than permanent, they nevertheless represent the opportunity for net benefits which otherwise might not occur. As such, the development would therefore contribute to the national economic recovery.
211. The claimed economic benefits at local level, resulting from increases in the labour force, household spending, and the New Homes bonus [75], are redistributive rather than net benefits. I therefore give these little weight. But this does not change the fact that the development's overall economic effect would be positive.
212. The improvements to the No 60 bus service, the footpath widening, the contribution to traffic calming, and the provision of on-site public open space and a play area [24, 76], would all serve the existing community as well as the needs of the development itself. These items should therefore be counted as benefits, albeit minor ones. I give these modest weight.
213. The nature of any wildlife or biodiversity benefits [77] would depend on the contents of the scheme at the detailed stage. I give this no weight in the present appeal.

Sustainable development

214. The NPPF sets out the three dimensions of sustainable development: economic, social and environmental. It also draws attention to the United Nations definition, being development that meets the needs of the present without compromising the ability of future generations to meet their own needs<sup>153</sup>.

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<sup>152</sup> Cllr Monger's oral evidence

<sup>153</sup> NPPF para 7, and 'text box' preceding para 6



215. For the reasons already discussed, the development now proposed would contribute to building a strong economy, and would support the development of a strong and vibrant community at Winslow. In this connection, I agree that Winslow itself is in principle a sustainable location for development [16-18, 78-79], and that the site is reasonably well located for access to local facilities. The development would therefore fulfil the economic and social roles of sustainable development.
216. With regard to the environmental dimension though, the NPPF's advice is that sustainable development should, amongst other things, contribute to protecting and enhancing the natural environment and use resources prudently. In the present case, the proposed development would conflict with that aim, by causing irreversible harm to a valuable landscape, and the loss of BMV agricultural land. In these respects, it would conflict with the NPPF policies that I have identified previously.
217. These considerations therefore pull in opposite directions. That in itself is not an unusual situation, and it is often the case that such judgements are decided on balance. But here, the environmental harm weighs heavily, and for that reason, it seems to me that the proposed development would not meet the NPPF's aims for the promotion of sustainable development. On balance therefore, I conclude that in NPPF terms the development would not constitute sustainable development.

#### Planning obligations and conditions

##### *Legal obligations*

218. The obligations entered into in the S.106 agreement have been outlined earlier in this report [5, 24, 76, 82-83, 109-111].
219. The legal and policy tests for planning obligations are contained in the CIL Regulations<sup>154</sup> and in paragraph 204 of the NPPF. These state that obligations must be: necessary to make the development acceptable in planning terms; and directly related to the development; and fair and reasonable in scale and kind. The agreement provides that if the SoS concludes that any of the obligations, or the relevant part of any obligation, is incompatible with the CIL tests, then that obligation shall cease to have effect<sup>155</sup>.
220. For the purposes of applying these tests, the principal obligations are the proposed contributions to sport and leisure, education, and various highways and transport contributions, plus the provision of affordable housing, on-site open space and a play area. There is also provision for a financial Bond in respect of the open space provision and maintenance.
221. The Council has presented evidence as to how each of the principal obligations complies with the relevant tests<sup>156</sup>. This evidence shows that the obligations are needed to comply with relevant development plan policies, including WNP Policy 4, and AVDLP Policies GP2, GP86, GP87, GP88, GP90 and GP94, and

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<sup>154</sup> Regulation 122 of the Community Infrastructure Levy Regulations 2010

<sup>155</sup> Part III, Clause 3, on page 23 of the agreement (Doc. J4)

<sup>156</sup> Doc CO-1 (Mrs Jarvis' proof) – paras 9.43 -9.61; and Appx PJ4a, Compliance Schedule; and Annexes 1 and 2, statements from Bucks County Council

associated supplementary guidance. In the light of this evidence, and taking account of the relevant matters discussed elsewhere in this report, I am satisfied that all of the principal obligations meet the relevant legal and policy tests.

222. With regard to the proposed play area, the agreement provides for two options, either a LEAP or a NEAP, and leaves it to the SoS to determine which should be provided. On the basis of the evidence produced, it seems to me that the appropriate level of provision required at the appeal site would be a NEAP, given that the site is outside the recognised catchment distances for any equivalent existing facilities<sup>157</sup>.
223. With regard to the proposed Bond, I fully appreciate the Council's concerns as to the potential difficulties that can arise in the event of a default. However, it seems to me that, whatever the bond system's practical merits, an obligation to that effect goes beyond what is strictly necessary to make the development acceptable in planning terms. Consequently, the agreement's provisions in respect of the Bond do not meet the test of necessity in relation to either the CIL Regulations or the NPPF.
224. I also note the WTC's various submissions on the agreement. The Town Council would have wished to see some additional, or different obligations included. But there is no evidence that those items would satisfy the relevant tests; indeed, for the reasons that I have already given, it seems likely that they would not.
225. In any event, I find that the agreement, in its present form (subject to the two matters identified above) does meet those tests, and overcomes the concerns raised in the Council's RR2. However, it does not overcome the harm that I have identified in respect of the scheme's impacts on character and appearance and the loss of BMV land.

#### *Planning conditions*

226. The agreed list of draft conditions was discussed at the inquiry. If permission were to be granted, then in addition to the standard conditions relating to time limits and reserved matters, I consider that conditions similar to those proposed<sup>158</sup> would be required, in respect of the retention of existing trees and hedges, surface water drainage, ecological enhancement measures, archaeology, and the provision of estate roads and related infrastructure. The others listed are either unnecessary or are more appropriate to the reserved matters stage. However, none of the conditions discussed would overcome the harm that I have identified.

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<sup>157</sup> Doc CO-1 (Mrs Jarvis' proof) – paras 9.56 -9.57; and Appxs PJ4b and PJ5

<sup>158</sup> Doc J3 (draft conditions)

## **The Planning balance**

227. Section 38(6) of the 1990 Act requires the decision to be made in accordance with the relevant policies of the development plan, unless other material considerations indicate otherwise. In the present case, the most relevant development plan policies are Policies 2 and 3 of the WNP. The appeal proposal would conflict with these policies, due to the site's location, being outside Winslow's settlement boundary.
228. However, a number of other material considerations are identified in this report. On the one hand, the development would provide a substantial benefit by delivering housing, including affordable housing, in a District where there is no proven 5-year supply; and a significant boost to the economy; and smaller-scale local benefits to transport, highway infrastructure, open space and play facilities. But on the other, it would cause significant harm to the character and appearance of the local landscape, and a loss of BMV agricultural land. The housing and economic benefits would contribute to meeting NPPF aims, but equally the identified harms would conflict with other NPPF policies.
229. Where a 5-year housing supply is lacking, NPPF paragraph 49 requires local housing supply policies to be treated as out of date. In this case, WNP Policy 3 is clearly such a policy, and Policy 2 also has some role to play in housing supply. Accordingly, it seems to me that both should be treated as out of date, even though the WNP is only recently made. This reduces the weight that should be given to the scheme's conflict with the settlement boundary. This does not necessarily mean that the settlement boundary issue should be disregarded altogether, because the NPPF make it clear that neighbourhood planning, and the empowerment of local communities, is to be treated as a significant planning consideration in its right. But even if the settlement boundary and neighbourhood planning issues are put to one side for the moment, that still leaves a balance to be drawn between the other material considerations identified above.
230. As part of that balancing exercise, NPPF paragraph 14 requires a presumption in favour of sustainable development, and a similar provision is incorporated in WNP Policy 1. However, for the reasons that I have already explained, I consider that the development now proposed cannot be regarded as sustainable [214-217]. But even if a different view were taken on that question, that would not automatically lead to the grant of consent, because even for sustainable development, both NPPF paragraph 14 and WNP Policy 1 still require the weighing of the benefits against the adverse impacts.
231. So, whichever route is taken, the decision turns principally on the balance between the housing, economic and other local benefits versus the harm to the landscape and BMV. The adverse impacts, especially to the landscape, would be significant in terms of their scale and severity. And moreover, the harm would be permanent and site specific. Whereas the benefits to the housing supply and the economy, though substantial, are more generic in nature, and thus are not entirely dependent on the particular development proposed here. And the other benefits identified would be minor. Overall therefore, it seems to me that the adverse impacts significantly and demonstrably outweigh the scheme's benefits.

232. In these circumstances, the outcome of the balancing exercise is not in any way dependent on the conflict identified earlier with the WNP settlement boundary. But, despite the reduced weight that is commanded by the relevant WNP policies at present, that conflict still remains, and is an additional consideration carrying some further weight against the proposal. This further reinforces the view that I have already come to, in the light of the above reasoning, that planning permission should not be granted.

**Overall Conclusion and Recommendation**

233. For the reasons set out in this report, I now recommend that the appeal be DISMISSED.

234. In the event that this recommendation is not accepted and permission is granted, I recommend that conditions be imposed, generally along the lines of those referred to above [226]; and that in relation to the provisions of the S.106 agreement it be indicated that the required level of play provision should be a NEAP, and that the proposed Bond does not meet the relevant tests [222-223].

*John Felgate*  
INSPECTOR

Richborough Estates

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Mark Westmoreland-Smith, of Counsel                      Instructed by Ms Maria Memoli, Head of Legal & Estates

He called:

Mr Jonathan Bellars, BA DipLA(Hons) DipUD CMLI	Landscape Architect & Urban Designer to the Council
Mrs Philippa Jarvis, BSc(Hons) DipTP MRTPI	PJPC Planning Consultancy

### FOR THE APPELLANT:

Mr Richard Kimblin, QC                      Instructed by Mr Mackenzie

He called:

Mr Stephen Nicol, BA MA	Regeneris Consulting
Mr Carl Taylor, BA(Hons) DipLA CMLI	TPM Landscape Architects
Mr Malcolm Reeve, BSc FISoilSci CSci MBIAC MCIWEM	Land Research Associates
Mr John Mackenzie, BSc DipTP MRTPI	Planning & Development Manager, Gladman Developments Ltd

### FOR WINSLOW TOWN COUNCIL:

Cllr Llew Monger                      Town and District councillor, and  
Chairman of the Winslow Neighbourhood Plan  
Steering Group

Mr Neil Homer,  
BSc(Hons) DipTP DipUD MBA  
MRTPI                      RCOH Planning Consultancy

Cllr Roy van de Poll                      Town Councillor

### OTHER INTERESTED PERSONS WHO SPOKE AT THE INQUIRY:

Mrs Gaynor Richmond	Local resident
Mr Kevin Sexton	Local resident
Mrs Cathy Tracy	Local resident
Mrs Elizabeth van de Poll	Speaking on behalf of Cllr Patricia Cawte, local resident and Town Councillor
Mr Vic Otter	Local resident
Cllr Roy van de Poll	Speaking also on behalf of Councillor David Barry (Mayor of Winslow)

## INQUIRY DOCUMENTS

### APPLICATION PLANS (main file - plans sub-folder)

(unnumbered) Location Plan – revision A  
(unnumbered) Block Plan – revision A  
10000/07/03A Preliminary Junction Layouts

### JOINTLY AGREED DOCUMENTS (Blue folder No 1)

J1 Statement of Common Ground, dated 30 May 2014  
J2 Agreed note on the Judicial Review of the WNP (tabled jointly by the appellants and the Council, at the Inspector's request)  
J3 List of draft conditions agreed between the council and the appellants  
J4 Executed S.106 agreement, dated 18 September 2014

### COUNCIL DOCUMENTS (Blue folder No 2)

CO-1 Philippa Jarvis – proof of evidence (planning), with attached appendices comprising:  
Appx 1 Contextual location plan  
Appx 2 Extracts from withdrawn draft CS, June 2009  
Appx 3 List of housing sites permitted since March 2014  
Appx 4a S106 obligations - schedule of compliance with CIL Regs  
Appx 4b Fields in Trust: Planning and Design for Outdoor Sport and Play (extract)  
Appx 5 Plan showing existing play area catchments

CO-2 Jonathan Bellars - proof of evidence (landscape)

CO-3 Opening submissions by Mr Westmoreland-Smith  
CO-4 Report to Council meeting, 10 September 2014 – re WNP  
CO-5 SoS appeal decision re land at Sayers Common (and Inspector's report) ref. APP/D3830/A/12/2189451  
CO-6 Updated demographic projections report – GL Hearn, May 2013  
CO-7 Mr Westmoreland-Smith's closing submissions

### APPELLANTS' DOCUMENTS (Blue folder No 3)

AP-1 John Mackenzie - proof of evidence (planning), with bound-in appendices comprising:  
Appx 1 Note on the Government's growth agenda  
Appx 2 Table comparing actual completions with the Council's projections

AP-2 Stephen Nicol – proof of evidence (housing)  
AP-3 Appendix to Mr Nicol's proof: report on Objectively Assessed Housing Need in Aylesbury Vale – Regeneris Consulting, August 2014

AP-4 Carl Taylor – proof of evidence (landscape)  
AP-5 Bound volume of appendices to Mr Taylor's proof, comprising:  
Appx 1 Landscape and visual impact methodology (explanation of criteria used)  
Appx 2.0 Proposed master plan  
Appx 2.1 Summary table of landscape and visual impacts  
Appx 2.2 Photograph location points plan  
Appx 3 Various consultee responses

Appx 4	Aylesbury Vale Environmental Character Assessment report (extracts)
Appx 5	Aylesbury Vale Areas of Sensitive Landscape report (extracts)
Appx 6	Aylesbury Vale Landscape Character Assessment report 2008 (extracts)
AP-6	<u>Malcolm Reeve</u> - proof of evidence (agriculture), with bound-in appendices comprising:
Appx 1	Soil types map - appeal site
Appx 2	Agricultural land quality map - appeal site
Appx 3	Agricultural quality map - Winslow area
AP-7	Opening statement by Mr Kimblin
AP-8	Plan showing adjoining land in appellants' ownership (blue land)
AP-9	SoS appeal decision re Park Road, Malmesbury (and Inspector's report) ref. APP/Y3940 /A/13/2200503
AP-10	SoS appeal decision re land at Silverstone (and Inspector's report) ref. APP/Z2830/A/12/2183859
AP-11	Extract from Guidelines for Landscape and Visual Impact Assessment (GLVIA 3)
AP-12	Extract from cancelled PPG7
AP-13	Plan of existing trees and hedgerows, showing new planting
AP-14	Mr Kimblin's Closing submissions

#### **WINSLOW TOWN COUNCIL DOCUMENTS** (Blue folder No 4)

TC-1	<u>Cllr Monger</u> - proof of evidence
TC-2	<u>Neil Homer</u> - proof of evidence (planning)
TC-3	Ministerial statement on neighbourhood planning
TC-4	DCLG Technical Consultation on Planning, July 2014
TC-5	BDW Trading Ltd & Wainhomes Developments Ltd v Cheshire West & Chester Council and others: [2014]EWHC1470 (Admin)
TC-6	The Winslow Town Plan, September 2011 (tabled at Inspector's request)
TC-7	WTC letter 16 Sept 2014 - re S.106 agreement
TC-8	Closing submissions by Cllr Monger, with attached appendices comprising:
Appx 1	Mrs Richmond's submission (duplicate of Doc. OP-1)
Appx 2	Addendum to Cllr Monger's proof

#### **DOCUMENTS SUBMITTED BY OTHER INTERESTED PERSONS** (Blue folder No 4)

OP-0	List of local residents' submissions and topics
OP-1	Mrs Richmond - speaking notes
OP-2	Mr Sexton - speaking notes
OP-3	Ms Tracy - speaking notes
OP-4	Ms Cawte - written submission
OP-5	Mr Otter - speaking notes
OP-6	Cllr Barry - written submission
-	PLUS two sets of individual letters from local residents and other third parties: (a) set of 161 letters to the Council, at application stage (including letter from the Rt. Hon. John Bercow MP) - 'Questionnaire' file (b) set of 19 letters to PINS, at appeal stage - main file (red sub-folder)

**CORE DOCUMENTS** (Set of white ring-binders – some numbers prefixed 'GDL-')

## VOLUME 1

- CD 1.1 – 1.11 Submitted planning application documents, including:
- 1.4 Design and Access Statement
  - 1.5 Landscape and Visual Impact Assessment
  - 1.6 Transport Assessment
  - 1.7 Travel Plan
  - 1.8 Ecological Report
  - 1.9 Arboricultural Report
  - 1.11 Flood Risk Assessment

## VOLUME 2

- CD 1.12 – 1.22 Submitted planning application documents (cont), including:
- 1.15 Soil Report
  - 1.18 Socio-Economic Impact Report
  - 1.19 Affordable Housing Statement
  - 1.20 Education Impact Assessment

## VOLUME 3

- CD 2.1 – 2.2 Correspondence
- CD 3 Officers' report on the appeal application – 13 November 2013
- CD 4 Refusal Notice
- CD 5 Appellants' statement of case
- CD 6.1 – 6.25 Appeal decisions and legal judgements
- 6.1 Hunston Properties v SoS & St Albans Council [2013 EWHC 2678 Admin]; and Court of Appeal judgement [2013 EWCA Civ.1610]
  - 6.2 Appeal decision – Offenham, Worcs - APP/H1840/A/13/2203924
  - 6.3 Appeal decision – Buckingham - APP/J0405/A/12/2177458
  - 6.4 SoS appeal decision re land at Highfield Farm, Tetbury (and Inspector's report) ref. APP/F1610/A/11/2165778
  - 6.5 SoS appeal decision re land at Hook Norton (and Inspector's report) ref. APP/C3105/A12/2184094
  - 6.6 Appeal decision – Ottery St Mary - APP/U1105/A/12/2180060
  - 6.7 Appeal decision – Congleton - APP/R0660/A/11/2158727
  - 6.8 Appeal decision – Stoke Hammond - APP/J0405/A/13/2198840
  - 6.9 SoS appeal decision re land at Broughton Astley (and Inspector's report) ref. APP/F2415/A12/2183653
  - 6.10 RINS decision re land at Blaby, Leics – Ref. S62A/2014/0001
  - 6.11 SoS appeal decision re land at Soulbury, Bucks (and Inspector's report) ref. APP/J0405/A10/2143343 etc
  - 6.12 SoS appeal decision re Quarrendon Fields, Aylesbury (and Inspector's report) ref. APP/J0405/A11/2155042 etc
  - 6.13 Gallagher Homes and others v Solihull Council [2014 EWHC 1283 Admin]
  - 6.14 William Davis Ltd & Jelson Ltd v SoS & N W Leics Council [2013 EWHC 3058 Admin]
  - 6.15 Anita Colman v SoS, N Devon Council and others [2013 EWHC 1138 Admin]
  - 6.16 SoS appeal decision re land at Sandbach (and Inspector's report) ref. APP/R0660/A10/2141564
  - 6.17 Appeal decision – Clitheroe - APP/T2350/A/11/2161186
  - 6.18 Appeal decision – Cuddington - APP/A0665/A/11/2159006
  - 6.19 Appeal decision – Torquay - APP/X1165/A/11/2165846
  - 6.20 Appeal decision – Honeybourne - APP/H1840/A/12/2171339
  - 6.21 Appeal decision – Kemble, Gloucs - APP/F1610/A/12/2173097
  - 6.22 Appeal decision – Malvern - APP/J1860/A/13/2197037
  - 6.23 Hunston Properties v SoS & St Albans Council [2013 EWHC 2678 Admin]



6.24	S Northants Council v SoS & Barwood Homes Ltd [2014 EWHC 570 Admin]
6.25	S Northants Council v SoS and Barwood Land & Estates Ltd [2014 EWHC 573 Admin]
CD 7.1 – 7.2	Statement of Common Ground, with appendices relating to the appeal site’s planning history:
7.2.1	Extract from AVDLP Inspector’s Report, 2003
7.2.2	Appeal decision APP/J0405/A/09/2115860 (April 2010)
7.2.3	Appeal decision APP/J0405/A/10/2135746 (June 2011)
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CD 8.1 – 8.7	AVDLP documents:
8.1 – 8.5	AVDLP extracts
8.6	Inspector’s report
8.7	Saving Direction
CD 9.0 – 9.1	AVDC affordable housing documents:
9.0	Affordable Housing SPD
9.1	Affordable Housing Policy Interim Position Statement, June 2014
CD 10.1 – 10.7	AVDC open space and recreation guidance, including:
10.1	Sports and Leisure Facilities SPD, August 2004
10.2	Sports and Leisure Facilities ‘Ready Reckoner’ – SPD Companion Document, Aug 2005
CD 11	AVDC Historic Environment Assessment report – Winslow, June 2006
CD12.1 – 12.4	Housing and economic reports:
12.1	Housing & Economic Growth Assessment (HEGA) – GL Hearn, Sept 2011
12.2	SHMA Validation Study – GL Hearn, Feb 2013
12.3	Supplementary Report, June 2013
12.4	Updated Demographic Projections – GL Hearn, April 2013
<b>VOLUME 4A</b>	
CD 12.5 – 12.8	Housing and economic reports (cont), including:
12.5	Employment topic paper, April 2013
12.6	London Plan Draft Further Alterations, Jan 2014
<b>VOLUME 5</b>	
CD 13.1 – 13.2	Settlement hierarchy:
13.1	Settlement Hierarchy Report, 2012
13.2	Settlement Hierarchy Review, 2009
CD 14.1 – 14.2	Strategic Housing Land Availability:
14.1	SHLAA 2013
14.2	SHLAA 2009
CD15.1 – 15.5	Housing land supply:
15.1	Land Supply Statement to end of March 2013
15.2	Land Supply Statement to end of Sept 2013
15.3	Housing Land Supply Position Statement, January 2014
15.4	Housing Land Supply Position Statement, June 2014
15.5	Annual Monitoring Report, Dec 2012
15.6	MKDC statement to VAP Examination, Nov 2013
CD 16.1 – 16.3	Vale of Aylesbury Plan (VAP) – strategy:
16.1	VAP Strategy Submission Document, August 2013
16.2	Gladmans’ consultation response – June 2013
16.3	Cabinet report re VAP withdrawal, 3 Feb 2014
CD 17.1 – 17.5	VAP Examination, including:
17.2	Gladmans’ representations , November 2013
17.3	AVDC statement to VAP Examination re housing and jobs
17.4	Inspector’s letter, 7 January 2014

VOLUME 5A

- CD 18.1 – 18.18 Winslow Neighbourhood Plan documents, including:
- 18.1 WNP Pre-submission plan, Aug 2013
  - 18.2 Gladman representations on pre-submission plan, Oct 2013
  - 18.3 WNP Submission plan, Dec 2013
  - 18.4 Submission plan Proposals Map
  - 18.5 WNP Strategic Environmental Assessment, Dec 2013
  - 18.6 WNP Basic Conditions Statement, Dec 2013
  - 18.7 WNP Site Assessments Report, Dec 2013
  - 18.8 'State of the Town' and SEA Scoping report, May 2013
  - 18.9 Gladman representations, Jan 2014
  - 18.10 Gladman legal advice note, Jan 2014
  - 18.11 WNP Consultation Statement
  - 18.13 Gladman legal submissions, Feb 2014
  - 18.14 Examiner's letter 10 Feb 2014
  - 18.15 WNP Examiner's Report, May 2014
  - 18.16 WNP Referendum Version, June 2014
  - 18.17 Gladmans' legal challenge grounds, 3 July 2014

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- CD 19.1 – 19.7 Gladmans' submissions on emerging draft VAP, 2012-13
- CD 20.1 – 20.2 AVDC reports on emerging draft VAP, 2012-13
- CD 21.1 – 21.3 VAP Topic Papers, August 2013 - housing, employment and affordable housing
- CD 22 Furze Lane planning application
- CD 23 AVDC 'Winslow Fact Pack', June 2011
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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.