



Department for
Communities and
Local Government

Our ref: APP/K0425/W/15/3135297

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14 September 2017

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY MR MIFF CHICHESTER FOR ERLP 1 SARL C/O ST CONGAR
LAND
LAND AT FORMER MOLINS FACTORY SITE, HAW LANE, SAUNDERTON, WYCOMBE
APPLICATION REF: 15/05250/OUTEA**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Frances Mahoney DipTP PGDipTP MRTPI IHBC, who held a public local inquiry between 7-22 September 2016 into your client's appeal against the failure by Wycombe District Council to determine your client's application for planning permission for the demolition of all existing buildings and outline planning permission to construct 212 dwellings (Class C3) with a proposed footprint of 16,208 sq metres (ground floor gross external area including garages) and total gross floor area of 25,800 sq. metres, associated car parking, pedestrian access, and open space with access via Haw Lane and approval of scale and layout in accordance with application ref: 15/05250/OUTEA dated 29 January 2015.
2. On 13 October 2016, this 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.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, except where stated, and agrees with her recommendation. He has decided to dismiss the appeal and refuse planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural Matters

5. Following the submission of the appeal the Council went on to consider the proposal on 16 December 2015 and identified 8 putative reasons for refusal. Like the Inspector the Secretary of State has treated this 'decision' as that which the Council would have made had it been empowered to do so (IR3).
6. At the Inquiry the appellant company requested that the proposal be considered on the basis of a scheme for 192 dwellings, details of the layout should be dealt with as a reserved matter, that there should be provision of a mixed A1/D1 building and a new footpath link included (IR21). The Secretary of State's consideration and conclusions on this matter are set out in paragraph 16 of this letter.

Matters arising since the close of the inquiry

7. The Secretary of State received correspondence from Wycombe District Council dated 26 June 2017 informing him that the Bledlow-cum-Saunderton Neighbourhood Plan had been made and now forms part of the development plan.
8. The Secretary of State is satisfied that the issues raised do not necessitate referral back to parties. A copy of this letter may be obtained on written request to the address at the foot of the first page of this letter.

Policy and statutory considerations

9. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
10. In this case the development plan includes the Wycombe Development Framework Core Strategy (CS) dated July 2008; the Adopted Delivery and Site Allocations Plan (DSAP) dated June 2013; the saved policies of the Wycombe District Local Plan (WLP) (2004); and the Bledlow-cum-Saunderton Neighbourhood Plan (NP) which was made on 23 June 2017. The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR12 and IR15.
11. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance') and the Chilterns Building Design Guide and Technical Notes (CBDG) produced by the Chilterns Conservation Board (CCB).
12. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or their settings or any features of special architectural or historic interest which they may possess.

Emerging plan

13. Paragraph 216 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the

Framework. The Wycombe District Local Plan (WDLP) is at a very early stage with the aim for adoption now being spring 2019 and therefore the Secretary of State gives it limited weight.

Main issues

14. The Secretary of State agrees with the Inspector that the main issues are those set out in her conclusions starting at IR200.

Submission of amended scheme

15. The Secretary of State has considered the Inspector's reasoning and conclusions at IR201-215. He considers the amended scheme is not the scheme originally considered by the Council. Like the Inspector, for the reasons given the Secretary of State cannot be sure that those consulted on the changed development have not been deprived of the opportunity to comment in an appropriate informed way, and that interested parties have not been prejudiced. For these reasons he agrees with Inspector's recommendation at IR215 that this appeal is considered on the basis of the original scheme for 212 units submitted as detailed in IR19.

Previously Developed Land

16. The Secretary of State has given careful consideration to the Inspector's reasoning and conclusion regarding the extent of Previously Developed Land (PDL) on the appeal site (IR216-217). The Secretary of State has noted that the Inspector had the benefit of directly viewing and experiencing the land in the eastern section of the site during the site visit and has taken account of the Inspector's view that the site has yet to blend into the landscape in the process of time. He, therefore, agrees with the Inspector that it is reasonable to consider the whole of the red-lined appeal area as being PDL (IR216).

The Fall-back

17. The Secretary of State has given careful consideration to the Inspector's reasoning and conclusion on whether the data centre permission is a feasible fall-back (IR218-231). For the reasons given, the Secretary of State agrees that, while he cannot be sure that there would be no possibility that the extant permission would be implemented at some time in the future, he has little reassurance that the scheme would come forward within the next 5-10 years (IR229). Therefore, like the Inspector, the Secretary of State gives only limited weight to the effect of the data centre compared to that of the appeal proposals as a material consideration in the planning balance (IR230).

Green Belt

18. The Framework notes that inappropriate development is, by definition, harmful to the Green Belt and substantial weight should be given to any harm to the Green Belt. The Secretary of State agrees with the Inspector that the number of dwellings in the scheme is significant and the proposal would introduce an urban character of built form (IR236). He also agrees that the visual impact of the development would impinge on the character and nature of the Green Belt significantly diminishing the quality of its openness, and that the significant peppering of light sources across the site would add to the change in the character and nature of the Green Belt (IR238-239). As such, for the reasons given in IR232-240, the Secretary of State agrees with the Inspector that the appeal proposal is inappropriate development in the Green Belt and should not be approved except in Very Special Circumstances (IR241).

Any other harm

- Chiltern AONB/Design

19. For the reasons given in IR242-251 and IR253-254, the Secretary of State agrees with the Inspector that the scheme would not respect its local context and cannot fail but to seriously harm the sensitive character and appearance of the countryside setting and the special qualities of the Chiltern AONB. He thus concludes that the proposal would conflict with policy WLP Policy L1. Furthermore it would not integrate into the natural and built environment and would not take the opportunity to improve the character and quality of the area (IR259). Guidance on settlement character set out in the CBDG would be compromised. Paragraph 116 of the Framework does identify that major development can be permitted in exceptional circumstances and where it can be demonstrated they are in the public interest. The Secretary of State concludes on this matter later in this letter.

20. The Secretary of State has also noted the Inspector's comments at IR255-258 should the data centre be accepted as being a fall-back to the appeal proposal. He has already set out his conclusions on the data centre as a fall-back in paragraph 18.

- Location

21. For the reasons given in IR260-268, the Secretary of State agrees with the Inspector that the appeal proposal runs counter to CS Policies CS19 and CS20 which support paragraph 29 of the Framework in seeking to improve our environment by encouraging more sustainable travel choices. However, taking into account that the site is PDL, along with the previous and extant uses of the site, the wishes of the community expressed in the NP and the willingness of the appellant company to adopt, promote and fund an appropriate travel plan. He also agrees with the Inspector that harm by reason of conflict with planning policy is reduced (IR269).

Other considerations

- The principle of residential development and jobs

22. The Secretary of State has considered the Inspector's comments in IR274-278. However, he agrees with the Inspector that the viability of the data scheme has not been established and that, should it come to fruition it would not be in immediate times but in the medium to long term. He further agrees that the residential development, were it to go ahead, would generate economic activity and so, the weight to be given to any harm

by reason of conflict with the development plan policy in this regard can be greatly reduced (IR279-281).

- *Housing*

23. For the reasons given in IR282-288 the Secretary of State agrees with the Inspector that the Council is unable to demonstrate a 5YHLS. The Secretary of State further considers that policy CS13 (Affordable housing and housing mix) for the purposes of this appeal can be deemed a housing supply policy. Given his findings on the 5YHLS, the Secretary of State therefore considers that paragraph 14 of Framework is engaged. As such planning permission should be granted unless (a) any adverse impacts of doing so significantly and demonstrably outweigh the benefits when assessed against policies in the Framework as a whole or (b) specific policies in the Framework indicate that development should be restricted. The Secretary of State considers this further in paragraph 35 of this letter.

- *Affordable housing*

24. The Secretary of State agrees with the Inspector's view that the identified need for affordable housing is considerable. He also agrees that the scheme can comply with the requirements of CSP Policy 13 in respect of the provision of affordable housing and that the compliance with policy is a clear benefit (IR289-291).

- *Heritage*

25. For the reasons given in IR292-923, the Secretary of State agrees with the Inspector that the recovery of the Bronze Age barrow cemetery (a Scheduled Ancient Monument), from beneath the office building and the establishment of an open landscape setting for the heritage asset would be an important public benefit.

26. He further agrees, for the reasons given in IR294-296, that the proposal would only have a neutral effect on the setting and significance of two listed buildings (Grange Farmhouse and stable and Bradenham Manor) and that the merits of the Ballroom building are not of sufficient importance to warrant specific protection. For these reasons he concludes, like the Inspector, that the appeal proposals would not cause harm to heritage assets (IR297).

- *Biodiversity and public open space*

27. The Secretary of State agrees with the Inspector's assessment and conclusions in IR298 that there would be public benefit through the provision of some public open space, improvements to biodiversity and the overall sustainability of the site.

- *Highways*

28. Like the Inspector, the Secretary of State acknowledges the concern expressed by residents in relation to the impact of traffic generated. However, the Secretary of State agrees, for the reasons given in IR300-303 that the proposed development would not adversely impact on highway safety.

- *Flooding*

29. For the reasons given in IR304, the Secretary of State agrees with the Inspector that the proposed new drainage provision can only be a positive wider public benefit.

- *Community building*

30. While the Secretary of State has noted the Inspector's comments and conclusions about the community building which was proposed as part of the amended scheme, he has set out in paragraph 16 of this letter that he is considering this appeal on the basis of the original application for 212 units.

Planning conditions

31. The Secretary of State has given consideration to the Inspector's analysis at IR177-195, the recommended conditions set out at the end of the IR at Annex A in respect of the scheme for 212 units and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal and refusing planning permission.

Planning obligation

32. Having had regard to the Inspector's analysis at IR196-199, the planning obligation dated 10 October 2016, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR198 that the obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework and is necessary to make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and kind to the development. However, the Secretary of State does not consider that the obligation overcomes his reasons for dismissing this appeal and refusing planning permission.

Planning balance and overall conclusion

33. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with WLP policies L1, CS19 and CS20, and is thus not in accordance with the development plan overall.

34. As there is a lack of a 5-year housing land supply the Secretary of State considers there is a relevant housing supply policy, paragraph 14 of the Framework is engaged. However, the Secretary of State considers that the Green Belt and AONB policies of the Framework indicate that the development should be restricted, and therefore the 'tilted balance', that permission should be granted unless the adverse impacts would significantly and demonstrably outweigh the benefits, would not apply. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in accordance with the development plan.

35. Weighing in favour of the proposal is the contribution to the provision of market and affordable housing, as well as a mix of accommodation types to which the Secretary of State affords substantial weight. The proposal will also bring a derelict previously developed site back into active use which is afforded considerable weight. The Secretary of State gives moderate weight to the benefits of the improvements to the SAM, the highway, bus stops, biodiversity/ecology, drainage, the provision of open space and play areas.

36. The Secretary of State considers the proposal would permanently reduce openness of the Green Belt and conflict with some of the purposes of the designation and gives substantial weight to this harm. He also considers that there would be a significant amount of harm to the landscape and scenic beauty of the AONB and that this would not be outweighed by the benefits of the scheme. He has concluded, therefore, that there are no exceptional circumstances in the public interest that would reduce the significant weight afforded to that harm.
37. The Secretary of State also gives weight to harm in respect of the site's location and a possible conflict with employment policy although the level of harm has been reduced to modest for the reasons given earlier in this letter.
38. Overall, the Secretary of State concludes that the harm caused by the inappropriate nature of the proposal in the Green Belt and any other harm would not be clearly outweighed by other considerations and thus very special circumstances would not exist to justify development in the Green Belt. There are no material considerations to indicate that the appeal proposal should be determined other than in accordance with the development plan.
39. The Secretary of State therefore concludes that the appeal should be dismissed and planning permission refused.

Formal decision

40. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for the demolition of all existing buildings and outline planning permission to construct 212 dwellings (Class C3) with a proposed footprint of 16,208 sq metres (ground floor gross external area including garages) and total gross floor area of 25,800 sq metres. Associated car parking, pedestrian access, and open space with access via Haw Lane and approval of scale and layout in accordance with application ref: 15/05250/OUTEA, dated 29 January 2015.

Right to challenge the decision

41. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
42. A copy of this letter has been sent to Wycombe Council and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Philip Barber

Philip Barber
Authorised by Secretary of State to sign in that behalf

Report to the Secretary of State for Communities and Local Government

by Frances Mahoney DipTP PGDipTP MRTPI IHBC

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

Date 21 June 2017

TOWN & COUNTRY PLANNING ACT 1990

WYCOMBE DISTRICT COUNCIL

APPEAL BY MR MIFF CHICHESTER FOR ERLP 1 SARL C/O ST CONGAR LAND

Inquiry held on 7-9, 13, 20-22 September 2016

Former Molins Factory Site, Haw Lane, Saunderton, Wycombe HP14 4JE

File Ref: APP/K0425/W/15/3135297

File Ref: APP/K0425/W/15/3135297**Former Molins Factory Site, Haw Lane, Saunderton, Wycombe HP14 4JE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Mr Miff Chichester for ERLP 1 Sarl c/o St Congar Land against Wycombe District Council.
- The application Ref 15/05250/OUTEA is dated 29 January 2015.
- The development proposed is described on the application form as the demolition of all existing buildings and outline planning permission to construct 212 dwellings (Class C3) with a proposed footprint of 16,208 sq metres (ground floor gross external area including garages) and total gross floor area of 25,800 sq metres. Associated car parking, pedestrian access, and open space with access via Haw Lane and approval of scale and layout.

Summary of Recommendation: The appeal should be dismissed.

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Procedural Matters

1. The Inquiry sat from the 7-9 September, 13 September and 20-22 September 2016, with an accompanied site visit on the 23 September 2016.
2. Following the close of the Inquiry this appeal was recovered on the 13 October 2016 under Section 79 and paragraph 3 of Schedule 6 of the above Act by the Secretary of State (SoS), because the appeal involves a proposal for residential development of over 25 units in areas where a qualifying body has submitted a neighbourhood plan proposal to the local authority but the relevant plan has not yet been made¹.
3. This appeal is against the failure of the Council to determine the planning application for the proposed development. Following the submission of the appeal the Council went on to consider the proposal on the 16 December 2015 and identified 8 putative reasons for refusal. In these circumstances I have treated this 'decision' as that which the Council would have made had it been empowered to do so².
4. Following the close of the Inquiry the Supreme Court issued judgement in *Suffolk Coastal DC v Hopkins Homes and others [2017] UKSC 37*. The comments of the main parties³ have been included in their respective cases below.

The Site and Surroundings

5. The appeal site lies within Green Belt and the Chilterns Area of Outstanding Natural Beauty (AONB). The small village of Saunderton lies to the south of the appeal site, some 200 metres away beyond intervening farmland. Its linear form, in the main, follows the valley bottom, hugging the main A4010 (High Wycombe to Princes Risborough Road) and the Chiltern mainline railway. The village benefits from the railway station central to the settlement.
6. The villages of Loosley Row, Lacey Green and Bledlow Ridge are all located on the surrounding upper slopes of the valley. Elsewhere small scattered groups of buildings and farmsteads punctuate the otherwise open rural landscape characterised by an undulation of ridges and valleys.
7. This 10.3 hectare site comprises a former factory site. The artificial terracing, intervening ramped internal access roads, retaining walls and the expanse of the remaining ground floors/bases of the demolished buildings, all associated with the former factory use, accentuate the change in slope up from Haw Lane⁴ and the main vehicular access point, towards Saunderton village to the south. The past accommodation of large factory buildings has resulted in the flattening out of much of the site, stepping up gradually in levels from the site frontage back to the rear of the appeal site where, in the south west corner, the site has been cut into a steeply sloping chalk cliff.

¹ Direction of recovery letter dated 13 October 2016 – Inquiry Doc 48.

² The eight putative reasons for refusal are dealt with in the case for the Council – paragraphs (paras) 104 & 105 of this report and are set out in full at para 1.10 of the Statement of Common Ground (General) (SofCG Gen).

³ Inquiry Docs 62 & 63.

⁴ To the north.

8. There is little residential development in the close vicinity along this part of Haw Lane. What there is, essentially, is frontage development.
9. Central to the northern boundary is a Scheduled Ancient Monument⁵ (SAM). It is the site of a barrow and ring ditch, with some 30% being located below the existing office building⁶. The remainder, which may include a potential central burial area, is located below a grassed area and tarmac car park⁷.
10. There are a number of public footpaths which skirt the boundaries of the appeal site in particular Footpath BSC48/1, running along the eastern site boundary and Footpath BSC49/4 which runs close to the western site boundary.

Planning Policy

11. The development plan includes the Wycombe Development Framework Core Strategy dated July 2008 (CS) covering the period to 2026, the Adopted Delivery and Site Allocations Plan dated July 2013 (DSAP), and the saved policies of the Wycombe District Local Plan (2004) (WLP), which is some four years beyond its intended end date.
12. The SCG Gen (Core Document (CD) 10) sets out at paragraph 4.2 the most relevant policies within these identified policy documents. The Council within Mrs Jarvis' proof at section 5 paragraphs 5.4-5.15, paragraphs 5.23-5.29 and 5.32-5.38 sets out the general terms of those policies most pertinent in this case.
13. The Council is currently engaged in the production of a local plan (LP). This will set out the spatial strategy and key planning policies for the development of the District to 2033. It was issued in draft in June 2016 and the Council anticipate that an examination will be held in summer 2017 with the plan being adopted by the end of 2017. At this stage in plan production the LP carries little weight⁸.
14. At the options consultation stage of the LP the appeal site, whilst acknowledged as being brownfield and in a sensitive location in terms of Green Belt and AONB restraints, was identified as a key site and recommended that given the poor location and size of the site (for continued employment use) that it could be released for other uses. Initially the site and the village was to be dealt with by means of an area action plan (AAP) primarily to consider potential for larger, more comprehensive development to come forward to seek to overcome issues relating to the site's isolation, lack of accessibility and to bring forward the necessary infrastructure to support any scheme. However, little progress was made and with little support locally for the AAP it was decided to abandon this approach in favour of the production of a neighbourhood plan.
15. The Bledlow cum Saunderton Neighbourhood Plan (NP) is currently under preparation⁹. It was submitted to the Council in August 2016 and in October 2016 an examination was undertaken. The Examiner's report was issued in December 2016¹⁰. In February 2017 the Council took the decision to proceed to

⁵ Location plan – Inquiry Plan D.

⁶ Proposed for demolition.

⁷ CD6 – para 10.5.6.

⁸ SofCG Gen para 4.27 – agreed point.

⁹ Consolidated Draft for Referendum – March 2017 – Inquiry Doc 55.

¹⁰ Inquiry Doc 53.

Referendum on the basis that the NP would be subject to modifications¹¹. The appeal site is included within the NP of which Policy 3 is specific to the development of Molins: South Saunderton. Policy 3, in essence, supports development the quantum of which does not have a greater effect on the openness of the Green Belt and the purposes of including land within it than the existing development. In addition, the redevelopment of the site for a mix of uses such as retirement housing, residential development, small scale business units and community facilities would be welcomed¹².

16. Policy 3 as proposed to be modified also seeks to confine the redevelopment of the former Molins site to the extent of the Previously Developed Land (PDL)¹³ as shown on Inset Map 1¹⁴. The area for development as shown on Inset Map 1 excludes the eastern part of the appeal site. As a consequence the appellant company submitted a Pre-Action Protocol letter¹⁵ which claimed that the exclusion of the eastern part of the site which lies within the curtilage of the existing buildings and surface infrastructure is contrary to the definition of PDL in the Framework and therefore unlawful¹⁶. As a result the Council then rescinded the original decision to proceed to Referendum, but in March 2017 a further decision to proceed to Referendum was taken¹⁷. The date for the Referendum was the 4 May 2017. The comments of the parties on the impact of the Examiner's Report on the NP and the subsequent Judicial Review Pre-Action Protocol letter are at Inquiry Documents 58 and 59. The result of the Referendum was that 81% of residents of Bledlow cum Saunderton Parish voted in favour of the NP. A legal challenge has been made which the Council are defending¹⁸. The question of weight to be ascribed to the NP will be addressed later in this report.
17. Also of particular relevance are the Chilterns Building Design Guide and Technical Notes (CBDG) which have been produced by the Chilterns Conservation Board (CCB) and adopted as a supplementary planning document. They provide an assessment of the key characteristics and features of the area and the typology of villages found within it. In addition, they detail guidance on the design and layout of new buildings in the AONB with particular regard to respecting the traditional Chilterns vernacular¹⁹.

Planning History/The Proposal

18. The appeal site was previously occupied by a substantial factory complex built to produce munitions at a time of national need²⁰. In 2008²¹ full planning

¹¹ Inquiry Doc 54.

¹² Inquiry Doc 55.

¹³ The parties dispute the extent of the land within the site which can be considered PDL, a matter which will be returned to later in the report.

¹⁴ Inquiry Doc 55 – page 31 wording of Policy 3 and page 54 Inset Map 1.

¹⁵ Inquiry Doc 56.

¹⁶ Reflecting terms of Pre-Action Protocol letter.

¹⁷ Inquiry Doc 57 paras 5.4, 5.5 & Executive Summary.

¹⁸ Inquiry Doc 62 para 4.1.

¹⁹ CD77.

²⁰ Second World War.

²¹ 27 November 2008.

permission was granted for the erection of four data centre buildings and associated works²². The Council confirmed that the data centre permission had been implemented by virtue of the demolition of the factory buildings²³. It is an agreed position between the parties that the permission for four data centre buildings is extant and consequently capable of implementation. Whether this capability is merely a theoretical possibility or a real prospect is a matter which will be returned to in this report (the fall-back). Suffice to say that other than the demolition of the buildings and the removal of the waste material, in recent years, the site has remained dormant other than an occasional locational role in both film and television drama.

19. The appeal relates to an outline application with access, layout and scale as matters for consideration at this stage²⁴. All other matters are reserved for future attention²⁵. The proposal is to provide up to 212 dwellings with access via Haw Lane (the original scheme) and includes the demolition of the offices and the 'ballroom'. Following the submission of the planning application the Council issued a notice under Article 4(2) of the Town and Country Planning (Development Management Procedure) Order 2010 (the Notice) requesting details of appearance and internal dwelling layouts, as well as typical landscape layout and site lighting. Further information was submitted to the Council in July 2015, but there is dispute between the parties as to whether the extent of the details submitted meets the terms of the Notice. Nonetheless, with the application remaining undetermined the appellant company submitted this appeal against non-determination in September 2015²⁶.
20. The Council's Planning Committee subsequently considered the proposal in December 2015 and resolved that had it been in a determinative position it would have refused the scheme for eight reasons²⁷.
21. At the Inquiry the appellant company requested that the appeal proposal be considered on the basis of a scheme for 192 dwellings as shown on illustrative layout plan 1091-100 A²⁸, that the details of the layout should be dealt with as a reserved matter²⁹, that the provision of a mixed A1/D1 building at the centre of the site providing retail use on the ground floor and community space/workshops above, be added, and a new footpath link in the north-east corner of the site should be included. These amendments came about following a review of the proposal after the publishing of the Council's putative reasons for refusal³⁰.
22. Whether the proposed amendments should be accepted by the decision maker is a matter I will return to. However, for clarity the evidence detailed below of all the parties relates to both the original and promoted amended schemes unless identified as being specific to one or other of the schemes.

²² Council ref: 08/05740 (the Data Centre permission) - CD114-118.

²³ SofCG Gen para 3.2.

²⁴ Council ref: 15/05250/OUTEA.

²⁵ Appearance and landscaping.

²⁶ Validated on 27 October 2015.

²⁷ These are set out at para 104 of this report.

²⁸ CD50.

²⁹ Unfixing the proposed layout and leaving only vehicular access to be considered at this outline stage.

³⁰ Patel proof para 2.20.

Matters not in dispute³¹

23. In relation to the planning considerations, the Council and the appellant company are in agreement that:

- the appeal site lies within the Metropolitan Green Belt;
- the proposal is inappropriate development in the Green Belt and so paragraphs 87 and 88 of the Framework are engaged;
- the site is capable of re-development and would benefit from some development;
- that part of the appeal site currently occupied by buildings and hardstanding is PDL³²;
- paragraph 17, eighth bullet point and paragraph 111 of the Framework both seek to encourage the effective use of land by reusing land that has been previously developed provided that it is not of high environmental value;
- the data centre permission has been lawfully implemented and is therefore extant;
- the Council cannot demonstrate a 5 year housing land supply (5YHLS) when assessed against the full objectively assessed need (FOAN) as set out in the Buckinghamshire Housing and Economic Development Needs Assessment 2015 Consultation Draft (Jan 2016) (HEDNA)³³. The agreed supply is 3.74 years³⁴. The relevant housing supply policies in the development plan are out-of-date – CS requirement is based on the revoked South East Plan and was adopted prior to the publication of the Framework. The second bullet point of paragraph 14 of the Framework is therefore engaged, more specifically the second indent³⁵;
- the securing of development funding for secondary school provision will be via the Community Infrastructure levy (CIL);
- primary school contributions would go to the Bledlow Ridge School being justified in calculation and targeting and would be collected via a S106 agreement;
- following a review and update of the viability evidence by consultants acting on behalf of the parties it is concluded that both schemes (192 and 212 dwellings) are viable and can support a full policy compliant level of affordable housing (AH); and

³¹ Source SofCGs General & Education.

³² As defined in the Framework – Annex 2: Glossary. The extent of the site which is PDL is disputed and will be returned to later in this report.

³³ CD107A.

³⁴ SofCG regarding Housing Land Supply CD112.

³⁵ Specific policies in this Framework indicate development should be restricted – footnote 9 for example land designated as Green Belt and AONBs.

- in accordance with CS Policy CS 13 and section 2 of the supporting Planning Obligations SPD³⁶ the following would form the basis of the AH offer³⁷:
 - I. The AH shall comprise 40% bedspaces;
 - II. The tenure mix shall provide broadly for 66% affordable rent or social rent, or a combination of the two, and 34% for certain intermediate AH products; and
 - III. The dwelling size mix shall be as set out in Table 5.4 of the SPD.
24. Following the submission of the signed and completed S106 agreement³⁸ the Council were content that its terms secured the provision of the required AH as set out in the bullet point above and so did not defend the terms of putative reason for refusal 8.

The case for the appellant company³⁹

Submissions on amended scheme

25. The appellant company asks the decision-maker to substitute a scheme for 192 units for the original 212 unit scheme applied for⁴⁰. The amended scheme would be smaller⁴¹, but in essence would be similar to the scheme as originally proposed with slightly less impacts. It broadly occupies the same part of the red lined site; the proposed additional A1/D1 use⁴² would be a small component of the scheme; the new footpath link would be an improvement and would create no other environmental or planning issues. Other than access all other matters would be reserved for future consideration with the amended masterplan etc being considered for illustrative purposes only.
26. A full consultation was carried out as set out in the Statement of Community Engagement⁴³ and included the extent to which the amendments were widely consulted upon, including all affected and previously consulted residents, all statutory and other stakeholders; also how a range of relevant media was used to publicise the changes including a bespoke website.
27. Wheatcroft sets out that any changes should not so alter the scheme that it becomes in essence not that which was applied for. In addition, there should be no prejudice caused to those who have not had a chance to comment on the amended proposals. In the event few responses were received to the consultation, some of which indicated the amendments would not increase the impacts nor change the stance taken.

³⁶ CD71E.

³⁷ Set out in the S106 agreement – Inquiry Doc 40.

³⁸ Inquiry Doc 40.

³⁹ Appellant Company's Closing Inquiry Doc 47.

⁴⁰ Appellant company's submissions on the submission of the amended scheme Inquiry Doc 45.

⁴¹ Fewer than 10% of the units removed.

⁴² Town and Country Planning (Use Classes) Order 1987 – A1=Shop, D1=Non-Residential institutions.

⁴³ Dated July 2016 – CD71.

28. With the changes being comparable with the original scheme, and a thorough and extensive consultation procedure being undertaken, the proposed amendments would not offend the principles in the Wheatcroft case. There is no bar to changes being made, particularly in the circumstances where no procedural prejudice arises and the modifications are to address the Council's points, in these circumstances, made after the appeal against non-determination had been made. The pursuance of the changes by the appellant company is considered the sensible approach given that the design criticism was not received until after the appeal was lodged. With such limited changes proposed, to start the whole process again (submit a revised planning application) did not seem a proportionate response even taking into account the guidance in the PINS Procedural Guide⁴⁴. For these reasons the amended scheme should supersede the original scheme and the appeal be considered on that basis.
29. The appeal site has been an anomaly in the Chilterns countryside for many years, first as a munitions factory built to meet a national need, then as a substantial private factory complex. The legacy of those uses includes high levels of harm to a nationally-important countryside, to the openness of the Green Belt, and to the character of the area more generally. No one at the Inquiry doubts that something must happen to improve the situation.

The Development Plan

30. The development plan consists of the saved policies of the 2004 local plan⁴⁵, the 2008 Core Strategy⁴⁶, and the 2013 Site Allocations DPD⁴⁷. It is agreed that there is no 5YHLS in Wycombe District⁴⁸, and pursuant to paragraph 49 of the Framework, the adopted policies for the supply of housing are out-of-date. The Council⁴⁹ identifies that a number of the adopted policies relevant to the appeal scheme fall into this category⁵⁰.
31. However, it is also acknowledged that some weight may be given to such policies where they have a purpose consistent with achieving other planning objectives and are in line with the Framework. The policy objectives of protecting the Green Belt and the AONB are examples.

⁴⁴ Planning Appeals – England dated 23 March 2016 (PINS Guidance).

⁴⁵ CD71C.

⁴⁶ CD71A.

⁴⁷ CD71B.

⁴⁸ Housing Land Supply SofCG (HLS SofCG) para 1 (CD112), plus the clarification of Mrs Jarvis in XX that she did not say that there was a five year housing land supply when the correct approach was taken as per the PPG.

⁴⁹ Mrs Jarvis.

⁵⁰ The policies for the supply of housing comprise CS Policies CS2, CS7 and WLP Policy GB9. The list of relevant policies set out within the SofCG and in the appellant's closing submission (Inquiry Doc 47 para 12 and footnote 15) were amended following the Supreme Court's judgement in *Suffolk Coastal DC V Hopkins Homes and others [2017] UKSC 37* – See Inquiry Doc 63. The appellant company considers that the Supreme Court judgement has relatively little bearing on the outcome of the appeal which has always depended on the application of the very special circumstances policy in national and local policy (Appellant's closing submissions – Inquiry Doc 47 para 16). The decision strongly underlines that the purpose of the relevant parts of the Framework is to boost significantly the supply of housing, a policy objective with which the appeal proposal fully accords – Inquiry Doc 63 para 3.

32. There is no doubt that the shortfall in HLS is substantial, with housing at only 3.74 years supply⁵¹.
33. In respect of emerging policy, neither the emerging (early stages⁵²) local plan, nor submission NP, should be accorded more than minimal weight⁵³. However, the plan-making process at District level has disclosed the following:
- a) The FOAN in its current form requires the Council to provide around 15000 net new units of accommodation in the plan period⁵⁴;
 - b) Wycombe has expressed the view that it is unable to meet more than two-thirds of that number, seeking to export some 5000 units to Aylesbury Vale⁵⁵;
 - c) Whilst there is a Duty to Co-operate memorandum between the Housing Market Area (HMA) authorities⁵⁶, Aylesbury Vale has not formally accepted either (a) that the Wycombe unmet need is 5000 units, or (b) that it will necessarily be able to take it all, if it were 5000⁵⁷. The memorandum makes it clear⁵⁸ that if there is no resolution of the issue within the HMA, the authorities might even have to look *outside* the HMA to meet needs.
34. This is a serious position for the Council affecting market and affordable housing needs in the District for the plan period. It underlines why substantial weight should be given to the contribution that the site would make to meeting needs for housing, but it also means that the emerging plan will not be able to meet needs and there is no 'alternative site' which should be developed instead of the appeal site to ensure needs are met. Therefore, in these circumstances the appeal site is required.
35. In respect of the NP little weight can be given to it for the following reasons:
- a) it has not yet progressed through the full process of examination to be finally 'made'; and
 - b) NP Policy 3 is clearly a policy for the supply of housing and is therefore in the current circumstances of the NP out-of-date, as a draft.
36. The Examiner's report on the NP has been received. The appellant company's position is that the Examiner made an error of law in the way he treated how

⁵¹ HLS SofCG para 1 bullet point 4 (CD112). This was applied in the Longwick decision CD123.

⁵² The Council hope for adoption at the end of 2017.

⁵³ Not yet made and subject to challenge.

⁵⁴ See HLS SofCG, paragraph 1 bullet point 7, page 3 (CD112).

⁵⁵ The 'policy-on' result of the local plan examination may be that Wycombe is adjudged to be too constrained to meet its full need, taking into account the effect of constraints on the eventual overall planned requirement (*Gallagher Homes Limited v Solihull MBC* [2014] EWCA Civ 1610 (CD130B)). However, that does not mean the need evaporates - it must be met elsewhere.

⁵⁶ Attached to the back of the HLS SofCG (CD112).

⁵⁷ See Inquiry Doc 2 (August 2016).

⁵⁸ See HLS SofCG Appendix top page 3 para (d) (CD112).

much of the Molins site should be properly identified as PDL⁵⁹. To exclude the eastern part of the site which lies within the curtilage of the existing buildings and surface infrastructure is contrary to the definition of PDL in the Framework. The Council has perpetuated the error by continuing to accept the constraint set out on Inset Map 1 which shows the PDL as only extending as far as the concrete slab⁶⁰.

37. The Written Ministerial Statement – Neighbourhood Planning - made on 12 December 2016 by Gavin Barwell (then Minister of State for Housing & Planning & Minister for London)⁶¹ does not apply to this appeal because the NP has not yet been 'made'. In such circumstances the WMS is not applicable and no weight should be attached to it⁶².
38. Therefore, the policies of the Framework should determine whether permission is granted in this appeal. Crucially, whether Very Special Circumstances in Green Belt terms are made out, and whether exceptional circumstances and public benefit in AONB terms exists.
39. There is a degree of overlap between these tests, but since the Green Belt test incorporates all the benefits and any harm, it provides the all-embracing policy frame for the merit issues to be considered. As a result it is logical to address other issues before coming to Green Belt in order to undertake an overall Very Special Circumstances assessment.

Public benefits

-Market Housing

40. There is no doubt that a need for market housing units exists both in the short term (due to the five year shortfall) and in the medium to long term (due to the confessed inability of the Council to meet its own needs). The Council accepted⁶³ that the five year supply is the minimum expectation that the Government has of local authorities where provision of housing is concerned. There is no justification for giving less than very substantial weight to the benefits that the proposals⁶⁴ would bring in this respect. Since needs will not be met in Wycombe in full, it is not the case that the so-called "generic" housing benefits of the proposals would be forthcoming at any point in the plan period within the District.
41. In addition there is a clear link between the amount of market housing and the ability to provide 40% affordable housing. Without market housing the very pressing needs for affordable units would stand no chance of being met⁶⁵.
42. The appeal site would provide 2 years' worth of housing completions against the 2015-2020 5-year period shortfall⁶⁶ and 3 years' worth of completions in the five-

⁵⁹ Inquiry Doc 55 – page 31 wording of Policy 3.

⁶⁰ Inquiry Doc 55 – page 54.

⁶¹ Inquiry Doc 49.

⁶² Response from the Council (Opinion of Rupert Warren QC) Inquiry Doc 50. This response includes the appellant company's position were the NP to be made prior to the decision of the SofS decision being issued.

⁶³ Mrs Jarvis in cross-examination.

⁶⁴ Either 212 or 192 schemes.

⁶⁵ Point accepted by Mrs Jarvis in cross-examination.

year period which currently applies (2016-2021). That takes into account the need for the site to be sold and for housebuilders to implement a detailed scheme. The site is not constrained and has already been the subject of exposure in the market ("soft marketing") as part of a portfolio of 4 sites, the other 3 of which already have outline planning permission. Whether or not the site is disposed of singly or as part of a package, the site will make a substantial contribution to the unmet need in the next few years.

43. The Council's position of giving only moderate weight to the site's contribution to unmet housing need is not credible. In a situation where even if the FOAN was adjudged to be lower this would not affect the 5 year shortfall nor that Aylesbury Vale would not have to take some of Wycombe's unmet need. The release of reserve sites would not affect the arrears as these are already included in the 5 year supply and in the calculation of the amount of housing that the District could accommodate against the 15,000 FOAN figure. In addition, whilst the Council are taking steps through the duty to co-operate this does not affect the 5 year shortfall and merely highlights that the need is going unmet in Wycombe.

-Affordable housing

44. The District has a pressing need for AH⁶⁷. The Council accept significant weight should be given to the ability of the proposal to meet this identified need⁶⁸. 40% bedspaces (the obligation contained in the S106 obligation) could work out at over 40% of the units given that there will be a range of house types on the site.

-Regeneration and re-use of PDL

45. The appeal site in its entirety is all PDL. The definition of PDL in the Framework⁶⁹ speaks of land which *is or was occupied by a permanent structure, including the curtilage of the developed land*.
46. The two existing large frontage buildings were among many which have been demolished leaving substantial concrete pads. The eastern area⁷⁰ was and is within the curtilage of the factory buildings. Neither the buildings nor the concrete pads have blended back into the landscape. The eastern area also includes structures associated with the factory use.
47. Framework paragraph 17 encourages the effective use of brownfield land like the appeal site, which is not itself of high environmental value. Paragraph 81 urges that such sites in the Green Belt should be improved by local planning authorities, where they are damaged or derelict. Considerable weight should be attached to the sheer scale of the improvement that the scheme would bring about.

⁶⁶ In the order of 100-120 units - Mr Patel cross-examination.

⁶⁷ Hindle proof page 22, paragraph 5.12.

⁶⁸ Jarvis proof paragraph 17.23(v) page 80.

⁶⁹ Framework Glossary page 55 CD72.

⁷⁰ Part of the peripheral area disputed by the Council as being PDL.

The Fall-back

48. The data centre permission has been lawfully implemented and is saved permanently⁷¹ unless and until another, inconsistent, development is implemented on the site. It comprises a 'fall-back' because, in addition to the fact that no further permission or consent would be required to build out the data centre, there is a real possibility (or a 'more than theoretical' possibility) that the data centre permission will be taken up. That is the test⁷².
49. The only expert evidence to the Inquiry was of Mr Jay (CBRE), a market insider's view, given from the heart of the UK and global data centre market, and considerable weight should be given to his view, which was that there is a real possibility of the data centre permission being taken up in the future, though perhaps not for 5-10 years yet. His view was based on the growth in colocation space being taken by large 'Cloud' companies who require vast premises which could be more remote data centres handling information in higher volumes from small data centres sited close to the peak demand for information.
50. Mr Jay considered the appeal site would now be considered by companies actively looking for sites in and around London, whereas even in 2015 it was difficult to tell that this might have now been the case⁷³. The scale of the change could not have been foreseen by the market. He questioned the credibility of the GVA letter (Council promoted position on the current market)⁷⁴. GVA does not operate in the market in the same way as CBRE. They lack the transactional overview of CBRE. The Council did not call the author of their GVA letter as a witness so these points could not be explored at the Inquiry.
51. E-shelter⁷⁵ in selling the site in 2014 was not aware that there was a change coming in the market⁷⁶. In addition, due to over-investment in speculative colocation premises and a move for the company abroad, it is unsurprising they should sell the site taking into account the danger of them losing their investment without any value being generated from it.
52. The appellant company does not suggest there is a demand now. It is also accepted that the marketing requirements of DSAP Policy DM5⁷⁷ would not have resulted in the recent positive outlook for this type of development. The implemented data centre use has a real chance of being taken up in the next 5 to 10 years such as to constitute the fall-back use on the appeal site.
53. The benefits of the appeal proposals include the prevention of the data centre use. The data centre would have a hugely detrimental impact on the Green Belt and on the AONB, matters which will be returned to.

⁷¹ In other words, nothing further needs to be done legally to enable the development to proceed.

⁷² See paragraph 21 of *Samuel Smith Ltd v SSCLG* [2009] EWCA Civ 333 (CD126).

⁷³ Jay evidence in cross-examination and pie-chart on page 19 of his proof.

⁷⁴ Jarvis Appendix PJ1 + earlier commentary within planning application docs – CD12.

⁷⁵ The then owners of the site who sold it to the appellant company in 2014.

⁷⁶ GVA was advising E-shelter at the time.

⁷⁷ Set out as part of the application submission 2014-2015.

54. Conversely, the appeal proposals, if implemented, would result in a relatively insignificant non-compliance with DSAP Policy DM5, the loss of the potential 80 jobs. However, there is no current market for the use of the site under B use class⁷⁸ so the loss of jobs and resultant non-compliance with DSAP Policy DM5 would be specific to the data centre jobs.
55. In considering the weight to be given to the fall-back the primary question is whether or not there is a fall-back use, which the courts have established is to be decided by applying the test of 'real possibility' or 'more than theoretical' possibility. Once this is established the decision maker should then take the fall-back use into account as the baseline. Its weight will depend on its effects if it is taken up. So in this case, the data centre use should be set as the baseline, and a comparative assessment made with the proposals. If the decision-maker agrees with the appellant company that more fine-grained residential is more characteristic and more easily assimilated into the landscape than the fall-back use, then that would be a matter of some significance for the overall balance.

Economic benefits

56. Both schemes would generate a significant number of economically active residents, whilst the construction project would support some 423 FTE jobs. The generation of additional household income in the region, with monies spent with local businesses and service providers⁷⁹ would also benefit the District, particularly in a situation where such benefits would be lost as a third of the Council's housing need is to be exported beyond its boundaries.
57. In a situation where the Council cannot deliver these benefits elsewhere, either in the 5 year period or across the plan period, the provision of these benefits would not arise anyway. Therefore, they are not generic benefits which should be marked down in weight.
58. The fall-back data centre would create some local employment (80 jobs) but would not result in the economic benefits associated with a residential scheme where a complex network of economic relationships with the local community are likely to develop.

Social benefits

59. The provision of the housing in a mix of sizes and types would enable a rebalancing of the demographics in the immediate area which are skewed to the elderly end of the spectrum⁸⁰. That has consequences for the use of services and the cohesion of the community overall, which would be felt in concrete terms in things like the potential enriching of the local labour force with a range of expertise and a higher degree of economic activity, and the presence of more children and younger families with their different economic effects. A diverse community is an objective of national policy⁸¹, which the scheme would to some

⁷⁸ Agreed between the parties.

⁷⁹ Hindle proof pages 27-30 for detail.

⁸⁰ Hindle proof page 29 paragraph 5.56.

⁸¹ Framework paragraph 50.

- extent enable⁸². The benefits would flow from the demographic changes and the social consequences thereof, and also in relation to community infrastructure.
60. The Framework calls for a rounded assessment of benefits which is of particularly importance where the site in question is a rural anomaly which needs to be sustainably developed rather than left undeveloped.
61. The scheme for 192 units includes a flexible A1/D1 building, which reflects the aspirations of local people as expressed in the NP consultation⁸³ and in draft Policy 3⁸⁴. It is achievable: the draft conditions proposed provides for the building to be provided in shell and the bilateral agreement contains a mechanism for it to be offered to the local community. There is no restriction on whether it is used in its entirety as a village or community shop, or whether it is a community space, or a mixture of both. These types of shops are increasingly common and appear in a variety of different sizes and types of settlement, including those of the size and nature which are comparable to the scheme and the scheme seen together with the rest of Saunderton⁸⁵.
62. As far as retail use is concerned, the evidence of the Parish Council⁸⁶ is that there is some appetite for community involvement in a shop, as there have been some discussions over such a venture taking over the Bledlow Ridge Country Stores. There is no indication that the current leaseholders of that shop will however permit it to be run in part by the community, and the facility on the appeal site would provide a useful alternative opportunity, closer to the residents of Saunderton (and of course to those on the appeal site itself). The facility would be of additional benefit, albeit not such as to make it essential to the grant of permission, and weight should therefore be attached to it⁸⁷.
63. Other benefits attract modest additional weight: the scheme would connect directly into the footpath to the east of the site making the play space accessible to local residents, linking the settlement through to the countryside. The improvements to the footway on Haw Lane⁸⁸, the bus stops on the main road and the cycle parking at the station would all be spin off benefits for the local population.
64. Not to be undervalued is the improvement to the setting of the SAM, which has for some time lain beneath built development. Its current invisibility should not mask either the importance of the asset or the weight to be given to improving it. The scheme will enable its form to be better appreciated, which would accord with the guidance in Framework paragraph 137, which suggests that favourable treatment should be given to developments which better reveal the significance of heritage assets of the highest importance, a category into which the SAM falls. This would therefore represent a benefit of some importance.

⁸² For the detail refer to Hindle proof pages 22-27.

⁸³ Inquiry Doc 7, page 8.

⁸⁴ Inquiry Doc 6, pages 31, 34 + Inquiry Doc 54.

⁸⁵ Hindle pages 25 to 26, and Appendix 5 (the 2014 Plunkett Foundation Report).

⁸⁶ Addendum, Inquiry Doc 15A.

⁸⁷ Mr Hindle in XX and in answer to an Inspector's question.

⁸⁸ Increasing it in width to at least 1.2 metres as per data centre permission and likely to be wider –See Inquiry Plan A and Burbridge evidence.

65. Although treated as part of the landscape and visual evidence, in the main, weight should also be given to the improvement that the scheme will bring to the AONB through removing the scarring effects of the existing site, and enabling a well-designed and characterful residential scheme to take its place.
66. Taken as a whole, the proposals would represent an unusual mix of benefits attracting a very substantial amount of weight in the planning balance. The strength of the 'package' of benefits is that it comprises a set of highly varied but interconnected improvements which range across the three dimensions of sustainable development identified in the Framework.

Sustainability – location and transportation

67. It is alleged that the schemes would be isolated from services and unsustainable as a location for around 200 units of accommodation. It is accepted that many trips would be made by car from the site⁸⁹, but the location of the site within walking and cycling distance of Saunderton, its station and the improved bus stops⁹⁰ are important considerations. The Framework urges a tailored approach to transport sustainability in rural areas. Opportunities to use sustainable forms of transport ought to be maximised⁹¹. However, the same criteria cannot be applied to rural sites as to urban locations⁹².
68. Saunderton is an unusual place because, although it lies in a rural location, it is not far from major employment and service centres at High Wycombe and Princes Risborough accessed by bus⁹³, and has a railway station offering very easy connections to those places and to Aylesbury and London⁹⁴. No doubt that was one reason why the Council saw potential in Saunderton as an area for much greater overall expansion⁹⁵. There is no suggestion that the station will close, and the evidence is that commuters use it not just from the immediate area but from further afield⁹⁶.
69. On average the walking time from the appeal site to the station is 20 minutes or an easy bike ride. The X30 bus now provides an hourly service from the main road⁹⁷. This is a permanent service⁹⁸ and adds to the other service (321) and to the train.

⁸⁹ Evidence of Messrs Burbridge and Hindle in cross-examination.

⁹⁰ These are beyond 400 metres from the site but the benefit of ready access to a frequent bus service justifies a few extra minutes walk.

⁹¹ CD131 paragraphs 5.23-27 and 5.112.

⁹² Framework para 29.

⁹³ See the bus timetable maps in Inquiry Doc 11 and the location plan in Combined Appx Section 6.

⁹⁴ See Inquiry Doc 11.

⁹⁵ Mr Patel in evidence in chief referring to the discussion with Penelope Tollett the then head of planning in 2015 (now abandoned AAP strategy).

⁹⁶ The locals' evidence was that parking occurs because people drive there rather than paying charges in the car park at Princes Risborough.

⁹⁷ CD 109, paragraph 5.118.

⁹⁸ Email from Ms Locke of the bus company confirms – Inquiry Doc 24.

70. Emerging LP Policy CP3 sets out that the area around Saunderton station is identified as a Tier 6 Hamlet⁹⁹ where expansion would be through rural exceptions affordable housing schemes where they have some local services. The Council place reliance on the appeal site being outside the hamlet. However, there seems a contradiction to have granted permission for the data centre and for local residents through the NP to be pursuing the re-development of the appeal site, including residential development. LP Policy CP3 has yet to be tested at examination and it takes no account of the particular circumstances of the appeal site.
71. Allocated sites within the draft plan are clustered around the fringes of the main settlements¹⁰⁰ and, whilst nowhere near meeting the housing needs of the District, these proposed urban extensions would be for the most part out of walking distance to the railway stations of High Wycombe and Princes Risborough. Many trips would be taken by car.
72. In these circumstances there would be no harm in transport sustainability terms in permitting residential development on the appeal site.

*Character and appearance*¹⁰¹

73. It is entirely appropriate to deal with both schemes as outline applications. They are both readily understandable and capable of being assessed on the basis of the information provided. The Council validated the proposals as an outline scheme, and have been provided with substantive responses to the Article 4 notice¹⁰². There is a substantial amount of material illustrating the effects of the proposals. The 192 unit scheme is more flexible because it does not seek to fix the layout. The masterplan does not illustrate full compliance with¹⁰³:
- 25 metre back to back distances in some of the units¹⁰⁴;
 - Turning locations in 5 or 6 cases for bin lorries¹⁰⁵; and
 - Parking spaces in one or two locations at 2.8m wide.

⁹⁹ Emerging hierarchy in CD104 Policy CP3 and hierarchy on page 187.

¹⁰⁰ Emerging hierarchy in CD104 Policy CP3 and hierarchy on page 187.

¹⁰¹ Treats design together with landscape and visual issues.

¹⁰² Article 4(2) notice issued on the 11 March 2015 requesting details of appearance and internal dwelling layouts, typical landscape layout and site lighting. The notice told the appellant company to hold back further details until the Council provided detailed comments, which only came after, and because of, the appeal.

¹⁰³ See Kennett Appx C.

¹⁰⁴ Stem from guidance from 2004 - the 2016 draft guidance has only just finished its consultation period – Inquiry Doc 33. The Council acknowledges that other authorities employ different yardsticks for that relationship, down to 20 or 21 metres, and that in any event the relationships when designed in detail would need to take into account design solutions like orientation and fenestration, and also planting.

¹⁰⁵ Modest changes to a few of the cul-de-sacs would permit a lorry to make a turn - acknowledged by Mr Burbridge in cross-examination –obvious to experienced practitioners.

74. The absence of these details is not evidence that the principle of up to 192 units is not acceptable on the site nor that the scheme's effects cannot be assessed. The number and type of changes are easily capable of being made at the reserved matters stage without affecting the overall built envelope.
75. Substantive criticisms of the scheme design were that it was (both versions) uncharacteristic in shape and size, simply related to the data centre area, non-linear, non-nucleated, and suburban¹⁰⁶.
76. The schemes have been designed with a clear road hierarchy, and a sense of place, not as if it were an established Chiltern village or 600 year settlement. The 192 unit scheme has a main road, which would allow movement in a more organic layout into the site and around a central village green with community building¹⁰⁷. The layout provides for a generous landscape setting to the residential development, including substantial public spaces comprising village greens and highways¹⁰⁸. The ballroom is not to be retained and is neither of listable quality nor on a local list of heritage assets.
77. The proposed built area generally follows the area of the fall-back permission, being four very big buildings already permitted by the Council. At the reserved matters stage the Council would be able to secure a high quality of design of the buildings, final layout and materials; the proposed Design Code condition and that relating to ridge heights would assist in achieving this design aim, replacing the hardstanding with a finer grain of buildings and soft spaces.
78. The 212 unit scheme complies with the guidance relevant to car parking provision. The 192 unit scheme also complies with the number required by the County's new standard¹⁰⁹. The County figure is hugely onerous, given that the census data¹¹⁰ shows only 2 vehicles per dwelling on average, a figure greatly exceeded by the application of the County standard. The zonal basis for the standards (which are set out on page 1 to the guidance) is also questionable, given that they draw no distinction between the 31 sub-areas devoid of a railway station and the 6 that have one¹¹¹.
79. The Council's key points are that the residential development would be visible and more out of character than the data centre, which was considered to be more appropriate than the proposals¹¹². Any scheme on the site would be visible; the current state of the site is highly damaging to visual amenity when the set of relevant views are taken as a whole. However, visibility *per se* does not equate to harm, even in the AONB.

¹⁰⁶ Dealt with in Cole evidence.

¹⁰⁷ The illustration at page 18 of the CBDG (CD77) shows that these 'linear' and 'nucleated' villages very often feature a central area with village green and side roads leading to housing.

¹⁰⁸ Would include the planting of street and public-scale trees.

¹⁰⁹ See Inquiry Plan B.

¹¹⁰ Inquiry Doc 27

¹¹¹ Mr Burbridge evidence in chief by reference to the zonal explanation in CD84, pages 6-7 and page 39.

¹¹² Kennett in cross examination.

80. The Council has under-estimated the harm that the existing site causes. The data centre was granted consent at a time when the factory still stood¹¹³. Even in that context, it was recognised as causing landscape and visual harm by appearing as 'alien' in form¹¹⁴. The data centre would represent 95,437 square metres of development and 632,759 cubic metres of building, disposed in just four buildings of monumental primary scale, albeit with 50% of the roofs sown with grass¹¹⁵. The enormity and regularity of the structures, which would have pitched roofs and then acres of steel structure with open-textured wood cladding and no doubt more detailed accoutrements on the roofs and sides, would be out of keeping and extremely harmful to the AONB¹¹⁶. The data buildings could not be disguised¹¹⁷ striking a discordant note with passers-by on the well-used nearby recreational routes.
81. The Council consider the data centre would be more in keeping with the Chilterns than a view of residential development¹¹⁸. This cannot be right as the data centre would not 'blend in' to the extent that its nature would not be appreciated. The surrounding AONB is a settled landscape, with several settlements in view, including parts of Saunderton, Bledlow Ridge, Lacey Green and Walters Ash. There is nothing like the data centre, the grain and massing of which is grotesquely out of kilter with the character of the area which contains roofscapes, ridgelines, views of flank and front elevations, and with the lie of the land and the working of perspective presenting the settlements as appearing bunched and dense when seen in context.
82. The appeal proposals are an opportunity to provide good townscape on the site, sitting within the landscape. Well designed and landscaped housing would enhance the site and area in a locally-characteristic way. To leave the site as it is, or build nearly 100,000 sq m of data sheds¹¹⁹ on the site would not.
83. The schemes would improve on the horrible state of the site at present, and would be much more traditional, easily-assimilated forms than the data centre. Substantial positive weight should be attached to that finding in the balance, given the importance of enhancing, where possible, the AONB.
84. The proposals would represent major development in the AONB, but against the backcloth of the existing site and the fall-back. This is not any old housing development in the AONB but a response to the need to improve a site which currently harms the AONB which would be more greatly harmed were the data centre to be built. These are highly unusual circumstances within an area designated for natural and scenic beauty.
85. The benefits set out earlier are all public benefits, and sit within the positive side of the equation in paragraph 116 of the Framework. It is not the case that

¹¹³ See the data centre committee report, CD 116 page 21.

¹¹⁴ Kennett proof at paragraph 4.15 and cross examination.

¹¹⁵ See figures at page 42 of Mr Patel's evidence.

¹¹⁶ See the images of the structure of the data centre, CD115 pages 34 to 35.

¹¹⁷ Likely to include security lighting + areas of car parking and with no visual permeability.

¹¹⁸ Kennett analysis.

¹¹⁹ See Patel, page 42.

paragraph 116 only refers to circumstances that are “national”, although they may be relevant if present. Paragraph 116 explicitly refers to local needs; it seems to be the case here that the implications of development on this site spread at least as far as Aylesbury Vale, which will have to cater for unmet need from Wycombe District.

Green Belt

86. The appellant company does not rely on paragraph 89 of the NPPF in this appeal. The scheme is by definition “inappropriate” and substantial weight should be given to the definitional harm that would arise¹²⁰. However, would the proposals cause harm to openness, Green Belt purposes or any other harm, these would be considerations.
87. There is no dispute that the scheme would cause harm to openness compared to the existing site. This relates to the additional height and volume, although since ‘open’ means ‘undeveloped’, the site is not ‘open’ by reference to that definition.
88. The scheme would also harm, to some extent, the purpose of safeguarding the Green Belt from encroachment, again taking into account that the site is not undeveloped and there has already been encroachment across the entire built area. Given its location and nature of the site any contribution to London sprawl is difficult to justify.
89. The weight to be given to these Green Belt impacts is substantial. However, they must be considered in light of the fall-back use for data centre purposes. Therefore, the weight given to the impact on openness and purposes is reduced to nothing by the fact of the more harmful extant use having a real prospect to proceed in the absence of a residential scheme.
90. There would be very little other harm. The design and landscape effects of the proposal would represent improvements on the existing (and fall-back), resulting in no further harm. In respect of any offence to sustainable transport policy since national policy is to promote sustainable development defined as embracing all relevant aspects of the scheme¹²¹ and rural development is supported if it takes the opportunity to maximise the use of public transport¹²², which in this case it would, the policy goal would be achieved.
91. To attempt to meet housing needs Wycombe DC must build houses on the edge of Wycombe a long way from the centre and from the rail station; it is similarly going to be required to build houses in other areas where there are suitable exceptional opportunities, as long as the public transport is adequate or appropriate; given Saunderton’s unusual public transport profile, that is the case here.
92. For these reasons, there would be little or no ‘other harm’ to take into account. The S106 deals with the infrastructure requirements, including what is required by policy by way of open space. There is no prospect in Scheme 2 (192) of a sub-

¹²⁰ Agreed point.

¹²¹ See Framework paragraph 6 and 14.

¹²² The links to the rail station and adequately frequent buses.

standard level of open space being delivered there being a significant amount of additional open space, beyond what would, as a standard, be required.

93. Very Special Circumstances means that there has to be a clear case for outweighing harms to which policy attributes substantial weight. On their own the housing and affordable housing needs would not amount to Very Special Circumstances¹²³. However, in this case the following, cumulatively represent a unique opportunity for planning benefits, which would clearly outweigh harm to the Green Belt¹²⁴:

- The site – derelict PDL in the Green Belt and AONB¹²⁵ - very harmful to the Green Belt and nationally-important landscape, and carrying within it the prospect of an implemented development of colossal scale which would, compared with the present site, cause substantial further harm to the Green Belt and landscape. This is an uncommon situation;
- A housing land supply of no more than 3.7 years, and a serious affordability problem. Alone these are not very special, but it is a matter of considerable importance in this case. It does not follow even in plan-making, that the Green Belt is to be treated as an absolute bar to allocation and development;
- Housing constraints are common and should not be regarded as contributing in any way to Very Special Circumstances. However, the Council, as part of the abandoned AAP, proposed a much larger scheme¹²⁶ than those now under consideration. The draft NP proposes a substantial level of development, including buildings across the appeal site¹²⁷; and
- The improvement of the SAM being a nationally important archaeological feature currently harmed by the state of the site which the development will enhance.

94. Taken together, the benefits arising from granting permission for the proposals in these circumstances is significant and in the appellant company's view (Patel) clearly outweighs the harm to the Green Belt and any other harm.

Overall conclusions

95. A housing development of this scale would ordinarily be out of the question in a location such as this, were the site undeveloped. However, the site needs to be

¹²³ See PPG and the Written Ministerial Statement, Inquiry Doc 14.

¹²⁴ They would also constitute exceptional circumstances for paragraph 116 of the Framework.

¹²⁵ Two key constraints upon which Wycombe relies in claiming that it cannot meet its FOAN.

¹²⁶ Eventually left to the NP.

¹²⁷ Confirms the agreement of the parties that development must occur on this derelict Green Belt site.

piloted back to use, towards more beneficial outcomes than harms; the data centre use would be a case of two wrongs not making a right. The housing would improve the outcomes in terms of landscape, visual, character, openness and Green Belt purposes compared to it; the cost – a loss of employment stemming from that one use (not a loss of an employment site in any wider sense).

96. That is a price well worth paying. Mr Hindle, speaking from a position of considerable experience in rural development work, said that the Framework permits the finding that a scheme would be sustainable development notwithstanding that it might be sub-optimal in some respects; there is no point in pretending that the site is better connected to services than it is. However, one should also not overstate the harms. The outcome for the site, and for the settlement, of the appeal scheme coming forward would be acceptable in transport terms. The overall outcome would be very positive indeed, hence why the evidence discloses that Very Special Circumstances are present. The draft NP consultation response document¹²⁸ records that some respondents recognised that the former Molins site *is the natural development area in the Parish*. In addition, *it is a long time industrial site which sits in the perfect position where well planned and sympathetic housing would probably enhance its position in the AONB*. The current appeal proposals represent an opportunity for beneficial change which should be grasped.

97. For those reasons, and subject to the conditions and S106 obligations, the appeal should be allowed to, amongst other things, support the achievement of policy in paragraph 47 of the Framework to boost significantly the supply of housing.

The case for the Council¹²⁹

Submissions on amended scheme¹³⁰

98. Annexe M of the PINS Guidance¹³¹ sets out that where an applicant thinks that amending their application proposals would overcome the Council's reasons for refusal normally a fresh planning application should be made¹³². Further, it goes on that the appeal process should not be used to evolve a scheme and it is important that what is considered by the decision maker is essentially what was considered by the Council, and on which interested people's views were sought.

99. The guidance is clear that there should not normally be amendments and schemes should not evolve through the appeal.

100. The appellant company's amendments were not sought until July 2016, very close to the appeal date. There was no advanced discussion of the proposal with the Council and no agreement that the right way forward was to pursue an application withdrawing details in a case where the Council wanted further details¹³³.

¹²⁸ Inquiry Doc 7 page 17 at the foot of the page.

¹²⁹ Council's Closings Inquiry Doc 46.

¹³⁰ Council's submissions on the submission of the amended scheme Inquiry Doc 44.

¹³¹ The Planning Inspectorate Procedural Guide - Planning Appeals-England - Annexe M.

¹³² PINS Procedural Guide para M.1.1 - Inquiry Doc 52.

¹³³ The Notice - Inquiry Doc 32.

101. Taking into account the long list of consultees which the appellant company consulted with on the amendments¹³⁴, only one responded¹³⁵. This is a low rate of return, much lower than that for the original scheme and indicates possible prejudice to those who have not had a chance to comment on the amended proposals in circumstances where the amendments have been proposed only two months before the Inquiry.

102. In addition, the amended proposal fails to provide more information on reserved matters previously requested by the Council taking into account the site's location within the AONB and the Green Belt. By withdrawing the details on layout and scale less information is available to the decision maker. This is unhelpful and makes it even more difficult to assess the impact and whether the scale of development would really work on the appeal site. For these reasons the acceptance of the amended scheme should be rejected.

103. That notwithstanding, the Council's case addresses common issues to both schemes as well as considering specific evidence to each individual proposal.

Putative reasons for refusal

104. These are set out in full in the SofCG general¹³⁶. However, the following are the main points in summary of the Council's concerns:

- Greater impact on openness and the purposes of including the land within the Green Belt than the existing development or the data centre;
- Proposals represent inappropriate development in the Green Belt. Very Special Circumstances are not apparent such that they outweigh the harm;
- Character and layout fails to respect the existing character and setting of the site, the landscape and natural beauty of the AONB, and the rural character of the District, failing to represent the highest quality and design in sympathy with the local landscape, traditional building layout and scale;
- Represents major development in the AONB. Exceptional circumstances in the public interest to justify the development have not been demonstrated;
- Fails to represent the highest quality and design, with very limited information relating to the appearance of dwellings. Represents poor place shaping and urban design in part due to its isolation to Saunderton and parking. In such a sensitive location approval of general layout and quantum of development would constrain later design decisions resulting in development which would not respond acceptably to the AONB;
- The lack of local facilities will maximise the need to travel. The lack of infrastructure and frequent and convenient non-car modes of travel will result in residents being dependant on the private car;

¹³⁴ Statement of Community Engagement CD71 – paragraphs 2.7-2.12.

¹³⁵ Chilterns AONB Conservation Board.

¹³⁶ CD110.

- No mechanism has been provided to secure provision and maintenance of public open space, Sustainable Urban Drainage System, Travel Plan, education and AH.
105. The Council confirmed that their concerns as expressed in putative reasons for refusal 7 & 8 (summarised in the last bullet point above) were met by the terms of the unilateral and bilateral agreements¹³⁷. Therefore, they did not defend these aspects of the infrastructure provision further.
106. This is a highly sensitive site in the Green Belt and AONB. It is inappropriate development as well as being in an unsustainable location outside even a tier 6 hamlet in the development hierarchy in the emerging plan. Despite the sensitivity of the site the developer has failed to provide details of appearance in the 212 scheme and has provided even less for the 192 scheme even with the service of the article 4 (2) notice¹³⁸ requiring details. The design of both schemes is suburban and fails to have regard to the local circumstances and the character of the AONB.
107. The Council has always accepted that this site would benefit from some development. However, that does not mean either of the proposed schemes should be permitted. From the submitted information and level of detail they are poorly designed, lacking the detail required in such a sensitive location. The proposals would be a major generator of traffic demand in a highly unsustainable place. The resultant harm to the Green Belt/AONB would be greater than necessary. The high standards required to be permitted as Very Special Circumstances and exceptional circumstances would not be achieved.

The Fall-back

108. The appellant company now seek to give weight to the data centre permission as a fall-back use. However, when the planning application for the 212 unit scheme¹³⁹ was submitted¹⁴⁰ compelling evidence of marketing to show that there was no likelihood of the data centre coming forward was included in the planning statement¹⁴¹.
109. The test for whether the fall-back is a material consideration is whether there is a real prospect or likelihood as opposed to a 'merely theoretical prospect'¹⁴². Even if a real prospect can be established then the decision maker will need to consider the likelihood of the fall-back coming about in order to decide what weight to give it as well as the seriousness of the harm¹⁴³.
110. DSAP Policy DM5¹⁴⁴ provides that in order to demonstrate that a site is no longer practicable for employment generating uses by reason of a lack of potential occupiers the site must be marketed for a sufficient period of time at a

¹³⁷ Inquiry Doc 39 and 40 respectively.

¹³⁸ Town and Country Planning (Development Management Procedure) (England) Order 2015/595.

¹³⁹ 15/05250/OUTEA.

¹⁴⁰ February 2015.

¹⁴¹ CD13 – Paras 4.2.1 – 4.2.13 + Appendix 1.

¹⁴² Samuel-Smith Old Brewery v the Secretary of State [2009] EWCA civ 333 – CD126.

¹⁴³ Gambone v Secretary of State [2014] EWHC 952 – paras 26 & 27.

¹⁴⁴ CD71b.

reasonable price and unencumbered¹⁴⁵. This is what the appellant company did and demonstrated that there was no likelihood of the site coming forward for any data centre use or for that matter any employment use¹⁴⁶.

111. The about face position of the appellant company is that the market for data centre development has changed since the end of 2013. Theoretical advice was offered by Mr Jay about the market in general. No viability exercise specific to the appeal site was undertaken for a data centre nor was such a development compared with residential development¹⁴⁷. No evidence was offered in respect of what would occur in reality on this site.

112. In this case, even where there is permission for the data centre, the beneficiary has sold the site and there has been no actual interest from a different data centre developer. E-shelter¹⁴⁸ is a well-known and long established data centre developer who, as part of their business, has to predict future requirements in order to buy land speculatively for long lead in projects. It seems inconceivable that they could have got the market so wrong.

113. That notwithstanding, the data centre is the preferred development over housing in that it complies with DSAP Policy DM5¹⁴⁹; it is preferred in design in the Green Belt and AONB with little lighting and activity.

114. The more likely fall-back is a properly and fully designed residential scheme, that has less impact on Green Belt openness and fits in better with the AONB and responds to the lack of sustainability of the site.

Green Belt effect on openness and purposes

115. The appeal proposals are inappropriate development¹⁵⁰ as in comparison with the existing two buildings on the site there would clearly be a much greater impact on the openness of the Green Belt and the purposes of including land within it, a point accepted by the appellant company¹⁵¹. The Government has made it clear that it is not appropriate to develop on PDL where it has a greater impact on openness and purposes. As inappropriate development there is a duty to show Very Special Circumstances. The decision maker must give substantial weight to any harm to the Green Belt¹⁵². Very Special Circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm is clearly outweighed by other considerations.

116. There is more than definitional harm. The new houses¹⁵³ would be vastly greater in volumetric terms than the existing buildings that remain on site. They are also considerably more noticeable from views around both close and far. The

¹⁴⁵ Reflects the method set out in the Framework para 133.

¹⁴⁶ CD13.

¹⁴⁷ Whether the data centre would be able to outbid this residential development.

¹⁴⁸ The applicant for data centre permission (08/05740/FULEA – CD117).

¹⁴⁹ Provides jobs and complies with terms of para 22 Framework.

¹⁵⁰ Under para 89 of the Framework.

¹⁵¹ Patel proof para 4.1 & 4.3.

¹⁵² Framework Para 88.

¹⁵³ Either 212 & 192 units.

harm to openness in both spatial and visual terms is substantial by comparison with the existing development.

117. Even if the data centre is considered¹⁵⁴ in medium and longer views it would have a less visual effect on openness. It fits in better with the landscape with its green roof and is less harmful to Green Belt openness. In the closer views the position would be similar.

118. There would be harm to the first and third purposes of including land in the Green Belt¹⁵⁵. There would also be harm to the AONB, by putting development on an unsustainable site, the visual and design harm along with the harm of the proposals being contrary to development plan policy. This cumulatively amounts to a very substantial level of harm that the other circumstances need clearly to outweigh if there are to be Very Special Circumstances.

Poor design place shaping and insufficient information

119. Following the submission of the original planning application (212 units) the Council served an article 4(2) Town and Country Planning (Development Management Procedure) (England) Order 2010/595 notice¹⁵⁶. That notice required details of appearance and internal dwelling layout. It also requested typical landscaping detail¹⁵⁷. However, the appearance of the 212 unit scheme was not submitted other than some house types and the street elevations for one side of one street. The 192 unit scheme has even less information. As a result it is difficult to judge what the end effect will be and whether it is overdevelopment of the site. The amount of landscaping that would actually come about in the 192 unit scheme is hard to gauge when a 'workable' design has not been done. This latter scheme with all matters, except access, promoted for future consideration presents a fluidity of design and layout making it impossible to work out what it would look like. This is a situation the Council sought to avoid on such an important site in the AONB where there is a huge responsibility of conserving the landscape and scenic beauty of the Chilterns AONB, hence the serving of the article 4(2) notice.

120. The terms of the Notice have not been challenged by the appellant company and have not been complied with. On this basis the development should be refused.

121. The CBDG is a key document in judging the quality and suitability of the proposals. One of the reasons for its production is to ensure the location and design of new buildings is sensitive to the character of the Chilterns, becoming

¹⁵⁴ Not material as only a theoretical possibility or given only little weight because it is not likely to be built.

¹⁵⁵ Purpose 1 - to check the unrestricted sprawl of large built-up areas; Purpose 3 - to assist in safeguarding the countryside from encroachment - para 80 Framework - covered in Jarvis proof 9.17.

¹⁵⁶ The appellant company did not appeal against the Notice - confirmed by Mr Patel in cross-examination - The 2015 Order came into effect the month after the Notice was served. See Inquiry Doc 32.

¹⁵⁷ See committee report CD109 at para 2.27.

part of the landscape and complementing older buildings¹⁵⁸. It is expected that this guidance will be a key instrument to judge the appropriate character and suitability of proposals¹⁵⁹.

122. The original scheme paid little regard to the CBDG the developer taking the view that it was not important at outline stage¹⁶⁰. Therefore, the proposal does not respond to it. In particular what the development of the first scheme does is slavishly to follow the footprint of the data centre rather than to respond to the character of valley bottom settlements in the AONB¹⁶¹.

123. It does not have a nucleated form with an obvious centre¹⁶², but is a constant density with what purports to be a village green on a small area of land near the road junction away from Haw Lane. It lacks the relatively compact layout restricted by rising valley sides¹⁶³ by taking the whole of the data centre proposed land and more than the extent of the current concrete pads¹⁶⁴. Some access roads are of insufficient width and would involve service vehicles reversing significant distances to turn around. It also makes no attempt to comply with characteristic qualities of having older buildings being prominent and establishing distinctive character¹⁶⁵. The data centre proposal was to re-use the frontage ballroom building recorded as having architectural merit in contrast to the other buildings on the site¹⁶⁶. It proposed to re-use it for support facilities for E-shelter, including offices, restaurant and security. The appeal proposals make no use of the ballroom building.

124. The scheme also fails to comply with the up-to-date adopted parking standards of Buckinghamshire County¹⁶⁷. The total number of spaces required would be 667 which is the optimum standard and should be provided unless specific local circumstances can justify deviating from them¹⁶⁸. The appellant company's case centred on using average car ownership data to suggest the County standard should not be followed. The existence of the station was relied upon by the appellant company in justifying a reduced number of parking spaces. However, the station is 1530 metres from the middle of the site accessed on foot along a busy unlit road amounting to a not particularly pleasant walk. In any event even for journeys to work the train is used about 8 times less than the car¹⁶⁹. For other journeys to schools or local shops the train is unlikely to be used. Realistically future residents would use the car as their primary form of transport.

¹⁵⁸ CD77 paragraph 1.16.

¹⁵⁹ Coles proof para 4.8.

¹⁶⁰ Accepted by Mr Coles in cross-examination.

¹⁶¹ See app 4 of shared appendices. Cross-examination of Mr Coles.

¹⁶² Page 18 of CBDG CD77.

¹⁶³ Page 18 of CBDG CD77.

¹⁶⁴ Combined Appendix 4.

¹⁶⁵ Page 18 CBDG CD77.

¹⁶⁶ Page 9 of CD115.

¹⁶⁷ See examination in chief of Mrs Jarvis and her paragraph 13.14 of proof – compliant with the Framework.

¹⁶⁸ CD84 Page 19 – near the top.

¹⁶⁹ See stats in travel plan CD70 and committee report.

125. Thus the original scheme fails to respond to the CBDG and is consequently out of keeping with the qualities of the AONB being a suburban scheme lacking variety¹⁷⁰. It is not good design and does not reinforce rural distinctiveness or conserve and enhance the AONB.

126. The scheme for 192 units is more difficult to assess as even less information is available than in the case of the original scheme. The indicative layout does not satisfy guidance within the CBDG. It is still not nucleated with an obvious centre to the village. The proposed northern flats are not akin to a manor house. No older building is being retained to help establish the distinctive character. The scheme does not work. Established back to back distances are not achieved which would not respect residents' privacy¹⁷¹. The layout does not provide turning heads or appropriate access to some dwellings. Some flats have no communal open space or space for landscaping, just parking. Small gardens and lack of separation between buildings would limit the planting of large trees. The CBDG wants trees as features which create visual links with the surrounding countryside¹⁷². Parking spaces are in general inadequate in width¹⁷³.

127. The reality of the 192 unit scheme is that what is shown on the illustrative masterplan will not be delivered. The 4.32ha of open space promoted in Mr Coles' proof¹⁷⁴ is not to be secured under the S106 agreement. The minimum policy compliant open space is estimated at 2.25ha¹⁷⁵, but it is difficult to assess what this would look like within a future scheme for 192 units. What is being promoted by the appellant company is design by condition. This is considered an unacceptable approach in such a sensitive location¹⁷⁶. It is not possible to know whether 192 dwellings could be put on this site without substantial harm and in keeping with the AONB and character of settlements.

Harm to the rural character of the AONB

128. The AONB Framework policy gives great weight to conserving landscape and natural beauty¹⁷⁷. In addition, decision-makers have a duty to have regard to the purpose of conserving and enhancing the natural beauty of the AONB¹⁷⁸. The test for developing a major site in the AONB is that there needs to be exceptional circumstances and it has to be in the public interest. This is not the case in this instance. The AONB is not about having housing in it but conserving landscape and natural beauty.

¹⁷⁰ Judgement of CCB and Mr Kennet.

¹⁷¹ CD71c - 25m minimum and preferably 30m – this is being carried forward to the Consultation Draft Residential Design Guide Inquiry Doc 33.

¹⁷² CBDG paras 3.16, 3.96, 3.100 & 3.101 – CD77.

¹⁷³ Inquiry Plan B.

¹⁷⁴ See para 5.6.

¹⁷⁵ Estimation done by Mr Steuart – was uncontested.

¹⁷⁶ Hence the serving of the Article 4(2) Notice by the Council on the original scheme. The 192 unit scheme provides even less information than that which was available in the original scheme which was considered inadequate.

¹⁷⁷ Para 115 Framework – goes on to para 116.

¹⁷⁸ Quoted correctly at 3.2 CCB reps doc 10.

129. The appeal proposals would be more harmful to the AONB than the existing situations, interrupting the extensive views along the valley. The new development would be vastly more visible and harmful than the existing situation where very little can be seen of the site (Viewpoint 1 - fig 5.3 new photo 2). New development would obstruct views of Slough Hill. The existing site blends in to the landscape (Viewpoint 2 – Fig 5.5). The housing development would be incongruous. It clearly does not respond or fit in with the key characteristics of the landscape area and it would not read as a 'linear settlement or isolated farmstead'¹⁷⁹. It would be viewed as a large development in the open valley floor¹⁸⁰ out of scale with anything around it.
130. The comparison with the data centre is either not material or should be given little weight because of the unlikelihood of it coming about. However, even if it does need to be considered, due to its green roof and low activity and very little lighting it would be less harmful and blend in better with the scenic beauty of the AONB¹⁸¹.
131. The need and impact on the local economy in this case is not sufficient. The lack of 5 year supply is not a reason to develop in the AONB by itself, otherwise the AONB protection would be neutered. The Council is doing all it can in a responsible way to put housing in more suitable locations, using the strategy of the emerging plan placing housing in more sustainable locations¹⁸². The evidence of the Council is that both proposals would have a detrimental effect on the environment and the landscape¹⁸³.

Whether the proposals promote the low carbon economy by providing a real choice about means of travel

132. All major housing sites should be well located in relation to jobs, services and facilities. Paragraph 34 of the Framework advises that developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes maximised. The appeal proposals do not measure up well to this Government policy. Putting development in a place with no local facilities to speak of, with a poor bus service and without an easy walk to the station will not maximise usage of public transport¹⁸⁴. A development of the size proposed (either 212 or 192 units) would not just meet local needs but would not be located in a good place to enhance the vitality of the rural community as it is not well linked to the rest of a settlement or facilities that it can make more vital.
133. CS Policy CS2¹⁸⁵ identifies High Wycombe as the principal focus for new development. The part of the policy that is relevant to this site is the one that applies 'in all cases' which calls for sites to be well located in relation to jobs, services and facilities and in the most accessible locations for transport by non-car

¹⁷⁹ See CD83a page 57.

¹⁸⁰ One of the key characteristics of the landscape.

¹⁸¹ See photo montages from longer and medium views.

¹⁸² CD104 Page 22.

¹⁸³ Jarvis proof 11.5-11.11.

¹⁸⁴ Jarvis proof pages 51-54.

¹⁸⁵ CD71A.

modes¹⁸⁶. In policy terms Saunderton is low down on the hierarchy of sustainability¹⁸⁷ in an area where the emphasis will be on protecting the rural character. The policies provide for a hierarchy in terms of sustainability with Wycombe at the top and then Marlow, Princes Risborough and the other smaller settlements in CS 7. In those places development will be on a smaller scale. However, this site is further down the hierarchy in an area where the emphasis will be on protecting the rural character.

134. In the emerging LP the hierarchical approach is continued and directs development to sustainable places¹⁸⁸. The appeal site would be below the bottom of the hierarchy being outside of the hamlet of Saunderton, which only includes the area around the station, which is classified as a tier 6 settlement¹⁸⁹. The conclusion must be that this is a very unsustainable site. The emerging plan sets out that at the smaller villages and hamlets, significant development in these settlements would not be sustainable due to the limited facilities and reliance on the private car for transport¹⁹⁰.
135. There is a lack of almost all facilities in the village. No real leisure, no church, no community facilities, doctor, primary or secondary school and very little employment and no retail at all¹⁹¹. The route and topography is such that people are unlikely to walk or cycle to the facilities at Bledlow Ridge¹⁹². It is up a steep hill and there is no footpath or cycle lane. The result of this is that there is no school or shop that people are likely to walk to.
136. The scheme for 192 units would provide a 270m² (or less) community facility at a peppercorn rent. This is necessary but not sufficient to address the lack of facilities¹⁹³. The scheme for 212 units lacks even this and so would be without any necessary provision.
137. The regular bus service that passes the site is infrequent. The 321 is every two hours with no evening or weekend service¹⁹⁴. It does not provide a service to Aylesbury that one could use for commuting. The diversion of 1 out of the 4 services of the 300 to form the X30 is questionable and may not be retained in the long term. The manager of the Public Transport team at the County Council confirmed that he has had conversations with managers at Arriva who described the X30 as a trial. Bus services are superior in many other places in the District¹⁹⁵.
138. The route to the station is 1580m to the centre of the site¹⁹⁶. The route does not comply with the guidance for a shared cycle walkway. Local transport note

¹⁸⁶ CS Policy CS2 bottom of page 26 CD71A.

¹⁸⁷ CS Policy CS7 – CD71A.

¹⁸⁸ CD104 – LP Policy CP3 page 26.

¹⁸⁹ CD104 PAGE 187.

¹⁹⁰ Para 4.25 CD104.

¹⁹¹ Mrs Jarvis examination in chief referred to Plan A4 in revised Transport Assessment CD 68.

¹⁹² Hindle proof para 6.20, examination in chief of Mrs Jarvis.

¹⁹³ Mrs Jarvis examination in chief and conditions session. The appellant company did concede to a commitment for 150 square metres of community space.

¹⁹⁴ Burbridge proof Appendix 3.

¹⁹⁵ Hindle proof para 6.25.

¹⁹⁶ SofCG Gen para 2.8.

1/12¹⁹⁷ promotes a preferred minimum width of 3m. Most of the route along the A4010 is only 2m wide, being unlit, with the majority adjoining a busy road with traffic at a speed of between 40-50mph.

139. DSAP Policy DM2 requires high quality, fully accessible attractive public transport¹⁹⁸. The appeal proposals would be contrary to that policy as well as CS Policy CS2 and paragraph 34 of the Framework because it fails to put development where the need to travel will be minimised and the use of sustainable transport maximised.

Other considerations

140. The decision maker must give substantial weight to any harm to the Green Belt¹⁹⁹. Very Special Circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness and any other harm, is clearly outweighed by other considerations.
141. On the harm side is definitional harm²⁰⁰, the harm to the first and third purposes of the Green Belt, harm to the AONB, harm as a result of poor design, harm by reason of being an unsustainable location without good access to public transport, and conflict with the development plan read as a whole. This amounts to a very substantial level of harm²⁰¹. Other considerations would have to be very weighty to outweigh this harm, needing to clearly outweigh it to be Very Special Circumstances.
142. The Government has made it plain that unmet housing need is unlikely to outweigh harm to Green Belt and other harm to constitute Very Special Circumstances. Planning Practice Guidance (PPG) says that unmet housing need (including for traveller sites) is unlikely to outweigh the harm to the Green Belt and other harm to constitute the 'Very Special Circumstances' justifying inappropriate development on a site within the Green Belt²⁰².
143. The Council is not able to demonstrate a 5YHLS. The Longwick decision (CD123) identified a 3.74 year supply against the HEDNA FOAN of 751²⁰³. However, the HEDNA figure is untested²⁰⁴. In addition, no allowance is made that the requirement is likely to be reduced by Aylesbury Vale District Council agreeing to take some houses in circumstances where Wycombe District is constrained by Green Belt and AONB. However, the Council are being proactive in releasing their reserve sites from the existing local plan and ensuring they progress quickly²⁰⁵. These create supply not just in the 5 year period but also a stream afterwards. In this case this is particularly the case because the harm is enormous and the lack of 5YHLS is very short lived and the Council are doing a considerable amount to

¹⁹⁷ Inquiry Doc 5.

¹⁹⁸ CD71B.

¹⁹⁹ Para 88 Framework.

²⁰⁰ Which must be ascribed substantial weight – Framework para 88.

²⁰¹ Jarvis proof para 17.10-17.13.

²⁰² ID: 3-034 – Jarvis proof para 7.13.

²⁰³ Agreed figures between the parties.

²⁰⁴ Such numbers are not a proxy for final numbers – CD73A-Ministerial letter from Brandon Lewis.

²⁰⁵ Inquiry Doc 12.

remedy it within as short a timescale as possible. That is clearly a matter than can be given great weight.

144. The AH is also covered by policy in the PPG that unmet need is unlikely to outweigh the harm²⁰⁶. Providing for the District need is generally a benefit but not as, in this case, in an unsustainable location. It is not clear what the actual Parish need for AH is and 19 units of AH are to be built in West Yard close to the station.

145. Many of the benefits²⁰⁷ are just benefits of housing generally which are insufficient to be Very Special Circumstances.

*Neighbourhood Plan*²⁰⁸

146. The Bledlow-cum-Saunderton Neighbourhood Plan²⁰⁹ was the subject of a referendum held on 4 May 2017. The March 2017 version of the NP came about as a result of the outcomes of the Examiner's report on the NP²¹⁰. In respect of NP Policy 3(1) a modification was recommended to the original wording of the policy which provided that the land to the east of the appeal site, which is currently rough grassland, should not be supported for development. Proper regard should be had to bullet 6 of paragraph 89 of the Framework by having a test that the redevelopment does not have a greater impact nor on the purposes of including land within it, than the existing development.

147. Both schemes²¹¹ fail this policy test having a greater effect on the openness and the purposes than the existing development, breaching NP Policy 3.

148. The NP has yet to be made and should be given appropriate weight given its stage in the process²¹².

PDL

149. The fact that some of the site is PDL is clearly not sufficient to be Very Special Circumstances. Paragraph 88 of the Framework provides that development on PDL is inappropriate if it has a greater impact on openness and purposes. Thus being PDL is not enough.

150. It should be noted that the whole of the site is not PDL. The definition of PDL focuses on the situation now rather than in the past²¹³. Where the remains of the permanent structure have blended into the landscape in the process of time land is excluded from being PDL. The appeal site is not part of the curtilage of buildings

²⁰⁶ Jarvis proof para 7.13.

²⁰⁷ Economic and social benefits covered by Mr Hindle.

²⁰⁸ Inquiry Doc 59.

²⁰⁹ Inquiry Doc 55.

²¹⁰ Inquiry Doc 53.

²¹¹ 212 and 192 units.

²¹² Notwithstanding the pre-protocol letter (Inquiry Doc 56) which threatened to challenge the previous decision to go to referendum the decision-maker can treat the decision to go to Referendum as lawful until it is quashed as being unlawful by the Court. In addition the pre-protocol letter refers to a previous decision of the Council not the most recent one. Following the Referendum held on the 4 May 2017 the outcome was that 81% of the residents of the parish of Bledlow cum Saunderton voted in favour of the NP. The Plan is however, now the subject of a legal challenge.

²¹³ Framework-Annex 2-Glossary.

that no longer exist. As a result the development of both 212 and 192 units go beyond the extent of the PDL²¹⁴.

151. In the report of the Examiner on the NP²¹⁵ he recommended a change to Policy 3(1) which identified the extent of the PDL as being essentially the existing buildings along with the slabs on which they stand and the hard standing to the south²¹⁶ (shown on Inset Plan 1). That policy provided that the land to the east of the site, which is currently rough grassland should not be supported for development under Policy 3(1), and recommended that the policy have proper regard to bullet 6 of paragraph 89 of the Framework by having a test that the development does not have a greater impact on the purposes of including land within it than the existing development. Even if the rough grassland to the east is within the curtilage of the developed land the Framework definition provides that 'it should not be assumed that the whole of the curtilage should be developed'. The Examiner's approach is in line with that of the Council in this instance as it is contended that in fact the grassland was not part of the curtilage of the developed land after the buildings were removed²¹⁷.

152. In any event policy does not allow inappropriate development whether PDL or derelict land²¹⁸. Purposes and openness take priority over land use objectives in paragraph 80 of the Framework.

SAM

153. Historic England set out that the effect on the group of scheduled bronze age barrows (SAM) will be neutral and potentially beneficial for the barrow within the development site, although they do acknowledge that it is not known how much of the barrow survives below-ground. In these circumstances the potential benefit should not be overstated.

Playspace

154. The development provides an adequate amount of playspace to meet policy requirements and does not guarantee any more. This is no more than would normally be expected in a typical housing development. However, it is not well located for the rest of the properties in Saunderton.

155. The other considerations are thus very far short of amounting to Very Special Circumstances individually or cumulatively.

Conclusions

156. Thus in conclusion this is a scheme that is inappropriate development in the Green Belt, which harms openness and purposes for which there is not Very Special Circumstances. It is major development in the AONB for which there are not exceptional circumstances and the requisite public interest. It would harm the character of the AONB and would be of a poor design quality. In locational terms the appeal site is not within walking distance of facilities or services or good public

²¹⁴ Appendix 5 Combined Appendix.

²¹⁵ Inquiry Doc 53.

²¹⁶ Inquiry Doc 53 para 5.21.

²¹⁷ Inquiry Doc 46 – paragraphs 8.15 & 8.16.

²¹⁸ Framework para 81.

transport and is outside even a hamlet which is bottom of the policy settlement hierarchy. The putative reasons for refusal refer to a panoply of development plan policies which are contravened. The development plan should be given primacy in the decision. The weight given to development plan policies is a matter for the decision maker²¹⁹. Their weight needs to be judged against the needs for development of different kinds and albeit that the framework and in particular paragraph 14 is no more than guidance and a material consideration, paragraph 14 does need to be properly considered.

157. Notwithstanding that the Supreme Court strongly suggested that it is not necessary or appropriate to undergo the categorisation as to whether a policy is a supply of housing policy, in relation to this appeal in light of the judgement CS Policies CS2, CS7 and CS9, DSAP Policy DM5, and WDLP Policies GB2 and GB9 cannot be considered to be policies for the supply of housing. However, whether or not they are supply of housing policies paragraph 14 should be applied if there is a lack of five year supply and in this instance Green belt and AONB policy should be applied with full force. In addition, the design and AONB policies G3, L1 and CS Policy CS17 are consistent with Government policy in the Framework along with sustainability policies CS CS2 and DSAP DM2²²⁰ all of which are offended by the proposals.

158. Therefore, there is conflict with the development plan read as a whole and other considerations would not clearly outweigh the potential harm to the Green Belt by reason of inappropriateness, and any other harm wherein Very Special Circumstances could be said to exist.

Third parties who addressed the Inquiry

Michael Stubbs speaking on behalf of the Chiltern Conservation Board

159. The Chilterns Conservation Board (CCB) was established as a Statutory Board in 2004 under provision of the Countryside and Rights of Way (CROW) Act 2000²²¹ to promote the conservation and enhancement of the Chilterns AONB (itself designated 16th December 1965) and to increase the understanding and enjoyment by the public of the special qualities of the AONB. Whilst the appeal site has the potential to accommodate some development, CCB attribute great weight to the conservation and enhancement of natural beauty as applies in national and local policy as well as in the AONB Management Plan and in the application of the CBDG. Some development is achievable on this site, in the delivery of these policy goals, but the current proposals do not satisfy necessary design – layout and setting details, best encapsulated as ‘place-making’. A more landscape-led approach is required. This requires both comprehensive and detailed revisions as well as observation of due process to develop an evidence based planning strategy for this land through the Local Plan process. Without this, there should be no assumption that this site is an appropriate location for housing.

²¹⁹ See paragraph 29 of the Judgment of Supreme Court - *Suffolk Coastal DC V Hopkins Homes and others* [2017] UKSC 37 – *Inquiry Doc 63*. This is true of out of date or in date policies.

²²⁰ *Inquiry Doc 62*.

²²¹ Section 85 of the Countryside and Rights of Way Act 2000 establishes in subsection (1): “In exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty, a relevant authority shall have regard to the purpose of conserving or enhancing the natural beauty of the area of outstanding natural beauty”.

In such a sensitive area the key principle is that development is 'plan-led'²²² and that in light of footnote 9 of the Framework paragraph 14 of the Framework is not engaged. The duty to conserve and enhance needs to be taken into account from the outset to ensure that any development proposals sits comfortably within the landscape and do not result in adverse impact on the wider AONB and the people within it.

160. The Chilterns AONB Management Plan 2014-2019 (CAONBMP)²²³ is a matter of material importance and weight can be attributed as it is both relevant to this case and relevant to matters of public interest. CAONBMP Policy D1 sets out that the natural beauty of the Chilterns AONB should be conserved and enhanced by encouraging the highest design standards, reinforcing local distinctiveness and respecting the landscape, settlement character and special qualities of the AONB. CAONBMP Policy D5 promotes that appropriate development (especially AH) should be encouraged, particularly on PDL, if it will improve the economic, social and environmental well-being of the area whilst having regard to the special qualities of the AONB. CAONBMP Policy D6 applies where new housing development is proposed this should only be permitted if its scale, massing and density reflect the local context and have regard to the special qualities of the AONB. CAONBMP Policy D11 seeks the enhancement of the landscape of the AONB which should be sought by the removal or mitigation of intrusive developments. In CAONBMP Policy D12 developments should be sought that represent the highest environmental and design standards whilst complementing the character of the AONB.

161. The CCB has not raised an 'in-principle' objection, aware of the brownfield status of the site. The planning principle of development is accepted, subject to specific details. The data centre buildings were larger and bulkier than the existing buildings and would remain recognisable as large structures in the countryside. Ecological and landscaping improvements and a footpath link to Saunderton Station, together with public access to two fields to the south of the application site, were part of the data centre permission. Positive improvements would follow to wider views from public rights of way, due to the design of the buildings. Close views, by contrast, would not benefit the AONB. Whilst the previous buildings were single story industrial buildings, the prevailing development management logic of the data centre permission was that views further back in the landscape were improved by virtue of the chosen design (sedum roof – curved over pavilion style campus buildings). Whilst deemed alien when viewed close by, the 'e' shelters were deemed beneficial when walking the AONB and viewed further away.

162. Nonetheless, Very Special Circumstances were established under Green Belt policy and by virtue of design the data centre would make a positive contribution to the surrounding landscape. Consequently planning permission was granted. The current amended form and layout does not give proper regard to the duty to conserve and enhance the AONB and this would result in an urban/sub-urban form that is incongruous in its location. The development site is within the frame of several views from surrounding footpaths²²⁴. The proposals amount to a form and

²²² In this case the Bledlow-cum-Saunderton NP.

²²³ CD82-82B.

²²⁴ Landscape Visual Impact Assessment CD4 & CD63.

layout of residential development that both yields a high number of units and is formed by a standard layout and type. Ridge heights to roofs are indeed lower than the data centre at between 8.5m and 11.7m (e-shelter 16.85m) but from more distant views within the landscape around Bledlow Ridge the proposal would present a scattered form of standard roof types over a comprehensive proportion of the site area. Albeit the residential development would be lower in height, it would be a series of standard house types with no real landscape mitigation around the fringes of the site. Nothing much would be given back to the landscape, with the exception of planting to the chalk embankments. A more comprehensive design treatment is needed with the development envelope pulled inwards by some margin and the creation of comprehensive landscape buffers to the boundaries. That would advance the previous logic of improving distant views. The amount of housing here should be dictated by locational criteria and design review, with proper regard to the Local Plan process.

163. The proposals fail to comply with Framework paragraph 115 (landscape and scenic beauty of highest status of protection) and paragraph 116 (developing elsewhere outside designated area and detrimental effects on the landscape). New development should respect the wider setting of the AONB. The proposals fail to conserve or enhance the AONB landscape and would be positively harmful to wider views and landscape character.

*Simon Breese speaking on behalf of Bledlow-cum Saunderton Parish Council*²²⁵

164. A development of the size proposed within the Green Belt and AONB is a significant event in planning terms and should only be approved in exceptional circumstances where other alternatives have been considered and rejected. This is not the case in this instance. Nonetheless, in respect of the promoted amendment to 192 units, the Parish Council acknowledges that the unfixing of the layout provides for an opportunity for an improved development more in keeping with the AONB. The local population are not resistant to suitable development coming forward but in an area of high quality of landscape and tranquillity it must be delivered in a sensitive and sustainable way.

165. The NP was a response to the Council's consideration of producing an AAP for the Saunderton area, which would have included the appeal site. The Parish view was that the NP would be the best way of ensuring that the residents had a say in the future development within the parish. The NP identifies in Policy 3²²⁶ that the Former Molins site should comprise:

- A retirement village with sheltered, care and downsizer homes;
- Residential development (including open-market and affordable housing);
- Direct pedestrian link to the Station via fields;
- Small low-rise business premises suited to start-up, incubator and micro-enterprise uses; and
- One or more community facilities to serve the scheme and the existing residential area of South Saunderton.

²²⁵ Inquiry Doc 15.

²²⁶ Inquiry Doc 6 + 55.

166. The NP reflects the views of the Parish. The appeal proposals are not supported being viewed as unsustainable, being an overdevelopment of the site in a sensitive location without proper infrastructure and access.

167. The Parish has specific concerns relating to highway matters:

- Road flooding at the railway bridge - it is not clear if the proposals would exacerbate an existing problem here. Pedestrian and vehicle access is restricted at times;
- The reduction in the width of the road to single carriageway under the railway bridge would add to traffic congestion;
- The proposals would result in a near doubling of peak traffic movements along Haw Lane. This is a narrow winding country road used by school children at the Bledlow Ridge end;
- Additional queuing traffic would present a danger at the Haw Lane/A4010 junction which is locally known as a hazard at peak times;
- Parking at the Station is a particular issue, with Saunderton Vale congested restricting access by emergency vehicles. Encouragement needs to be given to future residents walking to the Station so as not to add to parking congestion; and
- The nearest primary school is at Bledlow Ridge. With no footpath along this part of Haw Lane forcing residents to either walk along a fast stretch of country road or travel the short distance by car.

Carl Etholen - Ward member of Wycombe District Council for Bledlow and Bradenham & Buckingham County Council member for Ridgeway West²²⁷

168. The A4010 is the main road between High Wycombe and Aylesbury. It is used by ambulance traffic which is on the increase between High Wycombe and Stoke Mandeville. In addition, in the future it will carry much of the construction traffic for HS2. The proposed 212 units would generate some 400 or more extra vehicle movements per day, mainly at peak times accessing the already busy A4010 at the Haw Lane junction. This would add to problems of congestion at the Pedestal roundabout as well as queuing traffic into Princes Risborough. Princes Risborough is proposed to double in size as part of the emerging LP. This would add in excess of 5000 extra vehicle movements on the road network. The road network cannot be easily improved being within the AONB. Therefore, developments where there is a minimal increase in vehicle movements should be favoured.

169. To accommodate the children from the new houses the local primary school (Bledlow Ridge Primary) would have to exceed its capacity and it would be very difficult to place these children. The secondary school (Princes Risborough Upper School) has in excess of 1200 pupils and has no more space on the site to build new classrooms.

170. In addition, the health centre in Princes Risborough is working over capacity as is the A&E department at Stoke Mandeville, 12 miles away.

²²⁷ Inquiry Doc 16.

171. Haw Lane is prone to flooding in the dip at the bottom of the hill of Haw Lane and under the railway bridge. This needs to be addressed as flooding is very restrictive to accessibility.

172. It is accepted there must be some development on the former Molins factory site. However, the proposals are not to be encouraged in the AONB.

Kim Martin²²⁸ – Local Resident²²⁹

173. The appeal site is an irreplaceable employment site in the Green Belt and the AONB. The demolition of the buildings on the site means that new employment uses will need to be quite different to the old factory use. The resurgence of the data centre market and the continued viability of the site for that purpose is recognised by the appellant company. Therefore, the employment use should be retained at Molins. The data centre is seen as an attractive use if the scheme is still viable, being sustainable for the area and would better preserve the tranquillity and the character of the AONB.

174. There is also a need for starter business units, a need identified via the NP. This would retain the current employment use, as would care facilities within a rural retirement complex.

175. The Saunderton NP was a response to the need to achieve appropriate future planning and development by way of a Parish wide led approach. It received a high degree of resident participation and the organic output carries the overwhelming support of the Parish. NP Policy 3 is dedicated to the Molins site and its development. The policy supports development which is no greater than the existing development. A mixed use of residential (including retirement village) and small business premises would be a more sustainable and acceptable outcome, the design of which would be informed by the landscape given the sensitivity of the location. The NP represents a responsible attitude to the future development of Molins and the one which should be favoured²³⁰.

Written representations from interested parties

176. Representations were received at the time the planning application was considered by the Council. Further letters and consultation responses were then received in relation to this appeal and to the proposed amendment (192 unit scheme). The following is a list of the essence of the concerns raised over and above those raised by the representors who addressed the Inquiry and the Council.

- The proposal should be considered as part of the local plan/NP process and in a strategic/comprehensive way and not in a piecemeal fashion which would not deliver any commitment to infrastructure improvements. The timing of the application is premature.

²²⁸ Mr Martin said he was representing the Molins Action Group. This is an informal group of some 5 people formed when the original scheme was submitted.

²²⁹ Inquiry Doc 17.

²³⁰ Mr Malure, Mr Sage and Mr Stone both added comments on the NP which are already covered or included in the representation of Mr Breese, Mr Etholen and Mr Martin. It is therefore not repeated.

- The proposal does not meet the definition of sustainable development and should be refused.
- The proposal conflicts with the Framework pre-requisite of creating sustainable settlements.
- The density of the development is too high particularly in an AONB and Green Belt.
- Saunderton will become a dormant village if it can't offer employment.
- The site should be retained as employment land to serve the expansion of Princes Risborough.
- It won't be possible to replace this employment site which serves the community due to the constraints of AONB and Green Belt.
- The need for housing land does not outweigh the need for employment land.
- The proposal would result in an isolated and disconnected community.
- Permission on this site would set a precedent for more development.
- Infrastructure provision should not be considered on a piecemeal basis.
- The cumulative impact of all the housing proposals on roads and services needs to be considered.
- The proposed footpath is inadequate and will increase congestion. The 1.2 metre footpath under the bridge would be unsuitable for disabled people, prams and small children.
- Chiltern Railways have stated that they would not increase the train service even with an enlarged site. The application is submitted on the premise that Saunderton Station will remain in service but it is destined to only ever get a reduced level of service.
- The proposal would harm the local tourism industry.
- The surrounding area, including Bledlow Ridge and Lodge Hill supports lots of wildlife which would be harmed by the large increase in people and uncontrolled dog walking.
- There are no open spaces in the development. The linear park to one side of the development does not work.
- A large housing estate would destroy the community.
- Insufficient affordable housing is proposed.
- Crime rates would rise due to the increase in population.
- The applicant's consideration of contamination on site is inadequate and there is a sensitive aquifer below the site.
- The amendments to the scheme are minor and do not alter concerns of the fundamental issues.

Conditions and Obligations

177. In the case that the Secretary of State (SofS) is minded to allow the appeal a schedule of conditions was submitted by the parties at the Inquiry²³¹. Following discussion at the Inquiry some conditions have been amended and amalgamated for clarity, precision, elimination of duplication, and taking into account guidance in this regard. The conditions are set out at Annex A in respect of the scheme for 212 units and Annex B relating to the 192 unit scheme. The discussion below on conditions, in general, does not differentiate between the two schemes as many of

²³¹ Most of which had been agreed between the parties – Inquiry Doc 28.

the conditions apply equally to both. However, where conditions are specific these are highlighted.

178. Only conditions which are formally required to be discharged prior to works commencing on site have been promoted as pre-commencement conditions.
179. Standard conditions are required on the approval of the reserved matters and on the commencement of development and reflect the differing elements to be considered in each proposal²³². The condition identifying the approved plans is reasonable and necessary for the avoidance of doubt and in the interests of proper planning.
180. It is only necessary to include a condition relating to the maximum number of dwellings to be constructed on the site in respect of the 192 unit scheme as the original scheme includes layout as part of the matters to be considered and the number of dwellings is identified within the description of development.
181. Due to the sensitive location of the appeal site in the verdant, rural landscape setting, conditions relating to the submission of a design code, hard and soft landscape details and management, as well as arboricultural details and assessment are reasonable and necessary. This includes details of boundary treatments and the removal of the existing former factory fence.
182. The appeal site includes a SAM and therefore a condition relating to its investigation and protection is required in the interests of preserving its significance.
183. A condition relating to the submission and implementation of a full travel plan is necessary to provide sustainable transport objectives, giving people a real choice about how they travel. The widening and re-surfacing of the adjacent public footpath is also necessary for the same reason.
184. A condition relating to carbon reduction as an attempt to tackle climate change in accordance with development plan policy²³³ is justified even though its requirements may go beyond the requirements of the Building Regulations.
185. As the appeal site has been in industrial use it is important and reasonable to thoroughly investigate whether there is any contamination and then take appropriate mitigating action. Therefore, a condition to that end is imposed.
186. The management/protection and long-term well-being of the natural elements of the ecology of the development site is important to safeguard for the reasons of amenity and biodiversity.
187. The condition relating to the Construction Management Statement is required in order to protect the amenities of nearby residents and general amenity.
188. Taking into account the topography of the development site it is necessary to include a condition to secure details of the proposed slab/ridge levels.

²³² The 192 unit scheme only includes access for consideration.

²³³ DSAP Policy DM18.

189. A condition relating to the provision and future management of surface water drainage is also necessary to ensure adequate arrangements are in place to respond to local concerns, particularly in relation to flooding and in the interests of environmental impact.
190. A requirement for each dwelling to be connected to a sewer is included in the interests of the local aquatic environment.
191. Details of the road, footways, access, parking and turning are required to ensure the standard of construction; their actual timetabled provision; and their retention for purpose. Details of the means of the stopping up of no longer required road accesses are necessary in the interest of highway safety.
192. Limitations on external lighting are necessary to minimise visual impacts and the character of the countryside. For the same reason and because the concrete slabs are extensive a condition relating to the details of the removal of the slabs is required. Details of refuse and recycling storage are also required in the interests of the amenity of the area.
193. Specific to the 192 unit scheme, in the interests of the amenities of future residents and of the wider Saunderton community, a condition requiring an open space scheme is justified particularly as this smaller scheme is limited in matters for consideration and the appellant company has placed emphasis on the provision of open space in the context of the AONB landscape.
194. The community building in the 192 unit scheme is proffered as a benefit in response to the NP outcomes. A condition to secure size parameters and its provision is not unreasonable in these circumstances.
195. The Council suggested a condition relating to the provision of high speed broadband. Such provision would be welcomed. I noted that the appellant company has confirmed that super-fast services are available via the Princes Risborough exchange. However, these speeds cannot be guaranteed only that high speed broadband is provided by the network infrastructure serving the local area²³⁴. However, it would be unreasonable to restrict the progress of the proposals subject to the provision of something over which the appellant company would have little or no control.

Obligations

196. The appellant company has submitted A signed and completed bilateral S106 agreement²³⁵ relating to the provision and quantum of AH, transfer of the open space to a management company, management of the community building (192 unit scheme only), transfer or adoption of the Sustainable Urban Drainage Scheme, setting up of a management company, submission and agreement of a Highway Works Delivery Plan, education contribution²³⁶ and Travel Plan monitoring fee. The unilateral agreement²³⁷ deals with the payment of the highways and transport contribution.

²³⁴ Hindle proof page 15 para 4.41.

²³⁵ Inquiry Doc 40.

²³⁶ SofCG Education.

²³⁷ Inquiry Doc 39.

197. The Council operates a Community Infrastructure Levy (CIL). The Charging Schedule has been approved. As a result impacts including health and secondary school places would be covered by paying the required CIL charges.
198. A summary schedule of justification of the obligations set out in the unilateral and bilateral agreements was submitted²³⁸. The parties were in agreement that all of these provisions were reasonable and necessary to mitigate the impacts of the proposals. Based on the submitted justification I see no reason to disagree.
199. One point of contention is the Council's requirement that the improvements to the bus shelters should include Real Time Passenger Information equipment (RTPI)²³⁹. The appellant company contends that this is not a policy requirement. There are no multiple services on this route. This equipment is more likely to be more prevalent in urban areas. The County Council do not have a set programme of such up-grades for bus stops in general. This does not amount to a gap in an already established programme of such installations. They view the request as opportunistic on the part of the County Council and have made no provision within the obligation agreements to provide the equipment. The RTPI would offer the benefit of improved passenger security at what are isolated rural bus stops. However, the lack of provision would not warrant withholding planning permission. Had this been part of a recognised initiative on the part of the County Council to up-grade their network of bus-stops to include RTPI, more weight could have been given to the request. This would be a one-off installation at a bus stop located outside a settlement where the benefits would be limited and on the evidence submitted insufficient to justify additional targeted funds over and above those to improve the shelters themselves.

Inspector's Conclusions

200. The following conclusions are based on the submitted evidence, that given at the Inquiry, the written representations made and my inspection of the site and its surroundings. The numbers in square brackets [] denote earlier paragraphs in this report from which these conclusions are drawn.

The submission of the amended scheme

201. Annexe M of The Planning Inspectorate Procedural Guidance Planning Appeals-England (March 2016)²⁴⁰ indicates that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought²⁴¹. It does go on that where, exceptionally, amendments are proposed during the appeals process the Inspector will take account of the Wheatcroft Principles²⁴² when deciding if the proposals can be formally amended.

²³⁸ Inquiry Doc 36.

²³⁹ Inquiry Doc 38.

²⁴⁰ Inquiry Doc 52.

²⁴¹ Annexe M para M.2.1.

²⁴² Bernard Wheatcroft Ltd v SSE.

202. The scheme for 192 units came about as a response to the comments of the Council's Urban Design Officer in the report to the planning committee²⁴³ [28]. I accept that this may have been the first formal comment on the scheme in terms of urban design and place making made by the Council other than the request for further information²⁴⁴. This was obviously frustrating for the appellant company.

203. However, the process of consultation on the resultant proposed appeal amendments was not undertaken until July 2016 [100] as detailed in the Statement of Community Engagement²⁴⁵, only a few months before the commencement of the Inquiry and close to the school summer holidays. This consultation followed on from that relating to the original planning application, the notification and consultation on this appeal, and the consideration of the original scheme by the Council's Planning Committee following the submission of the appeal against non-determination. In addition, work on the NP was also in progress over the period of consideration of the appeal development. This involved residents meetings, parish survey, exhibitions, and the Regulation 14 consultation process. As a result within the Submission NP, Policy 3 specifically relates to the future development of the former Molins factory site²⁴⁶. During preparation of the NP a concept plan²⁴⁷ of the Molins site was part of the NP considered by residents.

204. My overriding concerns as to whether the amended scheme should supersede that originally applied for are twofold. Firstly, whether the amended proposal is significantly different from that which was considered by the Council in coming to a view on the putative reasons for refusal²⁴⁸, and secondly, whether the extent and effect of the amended proposal was likely to be understood by those from whom comment was sought.

205. The essence of the amendments would be to un-fix layout and scale as matters for consideration [25]. This would mean the submitted amended plans²⁴⁹ would inform the proposal but would be essentially for illustrative purposes only²⁵⁰. With only details of access being included in the amended scheme [25], by comparison with the original scheme, a significant element of uncertainty would exist in respect of how the development would sit within its sensitive landscape

²⁴³ 16 December 2015.

²⁴⁴ Article 4 (2) Notice.

²⁴⁵ CD71.

²⁴⁶ Which sets out development parameters for the Molins site, those being the quantum of development which is no greater than the existing development or does not exceed 15000 square metres of gross floor area and comprises a retirement village, residential development, small low-rise business premises and one or more community facility – now modified by the Referendum version of the NP – Inquiry Doc 55.

²⁴⁷ In general, in line with NP Policy 3.

²⁴⁸ Albeit the Planning Committee date was after the appeal against non-determination had been lodged.

²⁴⁹ Development Areas Plan – 1091-108B-CD49, Illustrative Masterplan – 1091-100A-CD50, Storey Heights Parameter Plan – 1091-102-CD52, Landscape Masterplan – A105-LA04 Rev A – CD51.

²⁵⁰ The illustrative plans do show a reduction in the number of dwellings proposed – fewer than 10%, a re-design in the layout, including a reassessment of the landscape/open space strategy, an A1/D1 building, and parking provision has been increased taking into account the Buckinghamshire County Council's (BCC) parking standards [25].

setting²⁵¹. This flies in the face of the Council's request for further design information through the issuing of a notice under Article 4(2) of the Town and Country Planning (Development Management Procedure) Order 2010 (the Notice)²⁵² [106].

206. In addition, the introduction of a mixed use A1/D1 building is a new and distinct part of the development over and above the basic residential development²⁵³. It did not form part of what was considered by the Council²⁵⁴.
207. The appellant company amended the description of development to include the A1/D1 building in the consultation it undertook. However, details on how it would fit in with the proposed development are sketchy and its size, location, design and the split between A1/D1 uses is not clear as the amended plans were for illustrative purposes only²⁵⁵.
208. It is not in the remit of the decision-maker to change the original description of development. However, conditions could be used to adjust dwelling numbers or inclusion of additional elements. Nonetheless, the promoted amended scheme supported by illustrative plans is not the scheme originally considered by the Council and was submitted after the Council's planning meeting.
209. In addition, given the timing and lack of detail, interested parties, including local residents, many of whom would have been likely to be non-planning professionals, may well not have been clear as to what exactly they were being consulted upon, its status and effect. The fact that the Council was not a party to the consultation, with all correspondence in this regard coming from the agent to the appellant company, with responses being requested to be sent to that agent, is likely, in my view, to have caused further confusion.
210. In addition, the stakeholder/residents letter²⁵⁶ highlights the availability of further information in relation to the Environmental Statement. It mentions the appellant's proposal to make minor variations to the appeal resulting in a new description of development but does not explain about the 'unfixing' of details and the implications of so doing. However, the letter then goes on to identify where the further information can be inspected and then invites representation on the further information. The terms of this letter do give me pause for concern as to the extent to which those not familiar with the process might understand what was being asked of them.
211. Further I am conscious of the frequency of consultations being carried out in the locality not just on this proposal, but initially on the AAP and then on the NP. In both cases the appeal site would have been central to such consultations/survey work, crystallising in NP Policy 3, but promoting a different development approach

²⁵¹ AONB/Green Belt.

²⁵² Requesting details of appearance and internal dwelling layouts, as well as typical landscape layout and site lighting.

²⁵³ Albeit that the building is proposed to be no more than 250 square metres, its size is immaterial.

²⁵⁴ Having been submitted after the Planning Committee meeting (Dec 2015).

²⁵⁵ Further details of the community building were set out in the proof of Mr Hindle but not until August 2016 outside of the amendment consultation process.

²⁵⁶ CD71 Appendix A1.

to that of the appeal. At the Inquiry I heard from the Parish Council²⁵⁷ and from a local resident²⁵⁸ that there had been confusion over exactly what residents were being consulted upon, its status and effect. I am not surprised in respect of the perplexity of residents in relation to the changing scheme. It seems to me that the number of consultations carried out in relation to the former Molins factory site would have been likely to evoke not only confusion, but also "consultation fatigue" in terms of responding at each stage.

212. Whilst there were fewer consultation responses [27] both from residents and consultees at the amended plan stage, with some indicating that the changes made little or no difference to the effects of the scheme, I do not see this as a positive in favour of the substitution of the original scheme for the promoted amended scheme.
213. As clarified earlier, whilst the PINS Procedural Guide²⁵⁹ may only be guidance it is clear that the appeal process should not be used to evolve a scheme [98] and it is important that what is considered by the decision-maker is essentially what was considered by the Council, and on which interested people's views were sought [27, 98].
214. The proposed amendment would result in a reduction in the overall number of dwellings on the appeal site, but the effect of accepting the amended plans would be to reduce the amount of firm detail in relation to the proposal in what is a sensitive landscape [25, 99, 100 & 102].
215. Therefore, the fact that the material specific to the proposed change, and the consultation exercise, came directly from the appellant company and not the Council [28], the 'un-fixing' of the matters for consideration would be to change the nature of the application originally considered by the Council, as would be the addition of the A1/D1 building [25], and as non-planning professionals, a possible understandable lack of comprehension of the process by some local residents, are all factors which lead me to the view that I cannot be sure that those consulted on the changed development have not been deprived of that opportunity to comment²⁶⁰ in an appropriate informed way thereby resulting in prejudice [27]. Therefore, for all of these reasons I recommend that this appeal is considered on the basis of the original scheme submitted as detailed at paragraph 19 above. However, within the commentary that follows, I shall deal with the reduced scheme of 192 dwellings in case the SofS considers otherwise²⁶¹.

Previously Developed Land

216. It is an agreed position that the part of the appeal site occupied by buildings and hardstanding is PDL²⁶². The matter in dispute is whether the surrounding land between the concrete bases of the demolished factory buildings and the old factory fence within the eastern part of the site can also be considered to be part of the

²⁵⁷ Mr Breese.

²⁵⁸ Mr Martin.

²⁵⁹ Inquiry Doc 52.

²⁶⁰ Taking into account the terms of the 'Wheatcroft' judgement.

²⁶¹ Both schemes will be dealt with together unless specific points apply when they will be highlighted.

²⁶² SofCG Gen para 5.2 – CD110.

curtilage of the developed land and thus also classified as PDL. At the site visit I had the benefit of walking across the eastern, southern and western parts of the appeal site and observing them at close quarters as well as at a distance from both within and without the site boundaries. I saw that these areas had grown over and appeared unkempt. However, the concrete ramps along the western boundary, vents/manhole covers within the area to the east, the gated access from the north-east corner of the site from Haw Lane, and the strong definition and physical and visual containment of the old factory fence, which is industrial in nature and discernible around the site, are all features which define what appears, at first glance, to be rough grassland as part of the wider site of industrial hardstandings, buildings and associated infrastructure [36, 45, 46]. The site was visited in late summer/early autumn. I have given weight to the fact that any overgrowth would diminish in the winter period. In my view the site has yet to blend into the landscape in the process of time. Therefore, it is reasonable to consider the whole of the red-lined appeal site area²⁶³ as being PDL with the disputed area being within the curtilage of the developed land [45, 46, 150 & 151]. I appreciate that the view of the NP Examiner runs-counter to this conclusion. However, in paragraph 5.18 of his Report (Inquiry Doc 53) he states that his assessment was based on what he could see without going onto the site. I had the benefit of directly viewing and experiencing the land in the eastern section of the site during the site visit. The view I have come to is based on a detailed on-site inspection and wider assessment of the site in the landscape.

217. The Council is concerned about how much of the proposed built development would extend onto this disputed area, so beyond the area of hardstandings. The definition of PDL²⁶⁴ does state that it should not be assumed that the whole of the curtilage should be developed [151]. I shall return to this matter later in the report.

The relevance of the fall-back

218. The appellant company has presented the data centre permission as a feasible fall-back which should be considered in respect of its impact on the Green Belt measured against that of the appeal proposals [89].

219. The Courts have held that the fall-back does not have to be probable, or even have a high chance of occurring. Rather, in order to be a material consideration, a fall-back only has to be more than a merely theoretical prospect [55, 109]. While the likelihood of the fall-back occurring may affect the weight to be attached to it, that does not affect its status as a material planning consideration. Even where the possibility of the fall-back position happening is very slight indeed, or merely an outside chance, that is sufficient to make the position a material consideration. The fall-back position promoted by the appellant company is a material consideration to be taken into account.

220. It is an agreed position that the planning permission for the data centre (08/05740²⁶⁵) has been implemented by virtue of the demolition of the factory buildings²⁶⁶. The issue between the parties goes to whether there is a reasonable

²⁶³ See CD48B.

²⁶⁴ Annex 2 Framework.

²⁶⁵ CDs114-118.

²⁶⁶ SofCG General para 3.2.

prospect of the permitted and implemented data centre being built out and occupied. It must be more than a merely theoretical prospect. This conclusion is central to the weight that can be attached to the 'fall-back' position ie the impacts of the data centre verses a residential development.

221. The owners of Molins at the time the data centre permission was granted was E-shelter, a well-known and long established data centre developer, who acquired the land in 2008. The permission was granted that same year (Nov 2008). Work commenced but was halted after most of the buildings were demolished.

222. The Planning Statement that accompanied the original planning application for 212 units²⁶⁷ explained that, even following an exhaustive marketing process, a data centre occupier did not come forward [52, 110]. The marketing agent at the time also advised that although the cost of providing a power supply was a significant factor, there was no serious interest in the site because of its location. No proper negotiations with any party were undertaken throughout the entire marketing of the property, it being considered too distant from the concentration of financial services customers in London. At that time, the market for data centres was for the financial services sector and large banks as tenants. On this basis the position of the appellant company (January 2015) was that there was no demand in the market to support a project of the scale permitted and that the site was no longer suitable for employment generating uses [110]. In 2013/2014 E-shelter sold off part of their interest in the site to the appellant company to pursue residential development in preference to the data centre development, there being no market demand [51, 112].

223. As part of the appeal process the appellant company instructed Mr Jay to assess the data centre market evidence in the context of the appeal site and the extant permission [50, 111].

224. As a result the appellant company has shifted to a position that the data centre is feasible at the appeal site and there is a realistic possibility that a data centre could be built out on the site in the medium term of 5-10 years [49, 50 & 52].

225. This is based on the following factors²⁶⁸:

- The type of organisations acquiring large data centre space are now no longer the financial services and banks, but Cloud Service Providers such as Microsoft, Amazon and Google [49]. These organisations choose to co-locate in third-party facilities and also build large 'built-to-suit' facilities across Europe. One of the aforementioned companies is looking for a large site to develop for data centre use and subject to the provisioning works being completed, the site would be given due consideration;
- There is an increasing lack of large powered plots to build data centre facilities in London and the South-East to deal with the requirements of the Cloud Service Providers. This will become more restricted in the coming years;

²⁶⁷ CD13 para 4.2.2-4.2.13.

²⁶⁸ All within the evidence of Mr Jay (both oral and written).

- The appeal site is some 55 kilometres from the City of London, on the edge of the London Market. In the future with technology improvements data centres may be located at this distance and beyond from London;
- At the present time the appeal site does not have a level of power supply required to supply the data centre use. However, it is still considered a viable solution to provide a direct connection in respect of the power supply²⁶⁹. However, it is acknowledged that power security in the UK will be more challenging in the years to come.

226. Mr Jay's evidence was that Molins would be in a competitive position to win a Cloud provider as a likely second site outside of what would conventionally be considered as London²⁷⁰. However, this was subject to the provisioning works being completed. No evidence on the actual viability of building the data centre was provided [111]. The costing in 2008 would have moved on, as would the cost of providing the power supply. It is not as easy as adding a 10% uplift²⁷¹. Without a reasoned, evidenced assessment of costings of construction etc it would be difficult to pitch the appeal site to potential users. Mr Jay confirmed he had not actively marketed the appeal site in recent times [111].

227. His assessment that there may be a demand for data centre space further out from London in the next 5-10 years was based on his knowledge of the current market and his appraisal of future trends. He did not promote the position that the extant permission would be implemented any time soon [49]. Future trends would not in themselves secure an end user for a data centre at Molins. Even in a built-to-suit scenario the viability of the scheme would need to be established.

228. The data centre market has clearly been in flux with E-shelter selling the site out of the data centre market in 2013/2014 [51, 112] and the appellant company still promoting the position that there was no demand in the market in January 2015 [110, 111]. The shift in demand to Cloud Providers in recent times has opened up a new market to data centre sites. The movement further out of London as demand increases also seems logical, although Mr Jay did qualify this highlighting a dependency on technology. However, such markets would also be susceptible to economic change both nationally and internationally, factors which may be currently difficult to predict.

229. In these circumstances, without the reassurance that the data centre scheme at Molins is viable and, in the absence of a recent marketing campaign, the assessment of the future for Molins in the data centre market lacking fact-specific evidence is based on assumption which gives me little reassurance that the scheme would come forward in the next 5-10 years. In the meantime the appeal site would remain undeveloped with no certainty for its future.

230. However, even in the face of such pessimism I cannot be sure that there would be no possibility that the extant permission would be implemented at some time in the future²⁷². That said taking all these matters into consideration I can

²⁶⁹ Current preliminary budget costs with a 10% uplift from the 2008 costs = £45.015.907.00 – Section 2.3.2 of Appendix C to Jay proof.

²⁷⁰ Patel proof para 4.14-4.15.

²⁷¹ Appellant company's position.

²⁷² See paragraph 21 of *Samuel Smith Ltd v SSCLG* [2009] EWCA Civ 333 (CD126).

give only limited weight to the effect of the data centre compared to that of the appeal proposals as a material consideration in the planning balance.

231. However, in the instance that the SofS does not agree with me on this point I have considered the impact of the data centre buildings on the Green Belt measured against that of the appeal proposals below [255, 270-273].

Green Belt

232. As already established the appeal site lies within the Green Belt. So put simply, the main issue to be considered in this case is whether the proposal represents an inappropriate form of development in the Green Belt and, if so, whether there are any other considerations sufficient to clearly outweigh the harm by reason of inappropriateness, and any other harm, by which Very Special Circumstances would exist²⁷³.

233. The Framework notes at paragraph 87 that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in Very Special Circumstances. Framework paragraph 88 is clear that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Framework paragraph 89 also sets out that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt subject to certain exceptions which include the partial or complete redevelopment of PDL, whether redundant or in continuing use which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

234. The appeal development comprises a maximum number of dwellings of 212²⁷⁴. On the face of it the impact of the proposed development on the Green Belt in paragraph 89 terms would be considered against the impact of the existing development on the site. In this case this would include the frontage office building, security hut, ballroom and the expanse of hardstanding and associated infrastructure. The existing buildings are concentrated on the Haw Lane frontage of the site. Whilst the hardstandings and ramped areas are industrial in their character and visually obvious in wider views, in general most of the appeal site is perceived as being largely free of substantive above ground development.

235. Clearly the extent of the proposed development would have a greater impact on openness²⁷⁵ than the existing development [87]. The appellant accepts this point²⁷⁶ and has calculated it on the basis of footprint and volume of the proposed buildings compared to what exists on site [116]. However, impact on openness is a judgement not just regarding a quantitative assessment; it also has a spatial aspect as well as a visual aspect.

236. The number of dwellings in either scheme is significant and along with the supporting road layout, parking areas and associated infrastructure the appeal proposals would introduce an urban character of built form which would present a significant greater spread of development across the site than currently exists.

²⁷³ Paras 87 & 88 of the Framework.

²⁷⁴ Amended scheme would be a maximum of 192 and a mixed A1/D1 use building.

²⁷⁵ Commonly taken to be the absence of buildings.

²⁷⁶ Patel proof para 4.3.

237. The fundamental aim of the Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
238. In respect of the impact on the purposes of the Green Belt, at the scale proposed²⁷⁷ the development would be identified as an urban form increasing the sprawl of such built-up development across the site in the context of the wider open Green Belt setting. Encroachment on the countryside is not just about a physical presence. The visual impact of the sprawling development would impinge on the character and nature of the Green Belt significantly diminishing the quality of its openness.
239. It is reasonable in this quiet rural setting to also take into account that at night time development of the scale proposed would result in a change to the generally dark character of the valley bottom where openness can be appreciated by the dark unlit spaces within the landscape. Whilst valley-side villages are identifiable as clusters of light in the night time landscape, the concentration of up to 212 dwellings²⁷⁸ would present a significant peppering of light sources across the site which, even with the use of sympathetic light technology, would add to the change in the character and nature of the Green Belt.
240. I have also taken into account that submitted illustrative masterplans²⁷⁹ for both schemes show the intention of providing a generous landscape belt along the eastern boundary of the appeal site as well as the landscaping of the cliff high points²⁸⁰. However, whilst offering some transition between the proposed built development and the surrounding open Green Belt it would not diminish the impact of the proposals on openness and on the identified purposes of the Green Belt.
241. Therefore, albeit that the appeal proposal would comprise the redevelopment of PDL, and would have the benefit to the visual amenity of the Green Belt of removing extensive hardstanding areas, the construction of the new buildings would have a greater impact on the openness of the Green Belt and the purpose of including land within it²⁸¹ than the existing development. This identified harm to the Green Belt should be given substantial weight in the balance of this decision. Consequently, the appeal proposal is inappropriate development in the Green Belt and it should not be approved except in Very Special Circumstances [86].

Any other harm

- *Chiltern AONB/Design*²⁸²

242. Great weight should be given to conserving landscape and scenic beauty in, amongst other places, AONBs, which have the highest status of protection in relation to landscape and scenic beauty²⁸³. In addition, paragraph 109 of the

²⁷⁷ These comments apply equally to the scheme for 212 as to the scheme for 192.

²⁷⁸ Including the 192 scheme.

²⁷⁹ CD36 & CD50.

²⁸⁰ The scheme for 212 dwellings does show dwellings on the rising ramped area along the western boundary which would have some visual prominence.

²⁸¹ As set out above.

²⁸² Environmental role.

²⁸³ Framework para 115.

Framework seeks to protect and enhance valued landscapes of which the Chiltern AONB is one²⁸⁴.

243. The appeal development represents major development within the AONB²⁸⁵. As such paragraph 116 of the Framework sets out that planning permission should be refused in such designated areas except in exceptional circumstances and where it can be demonstrated it is in the public interest. WLP Policy L1 similarly reflects the themes of the Framework in this regard and is recognised as being consistent with it²⁸⁶. The CBDG²⁸⁷ and the Chilterns Management Plan (CMP)²⁸⁸, when read together, sets out detailed guidance and policy within the AONB and how proposals should be assessed against them.
244. The countryside of the Chilterns is a patchwork of mixed agriculture with woodland, hedgerow enclosed fields and adjoined by villages, hamlets and scattered buildings. Branching valleys are a particular feature accommodating nucleated settlements, as well as major routes.
245. Saunderton and its environs falls within the landscape character area of the Wye Chalk River Valley²⁸⁹. The topography of the area is that of a central valley with ridges to the east and west where the nearby villages of Bledlow Ridge, Walter's Hill and Lacey Green hug the valley slopes. The broad dry chalk valley accommodates the railway and A4010 along with Saunderton itself. Woodland is located on higher ground, particularly along the ridges. Settlement is dispersed tending to be more linear in nature along with isolated farmsteads.
246. The vision of the LCA for the Wye valley is that the character as a chalk valley should be conserved and enhanced, as should the extensive views along the valley and from the valley slopes.
247. The old Molins factory site is a historic throw-back to a different industrial age. The exposed hardstandings, ramps, concrete paths and roadways on flat terraced areas with interconnecting ramps and retaining walls, along with the remaining frontage buildings are all prominent in the landscape, presenting stark, urban features, which whilst an expression of the areas industrial past, nonetheless blight the pastoral rural character of the area. The lack of trees and mature planting within the main expanse of the site only serves to accentuate the jarring presence of the almost entirely cleared old industrial site.
248. Having considered the character of the wider AONB and the more local character area it is clear that in Landscape Value Impact Assessment terms the sensitivity²⁹⁰ of the landscape is high.
249. The appeal proposal would essentially result in the disused and derelict industrial site changing to an estate of houses and flats.

²⁸⁴ Patel proof para 3.16.

²⁸⁵ SofCG (Gen) CD110.

²⁸⁶ Patel proof para 3.54.

²⁸⁷ CD77 – has been the subject of consultation and formal adoption by the Council.

²⁸⁸ CD82.

²⁸⁹ Wycombe District Landscape Character Assessment (LCA) – CD83.

²⁹⁰ Combination of susceptibility to change and value.

250. The scheme for 212 units includes details of layout, storey heights and parking parameters [19]. The layout in the main is relatively compact but, rather than being restricted by raising valley sides, it follows the footprint of the permitted data centre buildings [75, 77, 123], although this is not dissimilar from that of the concrete areas and hardstanding of the original factory. A green frontage space adjacent to Haw Lane, which essentially would accommodate the SAM, is promoted as being a village green. However, this is clearly peripheral to the main expanse of the development with buildings grouped around a layout which can at best be described as suburban and lacks an obvious centre to the village.
251. The scheme benefits from proposed landscaped areas to the south, east and west incorporating existing trees. This would certainly reinforce and reflect existing woodland elements in the close landscape. The rise of the valley sides, the railway embankment and the south-western corner cut-in does, to some degree, serve to restrict views, some being localised, although from along Footpath BSC48/1, which runs alongside the eastern boundary of the appeal site, views into the new development would be at best glimpsed through existing trees and hedging and at worst unrestricted where vegetation peters out. However from the far north (Combined Appendix APP/10/C (CA) Fig 5.15 Viewpoint 5), the closer north (CA Fig 5.3 Viewpoint 1(Footpath BSC48/1)), the south-west (CA Fig 5.6 Viewpoint 2(Footpath BSC49/4)) and north-east (CA Fig 5.12 Viewpoint 4) the significant concentration and spread of the new housing across the appeal site would be obvious and prominent in the landscape. Associated street lighting and the activity generated by the future residents of 212 units would only emphasize the conspicuous nature of the development in the landscape.
252. The scheme for 192 units does not include layout or any other matters for consideration at this stage other than access [25]. As such the illustrative plans showing a layout and parking analysis are just that illustrative [25]. The plans merely show how it might be possible to accommodate a development of the scale proposed on the appeal site. The illustrative layout does show a central village green, a more serpentine road layout²⁹¹ and the potential for a greater degree of landscaping²⁹². There is a slight proposed insurgence of development to the east beyond the hardsurfaced/data centre footprint on the illustrative layout. This is not particularly offensive as it would be relatively minor and could add some interest in the juxtapositioning of buildings.
253. That said, on detailed analysis of the layout there are issues around parking, the practicality of its distribution and of the road design to facilitate ease of access and road safety and of the relationship of buildings in respect of residential amenity. These are matters which would need to be re-considered in any re-design exercise and equally apply to the scheme for 212 units. However, such inadequacies do add weight to the identified concerns that a development of the size proposed (whether 212 or 192 units) contained within a relatively tight footprint, with a layout more akin to development in more urban localities, would

²⁹¹ Than the scheme for 212.

²⁹² The illustrative nature of the proposed scheme for 192 units, with only access to be considered, in such a nationally important landscape does not provide sufficient reassurance that a suitably sympathetic development could be accommodated on the appeal site taking into account and respecting the local characteristics of the Chilterns.

not be sensitive to the character of the Chilterns nor become part of the landscape.

254. The appeal site's isolation from Saunderton village would go to emphasize the presence of the new housing in the landscape, although sporadic settlements are not uncommon, but a concentration of residential development of the nature proposed would be wholly out of character with the more widely spread linear nature of the settlements in the vicinity which are more organic in their settlement pattern having evolved over time [129, 162]. From the scale of the proposals the development would effectively appear as a new settlement in the landscape.
255. If the data centre is accepted as being a fall-back to the appeal proposal then it is reasonable to assess the identified harm of the residential schemes in the landscape against that of the data centre buildings. In any such assessment it must be borne in mind that the data centre buildings were appraised against the old Molins Factory Buildings²⁹³. The data centre included a number of mitigating measures to address impacts upon the local landscape character and visual amenity. These included the significant reduction in site levels across the site, with the position and height of the data centre buildings broadly matching that of the old factory. An industrial shed design was adopted using natural materials and green roofs [80, 130]. The pasture landscape at roof level would reflect adjoining countryside. The timber cladding would reflect the language of farm buildings. Lighting would be minimised with detailed design seeking to limit light pollution. The landscape approach was to create and re-inforce local habitats and minimise visual impacts, while also providing a landscape setting to the buildings within the site.
256. The data centre buildings were accepted by the Council at the time as, whilst an alien form of development in the countryside, being a significant improvement on the existing factory site in the context of the mitigating measures [161, 162].
257. The data centre buildings would be very prominent in localised views close to the site. They would appear as four large sheds set close together which would go beyond the appearance of agricultural buildings. However, the use of natural materials, the green roofs mimicking the grassland and pasture of the wider countryside setting and the setting of the buildings down into the site would assist in absorbing the buildings, to some extent, into the landscape when viewed from the wider countryside.
258. Therefore, whilst the decision on the data centre buildings was taken in a different set of circumstances to now, we are where we are. Taking the design and mitigating measures into account the data centre, if ever built, would present a more discrete and respectful development of the character and appearance of the surrounding countryside and AONB than the proposed residential development [130, 161].
259. Therefore, overall the scheme for 212 units, or the lesser number of 192 units, would not respect its local context and cannot fail but to seriously harm the sensitive character and appearance of the countryside setting and the special qualities of the Chiltern AONB. It would fail to establish a strong sense of place, being unresponsive to local character, would not integrate successfully into the

²⁹³ Which were still in situ at the time the data centre proposal was permitted.

natural and built environment and would not take the opportunity to improve the character and quality of the area (notwithstanding the removal of the large areas of old factory hard surfacing)²⁹⁴. In this way guidance on settlement character set out within the CBDG would be compromised²⁹⁵. However, as already highlighted paragraph 116 of the Framework does identify that major development can be permitted in exceptional circumstances and where it can be demonstrated they are in the public interest. This matter will be returned to in the overall balancing of this decision.

- *Location*²⁹⁶

260. Paragraph 29 of the Framework states that the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel.

261. The appeal site is isolated to the north of the village of Saunderton which in any event has little in terms of services and amenities. However, the village does have a main line railway station with regular services running through to London Marylebone. These run on average approximate one per hour in both directions. Local services to Princes Risborough, High Wycombe and Aylesbury also run.

262. The station is some 1.5 kilometres from the appeal site [138]. Walking certainly is the most important mode of travel at local level offering the greatest potential to replace short car trips to Saunderton. The future residents of the appeal development could walk to the station, the journey taking some 15-20 mins or so depending on your walking speed [69]. In day light improved pavements along Haw Lane would encourage usage. However, for much of the walk one would be beside the A4010 with cars and lorries whizzing past at speed. On a dry day in the sunshine this would not be unpleasant, but in the wet, particularly when actually raining, this would not make for an especially agreeable walk to the station. The lack of lighting for much of the route would also serve as a discouragement from usage particularly late in the evening and in the winter months.

263. It is possible to walk along unmade, in places somewhat overgrown, and, no doubt, muddy public footpaths in inclement weather, across fields and along Slough Lane between the appeal site and the station. However, the route is somewhat tortuous, unlit and unlikely for much of the year to be suitable for suited and booted commuters. It does not strike me as a practical alternative route to the station.

264. Cycling to the station would be a quicker option and with the cycleway along the A4010 it is to be encouraged [69]. The increased cycle stands at the station also facilitates such a mode of transport.

265. The north and southbound bus stops are located on either side of the A4010. They are within reasonable walking distance of the appeal site and the proposed improvements to the pavement along Haw Lane, the bus stops and the addition of pedestrian refuge islands within the A4010 would improve access for future

²⁹⁴ Paras 58, 61 & 64 of the Framework.

²⁹⁵ As would WLP Policy L1.

²⁹⁶ Environmental role.

residents and others to bus services. There are a number of bus routes which include the stops close to Haw Lane. In the main, there is a bus serving the stops every two hours from about 7:30 (first bus out) with the last bus back being around 18:00. This would mean for an evening out the bus service could not be relied upon. Further the service available is only Monday to Friday and there is no service at weekends. These factors reduce the weight to be given to ready accessibility to bus services but are no different for anyone else living in Saunderton or the rural surroundings.

266. I am aware that Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas²⁹⁷. However, it seems to me that in the circumstances of the appeal site with its limitations on access to non-car modes of travel, that for the future residents of the proposed development the private car would be the predominant means of transport [134].
267. However, I am conscious that the data centre use was permitted with the limitations of the public transport system and access to it being known. I appreciate this would have been measured against the old factory operation when many of the workers were bused in from surrounding towns, it being of another age in terms of car ownership and usage.
268. The NP also identifies that the redevelopment of the site for a mix of uses such as residential, retirement housing, small scale business units and community facilities would be welcome²⁹⁸ [165]. This would generate some traffic and for the reasons set out above this would similarly be likely to rely on the use of the private car/vehicle for personal and business transport needs. I have no idea whether generated traffic flows from such development might compare with the appeal proposal but the fact that such development is being promoted is in my mind an acceptance that whatever limited access there is to modes of transport other than the private car it is accepted as being adequate in the circumstances of this rural area.
269. Therefore, the appeal proposal does run counter to the terms of Buckinghamshire's Local Transport Plan 4²⁹⁹ and CS Policies CS 19 and CS 20 which support the terms of paragraph 29 of the Framework in seeking to improve our environment by encouraging more sustainable travel choices. However, taking into account that this site is PDL within a rural area, along with the previous and extant uses of the site, as well as the wishes of the community expressed through the NP³⁰⁰, and the willingness of the appellant company to adopt, promote and fund an appropriate travel plan for the development³⁰¹, harm by reason of conflict with planning policy is reduced.

²⁹⁷ Para 29 of the Framework.

²⁹⁸ Inquiry Doc 55 para 5.40.

²⁹⁹ CD86.

³⁰⁰ In an advanced stage of formulation.

³⁰¹ Annex A condition 32, Annex B condition 33 both to this report, Inquiry Doc 40, CD17/CD70.

Other considerations

- In the circumstances the fall-back is accepted

270. For significant weight to be afforded to a fall-back position, there needs not only to be likely prospect of it being carried out in the event that planning permission was refused, but it would also need to be equally or more harmful than the scheme for which permission is sought [55]. The appellant company has presented the data centre permission as a feasible fall-back which should be considered in respect of its impact on the Green Belt measured against that of the appeal proposals [90]. I have already indicated above that I am not convinced that the data centre is, necessarily, a viable alternative to the proposed development [110, 229]. However, in the instance that the SofS does not agree with me on this point I have considered the impact of the data centre buildings on the Green Belt measured against that of the appeal proposals.

271. The permitted data centre buildings³⁰², when considered by the Council in 2008 were assessed in respect of their impact in the circumstances that the existing buildings of the old factory still stood at that time. The impact of the data centre buildings would have been assessed against the impact of the then standing factory buildings. These old factory buildings have now been demolished [46]. The permitted data centre buildings would be four large, expansive, bulky, square, uniform in nature structures. The use of green meadow roofs and wooden lattice cladding design would be an advantage, particularly when viewed from distant elevated positions having the potential to mirror characteristics of meadowland which prevails in the immediate area. Such design devices would also assist in seeking to minimise the perception of the scale of the proposal. However, notwithstanding these design mitigations, by the very nature of the buildings full integration would be impossible within the landscape, and the buildings would remain recognisable as large structures in the landscape emphasised by associated car parking and external lighting, as well as the movements of employees and visitors to the complex.

272. The appellant company's quantitative assessment of the data centre verses the appeal proposals is set out at the table at para 4.20 of Mr Patel's proof. It shows purely on the basis of comparative footprint, area, volume and height that the appeal proposals would represent less built form than the data centre in the Green Belt. In qualitative terms both residential proposals would present a varied roofscape, with permeating open spaces between buildings, along streetscapes and through landscaped areas. There would be some visual permeability which the large scale of the data centre scheme lacks. In addition, it is acknowledged that the data centre scheme would require considerable earth moving within the site to lower ground levels whilst the appeal proposal would, in the main, work with existing ground levels.

273. The data centre buildings would have a greater impact on the openness of the Green Belt than the residential development proposed. However, taking into account the likelihood of the data centre being implemented and the extent of the impact of the appeal proposal on the Green Belt already established above, I do not consider this comparison changes the weighting in the balance of the decision in respect of Green Belt harm caused by the appeal proposal.

³⁰² CD114 – CD118.

- *The principle of residential development*

274. The NP identified both in its initial stages³⁰³ and in the more recent Draft for Referendum³⁰⁴ that the redevelopment of the site could include, amongst other things, residential development. The NP has now reached an advanced stage in its journey to being made but is still not quite there. On that basis it is reasonable to take account of the NP as a material consideration and to afford it some weight.

275. When the planning application, the subject of this appeal for 212 units, was determined, it was clear that the Council had no objection in principle to the redevelopment of the appeal site for residential purposes on the basis that the appeal site was no longer a site of realistic employment use which would generate jobs³⁰⁵ [23, 107].

276. However, over the life of this appeal the appellant company has changed this promoted position to one which suggests that there may be more than a theoretical possibility of the permitted data centre use being implemented (a fall-back³⁰⁶) [52]. This change in stance is considered below as a material consideration. But the effect of that shift in position is that the Council then identified a conflict with CS Policy CS 11, DSAP Policy DM5 and WLP GB9 dealing with the retention of employment sites, unless it can be demonstrated that the employment re-use of the site is no longer practicable [110].

- *Jobs*³⁰⁷

277. If the appellant company's position that there is a strong likelihood that the site could be developed as a data centre in years to come [49, 50, 52] is correct then it is necessary to consider whether the site remains of value in respect of provision of employment. The data centre, once fully operational, would provide in the order of 80 jobs³⁰⁸ which would be a significant level of employment in the District supporting economic growth³⁰⁹. Short-term construction jobs would also result [56].

278. Therefore, on the face of it, there would be a conflict with development plan policy were the data centre scheme, as a likely employment development of the appeal site, to be set aside in favour of the residential proposals.

279. However, the viability of the data centre scheme has not been established nor has a potential end user been identified. The evidence that the data centre could be built out in the future is assumptive and unconvincing. Even if it did come to fruition this would not be in immediate times but in the medium to long term³¹⁰ [49, 50, 52].

³⁰³ Inquiry Doc 6 page 31 Policy 3.

³⁰⁴ Inquiry Doc 55 page 31 para 5.40.

³⁰⁵ The promoted position of the appellant company at that time.

³⁰⁶ Something else which can be done with the land/premises without the need for planning permission.

³⁰⁷ Economic role.

³⁰⁸ SofCG General para 5.6.

³⁰⁹ Paras 18 & 19 of the Framework.

³¹⁰ 5-10 years.

280. However, were the residential development to go ahead, it would generate economic activity in the construction process and the stimulation of the local economy. Many of the future residents of the scheme would be economically active. Some of the future additional household expenditure generated would be retained in the District as well as in the local area and Parish. This should carry some degree of weight in favour.

281. Therefore, for these reasons the weight to be given to any harm by reason of a conflict with development plan policy in this regard can be greatly reduced in the overall balance of the decision.

- *Housing*³¹¹

282. The Council accept that the adopted CS housing requirement and relevant housing policies, being based on the revoked South East Plan and adopted prior to the publishing of the Framework, are out-of-date³¹² [23]. Guidance suggests that where evidence in Local Plans has become outdated and policies in emerging plans are not yet capable of carrying sufficient weight, information provided in the latest full assessment of housing needs should be considered. But the weight given to these assessments should take account of the fact that they have not been tested or moderated against relevant constraints.

283. The Council agree with the appellant company that based on the FOAN³¹³ they cannot demonstrate a 5YHLS. Therefore, following the issuing of appeal decision APP/K0425/W/15/3018514 – Land off Barn Road, Longwick³¹⁴ the Council promotes a HLS of 3.74 years based on the FOAN [23].

284. The Council suggest that the identified FOAN and the HLS should be considered in the context of a still emerging LP with broadly 2/3rds of the District's housing need being delivered within the District whilst work is on-going with Aylesbury Vale District Council (AVDC) through the Duty to Co-operate to accommodate the remaining unmet need³¹⁵ [43]. The ability of AVDC to accommodate some or all of the unmet needs of Wycombe is unclear³¹⁶. In any event the emerging housing supply policy, including any constraining allowance, within the emerging LP will need to be tested through consultation and examination as part of the LP process³¹⁷ and I acknowledge that the FOAN may not be the final housing requirement.

³¹¹ Social with cross over to economic role.

³¹² CD112 – SofCG Regarding Housing Land Supply – August 2016 – Para 1.

³¹³ 15,100 for Wycombe District in the period 2013-2033 (Buckinghamshire Housing and Economic Development Needs Assessment 2015 (January 2016)(HEDNA)) – CD107A.

³¹⁴ CD123.

³¹⁵ The draft New Wycombe District Local Plan suggests a housing requirement of 10,000 compared with the FOAN of 15,100 (CD104, para 4.33). This reduced figure is due to the constraining effect of the Green Belt and the AONB designations but remains untested.

³¹⁶ I am aware of the Memorandum of Understanding between Wycombe District Council and AVDC, amongst others, in respect of defining the Buckinghamshire Strategic Housing Market Area/Functional Economic Market Area – Appendix to SofCG Regarding Housing Land Supply – CD112 but this is not a categoric undertaking to accommodate Wycombe's unmet need. The Vale of Aylesbury Local Plan is still progressing through the process of consultation and examination. Nonetheless, these matters are by no means final or resolved.

³¹⁷ Para 182 of the Framework.

285. The Council is also being proactive in seeking to address the acknowledged shortfall by releasing CS reserve sites and working with site owners and developers to positively bring forward development sites [143].
286. Nonetheless, in these circumstances of uncertainty, with the agreed HLS of 3.74 years the shortfall is significant.
287. With the Council unable to demonstrate the required provision of 5YHLS the relevant policies for the supply of housing, at face value, in the terms of paragraph 49 of the Framework should not consequently be considered up-to-date. Further, that policy application has not resulted in the supply of five years of deliverable housing in accordance with the objectives of paragraph 47 of the Framework³¹⁸. Whilst a lack of a 5YHLS of deliverable housing land does not provide an automatic 'green light' to planning permission, a balance must be struck. The deficiency in land supply is the trigger for the operation of the tilted balance in paragraph 14 of the Framework and would carry substantial weight in that balancing exercise.
288. However, I am conscious that in considering the weight to be ascribed to this deficiency, guidance says unmet need on its own is unlikely to be sufficient to represent the Very Special Circumstances necessary to justify inappropriate development in the Green Belt³¹⁹.
- *Affordable housing*³²⁰
289. Within the HEDNA a need for some 3400 additional new affordable homes is identified over the plan period of 2013-2033. CS Policy CS 13 sets out that subject to the physical circumstances of the site and market conditions, on sites last used for business or similar sui generis employment generating uses, at least 40% of total bed spaces within new developments will be sought as affordable³²¹.
290. It is the agreed position of the parties following a review and update of viability evidence that both schemes (212 & 192) are viable and can comply with the requirements of CS Policy CS 13 in respect of the provision of AH [23]. The terms of the bilateral agreement³²² serves to address delivery and, as a result, the Council did not defend putative reason for refusal 8³²³ [105]. Having reviewed the evidence in this regard I have no reason to disagree. The identified need for AH is considerable and the proposal's compliance with policy is a clear benefit which must be given considerable weight in the overall balance of the decision.
291. In addition, the mix of housing types would go some way to producing a balanced community in respect of accommodating different ages and family types [59]. The NP recognises a range of accommodation types to meet the needs of all of the Community as an aspiration.
- *Heritage*³²⁴

³¹⁸ Boosting the supply of housing - *Suffolk Coastal DC V Hopkins Homes and others* [2017] UKSC 37.

³¹⁹ Reference ID: 3-034-20141006

³²⁰ Social role.

³²¹ Bedspaces is defined in the Wycombe District Planning Obligations SPD – CD71E.

³²² Inquiry Doc 40.

³²³ SofCG General – CD110.

³²⁴ Environmental role.

292. Paragraph 132 of the Framework makes clear that great weight should be given to the conservation of designated heritage assets. SAMs are considered of the highest significance and substantial harm to or loss of such assets should be wholly exceptional. A Bronze Age barrow cemetery, a SAM, lies partly within the development site³²⁵ and partly north of the site, where three bowl barrows and a bell barrow lie between 80 and 400 metres from the site boundary. The cemetery forms part of a longer alignment of barrows which extends across the valley from Saunderton Station. The significance of the barrow cemetery is principally evidential³²⁶.
293. In the case of the most southerly barrow within the group, being that within the development site, the evidential value has been reduced through the loss of at least part of the barrow to the construction of the existing frontage office building. It is uncertain how much of the barrow still exists below ground [153]. However, it is proposed to demolish the office building and open out the setting of the barrow by means of an open, landscaped space [64]. This would be beneficial to its significance, re-instating the barrow space within the landscape and within the wider alignment of barrows [153]. English Heritage is not opposed to the proposal³²⁷ subject to the imposition of a condition which secures a better understanding of the survival of the SAM and secures its protection and appropriate landscaping³²⁸. In addition, I am mindful that any works to the SAM would require scheduled monument consent from the SofS. The recovery of the SAM from beneath the office building and the establishment on an open landscape setting for the heritage asset would be an important public benefit of great weight³²⁹.
294. To the north of the appeal site is Grange Farmhouse and stables. Both are Grade II listed buildings. The significance of these buildings is their association with one another as 17th and 18th century buildings as part of a farmstead, as well as their appropriate pastoral setting within open fields. The listed buildings lie beyond the partially embanked railway line from the appeal site. With intervening trees and the undulation of the topography, the appeal proposal would not essentially be experienced as part of the wider surroundings of the heritage assets. In this way the proposed development would have only a neutral impact on the setting and significance of the listed buildings.
295. For the same reasons this equally applies to Bradenham Manor which is set at a distance to the south of the appeal site beyond the village of Saunderton, the railway line and the A4010.
296. Paragraph 115 of the Framework does identify cultural heritage as being an important consideration in such areas. The Ballroom building has been mentioned as being of merit. It is a building with some features of interest but is of its time (1950s) and is essentially a rather dilapidated expression of the past activity, labour and recreation of those who worked in the factory buildings. Its particular design merits are noteworthy but not of sufficient importance to warrant the

³²⁵ Bowl barrow.

³²⁶ May contain evidence of funerary practice, together with artefactual and environmental evidence.

³²⁷ 212 units.

³²⁸ Annex A Condition 14 & Annex B Condition 14.

³²⁹ This equally applies to both schemes (212 & 192).

specific protection of the building, nor of limiting the development of the appeal site by its retention.

297. Therefore, the appeal proposals would not cause harm to the conservation of heritage assets, positively enhancing that relating to the SAM by reason of the improvement to its setting and potential for investigation of its archaeological importance.

- *Biodiversity*³³⁰

298. The proposals would provide some public open space, including an equipped area of play, structural landscaping and habitat creation. The long term management of these areas would improve the biodiversity of the location as well as offering opportunities for recreation and improvements in individual's well-being³³¹. Through the environmental enhancements and mitigation proposed these factors would positively contribute to the overall sustainability of the appeal site³³² and as these areas would be open to public use, would provide a public benefit in this regard.

- *Highways*³³³

299. Paragraph 32 of the Framework sets out that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

300. Concern has been expressed by residents in relation to the impact of traffic generated by the proposed development on the existing highway network, particularly at the junction of Haw Lane and the A4010 and on into Princes Risborough [167, 168]. The Transport Assessment³³⁴ through the results of traffic flow and speed surveys indicates Haw Lane as being lightly trafficked. An average two-way flow of 103-178 vehicles in the peak hour periods³³⁵ was recorded. Accident records show no recorded incidents in the immediate vicinity and frontage of the appeal site over the last 5 years. In the wider area, including the junction of Haw Lane and A4010, there have been 6 accidents all involving motor vehicles with no fatalities. The A4010 is a busy road with nearer to 14,000 vehicles per day (two-way) using this route between High Wycombe and Aylesbury. None of the accidents occurred as a result of the road layout or any other highway features.

301. The resultant traffic modelling based on trip generation associate with the appeal proposal (212 scheme) indicated that the proposed development would have a negligible impact on the surrounding highway network and any impact would not be discernible from the daily fluctuations on the network.

³³⁰ Environmental role.

³³¹ These factors cross-over with the Social Role and have been accordingly weighed into both aspects as positive benefits.

³³² The mitigation measures could be secured by the terms of a condition and the management is built into the bilateral agreement Inquiry Doc 40.

³³³ Environmental role.

³³⁴ CD16.

³³⁵ AM Peak – 07:30-08:30 & PM Peak – 16:15 – 17:15.

302. During the preparation and assessment of the Transport Assessment there was an on-going dialogue with the Buckinghamshire County Council as Highway Authority. The adequacy of the existing capacity within the network was established to accommodate car trips generated by the development.

303. With this in mind the Highway Authority has reached agreement with the appelland company on a range of mitigating improvements³³⁶:

- Footway improvements along Haw Lane³³⁷. This would provide a safer more secure link between the site and the A4010. Along the A4010 there is a segregated cycle/footway of good quality in respect of pavement width and condition in the direction of Saunderton village and the Station;
- New priority system and appropriate signing and lining to facilitate single vehicular usage beneath railway bridge;
- The upgrading of the bus stops on both the north and southbound sides of the A4010;
- Provision of new pedestrian refuge islands to provide safer crossing points;
- Travel Plan³³⁸;
- Improved cycle parking at the Station (to be monitored); and
- The car parking requirements of the Buckinghamshire Countywide Parking Guidance³³⁹ can be achieved – 192 scheme.

As a result the proposed development would not adversely impact on highway safety, capacity or the free flowing nature of the immediate road network. The residual cumulative impacts of the development would not be severe³⁴⁰.

- *Flooding*³⁴¹

304. Residents highlighted an issue of highway flooding beneath the railway bridge which had restricted access [167, 171]. I noted at the site visit the dip in levels beneath the railway bridge and the means of highway drainage. There is no substantive evidence that the proposed development³⁴² would add to issues relating to highway flooding³⁴³. I am mindful that the existing site is currently mainly covered by impermeable surfaces which no doubt do cause some runoff to

³³⁶ Bullet points 1-5 would be secured and delivered by means of the terms of the bilateral agreement Inquiry Doc 40.

³³⁷ Widening where possible the pavement width – any issues of land ownership would need to be resolved as part of provision. Similar works were part of the permitted scheme for the data centre.

³³⁸ CD17 & 70.

³³⁹ CD84.

³⁴⁰ The proposed highway and drainage improvements along with the bus stop up-grades would provide a public benefit to the wider community and are weighed into the positive side of the balance in favour of the development.

³⁴¹ Environmental role.

³⁴² Entirely in flood zone 1 and therefore at the low risk from fluvial and tidal flooding.

³⁴³ The agreement of and provision of a Sustainable Urban Drainage scheme would be required by both the terms of Annex A condition 16 & Annex B condition 16 as well Inquiry Doc 40. The conclusion of the Flood Risk Assessment is also relevant – CD10 and 62.

the surrounding countryside. However, with a network of existing field ditches and much of the surroundings being undeveloped fields and pasture the only main point at issue is the flooding at the railway bridge. The appellant company proposes new drainage provision at the bridge to be constructed to tie in with the existing soakaway system. Such an upgrade and renewal of the existing system can only be a positive wider public benefit in seeking to improve matters of flooding at this location.

- *Community building*³⁴⁴

305. I have already concluded that this appeal should be considered on the basis of the originally submitted scheme for 212 dwellings. However, should the SofS be minded to accept the amended scheme which includes the provision of the A1/D1 building the following are matters which I draw to his attention.

306. The proposed community building/space would be part A1/D1 uses with a suggested retail use on the ground floor and community space/workshops above. However, whilst the provision of the building could be secured by means of a condition³⁴⁵ and the bilateral agreement³⁴⁶ sets out that the community building would be let at a peppercorn rent only to a community organisation and managed by a management company³⁴⁷, there is no persuasive evidence that the success of the facility would be assured. The marketing of the building would only be undertaken before the occupation of the development and there is no indication of exactly what the need for such an A1/D1 space in the village and its environs is, or whether there is sufficient community will to take the project forward. The viability of such a mix of use or the proportion of either use within the building has not been determined.

307. The route of the proposed community facility³⁴⁸ to the heart of the existing village, being along Haw Lane and then the A4010, has already been assessed and found to be unappealing [262]. There is no other direct walking/cycling route between the appeal site and the village which might be a shorter more attractive pathway to draw existing residents from the village of Saunderton to use the community facility. Within the NP community facilities were identified as part of the mix of uses promoted for the appeal site³⁴⁹ which would be welcomed [165]. It is as yet not clear what facilities would be appropriate in the village context.

308. Even given the peppercorn rent and the provision of the building itself, although it would only be provided to the stage of first fit [61], so funds for completing the building to enable any retail or community use would need to be found, no community group has been secured to take on such a project or to identify precisely what is needed within the village. Without such assurances the building could become a white elephant at the centre of the new development.

³⁴⁴ Social role.

³⁴⁵ Annexe B – condition 32.

³⁴⁶ Inquiry Doc 40.

³⁴⁷ A body approved by the Council.

³⁴⁸ Built close to the centre of the development.

³⁴⁹ Inquiry Doc 55 – page 31 para 5.40

309. Therefore, the social benefit of the community building to the village and its existing and future residents is unclear and unsecured. As a result the provision as promoted should be given limited weight in the balance of the decision.

The balancing exercise

310. As already established the proposal would represent inappropriate development of a significant size in the Green Belt. It would permanently reduce openness, the essential characteristic of Green Belts, and conflict with some of the purposes of designation. As paragraph 88 of the Framework sets out, these harmful impacts on the Green Belt must attract substantial weight.

311. On top of that, there would be a significant amount of harm to the landscape and scenic beauty of the Chilterns AONB, a consideration that attracts great weight (paragraph 116 of the Framework) although this must be weighed against any exceptional circumstances and where it can be demonstrated that it is in the public interest.

312. There is other harm also to be weighed in the negative side of the balance in respect of the site's location and a possible conflict with employment policy even in the context of the uncertainty in the delivery of the fall-back and the identified economic benefits of the scheme³⁵⁰. However, as previously indicated the level of harm in both cases has been reduced for the reasons set out above [269, 277].

313. Nonetheless, the combined identified harms amount to a weighty scale to tip in the balance of the decision.

314. Against that, the proposal would bring forward market and AH, as well as a mix of accommodation types in an area where there is a defined shortfall in the provision of sufficient new market and AH to meet the needs of the District, thereby boosting significantly the supply of housing³⁵¹. This contribution to housing need must carry very substantial weight in favour of the scheme. However, it is the position of Government that unmet housing need is unlikely to clearly outweigh the harm to the Green Belt and any other harm to establish the 'very special circumstances' justifying inappropriate development in the Green Belt.

315. Framework paragraph 17 encourages the effective use of brownfield land like the appeal site, which is not itself of high environmental value. The proposal would bring this derelict previously developed site back into active use. The development of this visually prominent, uncharacteristic, urbanising expanse of the vestiges of a past industrial age in this countryside setting, does weigh considerably in the positive side of the balance in favour of the scheme.

316. The public benefits of the improvements to the SAM, the highway, the bus stops, biodiversity/ecology, drainage, the provision of open space and play areas

³⁵⁰ The latter has been weighed into the balance adding to positive weight.

³⁵¹ Having sufficient land available of the right type in the right places and at the right time to support growth and innovation is part of the economic role in achieving a sustainable development. There is a good prospect that some of the proposed housing could be delivered on the site within five years.

as well as the community building also add some weight to the positive side of the balance³⁵².

317. These identified public benefits would certainly be in the public interest³⁵³, but when this major development is considered in the context of the conservation of the landscape and scenic beauty of the AONB³⁵⁴, exceptional circumstances have to be established to warrant the grant of planning permission. The appeal site's status as PDL in a rural context is not unusual and certainly cannot be considered remarkable. The fall-back of the data centre is more unexpected, but as before the weight to be ascribed to this possibility is reduced due to the unlikely nature of the scheme coming to fruition. In such a rural location the acceptance that the site is suitable for future development is unusual but appropriate scale, mix and design is not yet known, so this does not elevate such a circumstance to being exceptional. Finally, the Council are not alone in finding themselves in a position of shortfall in respect of the 5YHLS. The constraints of the District and the need to work with its neighbours to fulfil its housing needs are matters which still need to be resolved but are not special. None of these matters whether singularly or cumulatively can be considered to be exceptional circumstances³⁵⁵. Therefore, in the face of the significant harm of the proposal to the conservation of the landscape and the scenic beauty of the AONB already identified, there are no exceptional circumstances which would change the great weight afforded to that harm in the balance of the decision.

318. It is clear that there is identified conflict with the development plan as a whole resulting in consequential harm³⁵⁶ to which substantial weight should be ascribed. The proposal has also been assessed against the Framework as a whole and when specifically assessed against paragraph 14-bullet point 4, footnote 9 of the Framework³⁵⁷, development of the size proposed, whether that is 212 or 192 units, it is found in the balance of the decision that specific policies in the Framework indicate development should be restricted³⁵⁸ a finding which similarly weighs significantly in the balance against the proposal.

319. Having considered and weighed the matters in this case against this policy background, the identified considerations do not clearly outweigh the harm to the

³⁵² The benefits of these elements would go beyond just the mitigation of the appeal proposal and therefore it is reasonable to weigh them into the positive side of the balance of the decision. The potential benefits of the proposed community building have also been weighed into the balance although these are much reduced due to the uncertainty of provision (192 scheme only).

³⁵³ Including the provision of much needed housing.

³⁵⁴ Framework para 115-116.

³⁵⁵ Framework para 116.

³⁵⁶ Even taking account of the reduced weight given to the conflict with the development plan on employment and location.

³⁵⁷ The tilted balance is triggered as the relevant housing provision policies of the development plan have not resulted in a 5 year supply in accordance with the objectives of para 47 of the Framework - *Suffolk Coastal DC V Hopkins Homes and others* [2017] UKSC 37

³⁵⁸ The reference to specific policies in the Framework cannot mean only policies originating in the Framework itself. It must also mean the development plan policies to which the Framework refers - *Suffolk Coastal DC V Hopkins Homes and others* [2017] UKSC 37 - para 85.

Green Belt and any other harm³⁵⁹, and consequently Very Special Circumstances do not exist³⁶⁰. Overall the proposal does not represent sustainable development and so should be resisted.

Recommendation

320. Consequently, I recommend that the appeal be dismissed.

Frances Mahoney

Inspector

Annex A – Schedule of recommended conditions were the 212 unit scheme favoured

- 1) Details of the appearance and landscaping (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall be begun either before the expiration of three years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 4) In respect of matters that are not reserved for later approval, the development hereby permitted shall be carried out in accordance with the following approved drawings:
 - 912-001A (red line site plan)
 - 912-002D (site layout parameter plan)
 - 912- 003B (maximum storey height plan)
 - 912-004B (parking parameter plan)
 - 13-T039_09A (proposed access)
 - JYN6569-100A (proposed footway arrangement)
- 5) Prior to any reserved matters applications being submitted a design code shall be submitted to and approved in writing by the Local Planning Authority, which shall include details of the general design features and parameters for the following:
 - Design of the dwellings / buildings (by reference to the Chilterns Buildings Design Guide)

³⁵⁹ The harm in respect of location and employment would not tip the balance against the proposal, the Green Belt and AONB harms along with the conflict with the development plan and the Framework being sufficiently weighty to push the balance of the decision to a negative position.

³⁶⁰ Framework para 88.

- means of enclosure / boundary treatment
- soft landscaping areas and public open spaces
- hard surfacing materials
- minor artefacts and structures
- lighting
- bin storage / recycling facilities

The scheme and any reserved matters shall accord with the approved design code.

- 6) No occupation of dwellings shall take place before details of all walls (including retaining walls), fences, gates or other means of enclosure to be erected in or around the development have been submitted to, and approved in writing by, the Local Planning Authority. Prior to first occupation of each dwelling, the walls (including retaining walls), fences, gates or other means of enclosure for that dwelling shall be erected as approved and shall thereafter be permanently retained and maintained.
- 7) The details of landscaping to be submitted pursuant to condition 1 shall include details of both hard and soft landscape works and earthworks. Soft landscape details shall include full plans indicating location of all species along with a schedule of plant size, number and specification of all proposed plants along with locations of all existing trees and hedgerows to be retained and/or removed. Hard landscape details shall include all surface treatments including external steps, walls and rails, street furniture, above and below services and other ancillary structures such as cycle and refuse stores. This shall not relate to private rear gardens, with the exception of structural tree planting. The details shall also include a timetable for the delivery of these works.
- 8) Prior to the occupation of the first dwelling, a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all open space and landscape areas (other than privately owned, domestic gardens) shall be submitted to and approved by the Local Planning Authority. Maintenance of all areas identified in the landscape management plan shall be carried out in accordance with the approved management plan.
- 9) All hard and soft landscape proposals comprised in the approved details of landscaping shall be carried out in accordance with the approved landscape scheme, agreed pursuant to condition 8 above. Any trees, plants or areas of turfing or seeding which, within a period of 5 years from the completion of the development, die are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority first gives written consent to any variation. Thereafter any such replacement planting shall be maintained or further replaced as necessary for three years after replacement.

- 10) If during construction of the development, or within a period of five years of its completion, any existing retained tree, shrub, hedge dies or becomes damaged, destroyed, diseased or dangerous, it shall be replaced during the following planting season by another healthy, tree, shrub or hedge as the case may be of a similar size and species, unless otherwise approved in writing by the Local Planning Authority. Thereafter any such replacement planting shall be maintained or further replaced as necessary for three years after replacement.
- 11) The development hereby approved shall not be commenced nor shall any site clearance works be undertaken or machinery / equipment brought onto the site until an updated Arboricultural Impact Assessment (AIA) has been submitted to and approved in writing by the Local Planning Authority. The AIA shall include:
- details of all protective fencing and/or other protective measures to be erected around each tree and hedge to be retained (i.e. an Arboricultural Method Statement and Tree Protection Plan to British Standard 5837:2012 Trees in relation to design, demolition and construction – Recommendations).
 - the type, height and position of protective fencing to be erected around each tree(s) or hedge to be retained. Unless otherwise agreed in writing by the Local Planning Authority this shall be in accordance with clause 6.2 "Barriers and ground protection" of the British Standard 5837:2012.
- 12) The development shall thereafter be implemented in accordance with the approved AIA. In addition, the area surrounding each tree/hedge within the approved protective fencing shall remain undisturbed during the course of the works, and in these areas:
1. there shall be no changes in ground levels,
 2. no materials or plant shall be stored,
 3. no buildings or temporary buildings shall be erected or stationed,
 4. no materials or waste shall be burnt; and,
 5. no drain runs, trenches or other excavation shall be dug or otherwise created,
- without the prior written approval of the Local Planning Authority.
- 13) Before development begins a scheme (including a timetable for implementation) for generating at least 15% of the predicted energy requirement for the individual dwellings from decentralised, renewable and/or low carbon sources (as defined in DSAP Policy DM18) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme for the relevant component shall be implemented before the component of the development is first occupied and shall remain operational for the lifetime of the component.
- 14) No development, including any ground works or demolitions, shall take place within the zone indicated on the site layout parameter plan, drawing no. 912-002D until the applicant, or their agents or successors in title, have submitted to the Local Planning Authority a methodology for the protection of the scheduled barrow during the ground works phase of works (including the demolition and removal of the office building, both above and underground, subsequent protection of the barrow and the landscaping and future maintenance of the areas including appropriate archaeological supervision, investigation and recording) and that methodology has been approved in writing by the Local

Planning Authority. The development shall only be carried out in accordance with the approved methodology.

15) No development shall take place until a scheme of external lighting (including any floodlighting, but not including domestic lighting) has been submitted to and approved in writing by the Local Planning Authority. Such details shall include the location, height, type, direction and intensity of the illumination, the hours at which the lighting within the approved scheme is to be operated, and a phasing programme for its installation. External lighting shall be installed in accordance with the approved details before the phase of development to which it relates is first occupied or brought into use and thereafter shall be maintained in working order.

16) Development shall not 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:

- Rates and volumes of any surface water discharge to off-site receptors
- Maintenance and management of SUDS features and other drainage infrastructure
- Details of how the scheme shall be maintained and managed after completion
- Sizing of features – attenuation volumes
- Infiltration in accordance with BRE365
- SUDS, including but not limited to infiltration basin, soakaways serving individual properties, soakaways serving more than one property, permeable paving and other source control methods
- Detailed drainage layout with pipe numbers
- Network drainage calculations
- Water quality improvement measurements for minimising the risk of contamination of the underlying aquifer
- Phasing.

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

17) No dwelling shall be occupied until a detailed scheme has been submitted to and approved in writing by the Local Planning Authority to indicate the re-surfacing and widening of Public Footpath 48/1 Bledlow-cum-Saunderton Parish between the junction with Haw Lane and the south-eastern corner of the development. The approved scheme shall be implemented prior to 50% of residential units being occupied.

18) No dwelling shall be occupied until a sewerage connection for that dwelling has been fully implemented.

19) No development shall commence until an Ecological Mitigation and Enhancement Strategy (as informed by the Ecological Appraisal / Extended Phase 1 Habitat Assessment / ES Chapter 9, Biodiversity, dated December 2014) has been submitted to and approved in writing by the Local Planning Authority. The strategy shall include all those features identified in para. 9.9 of the Biodiversity Chapter of the ES (December 2014) and provide for a work schedule (including a

5 yr project register, an annual work plan and the means by which the plan will be rolled forward annually; identify the personnel responsible for implementation of the plan; and how it is to be monitored and managed). Thereafter the development shall be carried out in accordance with the approved details and agreed programme of implementation.

- 20) No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, an appraisal of remedial options, and proposal of the preferred option(s), and a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The agreed scheme shall be fully implemented in accordance with the timetable of works.
- 21) In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing within 7 days to the Local Planning Authority and once the Local Planning Authority has identified the part of the site affected by the unexpected contamination, development must be halted on that part of the site.

Before development recommences on the part of the site where contamination is present a scheme outlining appropriate measures to prevent the pollution of the water environment, to safeguard the health of intended site users, and to ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation and approved conclusions shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall not be implemented otherwise than in accordance with the approved remediation scheme.

- 22) No part of the development shall be occupied until the means of vehicular access to the site has been constructed in accordance with both the approved drawing number [13-T039_09A (proposed access) and Buckinghamshire County Council's guide note "Private Vehicular Access within the new Highway Limits" 2013.
- 23) Within one month of the new accesses being brought into use all other existing vehicular access points not incorporated in the development hereby permitted shall be stopped up by raising the existing dropped kerb or removing the bellmouth and reinstating the footway and highway boundary to the same line, level and detail as the adjoining footway and highway boundary.
- 24) No development shall commence until a scheme for parking, garaging and turning, to include on plot and off plot (unallocated parking) and a timetable for its provision, has been submitted to and approved in writing by the Local

Planning Authority. The scheme shall be implemented in accordance with the approved details.

- 25) No part of the development shall commence until a Construction Method Statement including details of:
- Construction access
 - Management and timing of deliveries
 - Routing of construction traffic
 - A condition survey of the surrounding highway network
 - Vehicle parking for site operatives and visitors
 - Loading/off-loading of vehicles and turning areas
 - Site compound / Storage of materials / site office
 - Precautions to prevent the deposit of mud and debris on the adjacent highway
 - The erection and maintenance of security hoarding including decorative displays and facilities for public viewing where appropriate
 - Measures to control the emission of dust and dirt during construction
 - A scheme for the recycling / disposing of waste resulting from demolition and construction works
 - Hours of construction
 - A nominated person or contact has been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall thereafter be carried out in accordance with the approved management plan.
- 26) No dwelling shall be occupied until details of refuse and recycling storage facilities for the dwellings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and any phasing within them.
- 27) The existing former factory fence on the boundaries of this site shall be removed before the occupation of the 100th dwelling.
- 28) No development shall take place until the finished slab levels of the approved dwellings and roads have been submitted to and approved in writing by the local Planning Authority. The maximum ridge height of the development hereby permitted shall not exceed 141.50 AOD. The development shall be undertaken in compliance with the agreed levels.
- 29) No development shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority for the breaking up of the existing concrete slab foundations and the demolition of the existing buildings including their foundations. The scheme shall include details of how the arisings will be reused within the development. The development shall be carried out in accordance with the agreed scheme details.
- 30) No dwelling shall be occupied until details of a full Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include the measures set out in the outline Travel Plan dated January 2015 as well as details of monitoring and review. The development shall thereafter be carried out in accordance with the approved details.

Annex B - Schedule of recommended conditions were the 192 unit scheme favoured

- 1) Details of the pedestrian access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall be begun either before the expiration of three years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 4) In respect of matters that are not reserved for later approval, the development hereby permitted shall be carried out in accordance with the following approved drawings:

912-001A (red line site plan)

13-T039_09A (proposed access)

JYN6569-100A (proposed footway arrangement)

- 5) The development hereby approved shall comprise no more than 192 dwellings.
- 6) Prior to any reserved matters applications being submitted a design code shall be submitted to and approved in writing by the Local Planning Authority, which shall include details of the general design features and parameters for the following:
 - Design of the dwellings / buildings (by reference to the Chilterns Buildings Design Guide)
 - means of enclosure / boundary treatment
 - soft landscaping areas and public open spaces
 - hard surfacing materials
 - minor artefacts and structures
 - lighting
 - bin storage / recycling facilities
 - parking, garaging, manoeuvring, turning areas
 - typical character areas, streetscape & layout

The scheme and any reserved matters shall accord with the approved design code.

- 7) No occupation of dwellings shall take place before details of all walls (including retaining walls), fences, gates or other means of enclosure to be erected in or around the development have been submitted to, and approved in writing by, the Local Planning Authority. Prior to first occupation of each dwelling, the walls (including retaining walls), fences, gates or other means of enclosure for that dwelling shall be erected as approved and shall thereafter be permanently retained and maintained.

- 8) The details of landscaping to be submitted pursuant to condition 1 shall include details of both hard and soft landscape works and earthworks. Soft landscape details shall include full plans indicating location of all species along with a schedule of plant size, number and specification of all proposed plants along with locations of all existing trees and hedgerows to be retained and/or removed. Hard landscape details shall include all surface treatments including external steps, walls and rails, street furniture, above and below services and other ancillary structures such as cycle and refuse stores. This shall not relate to private rear gardens, with the exception of structural tree planting. The details shall also include a timetable for the delivery of these works.
- 9) Prior to the occupation of the first dwelling, a landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all open space and landscape areas (other than privately owned, domestic gardens) shall be submitted to and approved by the Local Planning Authority. Maintenance of all areas identified in the landscape management plan shall be carried out in accordance with the approved management plan.
- 10) All hard and soft landscape proposals comprised in the approved details of landscaping shall be carried out in accordance with the approved landscape scheme, agreed pursuant to condition 8 above. Any trees, plants or areas of turfing or seeding which, within a period of 5 years from the completion of the development, die are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority first gives written consent to any variation. Thereafter any such replacement planting shall be maintained or further replaced as necessary for three years after replacement.
- 11) If during construction of the development, or within a period of five years of its completion, any existing retained tree, shrub, hedge dies or becomes damaged, destroyed, diseased or dangerous, it shall be replaced during the following planting season by another healthy, tree, shrub or hedge as the case may be of a similar size and species, unless otherwise approved in writing by the Local Planning Authority. Thereafter any such replacement planting shall be maintained or further replaced as necessary for three years after replacement.
- 12) The development hereby approved shall not be commenced nor shall any site clearance works be undertaken or machinery / equipment brought onto the site until an updated Arboricultural Impact Assessment (AIA) has been submitted to and approved in writing by the Local Planning Authority. The AIA shall include:
 - details of all protective fencing and/or other protective measures to be erected around each tree and hedge to be retained (i.e. an Arboricultural Method Statement and Tree Protection Plan to British Standard 5837:2012 Trees in relation to design, demolition and construction – Recommendations).
 - the type, height and position of protective fencing to be erected around each tree(s) or hedge to be retained. Unless otherwise agreed in writing by the Local

Planning Authority this shall be in accordance with clause 6.2 "Barriers and ground protection" of the British Standard 5837:2012.

The development shall thereafter be implemented in accordance with the approved AIA. In addition, the area surrounding each tree/hedge within the approved protective fencing shall remain undisturbed during the course of the works, and in these areas:

1. there shall be no changes in ground levels,
2. no materials or plant shall be stored,
3. no buildings or temporary buildings shall be erected or stationed,
4. no materials or waste shall be burnt; and,
5. no drain runs, trenches or other excavation shall be dug or otherwise created,

without the prior written approval of the Local Planning Authority.

- 13) Before development begins a scheme (including a timetable for implementation) for generating at least 15% of the predicted energy requirement for the individual dwellings from decentralised, renewable and/or low carbon sources (as defined in DSAP Policy DM18) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme for the relevant component shall be implemented before the component of the development is first occupied and shall remain operational for the lifetime of the component.
- 14) No development, including any ground works or demolitions, shall take place until the applicant, or their agents or successors in title, have submitted to the Local Planning Authority a methodology for the protection of the scheduled barrow during the ground works phase of works (including the demolition and removal of the office building, both above and underground, subsequent protection of the barrow and the landscaping and future maintenance of the areas including appropriate archaeological supervision, investigation and recording) and that methodology has been approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved methodology.
- 15) No development shall take place until a scheme of external lighting (including any floodlighting, but not including domestic lighting) has been submitted to and approved in writing by the Local Planning Authority. Such details shall include the location, height, type, direction and intensity of the illumination, the hours at which the lighting within the approved scheme is to be operated, and a phasing programme for its installation. External lighting shall be installed in accordance with the approved details before the phase of development to which it relates is first occupied or brought into use and thereafter shall be maintained in working order.
- 16) Development shall not 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:

- Rates and volumes of any surface water discharge to off-site receptors
- Maintenance and management of SUDS features and other drainage infrastructure
- Details of how the scheme shall be maintained and managed after completion
- Sizing of features – attenuation volumes
- Infiltration in accordance with BRE365
- SUDS, including but not limited to infiltration basin, soakaways serving individual properties, soakaways serving more than one property, permeable paving and other source control methods
- Detailed drainage layout with pipe numbers
- Network drainage calculations
- Water quality improvement measurements for minimising the risk of contamination of the underlying aquifer
- Phasing.

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

- 17) No dwelling shall be occupied until a detailed scheme has been submitted to and approved in writing by the Local Planning Authority to indicate the re-surfacing and widening of Public Footpath 48/1 Bledlow-cum-Saunderton Parish between the junction with Haw Lane and the south-eastern corner of the development. The approved scheme shall be implemented prior to 50% of residential units being occupied.
- 18) No dwelling shall be occupied until a sewerage connection for that dwelling has been fully implemented.
- 19) No development shall commence until an Ecological Mitigation and Enhancement Strategy (as informed by the Ecological Appraisal / Extended Phase 1 Habitat Assessment / ES Chapter 9, Biodiversity, dated December 2014 as amended by the ES Ecology Chapter 9 Addendum, dated June 2016) has been submitted to and approved in writing by the Local Planning Authority. The strategy shall include all those features identified in para. 9.9 of the Biodiversity Chapter of the ES (December 2014) and provide for a work schedule (including a 5 yr project register, an annual work plan and the means by which the plan will be rolled forward annually; identify the personnel responsible for implementation of the plan; and how it is to be monitored and managed). Thereafter the development shall be carried out in accordance with the approved details and agreed programme of implementation.
- 20) No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, an appraisal of remedial options, and proposal of the preferred option(s), and a timetable of works and site management procedures. The scheme must ensure that the site will not qualify as

contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The agreed scheme shall be fully implemented in accordance with the timetable of works.

- 21) In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing within 7 days to the Local Planning Authority and once the Local Planning Authority has identified the part of the site affected by the unexpected contamination, development must be halted on that part of the site.

Before development recommences on the part of the site where contamination is present a scheme outlining appropriate measures to prevent the pollution of the water environment, to safeguard the health of intended site users, and to ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation and approved conclusions shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall not be implemented otherwise than in accordance with the approved remediation scheme.

- 22) No part of the development shall be occupied until the means of vehicular access to the site has been constructed in accordance with both the approved drawing number [13-T039_09A (proposed access) and Buckinghamshire County Council's guide note "Private Vehicular Access within the new Highway Limits" 2013.

- 23) Within one month of the new accesses being brought into use all other existing vehicular access points not incorporated in the development hereby permitted shall be stopped up by raising the existing dropped kerb or removing the bellmouth and reinstating the footway and highway boundary to the same line, level and detail as the adjoining footway and highway boundary.

- 24) No development shall commence until a scheme for parking, garaging and turning, to include on plot and off plot (unallocated parking) and a timetable for its provision, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

- 25) No part of the development shall commence until a Construction Method Statement including details of:

- Construction access
- Management and timing of deliveries
- Routing of construction traffic
- A condition survey of the surrounding highway network
- Vehicle parking for site operatives and visitors
- Loading/off-loading of vehicles and turning areas
- Site compound / Storage of materials / site office
- Precautions to prevent the deposit of mud and debris on the adjacent highway
- The erection and maintenance of security hoarding including decorative displays and facilities for public viewing where appropriate
- Measures to control the emission of dust and dirt during construction

- A scheme for the recycling / disposing of waste resulting from demolition and construction works
 - Hours of construction
 - A nominated person or contact has been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall thereafter be carried out in accordance with the approved management plan.
- 26) No dwelling shall be occupied until details of refuse and recycling storage facilities for the dwellings and A1 / D1 unit hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details and any phasing within them.
- 27) The existing former factory fence on the boundaries of this site shall be removed before the occupation of the 100th dwelling.
- 28) The reserved matters details of layout shall include details of the slab levels of all of the buildings and roads. The maximum ridge height of the development hereby permitted shall not exceed 141.50 AOD.
- 29) No development shall take place until a scheme has been submitted to and approved in writing by the Local Planning Authority for the breaking up of the existing concrete slab foundations and the demolition of the existing buildings including their foundations. The scheme shall include details of how the arisings will be reused within the development. The development shall be carried out in accordance with the agreed scheme details.
- 30) Development shall not commence until an open space scheme has been submitted to and approved in writing by the Local Planning Authority. The amount of public open space to be provided shall be broadly in accordance with that shown on the Illustrative Landscape Masterplan drawing (no: A105-LA04 Rev A –CD51) dated June 2016).

The scheme shall include:

- 2 LEAPS (each incorporating 6 items of equipment)
- 2 LAPS
- areas of park and semi-natural greenspace, informal amenity space and visual amenity
- a timetable for its delivery which shall include that

No more than 75% of dwellings shall be occupied until all the approved open space has been provided.

- 31) Prior to occupation of the 50th dwelling, the developer shall provide a community building of up to 270sqm and not less than 150sqm and construct to first fit in a location as approved with a flexible dual use of A1 (community shop) and D1 (community use).

- 32) No dwelling shall be occupied until details of a full Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include the measures set out in the outline Travel Plan dated January 2015 as well as details of monitoring and review. The development shall thereafter be carried out in accordance with the approved details.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:	
Richard Ground QC	Instructed by Julie Openshaw, Solicitor to the Council
He called	
Chris Kennett	Natural Environment Officer & Urban Designer
Philippa Jarvis	Philippa Jarvis Planning Consultancy Ltd for Wycombe District Council
Brian Convery	Consultant Solicitor to the Council

FOR THE APPELLANT:	
Rupert Warren QC	Instructed by Emma O’Gorman, Pinsent Masons
Robert Coles BA(Hons) Dip Arch RIBA	Partner David Lock
Andrew Jay BSc(Hons) MRICS	Executive Director CBRE
Rob Hindle BSc(Hons) MRICS	Director Rural Solutions
Clive Burbridge BSc(Hons) MSc MCIHT MCILT MRTPI	Director Icen Projects
Vanessa Ross CMLI	Director Arc Landscape Design + Planning
Pravin Patel BA(Hons) MRTPI MRICS	Director PPML Consulting
Emma O’Gorman	Senior Associate Pinsent Masons

INTERESTED PERSONS:	
Michael Stubbs	Planning Advisor Chiltern Conservation Board
Simon Breese	Chairman Bledlow-cum Saunderton Parish Council
Carl Etholen	Ward Member of Wycombe District Council for Bledlow and Bradenham & Buckingham County Council Member for Ridgeway West
Kim Martin	Local Resident
Andrew Sage	Local Resident
Peter Malure	Local Resident
Derek Stone	Local Resident

INQUIRY DOCUMENTS PRESENTED AT THE INQUIRY

Document Number	Document Title
1	Wycombe Commercial Assessment by Boyer (February 2016)
2	Aylesbury Vale District Council – Five year housing land supply interim position statement (August 2016)
3	Extract from IHT – Providing for Journey on Foot
4	County Council email in relation to the proposed bus stop upgrades in Saunderton (16 August 2016)
5	Local Transport Note - Shared Use Routes for Pedestrians and Cyclists (September 2012)
6	Bledlow-Cum-Saunderton Neighbourhood Plan 2016-2033 Submission Version (August 2016)
7	Bledlow-Cum-Saunderton Parish Council – Neighbourhood Plan Survey Results (February 2016)
8	Bledlow-Cum-Saunderton Neighbourhood Plan – Consultation Statement (August 2016)
9	Bledlow-Cum-Saunderton 2016-2033 Basic Conditions Statement (August 2016)
10	Chilterns Conservation Board – Supplementary Statement by Michael Stubbs (7 September 2016) presented at the Inquiry on 9 September 2016
11	Bus Timetables and maps for services 321, 647, X30
12	Wycombe District Council – Reserve Sites (PJ2)
13	Planning Guidance – Paragraphs 12, 13, 14, 28
14	Written Statement to Parliament – Planning and Travellers (1 July 2013)
15	Summary of Parish Council's Position on the St Congar Appeal presented at the Inquiry on 9 September 2016 and Saunderton Railway Pedestrian Access Plan
15A	Addendum to evidence provided by Bledlow-cum-Saunderton Parish Council
16	Statement by Councillor Carl Etholen (County Councillor) presented at the Inquiry on 9 September 2016
17	Statement of Mr Martin presented at the Inquiry on 9 September 2016
17A	Answer to Mr Martin's questions from Clive Burbridge dated 21 September 2016
18	Chilterns Consultation Response Letter to Bledlow-cum-Saunderton Draft Neighbourhood Plan June 2016 (19 July 2016)
19	PPG Guidance on 'local finance consideration' and s70(2) TCPA 1990 (as amended)
20	WDC Cabinet Minutes (16 November 2015)
21	Supplemental: Improvement and Review Commission (11 November 2015)
21A	E-mail from WDC Officer Chris Steuart confirming consultation dates on the original application and additional information submitted in response to the Article 4 Request

- 22 Buckinghamshire County Council application consultation response, February 2015)
- 23 Wycombe District Council Pre-application consultation response
- 24 E-mail correspondence between Icenii and Aviva confirming X30 operation – September 2016
- 25 E-mail from Andrew Clarke (BCC) to WDC questioning permanency of X30 bus route
- 26 BS Standards – reversing routes/road widths
- 27 Census material and modal transport split
- 28 Draft Planning Conditions
- 29 Title Plan and Register from 10 January 2013
- 30 Title Plan and Register from 16 March 2016
- 31 PPG2 Letter
- 32 WDC Article 4 Request Letter
- 33 Consultation Draft Residential Design Guide 25 July 2015
- 34 Title Plan and Register from 21 September 2016
- 35 Court of Appeal judgement C1/2016/0076 – The Queen on the Application of CPRE Kent v Dover District Council & China Gateway International Limited
- 36 S106 Summary Schedule – CIL Regulations 122 and 123 justification
- 37 Specification for the Construction of a Commercial Vehicular Access within the Public Highway
- 38 Email from Matthew Hardy, Bucks County Council to Chris Steuart dated 21 September 2016
- 39 Certified copy of completed unilateral undertaking dated 6 October 2016
- 40 Certified copy of completed bilateral S106 agreement
- 41 Opinion letter from the land owner: ERLP 1 S A R L
- 42 Opinion letter from the Mortgagee: E-Shelter Datacenter Development Holding S A R L
- 43 Appellant company's opening
- 44 Council's submissions on the submission of the amended scheme
- 45 Appellant company's submissions on the submission of the amended scheme
- 46 Council's Closing Submissions
- 47 Appellant company's Closing Submissions
- 48 Direction Letter dated 13 October 2016
- 49 Written Ministerial Statement – Neighbourhood Planning - made on 12 December 2016 by Gavin Barwell (Minister of State for Housing & Planning & Minister for London) (WMS)
- 50 Response from the appellant company dated 16 January 2017 on the WMS
- 51 Response from the Council dated 9 January 2017 on the WMS
- 52 The Planning Inspectorate Procedural Guide - Planning Appeals-England – Annexe M
- 53 Report on Bledlow-cum-Saunderton Neighbourhood Plan 2016-2033
- 54 Bledlow-cum-Saunderton Neighbourhood Plan Decision Statement – Proceeding to Referendum dated 7 February

	2017
55	Bledlow-cum-Saunderton Neighbourhood Plan 2016-2033 Consolidated Draft for Referendum
56	Letter before claim - Pre-Action Protocol for Judicial Review dated 24 February 2017
57	Bledlow-cum-Saunderton Neighbourhood Plan - Decision Statement – Proceeding to Referendum dated 22 March 2017
58	Appellant’s further representations on the Neighbourhood Plan
59	Comment on Impact of the Examiner’s Report on Neighbourhood Plan – Council
60	Archway Sheet Metal Works Josif Family Trustees v SSCLG, LB Haringay & Tottenham Hotspur Ltd – [2015] EWHC 794(Admin) – CO/416/2014
61	Dartford BC V SSCLG and Ors – [2017] EWCA Civ 141
62	Council response to Supreme Court Judgement - Suffolk Coastal DC v Hopkins Homes and others [2017] UKSC 37
63	Appellant response to Supreme Court Judgement - Suffolk Coastal DC v Hopkins Homes and others [2017] UKSC 37

Inquiry Plans

Plan A	Proposed Footway Improvements and Bridge Protection
Plan B	Parking Plan
Plan C	Open Space Layout Plan 212 scheme
Plan D	Scheduled Monument Location Plan–dwg no A105-SM-01

Inquiry Photos

Photo 1	Viewpoint 1 – Proposed 192 unit scheme YR.1 – Summer
Photo 2	Viewpoint 1 – Proposed 192 unit scheme YR.1 – Winter
Photo 3	Viewpoint 2 – Proposed 192 unit scheme YR.1 – Summer
Photo 4	Viewpoint 2 – Proposed 192 unit scheme YR.1 – Winter
Photo 5	Viewpoint 3 – Proposed 192 unit scheme YR.1 – Summer
Photo 6	Viewpoint 3 – Proposed 192 unit scheme YR.1 – Winter
Photo 7	Viewpoint 4 – Proposed 192 unit scheme YR.1 – Summer
Photo 8	Viewpoint 4 – Proposed 192 unit scheme YR.1 – Winter
Photo 9	Viewpoint 5 – Proposed 192 unit scheme YR.1 – Summer
Photo 10	Viewpoint 5 – Proposed 192 unit scheme YR.1 – Winter
Photo 11	Viewpoint 6 – Proposed 192 unit scheme YR.1 – Summer
Photo 12	Viewpoint 6 – Proposed 192 unit scheme YR.1 – Winter



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 for permission 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

With the permission of the High Court 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. 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 for leave under this section must be made within six weeks from the day after the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: 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 Inspector's report of the inquiry or hearing within 6 weeks of the day after 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.