



Appeal Decision

Hearing held on 27 and 28 June 2024

Site visit made on 10 July 2024

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 July 2024

Appeal Ref: APP/J0405/W/24/3339126

Land at Churchway, Haddenham, Buckinghamshire HP17 8JX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Richborough Estates against the decision of Buckinghamshire Council - North Area (Aylesbury).
 - The application Ref is 23/00311/AOP.
 - The development proposed is "outline planning application for the demolition of existing structures and residential development up to 89 dwellings, open space, landscaping, drainage features and associated infrastructure. Detailed approval is sought for principal means of access with all other matters reserved."
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Decision

1. The appeal is allowed and planning permission is granted for "outline planning application for the demolition of existing structures and residential development up to 89 dwellings, open space, landscaping, drainage features and associated infrastructure. Detailed approval is sought for principal means of access with all other matters reserved." at land at Churchway, Haddenham, HP17 8JX in accordance with the terms of the application, Ref 23/00311/AOP, subject to the following conditions attached in Schedule A.

Preliminary Matters

2. The application was for outline planning permission with access to be determined at this stage, and all other matters reserved for further consideration. Access plans show an exit/egress junction, with visibility plays and swept path analysis, on Churchway, site pedestrian, cycle connectivity. Illustrative master and landscape strategy plans show indicative layout, siting and landscaping. Further plans, showing hedgerow removal/replacement, existing and proposed habitats, drainage strategy and swept path analysis for refuse vehicles, have been treated as indicative.
3. At the hearing, the Council provided a Vale of Aylesbury Local Plan (VALP) 2021 Policy D3 technical note, with details of a housing delivery trajectory. Further appellant and Council written comments were received post the hearing. A Unilateral Undertaking (UU) dated 11 July 2024 relates to the provision of affordable housing, education, open space, highways and health infrastructure. These matters have been considered within my reasoning.

Main Issues

4. The main issues are the effects of the proposal on (a) the character and appearance of the area, (b) local service infrastructure, (c) the best and most versatile agricultural land, (d) the development plan's spatial development strategy and (e) housing land supply, having regard to the 5 year period position and the monitoring of housing delivery from allocations under VALP Policy D3.

Reasons

Character and appearance

5. The appeal site comprises two fields in open countryside to the north of Churchway which are bound by hedgerows. The larger field is in arable agricultural use whilst the smaller field is a smallholding/paddock. Mature trees are also located on the south boundary alongside a Public Right of Way (PROW), known as Green Lane. At its south-east corner, the site is adjacent to the junction of Churchway, Stanbridge Road and Rudd's Lane.
6. To the north and east of the appeal site, there are adjacent fields whilst on its west boundary adjoining Churchway, there is existing housing and a recently constructed housing development. In the other direction to the south, there is further housing and Bradmoor Farm on Stanbridge Road. Bradmoor Farm contains a complex of farm buildings in commercial uses, that wraps around the back of housing on Stanbridge Road and borders onto Church Lane.
7. Within the Aylesbury Vale District Landscape Character Assessment, the appeal site lies within landscape character type (LCT) '9 Low Hills and Ridges', of which the central southern edge is defined as Landscape Character Area (LCA) '9.9 A418 Ridge.' The A418 runs from Thame to Aylesbury and is located north of the site, with the LCA comprising areas north and south of this road. Aspects of local character consistent with these categorisations, include: shallow ridge falling steeply to the north of the A418 and more gently to the south; mix of large and arable and grassland fields, but with smaller paddocks around settlements; hedgerows sometimes low cut and 'gappy' associated with arable use, tree cover, including dispersed linear plantations and shelter belts; and long distance views to the Chilterns escarpment and National Landscape. In particular around Haddenham, the landscape is open with larger arable fields and smaller paddocks on the settlement edge, and hedgerows, with weaker landscaping around arable fields.
8. Under the appellant's Landscape and Visual Impact Assessment (LVIA)¹, the development's effect on the site and its immediate context is moderate adverse upon completion and minor to medium adverse in year 15. For the LCA, it is determined to be minor adverse upon completion and negligible to minor adverse in year 15. By reason of its agricultural use, the appeal site connects with the surrounding countryside. Churchway also plays a role in separating the two sides of the road, with the south side built up and the north side within the countryside but there is housing and commercial development (at Bradmoor Farm) weakening this distinction. Importantly, the recent housing is prominent, visibly encroaching into the open countryside, and the appeal

¹ Landscape and Visual Impact Assessment, Land at Churchway, Haddenham, Pegasus, date 20/01/2023.

- development would be both perceived and seen to be close to it due to its proximity.
9. The illustrative plans show a built housing envelope of development stepped back from the boundaries of the site, with landscaping, including retention and enhancement of hedgerows, and sustainable drainage, around the perimeter. However, the development's size and scale would still result in an urban incursion into the countryside, conflicting with a key characteristic, the agrarian open character of the existing site and the landscape. Even with native species detailing, the landscaping would appear part of the development due to it being designed to screen and filter views of the housing. Consequently, the LVIA's significance of effects downplays the magnitude of change and overplays the beneficial effects of landscaping mitigation, especially for the LCA. As such, effects upon completion and year 15 for the site and LCA would be greater than the LVIA indicates.
 10. In long and medium distance views, visual effects would be negligible due to distance and vegetation, especially hedgerows and copses, from in and around viewpoints near Cuddington, the A418 and Green Lane near Haddenham Low and the road from Haddenham accessing Folly Farm and Hewdon Farm. With the recent housing development on the west side of Churchway, views of the appeal development from the Outer Aylesbury Ring (PROW) would be largely obscured by the recent built development. As the PROW leaves this recent development towards its crossing with the A418, the appeal development would appear in views but this would be distant with the recent development dominating in the foreground.
 11. Along Churchway and Green Lane, there would be localised adverse visual effects as detailed by the LVIA. It identifies the significance of the effect of the development, even with mitigation, in year 15, to be moderate adverse, from Churchway (viewpoint 7), minor to moderate adverse from Rudd's Lane (viewpoint 8), moderate adverse from the junction of Churchway and Green Lane (viewpoint 9), moderate to major adverse from Green Lane close to Bradmoor Farm (viewpoint 10), and moderate adverse adjacent to the rear garden of adjacent Stanbridge Road residence on Green Lane (viewpoint 15). Although not identified, people residing in the new houses on the recently constructed development and enjoying associated public open space, would experience adverse visual effects not dissimilar to viewpoint 7.
 12. In a previous 2018 appeal on the site², an Inspector considered that similar development, even if extensively planted, would lead to very significant harm to the character and appearance of the area. In the decision, the Inspector acknowledged a VALP allocation/commitment with a pending outline planning application (the recent constructed housing). At paragraph 23, the Inspector acknowledged that the appeal proposal would be likely to appear significantly less intrusive, if this was built, within the existing open and largely undeveloped context that exists at present. However, at paragraph 25, the Inspector indicated no firm conclusions could be drawn on future changes to the local landscape and this reduces the weight any modifying effect of development at adjoining sites may have on the context of this development. Such a conclusion is clear and logical, given it was not possible to comment on

² APP/J0405/W/17/3188468, Land at Churchway, Bucks HP17 8JS, dismissed appeal 2018.

an allocated housing site at the time because the associated scheme's full details were not known.

13. Consequently, the Inspector's conclusions at paragraph 27, on this appeal scheme, as having very significant harm, are not determinative and attract limited weight. However, for the current appeal, there would be a noticeable change to the landscape and visual aspects of the area. Taking into account the recently constructed development, now fully evident on the 'ground', there would be a moderate level of harm. Accordingly, the proposal would conflict with Policies NE4, BE2 and C4 of the VALP, which collectively and amongst other matters, require development to minimise impact on visual amenity, respect local character and distinctiveness, respect and complement the physical characteristics of the site and its surroundings, natural qualities and features of the area and the enhancement and protection of public rights of way.

Local Service Infrastructure

14. VALP Policy S5 requires all new development to provide appropriate on and off site infrastructure in order to avoid placing an additional burden on the existing community. It also states that appropriate regard will be given to existing deficiencies in services and infrastructure provision, and that infrastructure should also be linked to existing deficiencies in service and infrastructure provision.
15. Under the UU, an obligation requires 30% of the dwellings to be affordable homes. Of these affordable homes, 15% would be built to Building Regulation standard, M4(3) wheelchair accessible. At 30%, the affordable home provision would be above that required (25%) within VALP Policy H1. The appellant's Affordable Housing Statement³ indicates significant need for affordable housing taking into account the absence of an up-to-date housing assessment, expected affordable housing coming forward with new housing schemes and a range of housing indicators. Therefore, this provision would meet an urgent need.
16. Financial contributions would be secured towards primary and secondary education, namely local community infant or junior schools or St Mary's Church of England School in Haddenham and Princes Risborough Secondary School. The Buckinghamshire Council Place Planning Officer has confirmed that local schools are at capacity and that there will be increased pressure on school places. However, the Council has previously secured expansion of school places and the contributions would be for the expansion of schools after the carrying out of a feasibility study. Such contributions would be in accordance with Policy I3 permitting the provision of community facilities and infrastructure arising from the proposal.
17. Obligations would secure the provision of a LEAP children's facility, major open space and incidental open space on site, and financial contributions for off site sports and recreation facilities. Such provision would be in accordance with requirements of VALP Policies I1 and I2 in meeting the additional demand from residents from new development.

³ Affordable Housing Statement, Land off Churchway, Haddenham, Aylesbury Vale, Tetlow King Planning, April 2024.

18. For transport, contributions would be provided to enhance bus stop facilities, including the provision of Real Time Information Units, the extension of a 30 mph limit through a Traffic Regulation Order, a safety scheme for Stanbridge Road/Woodways crossroads, the Haddenham/Aylesbury cycleway and a travel plan monitoring fee. Such provision would accord with VALP Policies T1 and T4 which encourage sustainable transport and safe environment for all users of the highway.
19. An obligation would also provide a contribution towards extension/conversion work at the local medical centre, a GP surgery. NHS Buckinghamshire, Oxfordshire and Berkshire West Integrated Care Board (ICB) comment that the development would put increasing pressure on the centre. Both residents and the ICB indicate that primary care services are already operating under extreme pressure and physical constraints, such as the lack of space. The ICB raises an objection but requires a contribution if the scheme is to go ahead.
20. In the recent Leicester judgement⁴, a Council's decision to not seek a financial contribution towards the delivery of health care services was challenged unsuccessfully. In this regard, the health trust had failed to demonstrate that population growth had been taken into account in funding negotiations between the trust and clinical commissioning groups, reviewed every year, and that there was a funding gap giving rise to harmful consequences alleged by the trust. In contrast, the requested contribution would be for infrastructure, rather than services to meet a specific need arising from an increase in population. The ICB have confirmed capital funding for infrastructure development is not received in their annual budgets.
21. In the Council's Statement of Case⁵, comprehensive costings have been provided to justify the contribution taking into account patient yield, associated required floorspace requirements and build costs. Patient yield is based on population increase (using Buckinghamshire Council's population per dwelling tool). Floorspace requirements are based on the average list size for recent new primary care developments and build costs are based on tenders and quantitative surveyors estimates for similar developments, including at Bicester.
22. In an appeal decision⁶, the Inspector noted local medical centres were at over capacity and a s106 should contribute to their capacity but found the contribution to be unlawful due to the obligation referring only towards the improvement/expansion within the general area of the primary care network. In the current appeal, the obligation identifies the contribution to be for the commissioning of a pre-project study and an identified project which can be funded in one of two ways depending on the pre-project study; either a reconfiguration of the internal layout or an expansion to provide an additional clinical space at the centre to increase capacity.
23. These infrastructure contributions are required at differing stages of the appeal development but well before final dwelling occupation to give the Council an opportunity to implement schemes in a timely manner. Third party objections have been expressed about poor local infrastructure serving residents, exacerbated by recent development. The UU secures contributions for local

⁴ University Hospitals of Leicester NHS Trust v Harborough District Council v Leicestershire County Council 2023 EWHC 263.

⁵ Council's Statement of Case Appendix F; Justification for Health Care Contribution.

⁶ Appeal Ref: APP/T3725/W/23/3319752 Land at Warwickshire Police Headquarters, Woodcote Lane, Leek Wootton, Warwickshire CV35 7QA.

infrastructure, arising from the demands of new residents from this development, which has been identified by the Council and consultees, having regard to policy and guidance. Many of the infrastructure schemes, for instance highways, will benefit the wider community. Both the Council and consultees have had regard to existing deficiencies in their assessments as required by policy and the infrastructure to be provided has links to those deficiencies.

24. Specific concerns were expressed about a lack of public transport to secondary schools with residents having to organise a bus for their children but the Council as education authority, has not required further provision. Residents have cited lack of childcare facilities within the area affecting the ability to work but the proposal cannot remedy existing deficiencies. In the absence of a robust assessment, detailing circumstances, needs and costings, little weight can be attached to these considerations.
25. For all these reasons, the obligations are necessary to make the development acceptable in planning terms and the statutory tests of the Community Infrastructure Levy (CIL) Regulations 2012 (as amended) and those of paragraph 57 of the Framework would be met. They are necessary, directly related to the development and fairly and reasonably related in scale and kind. There would be acceptable local infrastructure provided with this appeal scheme in compliance with Policies VALP I1, I2, I3, S5 and CES1 of the Haddenham Neighbour Plan 2022.

Best Most Versatile (BMV) Agricultural Land

26. VALP Policy NE7 states where significant development would result in the loss of BMV agricultural land, planning consent will not be granted unless there are no otherwise suitable sites of poorer agricultural quality and the benefits of the development outweighs the harm resulting from the significant loss of land.
27. The proposal would result in the loss of 4.8 hectares of BMV agricultural land but there is no definition of significant loss within the VALP or the National Planning Policy Framework (the Framework). In a footnote, the Framework does indicate areas of poorer quality land should be preferred to those of higher quality where significant development of agricultural land is demonstrated to be necessary but this relates to plan-making, paragraph 181 of the Framework.
28. The development is classified as major under the Town and Country (Planning Management Procedure) (England) Order 2015 and just falls short of the definition of Schedule 2 development that could constitute EIA development. However, such criteria relate to different planning determinations and as a proportion of BMV agricultural land within the VALP, the loss would be relatively small and not significant, a view that concurs with that of a previous Inspector dealing with this issue on this site. For all these reasons, there would be no conflict with Policy NE7 of the VALP.

Housing land supply

5 Year Housing Land Supply

29. Main parties accept that 5 year housing land supply (5YHLS) is deficient but dispute the degree of shortfall. The Council's and appellant's 5YHLS figures are 4.24 and 2.77 years respectively based on an agreed base date of 1 April 2023.

30. At the hearing, the Council referred to a published 5YHLS⁷ statement updated in January 2024 which took the form of a spreadsheet that included commentary on site's planning application/permission status, summary of information from developer/agent/landowner (where obtained), scheme progress, completions up to March 2023 and projected completions over the 5 years for sites. The appellant's Emery Housing Land Supply Statement (EHLS)⁸ objects to deliverability of the following sites in the Council's 5YHLS statement, taking into account the glossary definition within the Framework.

Disputed sites without planning permission

31. The Council's 5YHLS includes such sites within category b) of the Framework definition: where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or identified on a brownfield register, should only be considered where there is clear evidence that housing completions will begin on site within five years.
32. AGT1 South Aylesbury - Under the VALP 2021, the site is allocated and at the base date, outline and full planning applications for 750 dwellings and 155 dwellings respectively is undetermined. The Council's 5YHLS statement indicated housing would come forward from 2024/25 and that housebuilders have provided an estimated trajectory. At the hearing, the Council indicated progress on road infrastructure, Chilterns Special Area of Conservation (CSPA) and design objections. A CSPA Supplementary Planning Document (SPD) will be considered shortly by the Council. Housebuilders are now involved with the site and a further full planning application for 500 dwellings has been submitted.
33. Contrary to the housebuilders' expectations, the Council anticipates development in last 2 years of the 5YHLS period, from 2026/27. Documentation supporting the Council's position is lacking, with no timetable for consents/permissions, and housebuilders' commencement and trajectory lacking any explicit consideration of this, as well as site, legal and commercial/financial considerations that could affect delivery. Consequently, there is no realistic assessment and clear evidence is lacking to demonstrate that housing completions will begin within 5 years and 175 dwellings should be removed from supply.
34. WHA001 Shenley Park, Whaddon - Under the VALP, the site is allocated and an outline planning application for 1,265 dwellings from July 2023 is undetermined and is subject to significant public and consultee objections. A housebuilder controls the site and expects commencement to start in 2024/25, with completions in this year and the following. The Council expects commencement and completions in 2026/27 and the following year. At the hearing, the Council indicated that the application is being amended to comply with its recently approved SPD for the site's development to resolve objections. However, like the above site, a realistic assessment supporting the Council's position is lacking, and as such, there is no clear evidence that housing

⁷ North and Central Planning Area Five Year Housing Land Supply Position Statement (September 2023, updated January 2024).

⁸ Statement of Case re: Buckinghamshire Council's Housing Land Supply in the North and Central Planning Area, emery planning, 19 April 2024.

completions will begin within 5 years and 150 dwellings should be removed from supply.

35. WD2 Land northeast of the village, Waddesdon – Under the Waddesdon Neighbourhood Plan 2017, the site is allocated and the Council's 5YHLS statement expects an outline planning application for 75 dwellings to be consented by the end of 2023. At the hearing, the Council indicated that the necessary s106 is progressing and consent is expected in July 2024. Housing would be expected to come forward quickly once permitted but again, there is a lack of a realistic assessment to support the Council's position of completions and build out in the last 3 years of the 5YHLS period. Even if outline planning is consented soon, no reserved matters have been submitted, and there is no identified housebuilder. Thus, there is no clear evidence that housing completions will begin within 5 years and 75 dwellings should be removed from supply.
36. 18/0450/APP Land off Station Road, Winslow – Under the Winslow Neighbourhood Plan 2023, the site is allocated and a full planning permission for 63 dwellings from 2018 is undetermined. By reason of amendments to the scheme and finalising of a s106, the Council's 5YHLS statement expects permission by the end of 2023. At the hearing, the Council acknowledged delays with permission now expected in August 2024. Nevertheless, although a local housebuilder is to develop the site, there is no information from them on start date and build out rates, to support the Council's projected completions within the last 3 years of the 5YHLS period. A realistic assessment is lacking and there is no clear evidence to demonstrate that housing completions will begin within 5 years. As a result, 63 dwellings should be removed from supply.
37. AGT2 Land at South West Aylesbury – Under the VALP, the site is allocated and an outline planning application for up to 1,400 dwellings from 2018 is undetermined with significant consultee objections. The landowner intends to sell the land to a housebuilder once outline consent has been granted. At the hearing, the Council indicated objections were resolved and consent is expected in August/September 2024. However, reserved matters remain to be submitted and there is no housebuilder on 'board' to inform a realistic assessment for completions and build out for the last year of the 5YHLS period. Thus, there is no clear evidence to demonstrate that housing completions will begin within 5 years and 50 dwellings should be removed from supply.
38. 19/01853/APP Oxford House, Oxford Road – A full planning application for the change of use of offices to 29 dwellings from 2019 is undetermined. At the hearing, the Council indicated no evidence of a hold-up and work on the s106 is progressing. Despite no full planning permission, the building is being developed under a prior approval providing clear evidence of deliverability and the Council's supply of 15 dwellings is justified.

Disputed sites with outline planning permission

39. The Council's 5YHLS statement considers the following sites to be within category a) of the Framework definition; sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years.

40. AGT6 – Kingsbrook, Land east of Aylesbury, Broughton Crossing – Outline planning permission and reserved matters has been consented/approved for 2450 dwellings. There are now 5 housebuilders on the site, with a trajectory provided by main builder, which has informed the expected completions. At the hearing, the Council indicated 4 sales outlets on the site, with the latest housebuilder likely to expand landholdings. Based on the average build-out rate achieved to date, EHLS details an average of 181 dwellings per year since 2016 below that of the Council's trajectory.
41. However, completions at the start of construction will be lower, with wide ranging site works required first, than when the development is in 'full swing'. The development on the site is well-established and during 2021/22 and 2022/23, 200 completions were achieved. Thus, there is no clear evidence that the Council's 5YHLS should be reduced for this site.
42. AGT4 – Hampden Fields/Land between Wendover Road and Aston Clinton Road, Weston Turville – Outline planning permission was consented for a mixed-use Strategic Urban extension of up to 3000 dwellings in June 2021. There is a Planning Performance Agreement for the determination of planning applications on the site. Reserved matter applications for a link road, and 378 dwellings remain undetermined. At the hearing, the Council indicated design codes and discharge of condition applications have been prepared in conjunction with the housebuilder and mostly resolved to address objections to progress applications. Informed by the site's housebuilder, delivering elsewhere in Aylesbury, commencement is expected in November 2024.
43. Significant progress has been made to resolve technical site matters which demonstrates the housebuilder's intent on commencing development. Nevertheless, commencement this year would seem optimistic, it has already been pushed back and importantly, reserved matters have not been approved. No reserved matters have been submitted for 372 dwellings of the 5YHLS. In the absence of a realistic assessment addressing these and other site factors, there is clear evidence that the homes will not be delivered within 5 years. Consequently, 750 dwellings should be removed from supply.
44. 15/00314/AOP – Land to south west of Milton Keynes – Outline planning permission was granted for up to 1,855 dwellings. At the hearing, the Council indicated design codes are being finalised with approvals expected shortly which would enable speedier decision making for the discharge of condition and reserved matters applications. Reserved matters for residential development are expected shortly once the design codes are approved and the start of development is now expected in January 2025.
45. Progress has been made with technical site issues but reserved matters are still to be submitted. There is a lack of a realistic assessment to support the housebuilder's trajectory, with commencement of development in summer 2024 and first completions in 2024/25 optimistic, especially given the planning situation. As a result, there is clear evidence that the homes will not be delivered within 5 years and 600 dwellings should be removed from supply.
46. BUC046 – Land off Osier Way (south of A421 and east of Gawcott Road) – The site is allocated in the VALP, with outline planning consent for 420 dwellings and reserved matters approval was approved for 121 dwellings in 2024. At the hearing, the Council indicated progress on phase 1 of the site covered by the reserved matter approval and a condition had been discharged approving the

phasing of development on the site. However, reserved matters have still to be submitted for the projected completions within the 5YHLS and there is no information to show that the housebuilder has been contacted to inform commencement and build out rates. In the absence of a realistic assessment, there is clear evidence that homes will not be delivered within 5 years and 244 dwellings should be removed from supply.

47. AGT3 Westonmead Farm, Aston Clinton Road, Weston Turville - The site is allocated and outline planning permission has been consented for 157 dwellings and the Council's 5YHLS statement indicates expected build out rate allows sufficient lead-in time for reserved matters approval and construction. At the hearing, the Council indicated Chilterns SAC objections are being resolved through the SPD and the development is ready to proceed. However, the 2021 reserved matters application remains undetermined and there is no timetable regarding its submission and approval. Although there is a major housebuilder on 'board', there is no indication that it has helped to inform projected commencement of development and build out rates. The absence of any realistic assessment provides clear evidence that homes will not be delivered within 5 years and 157 dwellings should be removed from supply.
48. 20/03556/AOP – Land south of Buckingham Road, Winslow - Outline planning permission was granted in 2022 but no reserved matters have been submitted to date. The Council's 5YHLS Statement indicates expected completion rates allow sufficient lead-in time for planning and construction but no update from the housebuilder has been received. Reserved matters remain to be submitted and approved, with no timetable for this. The absence of a realistic assessment provides clear evidence that homes will not be delivered within 5 years and 60 dwellings should be removed from supply.

Other disputed sites

49. 20/02678/APP Elsinore House, 43 Buckingham Street – A full application for 33 dwellings was permitted in 2022. The Council are pushing the applicant regarding progress but there is no update, including commencement date and build out rates. A recent change of use application for 17 dwellings suggests that the developer's intention is to retain the existing building rather than demolish and replace it as set out in the permission. Such circumstances indicates that dwellings under the full planning permission will not be delivered and that there is clear evidence to show that 16 dwellings should be removed from supply.

Delivery trajectory

50. For larger scale development, VALP Policy D3 indicates exceptionally further development beyond allocated sites and small-scale development will only be permitted where the Council's monitoring of housing delivery across Aylesbury Vale shows that the allocated sites are not being delivered at the anticipated rate. It considers the past completions on allocated sites for Aylesbury Vale. In contrast, the 5YHLS calculation looks forward from the base date (April 2023) to assess whether housing supply, based on deliverability, would meet the housing requirement.
51. The Council's VALP Policy D3 technical note shows that overall delivery at the allocated sites is above the dwelling completion trajectory over the period 2020/21 to 2022/23. As a result, consideration of further development beyond

allocated sites and small-scale developments would not be required to be considered under this policy. It is too early to comment on whether the trajectory will be met over the long term to 2033 and for 2023/24, the trajectory has not been determined.

52. However, the appellant indicates that the trajectory up to 2023/2024 cannot realistically be met. Based on the excel spreadsheet accompanying the VALP Policy D3 technical note, there are 10 allocated sites expected to deliver for 2023/24 but projected completions (under the 5YHLS Statement) shows no delivery for these sites in 2023/24. Of the 4 remaining allocated sites (under construction) contributing to the trajectory, the expected number of completions would be insufficient to ensure that it is met. In the Council's rebuttal, the Council has identified four additional sites expected to have contributed to the VALP trajectory up to 2022/23 which have not. They are now under construction and the fourth has now full planning permission. However, even if their completions now contributed to the trajectory up to 2023/24, the numbers together with those expected for 4 allocated sites (under construction), reference above, would not ensure that the trajectory up to 2023/24 would be met.

Conclusions

53. Under the Framework for a site to be considered deliverable, it must be available now, offer a suitable location for development now and be achievable, with a realistic prospect that housing will be delivered on the site within five years. Where dwellings have been removed from Council's 5YHLS, they have not been available now due to a lack of a realistic assessment. Even in respect of category a) sites under the Framework definition, this provides clear evidence to remove dwellings from supply. Taking into account the above discussion, 5YHLS would not be greatly more than the appellant's figure and this would represent a significant shortfall. Whilst VALP Policy D3 is not applicable, evidence indicates dwelling trajectory 2020 to 2024 would not be met, a conclusion that further confirms the shortfall in housing supply.

Development Plan Spatial Strategy

54. There would be harm to the landscape and visual aspects of the area conflicting with the principles of sustainable development, vision and strategic objectives and intentions contained within VALP Policy S1.
55. VALP Policy S2 states the VALP will make provision for at least 28,600 new homes in accordance with a spatial distribution table detailing a level of housing for each settlement. Strategic growth and investment will be concentrated in sustainable locations, including Haddenham, where growth will be supported by infrastructure and the important role of Haddenham and Thame railway station is recognised. Within Haddenham, there has been growth exceeding the 1,082 dwellings for this settlement under the spatial distribution table. It further indicates that development that does not fit with the scale, distribution or requirements of this policy will not be permitted.
56. VALP Policy S3 states that the scale and distribution of development should accord with the settlement hierarchy and that new development in the countryside should be avoided. The proposed housing would conflict with VALP Policies S2 and S3 because it would not fit in with the scale and distribution set out in the spatial distribution table and would be in a countryside location.

Other matters

57. The scheme would be attractively landscaped, retaining and enhancing existing hedgerows and would provide high quality public spaces for people and nature. The outline has matters of appearance, covering aesthetics of the development, reserved for approval at a later planning stage where the scheme's detailed design could draw upon the key positive design qualities of character areas within the appellant's Design and Access Statement (DAS)⁹. Plans show a regimented layout but these are indicative, showing only one way of developing the site. With layout also reserved for further approval, there would be ways of achieving a less estate-like and more attractive village layout taking into account the positive character findings of the DAS. On this basis, a high quality detailed design could be created for the site in accordance with section 12 of the Framework.
58. As I saw on my site visit, both Rosemary Lane and Rudd's Lane are narrow and new residents are likely to drive along these roads, including to the railway station. However, the appellant's TS demonstrates that additional traffic generation and congestion would not be significant on the surrounding roads, including at junctions of Churchway with Rosemary Lane and Rudd's Lane. The highway authority has raised no objections on safety grounds. For all these reasons, there would be no unacceptable impact on highway safety and the residential cumulative impacts on the road network would not be severe.
59. Paragraph 109 of the Framework requires development to be focussed on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport mode. Nevertheless, the TS demonstrates reasonable accessibility by sustainable transport to services and facilities within Haddenham, including bus stops and a railway station. There is no documentary evidence to indicate bus services are to be limited. Under VALP Policy S1, the village is also identified as a sustainable location for development. Adverse effects on wildlife have been cited. However, I concur with the Council's Ecology Officer, who raises no objections subject to planning conditions securing protection and enhancement of ecological site qualities.

Benefits of the proposal

60. The proposal would provide 89 dwellings boosting housing supply in accordance with paragraph 60 of the Framework. The Council is making efforts to speed up the delivery of housing, including on allocated sites, but there is a significant shortfall in housing delivery evidenced by the 5YHLS findings here. The emerging Local Plan is also at early stage of preparation and only limited weight can be attributed to it in addressing housing supply. On another site in Aylesbury Vale, the appellant has delivered residential development in a timely manner, with a short timescale between obtaining outline planning permission and commencing development. The appellant has put forward a shortened timescale for the submission of reserved matters following outline consent. Affordable housing would be provided above that required by local policy in an area of urgent need. Substantial weight is attached to these housing benefits.

⁹ Design and Access Statement, Land off Churchway, Haddenham, Pegasus Group, January 2023.

61. The appellant provides documentary evidence¹⁰ on the resultant number of construction jobs, both on site and through the local supply chain, and the amount of financial spend from new residents on local shops and services. There would also be local revenues to the Council from the New Homes Bonus and Council Tax. Such economic benefits would weigh moderately in favour of the proposal.
62. The proposal would result in public open space and transport improvements, which would be of small benefit to the local community. The appellant's Ecological Impact Assessment demonstrates a net gain in biodiversity with grassland, trees and repaired/enhanced hedgerows mainly within public open space areas which would attract similar small weight.

Planning balance

63. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise.
64. The proposal would contribute towards meeting a strategic housing requirement, provide much needed affordable housing and local service infrastructure in accordance with housing and infrastructure policies of the VALP. However, there would be harm to the character and appearance of the area in conflict with VALP Policies NE4, BE2 and C4 of the VALP. By reason its countryside location, there would be harm to the strategic policies for the spatial distribution of development in conflict with VALP Strategic Policies S1, S2 and S3. The weight to be given to these policy conflicts are reduced due the shortfall in 5YHLS and moderate weight to these conflicts remain. Nevertheless, the character and appearance, and strategy policies are central to the determination of the appeal proposal and taken as a whole, the proposal would be contrary to the development plan.
65. As the Council has a deficient 5YHLS, the 'tilted balance' of paragraph 11.d ii of the Framework would apply. Paragraph 180 of the Framework states planning decisions should contribute and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside. Paragraph 109 of the Framework states significant developments should be focussed on locations which are or can be sustainable, through limiting the need to travel and offering a genuine choice of transport modes. For the reasons indicated, there would be moderate harms to the character and appearance of the area, and planned spatial distribution of development in Vale of Aylesbury.
66. However, the housing benefits, taking into account the district's shortfall in housing supply and affordable housing provision would weigh substantially in favour. There was no such shortfall in the previous dismissed appeal decision on the site. There would also be moderate economic benefits. Combined with the transport, public open space and biodiversity enhancements, such housing and economic benefits would be determinative. Despite the conflict found with the spatial development distribution policies of the VALP, residents would have good accessibility to services and facilities through sustainable transport opportunities and the proposal would provide local service infrastructure to meet identified needs arising from the development.

¹⁰ Paragraphs 8.12 – 8.15 of the Appellant's Statement of Case, Land at Churchway, RPS, 19 April 2024.

67. Consequently, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. The development plan benefits from statutory primacy but there is a presumption in favour of sustainable development concluded here. As a material consideration, this would be of sufficient weight, in this case, to indicate that the appeal should be determined otherwise in accordance with the development plan. Accordingly, outline planning consent should be granted.
68. There have been substantial third party objections against the proposal. In coming to conclusions, such objections have been assessed against the development plan, the Framework and material considerations, including the extent of the Council's 5YHLS shortfall, and in the planning balance, the evidence in this case leads to this appeal succeeding.

Conditions

69. Suggested conditions have been considered in light of the tests of paragraph 56 of the Framework and the advice in Planning Practice Guidance. Some have been amended, shortened and amalgamated in the interests of clarity and precision taking into account the tests and guidance. Conditions requiring details of appearance, layout, including parking and turning, and landscaping, including tree protection, are not necessary as they would be considered in subsequent reserved matters.
70. A condition requiring that the development to be carried out in accordance with the details shown on the plans is necessary in the interests of proper planning and for the avoidance of doubt. A condition for a construction method management plan is necessary in the interests of the living conditions of residents and highway safety. For the sake of highway safety, conditions are necessary for access visibility, off site highway works and access roads. To safeguard and enhance biodiversity, conditions are required to secure biodiversity net gain, a landscape and ecological management plan, construction environment management plan and habitat management plan, lighting and the implementation of an ecological impact assessment.
71. To prevent flooding, drainage conditions are necessary. In the interests of archaeology, the implementation of a watching brief is necessary. In accordance with VALP Policy I6, a condition is required for the approval of a high speed broadband connection. To encourage sustainable transportation, there is a travel plan requirement condition. To ensure compliance with the UU, conditions are necessary to require the approval of distribution and mix of affordable housing, and an open space scheme.

Conclusion

72. The proposed development would conflict with the development plan but material considerations indicate that a decision should be made other than in accordance with it. For the reasons given above the appeal should be allowed.

Jonathon Parsons

INSPECTOR

Schedule A

- 1) Details of appearance, landscaping, layout, and scale, "the reserved matters", shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 2 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: P16-007_4; T22562/001 Rev D; T2252/002 Rev C; and T22562/005, in so far as it relates to the approved means of access.
- 5) No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the local planning authority. The statement shall provide for:
 - a. the routing of construction vehicles;
 - b. construction access details;
 - c. the parking of site operative and visitor vehicles;
 - d. loading and unloading of plant and materials;
 - e. storage of plant and materials used in constructing the development;
 - f. operating hours;
 - g. the erection and maintenance of security hoarding;
 - h. wheel washing facilities;
 - i. Before and after construction condition surveys of the highway and a commitment to fund the repair of any damage caused.

The approved CTMP shall be adhered to throughout the construction period for the development.
- 6) No dwelling shall be occupied, until the minimum vehicular visibility splays of 43m from 2.4m back from the edge of the carriageway from both sides of the new access onto Churchway have been provided in accordance with the approved plans and the visibility splays shall thereafter be kept free of obstruction between 0.6m and 2m above ground level.
- 7) No dwelling shall be occupied, until the off-site highway works shown in principle on drawing T22562.001 rev D have been laid out and constructed in general accordance with the approved plans. For the avoidance of doubt the works shall comprise of the following:
 - a. dropped kerb crossings to the new footway on western side of Churchway with the pedestrian refuge being lengthened to 3m;

- b. 3m shared footway/cycleway leading to the pedestrian island along Churchway to the north and down to the crossing across Stanbridge Road to the south;
 - c. dropped kerb crossings across both Stanbridge Road and Churchway incorporating the central reserve. Raised signage on the central reserve to provide sight lines to pedestrians;
 - d. pedestrian only link and dropped kerb crossing to bus stop on the western side of Churchway, to connect to upgraded footway provision on the western side of Churchway;
 - e. pedestrian crossings in line with the Haddenham wide streetscape proposals including the tighter Rudd's Lane Junction Radii; and
 - f. raising the kerb height to 140mm to allow near level boarding and improve accessibility at the closest bus stops.
- 8) An energy statement/natural resources strategy to demonstrate how an energy hierarchy has been applied and how the development minimises the use of natural resources, shall be submitted prior to or at the same time as the first reserved matters application for the approval in writing of the local planning authority. It shall consider the following:
- a. how energy use is reduced/minimised, in particular through the use of sustainable design and construction methods;
 - b. how water efficiency and minimisation of use are to be encouraged;
 - c. measures to promote waste minimisation and recycling;
 - d. provision of an efficient energy supply, with priority to decentralised supplies;
 - e. making use of renewable energy;
 - f. making use of allowable solutions; and
 - g. a feasibility study for district heating and cooling utilising technologies such as combined heat and power, including biomass or other low carbon technology.

The development shall be implemented in accordance with the approved strategy.

- 9) Before any construction works hereby approved are commenced, a revised Biodiversity Net Gain Report and associated DEFRA 3.1 Biodiversity Metric, demonstrating how a minimum of 10% Biodiversity Net Gain will be achieved, shall be submitted to and approved in writing by the local planning authority. The BNG Report should include:
- a) a summary of key points;
 - b) introduction to the site, project, planning status, certainty of design and assumptions made, the aims and scope of the study and relevant policy and legislation;
 - c) methods taken at each stage; desk study, approach to BNG and evidence of technical competence;
 - d) baseline conditions of the site including; important ecological features and their influence on deliverability of BNG, baseline metric calculations and justifying evidence, and a baseline habitat plan that clearly shows each habitat type and the areas in hectares;

- e) justification of how each of the BNG Good Practice Principles has been applied;
- f) proposed design to include a proposed habitat plan and details of what will be created. This can be taken from the site layout plan, illustrative masterplan, green infrastructure plan or landscape plans. The plan should clearly show what existing habitat is being retained and what new habitat will be created. It should be easy to identify the different habitat types and show the areas in hectares of each habitat or habitat parcel;
- g) Biodiversity Metric spreadsheet, submitted in excel form that can be cross referenced with the appropriate plans; and
- h) implementation plan including a timetable for implementation; and
- i) BNG Management and Monitoring Plan.

The development shall thereafter be implemented in accordance with the approved details.

- 10) No development shall take place (including demolition, ground works, vegetation clearance) unless and until the Landscape and Ecological Management Plan (LEcMP) has been submitted to and approved in writing by the local planning authority. The content of the LEcMP shall include the following.
- a) description and evaluation of features to be managed;
 - b) ecological trends and constraints on site that might influence management;
 - c) aims and objectives of management which will (without limitation); include the provision of biodiversity net gain within the Site as shown within the Biodiversity Gain Plan;
 - d) appropriate management options for achieving aims and objectives;
 - e) appropriate details of biodiversity enhancement features;
 - f) prescriptions for management actions;
 - g) preparation of a work schedule (including an annual work plan capable of being rolled forward over a thirty-year period); and
 - h) details of the body or organization responsible for implementation of the plan. Ongoing monitoring and remedial measures.

The LEcMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The plan shall be for no less than 30 years. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEcMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

- 11) Before any construction works hereby approved are commenced, a Construction Environment Management Plan (CEMP) and Habitat Management Plan (HMP) detailing, in full, measures to protect existing habitat during construction works and the formation of new habitat to

secure a habitat compensation and biodiversity net gain as detailed within the Biodiversity Net Gain Report, shall be submitted to and approved in writing by the local planning authority. Within the CEMP/HMP document the following information shall be provided:

- a) current soil conditions of any areas designated for habitat creation and detailing of what conditioning must occur to the soil prior to the commencement of habitat creation works (for example, lowering of soil pH via application of elemental sulfur);
 - b) descriptions and mapping of all exclusion zones (both vehicular and for storage of materials) to be enforced during construction to avoid any unnecessary soil compaction on area to be utilised for habitat creation;
 - c) details of both species composition and abundance where planting is to occur;
 - d) details of pre-commencement badger survey;
 - e) proposed management prescriptions for all habitats for a period of no less than 30 years
 - f) assurances of achievability;
 - g) timetable of delivery for all habitats; and
 - h) a timetable of future ecological monitoring to ensure that all habitats achieve their proposed management condition as well as description of a feed-back mechanism by which the management prescriptions can be amended should the monitoring deem it necessary. All ecological monitoring and all recommendations for the maintenance/amendment of future management shall be submitted to and approved in writing by the local planning authority. The development shall be undertaken and thereafter maintained in accordance with the approved CEMP and HMP.
- 12) No dwelling shall be occupied until a "lighting design strategy for biodiversity" for the proposed development shall be submitted to and approved in writing by the local planning authority. The strategy shall:
- a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and
 - b) show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy.

- 13) The development shall be implemented in accordance with the agreed recommendations within the Ecological Impact Assessment (EIA) (RammSanderson, July 2023). Within 1 month of the final occupation of

the development, a written statement from the ecologist, acting for the developer, shall be submitted to and approved in writing by the local planning authority.

- 14) No works (other than demolition) shall begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall also include:
- a) assessment of SuDS components and provide justification for exclusion, if necessary;
 - b) water quality assessment demonstrating that the total pollution mitigation index equals or exceeds the pollution hazard index; priority should be given to above ground SuDS components;
 - c) existing and proposed discharge rates and volumes;
 - d) full construction details of all SuDS and drainage components;
 - e) detailed drainage layout with pipe numbers, gradients and pipe sizes complete, together with storage volumes of all SuDS components;
 - f) calculations to demonstrate that the proposed drainage system can contain up to the 1 in 30 storm event without flooding. Any on site flooding between the 1 in 30 and the 1 in 100 plus climate change storm event should be safely contained on site; and
 - g) details of proposed overland flood flow routes in the event of system exceedance or failure, with demonstration that such flows can be appropriately managed on site without increasing flood risk to occupants, or to adjacent or downstream sites.

The development shall subsequently be implemented in accordance with the approved details before the development is completed.

- 15) Prior to the occupation of any dwelling, a verification report must be submitted to and approved in writing by the local planning authority to demonstrate that the Sustainable Drainage System has been constructed as per the agreed scheme.
- 16) Prior to the occupation of the development, a whole-life maintenance plan for the site must be submitted to and approved in writing by the local planning authority. The plan shall set out how and when to maintain the full drainage system (e.g. a maintenance schedule for each drainage/SuDS component), with details of who is to be responsible for carrying out the maintenance. The plan shall also include as-built drawings and photographic evidence of the drainage scheme. The plan shall subsequently be implemented in accordance with the approved details.
- 17) No reserved matters application shall be submitted, until the applicant, or their agents or successors in title, have undertaken archaeological evaluation in form of trial trenching in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the local planning authority. Where nationally significant archaeological remains are confirmed, these will be preserved in situ.

Where nationally significant archaeological remains are confirmed, no reserved matters application shall be approved until the applicant, or their agents or successors in title, has provided an appropriate methodology for their preservation in situ which has been submitted by the applicant and approved in writing by the local planning authority.

Where archaeological remains are recorded by evaluation and are not of sufficient significance to warrant preservation in situ but are worthy of recording, no reserved matters application shall be approved until the applicant, or their agents or successors in title, have secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.

The archaeological investigation should be undertaken by a professionally qualified archaeologist working to the agreed written scheme(s) of investigation.

- 18) No dwelling shall be occupied until the estate roads which provide access to it from the existing highway have been laid out and constructed to binder level in accordance with details to be approved in writing beforehand by the local planning authority. The estate roads shall be fully completed as approved before occupation of 95% of the dwellings in the whole development.
- 19) Prior to the commencement of the construction of the estate roads, details of measures to facilitate the availability of a high-speed broadband connection to the occupants of the development shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details prior to the occupation of the building to which it relates.
- 20) Notwithstanding the Travel Plan submitted with the outline application, prior to any development above ground, an updated Travel Plan shall be submitted to and approved in writing by the local planning authority. For the avoidance of doubt the Travel Plan should include the Travel Information Pack to be provided to residents. Thereafter the development shall be implemented in accordance with the approved details prior to the occupation of the development.
- 21) The proposed dwellings shall be designed to provide an appropriate level of accessibility and adaptability, with all dwellings compliant with Category 2 (Part M4(2) of the Building Regulations and 15% of the affordable units compliant with Category 3 (Part M4(3)(2)a of the Building Regulations) unless demonstrated by an accompanying report that the development would be unviable to do so.
- 22) The reserved matters, to be submitted for approval, shall include a written scheme and site layout plans identifying the locations, distribution and mix of affordable housing, together with their principal access and cycleway access.
- 23) Before the development hereby permitted is commenced, an open space scheme shall be submitted to and approved in writing by the local planning authority and such scheme shall:

- i. show the areas and location of the public open space across the development; and
- ii. include full details of the precise areas and location of all public open space and LEAP;
- iii. details of how the public open space and LEAP will be laid out constructed and maintained; and
- iv. set out the detailed technical specification of all the works to be carried out on the public open space and LEAP.

Richborough

APPEARANCES

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FTB Chambers (on behalf of Parish Council)
ONH (on behalf of Parish Council)
Local resident
Haddenham Village Society
Resident
Haddenham GP Patient Participation Group

DOCUMENTS

1. Appellant's response to Council's evidence in respect of loss of BMV, Kernon Countryside Consultants Limited, 18 June 2024
2. Technical Guidance Note 02/21 Assessing Landscape Value outside national designations, Landscape Institute, 18 June 2024.
3. Council statement on Primary Care Contributions, with attachments NHS Bucks, Oxon and Berks West ICB, costings sheet and report titled evidence for s106 requests for primary care contributions, 21 June 2024.
4. Rosemary Lane resident's letter, 26 June 2024.
5. Statement of Common Ground on Housing Land Supply, 26 June 2024.
6. Vale of Aylesbury Local Plan Policy D3, Technical Note, 26 June 2024.
7. Core Documents List, 26 June 2024.
8. Agreed set of planning conditions, 26 June 2024.
9. VALP Policy D3 Technical Note (dated June 2024), submitted 26 June 2024.
10. Network Rail response, Land at south west Aylesbury (dated 23 April 2024), 18/04346/AOP, 27 June 2024.
11. Buckingham Council Education Officer (dated 24 June 2024), 27 June 2024.
12. Draft S106/UU with associated documents, 27 June 2024.
13. CIL Compliance Table, Buckinghamshire Council, 27 June 2024.
14. Annotated site visit plan for Inspector, 28 June 2024.
15. Planning Benefits vs Harms table, 28 June 2024.
16. UU final version before signing, 30 June 2024.
17. UU Undertaking, dated 11 July 2024, with evidence of title and confirmation of being true copy.
18. Statement re: Buckinghamshire Council's Housing Evidence (VALP Policy D3, Technical Note), Emery Planning, 12 July 2024.
19. Buckinghamshire Council's response to the appellant's Statement re: Buckinghamshire Council's Additional Housing Evidence', 17 July 2024.