



Department for Levelling Up,  
Housing & Communities

Mr Ashley Collins  
JLL Ltd  
30 Warwick Street  
London W31B 5NH

Our ref: APP/N0410/W/22/3307420  
Your ref: PL/21/4429/OA

David Hutchison  
Pegasus Planning  
33 Sheep Street  
Cirencester GL7 1RQ

30 October 2023

Dear Sirs

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL MADE BY MR ANTHONY CREAN KC, GREYSTOKE LAND AND ALTRAD  
LIMITED  
WOODLANDS PARK LANDFILL SITE, LAND SOUTH OF SLOUGH ROAD, IVER,  
BUCKINGHAMSHIRE  
APPLICATION REF: PL/21/4429/OA**

*This decision was made by the Parliamentary Under Secretary of State for Local Government and Building Safety, Lee Rowley MP on behalf of the Secretary of State*

1. I am directed by the Secretary of State to say that consideration has been given to the report of Peter Mark Sturgess BSc (Hons), MBA, MRTPI, who held a public local inquiry on 21-28 February 2023 into your clients' appeal against the decision of Buckinghamshire Council to refuse your clients' application for outline planning permission with all matters reserved except for principal points of access for the redevelopment of the former landfill site to comprise a data centre development (B8 (data centre)) of up to 163,000sqm (GEA) delivered across 3 buildings. The scheme includes site wide landscaping and the creation of Parkland. The data centre buildings include ancillary offices, internal plant and equipment and emergency back-up generators and associated fuel storage. The development may also include cycle and car parking, internal circulation routes, soft and hard landscaping, security perimeter fence, lighting, earthworks, District Heating Network, sustainable drainage systems, ancillary infrastructure, and a substation, in accordance with application Ref. PL/21/4429/OA, dated 2 September 2022, as amended in Paragraph 2 of the Inspector's report.
2. On 20 December 2022, 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 (TCPA) 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 his recommendation. He has decided to 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.

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

5. A list of representations which have been received since the inquiry is at Annex A. The Secretary of State is satisfied that the issues raised do not affect his decision, and no other new issues were raised in this correspondence to warrant further investigation or necessitate additional referrals back to parties. Copies of these letters may be obtained on request to the email address at the foot of the first page of this letter.
6. An application for a full award of costs was made by Mr Anthony Crean KC, Greystoke Land and Altrad Limited against Buckinghamshire Council (IR1). This application is the subject of a separate decision letter.

## **Policy and statutory considerations**

7. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
8. In this case the development plan consists of the South Bucks District Local Plan (adopted March 1999 (DLP)), Consolidated September 2007 and February 2010, the South Bucks District Core Strategy Development Plan Document (adopted February 2011), the Buckinghamshire Minerals and Waste Local Plan 2016-2036 (adopted July 2019) and the Ivers Neighbourhood Plan which became part of the development plan in March 2023. The Secretary of State considers that relevant development plan policies include those set out at IR17-19. The Secretary of State has taken into account the Inspector's assessment of the weight attaching to adopted development plan policies, and considers that Policy GB1 carries substantial weight (IR156-159), Policy GB4 carries moderate weight (IR156-158 and IR160), Policy EP3 carries substantial weight (IR178), and Policy CP9 carries substantial weight (IR218), while other policies carry full weight (IR161).
9. 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'), as well as the other documents listed at IR20 and IR22, and referred to at IR162. A new version of the Framework was issued on 5 September 2023; however as the changes relate solely to onshore wind development, and are not relevant

to this appeal, the Secretary of State has not taken them into account in reaching his decision.

### *Emerging plan*

10. The emerging plan is the Buckinghamshire Local Plan 2040. Consultation on the Vision Statement finished in June 2023. As the emerging plan is at a very early stage, the Secretary of State gives it no weight.

### **Main issues**

11. The Secretary of State agrees that the main issues are those set out by the Inspector at IR164.

### *Character and appearance of the area*

12. For the reasons given at IR165-171 the Secretary of State agrees at IR165-166 that the West London Industrial Park (WLIP) boundary forms a firm physical and visual barrier between the built-up area of Greater London and the open land beyond and that the River Colne reinforces the sense of transition at this point.

13. For the reasons given at IR172-177, the Secretary of State agrees at IR173 that the buildings' size and bulk would be emphasised by the buildings being significantly higher and bulkier than those on the nearby WLIP, and that with the introduction of external lighting, fencing and access roads the site would be perceived as being occupied 24 hours a day 7 days a week in contrast with its current unused and open character (IR177). Overall, he agrees that the appeal proposal would significantly alter the character and appearance of the area from that of open land with characteristics of a rural/countryside location to that of an area dominated by 3 large buildings surrounded by ancillary structures (fencing, gates, lighting columns) and other areas (car and cycle parking and landscaping) (IR174).

14. For the reasons given at at IR178-186, the Secretary of State agrees that the proposal would be in conflict with Policy EP3 (IR179) and in respect of the harm to the current countryside/rural character of the area, would be in conflict with Policy CP8 (IR180). His conclusion on whether there is overall accord with Policy CP9 (IR181 and IR186) is set out at paragraph 17 below. The Secretary of State agrees at IR185 that the appeal proposal is in conflict with paragraph 130 of the Framework. Overall, he agrees that the harm the development would cause to the character and appearance of the area should be afforded substantial weight.

### *Nature Conservation*

15. For the reasons given at IR187-223, the Secretary of State agrees that the proposal is capable of delivering BNG of 6.85%, and therefore is in compliance with the requirements of paragraph 174 (d) of the Framework (IR195, IR212 and IR215). He further considers that the appeal proposal is consistent in this respect with Policy CP9, and is consistent with the objectives of the BOA (IR196).

16. For the reasons given at IR197-215, the Secretary of State agrees with the Inspector at IR214 that the proposal would not result in significant harm to biodiversity, and as a consequence it is not necessary to go on and apply the biodiversity hierarchy. He further agrees that this approach is consistent with paragraph 180 (a) of the Framework (IR215). He agrees with the Inspector for the reasons given at IR216 that increased public access will not unacceptably harm the nature conservation interests on the site.
17. The Secretary of State has returned to the question of whether there is overall compliance with Policy CP9 (paragraph 14 above). For the reasons given at IR217-223, he agrees that the harm the data centre would cause to the nature conservation interests of the appeal site would be outweighed by the need for new data centre capacity (IR220). Overall, he agrees that the appeal proposal is consistent with the approach of Policy CP9 and is therefore in conformity with the development plan in terms of biodiversity and nature conservation. He further agrees that it would not unreasonably affect the nature conservation value of the site, including its impact on species and habitats present on the site, and is therefore consistent with Policy CP9 (IR223).

### *Green Belt*

18. The Secretary of State notes at IR224 and IR248 that both parties agree the development constitutes inappropriate development in the Green Belt. He agrees. For the reasons given at IR225-233, the Secretary of State agrees with the Inspector that overall, due to the size, bulk and height of the proposed buildings, the proposal would significantly harm the openness of the Green Belt in this location, both spatially and visually (IR232).
19. The Secretary of State has considered whether the proposal would harm the purposes of the Green Belt as set out in paragraph 138 of the Framework. For the reasons set out in IR242-243, he agrees with the Inspector's conclusions at IR243 that the appeal site perform strongly in meeting the purposes Green Belt is meant to serve. For the reasons given at IR234-IR237 and IR247, he agrees with the Inspector at IR237 that the appeal proposal would lead to the unrestricted sprawl of a large built-up area, and considers that this would cause harm to purpose (a) of paragraph 138. For the reasons given at IR238-239, he agrees with the Inspector at IR239 that the loss of Green Belt land between the towns of Uxbridge in the east and Slough in the west would contribute to the diminution of the gap between these towns. He further agrees that whilst the proposal would not lead directly to the merging of neighbouring town, it would not assist with purpose (b) of paragraph 138. For the reasons given at IR240 he agrees that the appeal proposal would represent the encroachment of built development into the countryside surrounding Greater London and therefore harm purpose (c) of paragraph 138. He further agrees at IR241 that the other two purposes of the Green Belt would not be harmed by the proposal. The Secretary of State agrees with the Inspector at IR250 that the identified harm to the Green Belt carries substantial weight.
20. The Secretary of State agrees with the Inspector at IR250 that the proposal is in conflict with the relevant Green Belt policies of the development plan (GB1 and GB4). Policy GB1

states that within the Green Belt, planning permission will not be granted for development unless it falls into certain specified categories. He considers that the proposal does not fall into any of these categories. It is also in conflict with GB4 which states that proposals to establish new employment generating or other commercial sites or extend the curtilages of existing sites will not be permitted in the Green Belt. As set out at IR157-160, these policies do not make provision for very special circumstances to outweigh the harm to the Green Belt, and are therefore not fully consistent with the Framework. The Secretary of State has therefore applied the Green Belt policy at paragraph 148 of the Framework. This states that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

## **Other considerations**

### *Need for a data centre, location and alternative sites*

21. For the reasons at IR252-IR259 the Secretary of State agrees that there is a significant and substantial demand for new data centres in the Slough Availability Zone (SAZ), that the provision of data centres would make a significant contribution to the UK economy, and that the appeal proposal would make a significant contribution to this need (IR259). He agrees that significant weight should be given to the need for additional data centre capacity within the UK and the SAZ (IR254).
22. For the reasons given at IR260-263, the Secretary of State agrees that the attributes of the appeal site should be given moderate weight (IR263).
23. The Secretary of State has taken into account the appellant's conclusion that there is no alternative site in the SAZ currently available for the appeal proposal, and the fact that the Council agreed it had not identified any alternative sites for a hyperscale data centre (IR264). However, he has also taken into account that there are other Availability Zones within London which are not within the Green Belt (IR61) and that no analysis of sites that might be located in other Availability Zones in London has been undertaken (IR264). On this basis he differs from the Inspector and gives moderate weight to the absence of an identified and readily available alternative site for a hyperscale data centre in the SAZ.

### *Economic and social benefits*

24. For the reasons given at IR265-267 the Secretary of State gives significant weight to this level of investment in the economy of the UK (IR267).
25. The Secretary of State agrees with the Inspector that the construction jobs would be transient in nature, and should carry limited weight (IR268-269). However, he does not agree that the fact a large development in any location could generate significant construction jobs is a reason for reducing the weight attaching to the generation of construction jobs in this case. For the reasons given at IR270-271, he agrees that the creation of well-paid permanent jobs should carry significant weight.

26. For the reasons given at IR272-273, the Secretary of State agrees that the identified social benefits should carry limited weight.

*Addressing climate change*

27. For the reasons given at IR274-275 the Secretary of State agrees that limited weight should be attributed to this consideration.

*Parkland and BNG*

28. For the reasons given at IR276-277, the Secretary of State agrees that the creation of parkland with public access carries minimal weight and the delivery of BNG of 6.85% carries neutral weight.

*Building beautiful*

29. The Secretary of State agrees for the reasons given at IR278-279 that this matter carries neutral weight.

*Education and employment initiatives*

30. The Secretary of State agrees at IR280 that the delivery of a local education initiative aimed at improving digital skills should carry moderate weight.

*District heating system*

31. The Secretary of State agrees for the reasons given at IR281 that the provision of an external connection for a potential district heating system carries minimal weight.

*Site remediation*

32. The Secretary of State agrees for the reasons given at IR282 that the remediation of the site carries neutral weight.

*Other matters*

33. The Secretary of State agrees, for the reasons given at IR284-IR287, that on the basis of the evidence presented the proposal would have no adverse impacts on the local road network and any impacts associated with contamination, air pollution, noise pollution or flooding are capable of being dealt with through the imposition of an appropriate condition or legal agreement/unilateral undertaking.

**Planning conditions**

34. The Secretary of State had regard to the analysis at IR307-346, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 56 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 56 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal.

### **Planning obligations**

35. The Secretary of State has had regard to the Inspector's analysis at IR288-306, the s.106 Agreement and the Unilateral Undertaking (UU), both dated 10 March 2023, paragraph 57 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended. For the reasons given at IR288-306, he agrees that with the exception of the obligation on local labour skills (IR298-299), the Agreement complies with Regulation 122 of the CIL Regulations and the tests at paragraph 57 of the Framework. The Secretary of State therefore attaches no weight to that obligation and under paragraph 16 of the Agreement, the obligation on local labour skills in the Fifth Schedule therefore has no effect. For the reasons given at IR291-295, he considers that air quality should be dealt with via the provisions in the Agreement rather than via the UU. He therefore does not consider that the provisions of the UU are necessary or should apply in this case. Overall, the Secretary of State does not consider that the Agreement overcomes his reasons for dismissing this appeal.

### **Planning balance and overall conclusion**

36. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with Policies GB1, GB4, EP3 and CP8 of the development plan, and is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.

37. Weighing in favour of the proposal is the need for additional data centre capacity within the UK and the SAZ, the level of investment in the UK economy and the creation of permanent operational jobs, which each carry significant weight. Also weighing in favour are the site's locational advantages, the absence of an alternative site and local education and employment initiatives which each carry moderate weight. The creation of transient construction jobs, social benefits and climate change considerations each carry limited weight. The creation of a parkland with public access and the external connection for a potential district heating system each carry minimal weight.

38. Weighing against the proposal is the harm to the Green Belt from inappropriate development, harm to openness and harm to the purposes of the Green Belt, which collectively carries substantial weight. Also weighing against the proposal is the harm to the character and appearance of the area, which carries substantial weight.

39. In line with paragraph 148 of the Framework, the Secretary of State has considered whether the harm to the Green Belt by reason of inappropriateness, and any other harms resulting from the development, is clearly outweighed by other considerations. Overall, he considers that the other considerations in this case do not clearly outweigh the harm to the Green Belt and to the character and appearance of the area. He therefore considers

that very special circumstances do not exist to justify permitting this development in the Green Belt.

40. Overall, in applying s.38(6) of the PCPA 2004, the Secretary of State considers that the conflict with the development plan and the material considerations in this case indicate that permission should be refused.

41. The Secretary of State therefore concludes that the appeal should be dismissed and planning permission refused.

### **Formal decision**

42. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your clients' appeal and refuses outline planning permission with all matters reserved except for principal points of access for the redevelopment of the former landfill site to comprise a data centre development (B8 (data centre)) of up to 163,000sqm (GEA) delivered across 3 buildings. The scheme includes site wide landscaping and the creation of Parkland. The data centre buildings include ancillary offices, internal plant and equipment and emergency back-up generators and associated fuel storage. The development may also include cycle and car parking, internal circulation routes, soft and hard landscaping, security perimeter fence, lighting, earthworks, District Heating Network, sustainable drainage systems, ancillary infrastructure, and a substation, in accordance with application Ref. PL/21/4429/OA, dated 2 September 2022, as amended in IR2.

### **Right to challenge the decision**

43. 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 TCPA 1990.

44. A copy of this letter has been sent to Buckinghamshire Council and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Phil Barber

*This decision was made by the Parliamentary Under Secretary of State for Local Government and Building Safety, Lee Rowley MP, on behalf of the Secretary of State, and signed on his behalf.*

## ANNEX A SCHEDULE OF REPRESENTATIONS

### General representations

<b>Party</b>	<b>Date of representation</b>
Joy Morrissey MP	27 June 2023
Joy Morrissey MP	1 September 2023
Joy Morrissey MP	20 September 2023
David Hutchinson, Pegasus Group	20 October 2023



The Planning Inspectorate

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# **Report to the Secretary of State for Levelling Up, Housing and Communities**

**by Peter Mark Sturgess BSc (Hons), MBA, MRTPI**

**an Inspector appointed by the Secretary of State**

**Date 31<sup>st</sup> May 2023**

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**Town and Country Planning Act 1990**

**Buckinghamshire Council**

**Appeal By Mr Anthony Crean KC, Greystoke Land and Altrad  
Limited**

Inquiry Held on 21- 28 February 2023

Woodlands Park Landfill Site, Land South of Slough Road, Iver, Buckinghamshire

File Ref: APP/N0410/W/22/3307420

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**File Ref: APP/N0410/W/22/3307420**

**Address: Woodlands Park Landfill Site, Land South of Slough Road, Iver, Buckinghamshire**

- The appeal is made under s78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Anthony Crean KC, Greystoke Land and Altrad Limited against the decision of Buckinghamshire Council.
- The application dated PL/21/4429/OA, dated 12 November 2021, was refused by notice dated 2 September 2022.
- The proposed development was described, on the application form, as outline planning application for a new data centre.

### **Procedural Matters**

1. In advance of the Inquiry an application for costs was made by Mr Anthony Crean KC, Greystoke Land and Altrad Limited (the appellants) against Buckinghamshire Council. This application is the subject of a separate Report.
2. The decision issued by the Council contains a different description of development to that shown on the planning application form. I questioned this with the parties at the Inquiry. The description of development has been agreed between the parties to be *'Outline planning application with all matters reserved except for principal points of access for the redevelopment of the former landfill site to comprise a data centre development (B8 (data centre)) of up to 163,000sqm (GEA) delivered across 3 buildings. The scheme includes site wide landscaping and the creation of Parkland. The data centre buildings include ancillary offices, internal plant and equipment and emergency back-up generators and associated fuel storage. The development may also include cycle and car parking, internal circulation routes, soft and hard landscaping, security perimeter fence, lighting, earthworks, District Heating Network, sustainable drainage systems, ancillary infrastructure, and a substation.'*<sup>1</sup> I have therefore had regard to this description in this report.
3. The application is in outline with all matters reserved apart from access. In the Statement of Common Ground (SoCG) the parties agreed that the plans which would be referenced in conditions to be attached to any grant of planning permission, should the appeal be allowed, are:
  1. Site location plan ref: 21091.501 Rev B
  2. Land use parameter plan ref: 21091.301 Rev F
  3. Development zones parameter plan ref: 21091.302 Rev F
  4. Building heights parameter plan ref: 21091.303 Rev F
  5. Building lines parameter plan ref: 21091.304 Rev F

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<sup>1</sup> GD.G10i, page 7

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|--|----------------------------------|
| 6. Indicative green infrastructure parameters plan | ref: 21091.305 Rev E             |
| 7. Access and movement parameter plan              | ref: 21091.306 Rev E             |
| 8. Proposed access arrangements plan               | ref: 23128-08 Rev C <sup>2</sup> |
4. I have had regard to all the above plans in this report. The other plans referred to above will assist in guiding the submission of reserved matters and set the parameters for it. All other plans submitted with the planning application are treated in this report as being for illustrative/indicative purposes only.
  5. I have received a completed planning obligation made under s106 of the Town and Country Planning Act 1990<sup>3</sup>. The agreement is intended to cover the following matters: the facilitation of a district heating network; the implementation and monitoring of a travel plan; the maintenance of local air quality; employment, training and skills for local people and the provision and maintenance of parkland. I will assess the necessity and other matters in relation to this agreement in terms of its compliance with s122 of the Community Infrastructure Levy Regulations 2010 (the Regulations) and paragraph 57 of the National Planning Policy Framework (the Framework) later in this report.
  6. A Screening Opinion was obtained from the Council on 14 October 2021<sup>4</sup>. The Screening Opinion considers that in the light of available information and having regard to the location and nature of the proposed development and the selection criteria for screening Schedule 2 development as set out in Schedule 3 of the 2017 Regulations, the proposed development would be unlikely to have any significant environmental effects. The proposed development despite constituting Schedule 2 development is not an EIA development.
  7. A further Screening was undertaken by the Planning Inspectorate (on behalf of the Secretary of State) and reached the same conclusion as the Council and the development is not EIA development.
  8. A virtual Case Management Conference (CMC) was held on 5 December 2022 to discuss arrangements for the Inquiry. The appellant and the Council attended the CMC.
  9. The appeal was recovered for decision by the Secretary of State on 20 December 2022. The reason for recovery was that the proposal is for significant development in the Green Belt and the proposed development is of major significance having more than local significance. This was confirmed in a letter to the parties dated 21 December 2022.<sup>5</sup>
  10. The Inquiry sat for 5 days, commencing on 21 February 2023. An accompanied site visit was carried out on 24 February where features present on the site were seen. This was followed by an unaccompanied visit to agreed viewpoints around the site.

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<sup>2</sup> CD.G10i, page 7

<sup>3</sup> IDAC 1

<sup>4</sup> CD.A4c

<sup>5</sup> CD.G13

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## The Site and Surroundings

### The site

11. The appeal site extends from Slough Road in the north to Iver Lane in the south and is around 52.4 hectares in area.<sup>6</sup> To the west of the site is the M25 and to the east is the River Colne. The site itself can be broadly split into four parts. To the north is a narrow access track from Slough Road, which currently serves as an access to the fishing lake on the site. To the south there is access from Iver Lane via Palmers Moor Lane. The balance of the site can be split into two areas: an area which has been used for quarrying and landfill, now restored, and an area of pasture land around Palmers Moor Lane. Large pylons and electricity transmission lines fringe the eastern side of the site.
12. The area of the former landfill site appears to have been unused for a number of years, apart from the area used by the anglers. It has some vestigial remains from the landfill and quarrying uses (concrete blocks, spoil heaps, landfill gas monitoring tubes), especially in the south east, but these features are not prominent. For the most part the site is covered with scrub comprised mainly of grass. It does have areas which are either bare or covered with mosses, although these appear to be few in number. There are two bodies of water on the site, the anglers' lake (referred to above) and a small pond in the south east. At the edges of the site to the east and west are trees and other taller vegetation.
13. In the south, around Palmers Moor Lane, are fields which appear to be used for the grazing of horses. These fields are separated from the former landfill site by a change in levels. Palmers Moor Lane itself is a narrow road that serves a small number of dwellings (outside the appeal site) and a bridge over the M25. Should the appeal be allowed, part of it will become the principal access to the site.
14. Generally, the interior of the site is open and gently undulating. The changes in levels appear to relate to its restoration following its use as a landfill site. The area along the River Colne, in the east, is shaded by large trees, such as willow, some of which show evidence of recent pollarding and is skirted by pylons. The M25 influences the western part of the site. The presence of the motorway, and its influence, varies between being a constant noise to being highly visible from the site, along a short section of the access track to the north. In most other areas the levels and vegetation mean that it is not visible, although it can still be heard.

### The site's surroundings

15. The site lies on the edge of the Greater London Conurbation. To its east, beyond the River Colne, lies the West London Industrial Park (WLIP). This is a large area occupied by businesses in a variety of premises. Beyond the WLIP lies the built-up area of Uxbridge. To the west, beyond the M25, lies open countryside and the villages of Iver and Iver Heath. To the north and south of the site beyond Slough Road and Iver Lane respectively lies further open countryside interspersed with urban fringe uses such as an electricity substation.

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<sup>6</sup> CD.G10i, page 3

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## Planning Policy

16. The development plan for the area is comprised of the South Bucks District Local Plan (adopted March 1999 (DLP)<sup>7</sup>, Consolidated September 2007 and February 2010, the South Bucks District Core Strategy Development Plan Document (Adopted February 2011) (DCS)<sup>8</sup>, the Buckinghamshire Minerals and Waste Local Plan 2016-2036 (Adopted July 2019) (BMWLP)<sup>9</sup> and the Ivers Neighbourhood Plan<sup>10</sup> (INP) which became part of the development plan in 2023.
17. The Development Plan policies referenced in the Council's decision notice were:
- Policy GB1 of the DLP – which sets out the approach to the control of development within the Green Belt.
  - Policy GB4 of the DLP – which explains the approach to controlling employment development in the Green Belt.
  - Policy EP3 of the DLP – covers the acceptability of development in terms of use, design, and layout of development.
  - Policy CP8 of the DCS – relates to the protection of the built and historic environment.
  - Policy CP9 of the DCS – sets out the approach to protecting the landscape and the natural environment.
18. In addition, the following Policies were referred to in the evidence given at the Inquiry:
- Policy CP10 of the DCS – seeks, amongst other things, to maintain local economic prosperity through retaining existing employment sites and facilitating the delivery of new employment sites, but outside the Green Belt.
  - Policy CP6 of the DCS – seeks, amongst other things, to define infrastructure for the purposes of the plan, protect existing infrastructure and work with partners to provide new infrastructure.
  - Policy CP12 of the DCS- promotes the energy efficiency on new developments and the use of renewable and non-carbon sources.
19. The relevant policies of the INP which have been referred to at the Inquiry are:
- Policy IV1 – seeks to safeguard gaps between settlements and to prevent ribbon development along certain corridors that would lead to suburbanisation.
  - Policy IV7- promotes, amongst other things, the improvement in air quality throughout the plan area.

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<sup>7</sup> CD.D2

<sup>8</sup> CD.D1

<sup>9</sup> CD.D3

<sup>10</sup> CD.E4

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- Policy IV13 – seeks to ensure, amongst other things, that developments make a positive contribution to the Colne Valley Regional Park in line with its objectives.

20. Other relevant local policy documents:

- The Buckingham Green Belt Assessment Report (March 2016);
- Chiltern and South Bucks Stage 2 Green Belt Assessment – Strategic Role of the Metropolitan Green Belt in Chiltern and South Bucks (March 2018)
- South Bucks Landscape Character Assessment (October 2011);
- Colne Valley Landscape Character Assessment (August 2017);
- Colne Valley – Landscape on the edge: Landscape Conservation Action Plan (March 2018);
- Colne and Crane Valleys Green Infrastructure Strategy (September 2019).

21. In terms of national planning policy and guidance the Framework and the Planning Practice Guidance (PPG) are of relevance to this recommendation.

22. A number of other national policy documents and guidance were referred to by the parties, these include:

- Ministry of Housing, Communities and Local Government (MHCLG), National Design Guide, January 2021.<sup>11</sup>
- Community Infrastructure Levy Regulations, 2010.<sup>12</sup>
- HM Government, Industrial Strategy-Building a Britain fit for the future, November 2017.<sup>13</sup>
- HM Government, National Cyber Strategy 2022 – Pioneering a cyber future with the whole of the UK.<sup>14</sup>
- HM Treasury, Build Back Better-our plan for growth, March 2021.<sup>15</sup>
- HM Treasury, Autumn Statement 2022, November 2022.<sup>16</sup>
- Department for International Trade (DIT), Policy Paper Digital trade objectives, 20 September 2021.<sup>17</sup>
- DIT, Official Statistics, Department for International Trade inward investment results 2021 to 2022, Updated 29 June 2022.<sup>18</sup>

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<sup>11</sup> CD.F4

<sup>12</sup> CD.F3

<sup>13</sup> CD.F6

<sup>14</sup> CD.F7

<sup>15</sup> CD.F8

<sup>16</sup> CD.F9

<sup>17</sup> CD.F10

<sup>18</sup> CD.F11

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- Department for Culture Media and Sport (DCMS), National Data Strategy, December 2020.<sup>19</sup>
  - DCMS, Government response to the consultation on the National Data Strategy, 18 May 2021.<sup>20</sup>
  - DCMS, UK Digital Strategy, 2022.<sup>21</sup>
  - DIT, Data Centres Sector Proposition, January 2021.<sup>22</sup>
  - Office of Budget Responsibility (OBR), Economic and fiscal outlook, November 2022.<sup>23</sup>
  - Landscape Institute (LI) and Institute of Environmental Management and Assessment (IEMA), Guidelines for Landscape and Visual Impact Assessment (Third Edition), Routledge.<sup>24</sup>
  - Building Better, Building Beautiful Commission, Living with Beauty – Promoting health, well-being and sustainable growth, January 2020.<sup>25</sup>
  - Natural England (NE), Biodiversity Metric 3.0 – Auditing and accounting for biodiversity User Guide, July 2021.<sup>26</sup>
  - Office of the Deputy Prime Minister (ODPM), Government Circular: Biodiversity and Geological Conservation-Statutory Obligations and Their Impact with the Planning System, ODPM Circular 06/2005, 16 August 2005.<sup>27</sup>
  - HM Government, Levelling Up and Regeneration Bill.<sup>28</sup>
  - Department for Levelling Up, Housing and Communities (DLUHC), Creating Beautiful, Popular, Healthy and Sustainable Places, letter from the Secretary of State to Council Leaders in England, 1 December 2022.<sup>29</sup>
  - DLUHC, Levelling Up and Regeneration Bill: Planning and Control on England, letter from the Secretary of State to all MPs, 5 December 2022.<sup>30</sup>

## Planning History

23. Since 1984 the site has been subject to a number of applications. It appears that in 1984 planning permission was granted for the extraction of sand and gravel followed by infilling with industrial wastes. A further permission was granted in 1987 for the disposal of controlled waste. In 1994 planning permission was

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<sup>19</sup> CD.F12

<sup>20</sup> CD.F13

<sup>21</sup> CD.F14

<sup>22</sup> CD.F15

<sup>23</sup> CD.F16

<sup>24</sup> CD.F17

<sup>25</sup> CD.F18

<sup>26</sup> CD.F19

<sup>27</sup> CD.F20

<sup>28</sup> CD.F21

<sup>29</sup> CD.F22

<sup>30</sup> CD.F23

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applied for to develop the site for a motorway service area. This application was refused, and the proposal was dismissed on appeal. In 1998 planning permission was granted to restore the former asbestos landfill to agriculture by landfilling with inert waste. This was followed in 2000 by permission for the disposal of inert waste and restoration to agriculture. The description of these proposals is set out in the Statement of Common Ground<sup>31</sup>.

## **The Proposals**

24. The proposal is in outline with all matters reserved, except for the main access to the site. It would comprise a data centre spread over 3 multi storey buildings grouped around the lake in the north of the site. The buildings themselves would be around 23m in height with ventilation flues of 27m. The total area of the buildings would be around 163,000sqm (GEA). It is indicated in the parameters plans that the data centre buildings would have 'green walls' and a 'brown roof.' The buildings could also contain, ancillary offices, internal plant and equipment, emergency backup generators and associated fuel storage facilities.
25. Around the buildings on the operational part of the site, could be an electricity substation, access and circulation roads, car parking, cycle parking, hard and soft landscaping, facilities to enable connection to a district heating network, sustainable drainage systems and ancillary infrastructure. The operational site would be contained by a security perimeter fence and earthworks and would be equipped with external lighting.
26. As well as the operational site it is proposed to create parkland to which the public would have access. This would include new walking routes and the re-establishment of a bridge from the site to the River Colne Walkway/London Loop (RCWLL).

## **Other Agreed Facts**

27. A SoCG was signed by the parties prior to the Inquiry<sup>32</sup> and includes the following areas of agreement:
  - the proposal would constitute inappropriate development in the Green Belt and in accordance with paragraph 148 of the Framework, substantial weight should be given to any harm to the Green Belt;
  - there are no Tree Preservation Orders present on the site;
  - the proposal by reason of its nature and scale would result in an inherent change to the character of the site;
  - there are no long views into the site which would be impacted by the proposed development;
  - the site lies in a Biodiversity Opportunity Area (BOA);
  - the development would result in a Biodiversity Net Gain (BNG) of 6.85%

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<sup>31</sup> CD.G10i

<sup>32</sup> CD.G10i

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- traffic movements associated with the proposed development can be accommodated without resulting in a severe impact on the local highway network;
  - subject to appropriate, necessary, and relevant conditions and obligations there is no objection to the proposed development on highways grounds;
  - the site lies within Flood Zones 1, 2 and 3;
  - subject to appropriate and necessary conditions the proposed development would not result in unacceptable harm in respect of flood risk or drainage;
  - subject to appropriate and necessary conditions, the impact of the development on contaminated land can be mitigated;
  - the site lies in an Air Quality Management Area (AQMA);
  - subject to appropriate and necessary conditions and financial contributions, the proposed development would not result in an unacceptable harm to air quality;
  - subject to appropriate and necessary conditions and through the submission of reserved matters applications, details of energy efficiency and renewable/low carbon energy measures can be submitted to demonstrate that the requirements of Core Policy 12 of the Core Strategy can be met;
  - subject to appropriate and necessary conditions the proposal would not result in unacceptable harm in respect of noise impacts;
  - subject to appropriate and necessary conditions the proposed development would not result in unacceptable harm to the amenity of local residents;
  - subject to appropriate and necessary conditions the proposed development would not result in harm to the significance of heritage assets;
  - subject to appropriate and necessary conditions the proposed development would not result in harm to the foul water network;
  - the proposal would not result in the need for maintenance or upgrading of the Grand Union Canal towpath;
  - subject to appropriate and necessary conditions, the proposed development would not result in unacceptable harm to the existing bridges over the Grand Union Canal;
  - subject to appropriate and necessary conditions the proposed development would not result in unacceptable harm to the safe movement of aircraft;
  - the area on which development is proposed is made up ground and would not result in the sterilisation of mineral resources;

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- the land is highly constrained and the potential for the wider recovery and any significant volumes of minerals has been discounted;
  - the volume of theoretical recoverable minerals is minimal, and its extraction would be both impractical and uneconomic;
  - the site lies within the Colne Valley Regional Park;
  - the proposed development delivers economic benefit;
  - the proposed education and employment opportunities are a benefit of the scheme;
  - the potential utilisation of excess heat generated by the data centre for a District Heating Network is a benefit of the scheme.

28. At the Inquiry, an Addendum to the SoCG<sup>33</sup> was submitted and mainly relates to the following points:

- the Council have no evidence to dispute the appellants forecasts for extra capacity in London of 2,248MW to 3082MW (a central estimate of 2,665MW) between 2022-2027<sup>34</sup>;
- the Council have no evidence to dispute the appellants estimate of additional required capacity in the Slough Availability Zone (SAZ) between 2022 and 2027 of around 1,460MW to 2,000MW (a central estimate of 1730MW), and it is agreed with the appellant that 'there is a degree of uncertainty in such estimates<sup>35</sup>;
- at the time of writing the Addendum 'there is no specific long-term forecasts of need or demand for data centres in the London area'<sup>36</sup>;
- the Council gave significant weight to the need for a data centre in its decision on the planning application and that significant weight is given to the benefit of the need for a data centre<sup>37</sup>;
- the Appellant gives very substantial weight to the significant contribution the proposal would make to meeting the need at the right time and in the right location<sup>38</sup>;
- the proposed data centre would be a hyperscale data centre of up to 163,000sqm (GEA), capable of 147MW of IT load. It would represent 8.5% of the Appellant's central estimate of additional capacity in the SAZ between 2022 and 2027<sup>39</sup>;

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<sup>33</sup> ID5

<sup>34</sup> CD.G9b – appendix 1, para 7.15

<sup>35</sup> CD.G9b -appendix 1, para 7.16

<sup>36</sup> CD.B35 – para 1.3.15

<sup>37</sup> CD.G18m

<sup>38</sup> CD.G9a

<sup>39</sup> CD.G9a – paragraph 4.5

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- the SAZ includes land that falls within the boundaries of the following Councils, Buckinghamshire, Slough, Windsor and Maidenhead, Spelthorne, and Hillingdon<sup>40</sup>;
  - the letter from the DIT states that '*within the UK, the Thames Valley is central in the UK's data centre landscape, supported by 21<sup>st</sup> Century digital infrastructure necessary to support data centres, complete supply chain and a renewed focus (by the industry) on delivering green-tech solutions and sustainable energy sources (for neighbouring developments, including housing)*', It goes on to state that '*there is strong growth in the demand for data centre capacity to support the UK economy itself. As a direct result of this identified need, there is sustained demand for sites across a corridor that includes Berkshire, Buckinghamshire, Hertfordshire, and west London*<sup>41</sup>;
  - there are currently 3 planning applications for data centres within the former South Buckinghamshire Council area, none of these have planning permission and no decision has been made on any of them, they are subject to unresolved objections.
  - if approved they would represent circa 17% of the central estimate of additional required capacity in the SAZ, referred to above.
  - 2 of the proposals involve development in the Green Belt;
  - the Appellant has assessed all of the possible alternative sites identified by the Council (including the 3 sites referred to above<sup>42</sup>);
  - no evidence has been provided of other sites within the SAZ in particular in the Council areas of Slough, Windsor and Maidenhead, Spelthorne and Hillingdon of any permissions that have been granted or floorspace provided which would contribute towards the Appellants estimate of additional required capacity in the SAZ between 2022 and 2027;
  - the evidence base for the now withdrawn Chilterns and South Bucks Local Plan (2020) carries weight;
  - the appeal site does not contain any built development;
  - the M25 carriageways are predominantly screened from the appeal site by a change in levels, existing vegetation, and boundary treatments<sup>43</sup>;
  - site landscape value can be attributed to the River Colne and its riparian margins and to the undisturbed fields along Palmers Moor Lane;
  - the pylons within the site are visible from the landscape to the west of the motorway corridor<sup>44</sup>;

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<sup>40</sup> CD.9b -Appendix 1, para 9.16

<sup>41</sup> CD.G19

<sup>42</sup> CD.G17

<sup>43</sup> CD.G7a – paragraph 4.12

<sup>44</sup> CD.G7a – paragraph 4.16

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- the development would harm the Green Belt purpose a) to check unrestricted sprawl of large built-up areas and purpose c) to assist in safeguarding the countryside from encroachment. The parties disagree on the extent of the harm.
  - Substantial weight should be given to any harm to the Green Belt as required by paragraph 148 of the Framework;
  - Significant weight is afforded to the direct and indirect employment benefits generated by the proposed development;
  - Policy GB4 of the DLP carries limited weight as it is not compliant with the Framework.

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

29. This section is substantially based on the closing submission of the Council<sup>45</sup> together with evidence presented at the Inquiry.

#### *Background*

30. There is no national policy for data centres or any Government guidance at all about where they should be located. As a result, the market has dictated the strategy and sought to focus growth around areas best suited to its needs in particular around London and in the SAZ. The SAZ already has a very high concentration of data centres.
31. The problem with the strategy is that the developers are running out of land and with ever increasing demand are having to turn to the Green Belt. The Green Belt is not normally suitable for any built development, including the development of what would be the UK's largest hyperscale data centre. To date there are no known data centres within the Green Belt.
32. The nub of this appeal is the competing considerations of the urgent need for data centres up until 2027 (this proposal would contribute of 2240MW towards this need) versus the protection of the Green Belt. The Council accepts that there is an urgent need for increased data centre capacity, but only up to 2027. This proposal, due to local electricity supply constraints, would not become fully operational until 2026. However, the demand for data centres after 2026 cannot be predicted.
33. However, once the land proposed for the data centre is built on it is lost forever. A key characteristic of Green Belts is their permanence. Therefore, the Council contends that a decision such as this needs to be made for the long term and not just for the short term demands of the industry. Therefore, the sustainable answer to the need for new data centres is that the need must be met but met elsewhere. If the SAZ has reached its capacity, then that need should be met in another availability zone where there is electrical capacity so that it can be delivered sooner to meet the identified need.

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<sup>45</sup> ID11

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### *Harm to the Green Belt*

34. This part of the Metropolitan Green Belt is long established, having been designated in 1954, prior to the circular of 1955<sup>46</sup> which introduced Green Belts nationally. The original aim of Green Belts was to contain metropolises like London. Green Belts still endure today. This is seen in the Framework which attaches great importance to them.
35. The part of the Green Belt where the appeal site is located is part of the original Green Belt around London. The urban area is constrained to the east by the River Colne, beyond which, to the west, lies the site which constitutes the first piece of undeveloped land heading west from London towards Slough.
36. As part of the evidence base for the now withdrawn Chiltern and South Bucks Local Plan 2036<sup>47</sup> the site formed a significant part of an area known as 'Parcel 83'. Parcel 83 scored strongly in an independent assessment of Buckinghamshire's areas of Green Belt<sup>48</sup> against the purposes set out in the Framework. The review recognised that areas of Green Belt might need to be released in order to accommodate Buckinghamshire's growth. It was commissioned in order to identify those areas of Green Belt which performed weakly against the Green Belt purposes set out in the Framework and therefore might be suitable for development. This study illustrated that even if Green Belt release were necessary in order to accommodate growth there are areas of Green Belt that are more suitable for large-scale development than the appeal site.
37. Part of the appellant's case relied on suggesting that the appeal proposal did not conflict with Green Belt purposes or if it did, only to a limited extent. The scale of the proposal, three large buildings of around 163,000 sqm and up to 27m in height (with ancillary development) would extend the 'sense' of the urban edge of London to the west of the River Colne, beyond its historic boundary. This amounts to urban sprawl and this is accepted by the appellant. Furthermore, it is unrestricted as it crosses a clear boundary of the city. The proposal would, in effect, set a new Green Belt boundary at the M25. This scale of change should not be done in a piecemeal fashion and should only come about through planned change.
38. Parcel 83, according to the Green Belt assessment<sup>49</sup>, plays an important role in preventing neighbouring towns from merging. It forms part of the narrow gap between the non-Green Belt settlements of Uxbridge and Iver Heath, and Uxbridge and Iver, playing an important role in maintaining the overall scale of the gap which is particularly open in character with long vistas possible. The appellant suggested that this approach was incorrect as Iver Heath and Iver are large villages and not towns and that purpose (b) at paragraph 138 of the Framework refers only to towns.
39. The Council acknowledge this, however they contend that National policy provides no guidance over what might constitute a town and whether this purpose should apply to the consideration of gaps between smaller settlements.

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<sup>46</sup> Circular 42/55

<sup>47</sup> CD.E5

<sup>48</sup> CD.E2B

<sup>49</sup> CD.E2B

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The application of the Policy of the Framework should have regard to local circumstances which is of a predominantly rural county, with small settlements which have retained their own distinctiveness. In view of this dispersed nature of settlements, with gaps in between, a more local interpretation of the purpose is needed, which protects the gaps between settlements, regardless of their size or function. This should be the approach adopted by the Secretary of State in this decision by accepting this local interpretation of the Framework and acknowledging the harm that would be caused by reducing gaps between settlements in this location. Nonetheless, even if the literal interpretation of this Green Belt purpose is adopted the gap between the towns of Uxbridge and Slough would be reduced.

40. The scheme would represent harm to the Green Belt through the encroachment of development into the countryside. In the case of this purpose the countryside does not have to be publicly accessible or pretty to warrant the protection that Green Belt designation affords, it simply needs to be undeveloped land outside an urban area, which the appeal site is. There is no built development on the appeal site, and it is open in character. Features around the site, such as the M25, have an urban influence, but they do not detract significantly from the largely rural feel, with the site maintaining a strong unspoilt character. Therefore, the appeal site has value as open land and should be protected from encroachment.
41. The Council has accepted that there would only be limited harm to the purpose of assisting in urban regeneration and would not offend against the purpose of preserving the setting of historic towns.
42. Therefore, the appeal scheme would conflict with at least 2 and potentially 3/4 of the Green Belt purposes. It is a strong performing area and would not be considered for release to bring forward planned development.

#### *The Green Belt Test*

43. The local plan and the Framework set out certain tests for the acceptability or otherwise of development in the Green Belt, these tests include:
  - inappropriate development such as the appeal proposal is by definition harmful to the Green Belt;
  - decision makers should ensure that substantial weight is given to any harm to the Green Belt;
  - development in the Green Belt should not be approved unless there are very special circumstances which clearly outweigh the potential harm to the Green Belt by reason of inappropriate development and any other harm.
44. Therefore, even if there is no harm caused to either the Green Belt or any other features of acknowledged importance, any very special circumstances must still clearly outweigh the substantial definitional harm. In this appeal the Council considers that the very special circumstances do not clearly outweigh the substantial definitional harm.
45. However, even if that is not the case, there is other harm that supports the case of the preservation of the Green Belt.

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### *Other Harm: Landscape*

46. The site has been quarried and landfilled. Following these activities, the site was restored to grassland. It now has the character of open grassland and is not occupied by buildings. It has not been actively farmed, although a crop of grass might have been cut from time to time, the management and maintenance of the land has been low giving it a more natural appearance. This is complementary to the Colne Valley and the setting of the walk along the river.
47. The site is visually distinct from the urban area to the east and has much more in common with the adjoining countryside. The M25 is largely screened from the site by trees, although it is still audible from the site. The pylons hug the eastern part of the site and reinforce the urban edge that already exists.
48. The introduction of large-scale built form will significantly change the character of the area. The appellants argue that this can be addressed through the planting of circa 18,000 trees and creating beautiful buildings through their layout and the introduction of green walls and brown roofs. These measures cannot resolve the landscape harm. The large-scale rectilinear built forms, necessitated by the function of the buildings, will still be ugly and utilitarian. They do not sit well in a Green Belt and countryside environment and are more akin to an urban, industrial area. The green walls and brown roofs will not hide their bulk and there are doubts whether these elements can be delivered or maintained. Tree planting, to which the Government is committed, is not automatically good. A feature of the site is its openness and filling the site with trees does not reflect the existing landscape character.
49. The site is visible from the RCWLL and, even if views can be intermittent, those views are important in understanding the wider landscape. The site is open and unbuilt, and this is an important part of its character. As well as the views referred to above the site is also visible from Palmers Moor Lane. It is apparent that there are no buildings or any other features beyond the edge of the former landfill site. From the Ivers to the south west the site is viewed as part of a layered landscape.
50. The proposal to introduce very substantial buildings of up to 27m in height into the space between the M25 and the River Colne will be significant. The height of the buildings will be equivalent to the smallest pylons on the site. Unlike the pylons which are lattice and thus allow views through them, the buildings will be huge rectangles of solid mass. They will take out a chunk of sky above the viewer. The buildings will be perceived as bringing development closer to the viewer.
51. Tree planting might mask the built form to some extent, but this will not happen in the short term and then only in the summer months. The trees themselves will change the open character of the site. Overall, the data centre would be a significant incursion into the countryside between outer London and Iver.

### *Other Harm: Ecology*

52. The restored landfill site, which has not been in active use for a number of years, has been taken over by nature and supports a diverse range of flora and fauna<sup>50</sup>.

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<sup>50</sup> As set out in the Appellant's Ecological Impact Assessment CD.A17

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The site contains grassland, scrub, ponds, hedgerows, treelines and at least some priority habitat supporting numerous protected, priority and red data book species. It is also within a BOA, defined in the local plan. The designation is not necessarily restrictive, but it highlights the potential of the site for ecology and emphasises the importance of enhancing its wildlife. The site should not be left in a worse state post development than it is at the moment.

53. The BNG figure of 6.85%, whilst useful, should be regarded with caution and is not a substitute for expert ecological advice. The appellant's ecological witness stated that he can turn a very high scoring BNG into a negative by adjusting a few of the parameters. In this case a BNG of 6.85% does not leave much room for error. Therefore, a larger area of Open Mosaic Habitat on Previously Developed Land (OMHPDL) on the site than set out in the baseline assessment, if the brown roofs are not as large as assessed or if the green walls and brown roofs are unable to be maintained in a good condition for 30 years then the BNG could fall significantly and result in a negative figure. The Council have not put forward their own BNG calculation, but the limitations of the exercise must be acknowledged.
54. The appeal proposal cannot achieve the 10% BNG which will become a mandatory legal requirement in November this year<sup>51</sup>. The scheme could not go ahead in its current form if the decision were being taken in 9 months' time. Given the schemes location in the Green Belt and in a BOA on the basis of very special circumstances this fails to demonstrate that it is high quality and sustainable over the long term.
55. The harm caused to ecology is obvious. Human activity and the introduction of substantial built form will inevitably results in the removal of habitat and the displacement of species, as the EcIA acknowledges<sup>52</sup>. The size of the buildings and their positioning in the middle of the site will fragment the north/south habitat corridor, which primarily runs along the River Colne but might extend across the site as a whole.
56. The mitigation/compensation cannot address these issues. The green walls and brown roofs will not replace the habitat on a like for like basis and will be unavailable to some species who will not be able to access them. The enhancements to the fields to the south will not compensate for the fragmentation of the site caused by the development. The increased public access might affect the success of the enhancements.
57. Overall, the mitigation/compensation will not result in the conservation or enhancement of biodiversity (despite what the metric might say). Therefore, harm will be caused which is contrary to policy and weighs against the development of the Green Belt.

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<sup>51</sup> Environment Act 2021 – anticipated to be brought into force in November 2023

<sup>52</sup> See paragraph 9.2.3 in particular: 'Turning to losses of habitat within the main body of the application site (and their significance) there will unavoidably be displacement effects on a small number of breeding bird species, small losses (by comparison with that retained)[but note not in absolute terms – my emphasis] of foraging habitat for bats and badgers, small losses of reptile habitat and a loss of a proportion of the site's habitat expanse of grassland and grassland scrub interface invertebrates'. The table on pp 69-60 also notes the red list skylark and the amber list meadow pipit stating that there is 'likely to be net displacement from the site both in the short and the long term'

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### *The Very Special Circumstances Argument*

58. The Council highlights the very special circumstances which go to the principle of the development itself in the Green Belt (as opposed to the design and individual characteristics). These include the need for a data centre in the SAZ up until 2027, the ability of the scheme to meet 8% of the SAZ need, the financial benefit/ economic benefit that will arise from the scheme and the lack of alternative sites within the SAZ.
59. The focus on the SAZ is not a matter of planning policy, it is a function of data centre market demand to locate data centres in clusters with access to high-speed connections and a power network (known in the industry as power, position, and ping).
60. There is significant demand for more data centres in the SAZ. This is driven by the rise in cloud computing, the rapid growth in Artificial Intelligence (AI)/machine learning and the rise of data analytics. This demand has been illustrated in the appellants evidence which shows that overall demand for data centre capacity in London could increase by between 2,500MW to 3,100MW over the 6 years 2022 to 2027 a 20% per annum increase. In the SAZ in the same period demand could increase from 1,460MW to 2,000MW with a central estimate of 1,730MW. It is agreed between the parties that there is a degree of uncertainty in such estimates. However, being a hyper-scale data centre, the scheme would meet a significant proportion of that demand (8.5%). The Council has no reason to doubt these figures.
61. It is however important to understand that the need being claimed in the SAZ is really a locational demand, rather than a locational imperative. This is not the case with a development such as a motorway service area which has no option but to locate along a motorway. There are other Availability Zones within London which are not within the Green Belt (e.g., North Acton and Docklands) and the next main centre for data centres outside London is in Manchester. The Manchester market is significantly smaller but still has a role to play. No alternative sites assessment has been carried out which has looked beyond the SAZ to other parts of the UK or even London. A location somewhere outside London, such as Manchester, would support the Government's Levelling Up agenda.
62. It is also very important to understand that the claimed need is expressly a short term one, up until 2027. Predicting what will happen in a fast-moving industry, characterised by disruptive technology is difficult, however it is clear that the industry will change. Change does not necessarily mean that the demand for data centres will continue to go up indefinitely and it was accepted by the appellant's witness that growth might slow. This could occur in a number of ways, human behaviour may change, a ceiling in data storage might be reached, technology might advance so that such large buildings are no longer required for data storage or solutions might evolve data storage in more environmentally suitable locations. The future is unknown and so no reliance can be placed on any long-term need.
63. Locational factors used by market operators are becoming increasingly environmentally conscious. An industry document notes that it expects to see renewable power availability becoming more important and, in some cases, eclipsing connectivity as a factor for investors and operators when choosing

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locations for new sites. The appeal proposal will not use renewable energy it will take its power from Iver sub-station where there is not enough power for it to operate at full capacity until 2026. Given that this is proposed to be the UK's largest hyper-scale data centre it is really poor that it is unable to utilise any form of renewable energy, even in part. This might not be supported by investors and operators, and neither would be development in the Green Belt. It would appear that in these respects the development is behind fast moving times.

64. Therefore, whilst there is an urgent and immediate need and the scheme will meet a significant proportion of it, looking to the longer term, there is far less certainty as to what form data storage will take and where it will be located. Therefore, there is a real risk that these large buildings in the Green Belt could end up as 'white elephants'. This might not be an issue if the proposal were located on an industrial park, but harm to the Green Belt would be irreversible and permanent.
65. The other very special circumstances are really add ons (i.e., they would not justify the development on their own). The Council's submission is that the scheme succeeds or fails based on whether the above need clearly outweighs the Green Belt harm.

### *Conclusion*

66. Responding to the demand for new technology is obviously important and desirable. The very special circumstances are reasonably given significant weight by the Council. However, there is a need for caution. There is no planning policy or any other guidance to inform the appropriate locations for data centres that would take into account the gamut of public policy considerations (i.e., not just data centre convenience). It is true that planning policy has not kept up with market demand and this is something that the Government might wish to address. However, particularly since this appeal is examining a proposal for the largest data centre in the UK, and, if allowed, the first known data centre in the Green Belt, against a lack of any strategic policy for it, the decision must be taken by the Secretary of State with great care.
67. To abandon London's Green Belt to this type of development is the easy solution, but it is not sustainable in the long term. It is a solution that would be irreversible and would fly in the face of nearly a century of effective policy protection for the area. The appeal proposal is desirable in terms of providing significant data centre capacity for the country up until 2027, but it is not indispensable and the need itself is short-term. It should be resisted in the wider interest of good planning for the environment and the UK as a whole. The very special circumstances do not, either individually or cumulatively 'clearly outweigh' the substantial harm to the Green Belt and other landscape and ecological harm (or even the substantial harm to the Green Belt alone, absent of the other considerations). The appeal should therefore be dismissed.

### **The Case for the Appellant**

68. There is no dispute about the policy test that should be applied to the determination of this appeal. Should the appellant demonstrate that there are very special circumstances that justify allowing the appeal for inappropriate development, then a grant of planning permission should follow.

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69. There are a host of other considerations in this case. Central amongst them is the need for additional data centre provision within the SAZ, together with the contribution that the scheme makes and the absence of alternative sites in order to meet that need. The Council in determining the planning application for the appeal proposal recognised that there is a growing need to store data and a need for additional data centre provision. It therefore gave this factor significant weight.

70. The Council accepts that there is a need for additional data centre provision within the SAZ in the period to 2027 of around 1,730MW of IT load.

71. The Council also accepts that;

- the level of need is properly described as overwhelming,
- the need is urgent,
- data centres comprise critical infrastructure of national importance,
- the appeal scheme will make a significant contribution to meeting that need, and,
- there are no alternative sites that can meet that need.

72. It is not credible for the Council to suggest that:

- its attribution of weight to the need for additional data centre provision, the appeal scheme's contribution to meeting that need, the lack of alternative sites should not be reviewed upwards, and,
- the weight attaching to each of those factors should remain at no more than significant.

#### *Inappropriateness*

73. Apart from the categories set out in paragraph 149 of the Framework, new buildings are inappropriate in the Green Belt. The parties agree that the development would constitute inappropriate development in the Green Belt.

#### *Other Potential Green Belt Harm*

74. These might include the loss of openness and harm to the purposes Green Belt is meant to serve.

#### *Loss of Openness*

75. The introduction of buildings to an undeveloped Green Belt site will inevitably cause a loss of openness in both a spatial and visual sense. The appeal scheme comprises 3 substantial buildings that in purely spatial terms will lead to a significant loss of openness.

76. The appellants readily acknowledge this, but state that it needs to be seen in the following context:

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- the vast majority of the appeal site will not be built on. The proposed buildings will cover approximately 7.2ha<sup>53</sup> of a 52.4ha site and even if access roads, car parking and paths are taken into account over 77% of the site will remain undeveloped;
  - any loss of openness in a spatial sense, will not be widely perceived. For such a substantial development the loss of openness suffered in a visual sense is remarkably limited.

77. In respect of the visual loss of openness it is telling that the viewpoints identified by both the appellant and the Council that are likely to afford views (often glimpsed and transient) of parts of the appeal buildings are all close to the site and limited in number. More significantly the viewpoints from which it is possible to gain a clear impression of the appeal site's current openness are even fewer in number. This is because the appeal site is remarkably well contained in a visual sense:

- except for points along the RCWLL to the east of the River Colne (which is largely well vegetated on both banks, views of the appeal site from the east are curtailed by the WLIP;
- views of the appeal site from the north (Slough Road) are restricted by topography and vegetation;
- views of the appeal site from the south (Iver Lane) are restricted by both vegetation and residential ribbon development along the north side of Iver Lane;
- views from the west (Beeches Way and the Ivers) are curtailed by layers of vegetation, including those associated with the M25 motorway.

78. All of these factors mean that the perception of the site's current openness is limited.

79. The above factors are equally relevant to the impact of the appeal scheme on the visual openness of the Green Belt in this location. However, they are augmented by the landscaping proposals that have formed an integral part of the scheme's design from the outset. The appellant intends to augment the existing tree and scrub vegetation around the site's boundaries. Opportunities to perceive a loss of openness from public vantage points will be further limited. Therefore, the assessment by the appellant's landscape witness that there will be limited change to the sense of openness of the wider area<sup>54</sup> is fair and accurate.

### *Green Belt Harm*

80. The appeal scheme will conflict with some of the purposes Green Belt is meant to serve. However, the Council has overstated the extent of that conflict. The appellant accepts that there should be no doubt that 3 out of the 5 Green Belt purposes are not harmed by the appeal proposal<sup>55</sup>.

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<sup>53</sup> At paragraph 5.1 of the proof of Mr Harris (this includes the proposed substation).

<sup>54</sup> At 5.24 of his proof. Amongst other things, he also records that, "When the full landscape strategy is implemented only limited and partial views of the built form would be seen from a limited number of localised viewpoints (his paragraph 5.23)

<sup>55</sup> Closing submission on behalf of the appellant, paragraph 22

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81. The Council does not suggest that the appeal scheme causes harm to the setting or special character of an historic town. However, it does contend that there will be conflict with:

- purpose b), to prevent neighbouring towns from merging into one another, and;
- purpose e), to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

82. With regard to the merger of towns the Council's planning witness accepted in cross examination that:

- the 2 relevant towns (as opposed to villages) are Slough and Uxbridge, and that those towns will not merge, or be perceived to have merged as a result of the appeal proposal;
- Iver and Iver Heath are villages and not towns;
- adopting a consistent approach with the planning inspector in the recent Chalfont St. Giles decision<sup>56</sup>, means that no conflict with purpose b) could arise, and;
- in any event, the appeal proposal does not lead to either an actual or perceived merger between the Ivers and Uxbridge, and, at most there will be a narrowing of the existing gap between those settlements. The appellants planning witness records the extent of that narrowing to be from 1.35km to 1.25km.

83. These agreed propositions are sufficient to deal with the Council's contention that Green Belt purpose b) is harmed by the appeal scheme. None of the Green Belt assessments<sup>57</sup> produced to inform the preparation of the now abandoned Local Plan makes any difference to that conclusion.

84. The Ivers Neighbourhood Plan also makes no difference to the above conclusion. The Neighbourhood Plan contains no Green Belt policies. However, it does contain Policy IV1 which identifies local gaps and corridors of significance. These are not Green Belt designations and therefore the application of this policy is not relevant to the scheme's performance against Green Belt purpose b), however:

- the appeal site falls within none of the local gaps identified in the Neighbourhood Plan;
- the appeal site falls within none of the corridors of significance within which the Neighbourhood Plan seeks to control ribbon development.

85. With regard to any conflict between the appeal proposal and Green Belt purpose e) the appellant considers that the Council's position as being a generic one, where any proposal on undeveloped land in the Green Belt will cause conflict with this purpose. The Council's planning witness accepted that there is no evidence to suggest that:

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<sup>56</sup> CD.H6 at paragraph 52

<sup>57</sup> CD.E2a-c and E3

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- the appeal proposal will undermine any existing or proposed urban regeneration project;
  - there is an urban site on which the appeal proposal could be developed.
86. The Council's planning witness accepted on the basis of these 2 points that there is no conflict between the appeal proposal and Green Belt purpose e)
87. The remaining Green Belt purposes are:
- a) to check the unrestricted sprawl of large built-up areas, and;
  - c) to assist in safeguarding the countryside from encroachment.
88. In the same way as the development of an open Green Belt site will inevitably give rise to some loss of openness, such development will also give rise to some level of conflict with purposes a) and c). However, it is important not to overstate the scale of that conflict.
89. Purpose a) is concerned with the unrestricted sprawl of large built-up areas. If a proposed development is contained by a permanent and defensible barrier, then the degree to which that development could be described as unrestricted sprawl is necessarily limited.
90. There is no doubt that a motorway is capable of comprising a permanent and defensible barrier. In this case the M25 lies directly to the west of the appeal site. That permanent and defensible barrier is reinforced in this case by existing vegetation (on both highway land and the appeal site) next to the M25, the appeal site's lake that sits between the motorway and the proposed buildings 1 and 2 and the proposed tree planting that will supplement existing vegetation already adjacent to the M25.
91. The conclusion that there is a permanent and defensible barrier to the further westward expansion of built development (i.e., unrestricted sprawl) is clear. There is no possible basis on which it could be concluded that the development of the appeal site renders it any more likely that other development will take place west of the M25 and spread development towards the Ivers.
92. That conclusion is not affected by the contents of the Council's Green Belt assessments (produced in support of the abandoned local plan). Neither of those gave specific consideration to the role of the appeal site in respect of the fulfilment of Green Belt purposes. Neither of the assessments addressed the impact of the appeal proposal on Green Belt purposes. Instead, the Part 1 assessment identified and then assessed defined parcels of land. Parcel 83 is some 160ha in area. That is 3 times the size of the appeal site and substantially larger than the area of land that would be subject of built development should the appeal proposal be implemented. The Part 2 assessment was a high-level exercise that divided the entire study area into just 4 strategic areas. In summary the appeal proposal will comprise the extension westwards of built development, but the development will be contained by a permanent and defensible barrier, so that the extent of harm to purpose a) is limited.
93. The extent of the conflict of the appeal proposal with purpose c) is informed by, amongst other things, the countryside qualities of the appeal site and the degree to which any countryside qualities will be retained or enhanced by the proposal.

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94. The Council's Part 1 Green Belt Assessment describes the entirety of Parcel 83 as having a "strong unspoilt character". The Council has, in effect, adopted that description in its treatment of the appeal site and its assessment on the proposal's impact on purpose c). The appellant regards this as a mistake by the Council and this has led it into an error in assessing the appeal proposal against that Green Belt purpose.
95. The description for parcel 83 in the Part 1 Green Belt Assessment<sup>58</sup> refers to land in the north of the parcel as paddocks and pasture. That accurately describes the southern fields within the appeal site, in the area around Palmers Moor Lane. However, it is not an accurate description of the main part of the appeal site, which will contain the development. That part of the appeal site contains no pasture or paddocks and is a capped landfill site that has not been in agricultural use for many decades. Furthermore, apart from a reference to the M25 the description of parcel 83 fails to mention other urban influences, such as the WLIP or the pylons.
96. The true countryside qualities of the appeal site are limited. The appellant's landscape witness considers that the appeal site is not representative of the landscape character of locally undisturbed farmland or other countryside as it is a capped former landfill site.
97. The appellant accepts that the appeal site is not devoid of countryside qualities and contains no built development, apart from the pylons. As a result, there will be some infringement of purpose c) by the introduction of new built form on the site. However, the impact of this built form is ameliorated by the site's relatively limited countryside qualities and by the landscape led approach to the scheme as a whole, which will mean some elements of the landscape character will be strengthened.
98. Therefore, the appellant accepts that the scheme will cause harm to the Green Belt through, inappropriateness, loss of openness – primarily spatial and to a limited degree visual – and limited infringement of purposes a) and c).

#### *Other Harm*

99. The Council's categories of other harm are limited. These are confined to matters related to the effect of the proposal on the character and appearance of the area and ecological harm.
100. In terms of the proposal's impacts on the character and appearance of the area these are overstated and fail to have regard to the site in its existing condition, a proper appreciation of the benefits of the scheme and the proposed mitigations and that the visual impacts of the buildings are limited localised and usually transient.
101. In terms of the landscape baseline the site is not within an area designated for its landscape quality, it is not part of a valued landscape, it does not display a strong unspoilt rural character, the site is influenced by urban forms – including an industrial estate, pylons and the motorway, the capped part of the site means that its topography is out of step with the nearby low-lying floodplain and the main part of the appeal site is not pastures, paddock or in agricultural use.

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<sup>58</sup> CD E2a p38

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102. In terms of proposed mitigation, the parameters of the appeal proposal have been designed with the interests of the landscape (and ecology) firmly in mind. The size of the appeal site offers significant opportunities to strengthen existing landscape features, such as the vegetation along the eastern and western boundaries and those crossing the site between those 2 areas. Other components of the landscape, the area of pasture around Palmers Moor Lane and the second pond in the eastern part of the site, will be improved. This will mean that the appeal proposal will have a positive effect on the landscape character of the area.
103. The visual impact of the proposal will be limited and localised. Therefore, the harm to visual amenity will be limited. Given the scale of the appeal proposal these conclusions are a testament to the degree of containment the site already enjoys and the considered approach to the additional planting proposed for the site as part of the appeal proposal.
104. In terms of national and local policy the scheme meets the requirements of paragraph 174 b) of the Framework, the requirement set out in Policy C9 for proposals to avoid landscape harm and the landscape objectives of Policy IV13 of the Neighbourhood Plan. Overall, the other harm generated by the appeal proposal is limited.
105. However, and for completeness the appellant notes, the schemes ecological impacts are positive, the suggestion of harm brought about by making the site more accessible is misplaced, impacts on air quality would be negligible, there is no argument regarding precedence as all proposals are considered on their merits and the allegation of harm by interested parties are not supported by technical evidence or by statutory consultees.

#### *Ecological Impacts*

106. The Council accepts that the appeal proposal will generate a BNG of a little under 7%. However, it still maintains that the proposal will be harmful to ecological interests and therefore the ecological impacts will fall only on the negative side of the balance.
107. Despite agreeing that the appeal proposal will deliver 6.85% BNG the Council asserts that the appeal site might include a greater proportion of open mosaic habitat than has been identified by the appellants ecologist, some of the mitigation measures might not be installed or be properly maintained and there has been a failure to follow the mitigation hierarchy and that undermines the BNG calculation. The appellant considers that none of these assertions by the Council has merit.
108. In terms of the presence of priority habitats the site has been the subject of a comprehensive habitat survey, including surveys undertaken in 2021. The surveys were conducted in accordance with established methodology by experienced ecologists and the 2021 survey remains up to date.
109. There is no competing comprehensive survey and mapping exercise to put against the evidence prepared by the appellants ecologist. The Council has not produced its own survey, the photographs provided by the Council's witness amount to a random series of photographs which is no substitute for a comprehensive survey and, in the opinion of the appellant do not alter their view on the extent of open mosaic habitat on the site. In terms of the letter from

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Buglife<sup>59</sup> the suggestion that the whole site is likely to qualify as open mosaic habitat is wrong and no one from Buglife has visited the appeal site. The magic map produced by Natural England shows most of the appeal site north of Palmers Moor Lane as open mosaic habitat. That is clearly wrong, and it is acknowledged that the map is in draft and contains some uncertainty. Again, there is no evidence that anyone from Natural England has visited the site.

110. Moreover, the Council agrees that the reserved matters process will ensure that the brown roofs are installed to an acceptable quality and that they will be maintained.
111. The mitigation hierarchy referred to by the Council is applied where a proposal generates significant harm to ecological interests. No such significant harm is caused in this case. Even in the case of significant harm being caused paragraph 180 a) of the Framework does not prohibit development. In the first instance it requires avoidance, by relocating development to an alternative site, and failing that mitigation and compensation. Despite not being a proposal that causes significant harm to ecological interests the hierarchy is met. There is no alternative site for the proposal and the proposals advance a policy compliant scheme of mitigation that generates a BNG.
112. The Council do not contend that the proposal will cause unacceptable harm to any specific species. Moreover, the witness asserts harm through habitat fragmentation and the loss of a wildlife corridor, but nowhere analyses how those alleged effects are said to impact unacceptably on identified species. Surveys of the site have identified all relevant species and the appellant's witness confirmed that no species will suffer unacceptable harm.
113. The important wildlife corridor that is relevant to the appeal site is the River Colne. The only effects on this wildlife corridor are positive through the removal of invasive species. The Council has argued that there is simply a fragmentation and loss of a wildlife corridor and relies on the identification of an important invertebrate area by Buglife. In support of these assertions, it has conducted no surveys of its own and has identified no particular species said to suffer unacceptable harm.
114. The Council's reliance on the important invertebrate area identified by Buglife does not comprise an assessment of the ecological impact of the appeal proposal. Buglife's plan shows several 10km x 10km squares in the South Bucks area where there have been notable invertebrate species recorded. It is not specific to the appeal site and no one from Buglife has visited the site.
115. The Council does not acknowledge that the site is within the Colne Valley Biodiversity Opportunity Area and that the appeal proposal will meet all relevant targets for the area. In this respect the appeal proposal will deliver, a reedbed, lowland meadow (both priority habitats), the removal of invasive species from the River Colne (a Site of Importance for Nature Conservation), improvement in the quality of standing water, the creation of new woodland (3ha), the enhancement of existing woodland (2ha), the creation of new ponds and the provision of new hedgerows.

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<sup>59</sup> CD.G18I

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116. The Colne Valley Biodiversity Opportunity Area (1,748ha) is not a constraint on development, but seeks opportunity to enhance biodiversity across the area. The appeal proposal achieves this by delivering BNG and advancing specific targets identified for the BOA. The ecological impacts of the appeal proposal are positive and fall on the positive side of the planning balance.

*Other considerations*

*(i) Need and the Scheme's Contribution*

117. There is an agreed level of need for 1,730MW of additional data centre capacity within the SAZ by 2027. It is also agreed that the need for the provision is both overwhelming and urgent. In terms of critical infrastructure of national importance, the imperative of meeting that need cannot be over-stated.

118. The Government recognises that imperative. The evidence of the appellant's witness clearly demonstrates policy support in the Framework, The UK's economic strategy and its digital strategy. The Department for International Trade has stated that data centres are at the heart of the UK's digital infrastructure and represent the focal point where Government's industrial and digital strategies meet.

119. The appellant's evidence demonstrates that there is exponential growth in the need for data storage. Moreover, additional hyperscale data storage centres have to be located within recognised availability zones that have power, connectivity, environment security and in proximity to other large data centres to ensure resilience. The need for hyperscale data centres is driven by the extraordinary growth in cloud computing and the obsolescence of smaller, older, and less efficient data centres.

120. The overwhelming and urgent need for an additional 1,730MW of additional provision is therefore specific to the SAZ. It cannot be provided elsewhere in order to meet the identified need.

121. The technical evidence provided by the appellant confirms the pressing need for additional data centre provision in the SAZ, the difficulty in finding sites and the appeal site represents the optimum opportunity for which the company has been searching. The technical evidence also confirms that there is a commitment to deliver the appeal proposal. The technical feasibility of the proposal has been thoroughly assessed and an agreement is in place with the operator of the Iver sub-station to provide sufficient power for Building 1. It has also been confirmed that there is access to sufficient power for the operation of Buildings 2 and 3 from 2026.

122. The 147MW, which the appeal proposal will deliver will make a significant contribution towards the identified need and this should attract very substantial weight.

*(ii) The Absence of Alternative Sites to Meet the Need*

123. There is no single site or suite of sites within the SAZ that could supply 1,730MW of additional data centre capacity. This has been established by work done by the appellant in support of the planning application. That work was refreshed at the start of 2022. The position is clear, there is no site or group of sites that will meet the identified need, the Council put forward no alternative

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sites in its evidence, sites referred to by the Council in the Addendum to the SoCG do not have planning permission and even with these additional sites a very considerable need would remain. As a result, there is no alternative to the appeal site, and this should attract substantial weight.

(iii) *Economic Impacts: Investment in The UK Economy*

124. Should the appeal proposal go ahead there would be a very substantial inward investment into the UK economy from a foreign owned company of around £2.5 billion. The appellant's witness was not aware of another wholly private current proposal that would generate a greater level of investment within the UK.

125. The Government's Department for International Trade has recognised the importance of securing significant foreign investment in the digital sector, including, specifically data centres.

126. Therefore, the investment in the UK economy brought about by the appeal proposal attracts very substantial weight.

(iv) *Construction Jobs*

127. Around 7,300 person years of direct employment will be generated by the proposal during construction. Taking into account indirect effects the proposal will generate around 12,100 person years of employment in the construction process. Given the temporary nature of this employment it should only be given moderate weight.

(v) *Operational Jobs and Economic Effects*

128. On site employee numbers will be around 370 (FTEs). They will be well paid positions. There will be a multiplier effect with another 4 or 5 jobs created for every 1 on site. This will result in a value to the economy of the proposal of £410M to £530M (GVA) per year. These benefits should attract significant weight.

(iv) *Social Benefits*

129. There is an exponential rise in the need for additional data storage capacity driven by our ever-increasing reliance on digital activity. There is a clear societal benefit that flows from meeting that need. They attract significant weight.

(v) *Addressing Climate Change*

130. Modern hyperscale data centres are efficient. The massive increase in the level of digital activity in recent years has not resulted in the energy use by data centres increasing as a share of all energy use. The appeal proposal will be designed to BREEAM excellent standard.

131. Modern data centres are required to allow the transition from inefficient facilities in order to help tackle climate change, with operators committed to an agreement that requires 75% and 100% of their electricity demands to be met from renewable sources before 2026 and 2031, respectively. These factors should attract significant weight.

(vi) *Parkland and BNG*

132. In addition to providing a BNG of 6.85%, the appeal proposal will allow access to an area of managed parkland in accordance with the objectives of the Colne

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Valley Regional Park. There is no impediment to the delivery of this parkland. These benefits should carry significant weight.

(vii) *Building Beautiful*

133. Beauty is an aspiration of policy and to the appellants knowledge, this is the first time a hyperscale data centre has been designed with the intention that should look beautiful.
134. The perception of beauty is inherently subjective. However, policy requires beauty to be a central ambition of new development.
135. The appellant has adopted a design approach that seeks to advance the concept of beauty. The design approach has focused on the buildings themselves, their relationship with each other and the wider context of the appeal site. The proposed structures are considered to represent a paradigm of modern industrial architecture which responds to the needs of the digital age. This has resulted in the buildings being arranged in a curvilinear pattern which is symmetrical and harmonious. The proposal includes areas free from development that will be subject to landscape and ecological enhancement and an area of land will be made available for public access. The proposal provides for parkland to be laid out as an attractive area for people to enjoy, and the lake is retained.
136. An integral part of the landscaping proposals is the planting of new woodland (and the improvement of the existing). The proposal will include the planting of 18,000 trees and 20,000 whips which will create a beautiful environment for the development.

(viii) *The Absence of a Plan-led Solution*

137. Given its age the development plan makes no reference to the provision of new data centres in the area. There is no emerging local plan. Therefore, the need for a new data centre needs to be dealt with through the development management process.

(ix) *Education and Employment Initiatives*

138. The proposal would deliver local education and employment initiatives through a Section 106 agreement targeted at improvements in digital skills. This is supported by evidence from Buckingham Business First.

(x) *District Heating System*

139. The proposed data centre has been designed so that waste heat can be captured. It is proposed that some of this heat will be used in the administrative parts of the building. However, the building will also be designed so that waste heat could be distributed, free of charge, to the local community if the infrastructure were to become available.

(xi) *Site Remediation*

140. The proposal will result in reduced infiltration rates (of rain water), a more effective cap and the management of landfill gas.

(xii) *Consequences if the Appeal Proposal does not come forward.*

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141. If the appeal proposal does not come forward there will be a loss of £2.5 billion of foreign investment (including jobs and investment in the digital economy), there will be a risk that the investment will go to a competing European data hub, London's position as the pre-eminent data centre hub in Europe risks being undermined and all the societal and environmental benefits of the proposal will be lost.

#### *Planning Balance and Conclusion*

142. The other considerations that exist in this case attract very substantial weight. They comfortably pass the threshold of clearly outweighing potential Green Belt and other harm. The appeal proposal is justified by very special circumstances, is policy compliant and the appellant considers that outline planning permission should be granted.

#### **Inquiry Appearances – Supporting the Proposal**

143. Michael Garvey from Buckingham Business First read a prepared statement in which he supported the proposal. He stated that it will promote business and the investment will bring opportunities into the county, including the provision of new jobs. There is also an emphasis within the proposal on education and employment.

#### **Inquiry Appearances – Opposing the Proposal**

144. Councillor Wendy Matthews the ward member for the area where the appeal site is located made a statement to the Inquiry. She stated that at the point where the appeal site is located the Green Belt is narrow. The impact of the size of the buildings on the locality cannot be overstated. The green walls and brown roofs will be difficult to maintain and unsustainable due to the amount of water they will need. The site is contaminated, and the construction works will release that contamination. When the nearby M25 was built construction workers used protective clothing at this point. The proposed community heating is not viable and there is concern locally over the venting of waste heat. The data centre does not need to be in this location and will use large amounts of power. The existing sub-station is at capacity. The need for a data centre is over stated. The exponential growth experienced in the sector cannot be sustained. There is very little mitigation in the proposal for local people and the benefits will not come to the Ivers. There are plenty of parks in the area and the residents value the open space that the site currently represents.

145. Councillor Paul Griffith, a local Councillor, questioned the appellant on the efficiency of data centres.

146. Michael Alan Hook a local resident, understood the need for data centre as he works in the industry, but does not understand why this development needed to be in the Green Belt.

147. Philip Birkenstein a local resident could not attend the inquiry in person. He made representations through the Planning Inspectorate and asked for them to be read out at the Inquiry. I undertook to do this. His representations included objections to the appeal proposal on the grounds of their height and bulk, that there were other more suitable sites for the development outside the Green Belt, the buildings would harm biodiversity and fragment a wildlife corridor, the users

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of the building would add to congestion on local roads and the buildings would be over bearing.

### **Submissions made after the Inquiry Closed**

148. Mrs Jane Kelvey, a local resident, made a submission after the close of the Inquiry. With the agreement of the main parties, I have taken this submission into account. Mrs Kelvey argues that the landscape has change very little over the years. Although there is no public access to the appeal site it is surrounded by footpaths well used by hikers, cyclists and equestrians who enjoy the openness and appearance of their surroundings. The area is well served by parkland and have no requirement for further parkland with the unwanted attention and security risks this would present by visitors to the planned park.
149. The 27m high buildings will forever be a conspicuous, prominent feature on this otherwise untouched and undeveloped land. It will cause severe harm both visually and spatially and permanently erode the existing character and appearance of the area. They will never be hidden from view. No amount of landscape led design will mitigate the impact these proposed buildings will have on the locale or allow them to interact with nature and the proposed buildings will fail to add to the overall quality of the neighbourhood.

### **Written Representations**

150. A number of objections were lodged to the proposal at the application<sup>60</sup> and the appeal stage. In addition to the main issues considered in this report, a number of other concerns were raised. These include matters related to traffic and traffic congestion, the importance of the site as a nature reserve, uncertainty about the future uses of the buildings, release of contaminants from the land, increase in air and noise pollution, increase the risk of flooding in the area and increase in heat in the area generated by the proposal.

### **The Planning Obligation**

151. A draft planning agreement made under s106 of the Town and Country Planning Act 1990 was submitted before the opening of the Inquiry. The agreement includes the following obligations:
- a contribution towards monitoring the obligations;
  - a contribution towards monitoring and mitigating the effects of the development on air quality in the area;
  - a travel plan and a contribution towards sustainable travel, both during the construction and operational phases;
  - a contribution towards developing local labour skills;
  - a contribution towards the monitoring and management of the proposed parkland; and,
  - the provision of equipment to enable the appeal proposal to be connected to a district heating network, should that become available.

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152. At the Inquiry there was discussion around the need for a number of the requirements listed in the obligation, in particular the need for an obligation relating to air quality. I shall assess the needs for all of the obligations against the requirements of s122 of the Community Infrastructure Levy Regulations 2010 and paragraph 57 of the Framework later in this report.

153. Since the close of the Inquiry, I have received a signed and dated agreement to cover the above matters. However, following a dispute between the parties over the need for a contribution towards air quality and air quality monitoring I have also received a Unilateral Undertaken from the appellant. I will deal with this matter later in this report.

### **Conditions**

154. A discussion was held at the Inquiry between the appellant and the Council regarding potential conditions if planning permission were to be granted. These conditions are discussed below.

### **Inspector's Conclusions**

[Numbers in square brackets denote source paragraphs]

#### *Policy and guidance context*

155. The development plan is comprised of the South Bucks District Local Plan (adopted March 1999) (DLP)<sup>61</sup>, Consolidated September 2007 and February 2010; the South Bucks District Core Strategy Development Plan Document (Adopted February 2011) (DCS)<sup>62</sup>; the Buckinghamshire Minerals and Waste Local Plan 2016-2036 (Adopted July 2019) (BMWLP)<sup>63</sup>; and the Ivers Neighbourhood Plan (INP) (2023)<sup>64</sup>.

156. Bearing in mind the age of some parts of the development plan, there was dispute about the weight to be attached to some of the Policies. This related in particular to Green Belt Policies of the DLP.

157. Policies GB1 and GB4 deal with Green Belt matters. GB1 is a general policy which seeks to manage development in the Green Belt. It is a negatively worded policy which seeks to prohibit most development in the Green Belt outside those it specifies.

158. The Framework on the other hand states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances<sup>65</sup>. It does not prohibit all new buildings in the Green Belt and sets out lists of exceptions. Where a building is considered to be 'inappropriate' the very special circumstances referred to will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

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<sup>61</sup> CD.D2

<sup>62</sup> CD.D1

<sup>63</sup> CD.D3

<sup>64</sup> CD.G7c

<sup>65</sup> National Planning Policy Framework (2021), Chapter 13, paragraph 147

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159. As a result, there is a certain lack of consistency between Policy GB1 and the Framework, in that it does not refer to other matters which could amount to very special circumstances which might allow a proposal to be permitted, even in the face of Green Belt policy. In this respect it is more restrictive than the Framework. However, both policy approaches recognise the importance of the Green Belt, and that substantial weight should be given to any harm to the Green Belt. Therefore, despite the differences between the Framework and Policy GB1, I consider that it should still carry substantial weight in this recommendation in so far as it is consistent with the Framework.
160. Policy GB4 deals with the provision of new employment sites within the Green Belt. The Framework does not single out specific categories of built development for individual Green Belt policies, apart from setting out lists of exceptions to inappropriate development for new buildings. Therefore, whilst the Policy is not consistent with the Framework, it does recognise that in general new buildings are inappropriate in the Green Belt. In this respect it is consistent with the Framework. However, as it is inconsistent with the Framework in other respects I afford this conflict moderate weight.
161. Other policies of the DCS and the DLP are broadly consistent with the Framework, and I therefore give them full weight. This is also the case with the policies of the INP, which has been recently made.
162. As well as the development plan policies, I have been referred to a range of Government policies and advice that relate to, amongst other things, economic development, industrial strategy, and the development of technology industries [20-21].
163. Finally, as well as the policies and documents referred to above the National Planning Policy Framework (the Framework) and the Planning Practice Guidance (PPG) are important material considerations [20].

#### Main considerations

164. Based on the evidence, policy, and the areas of disagreement/agreement the main considerations in this case are:
- whether the proposal would harm the character and appearance of the area;
  - whether the proposal would unacceptably harm the nature conservation value of the site, including its value as a wildlife corridor and its effects on protected species;
  - whether the proposal would harm the openness of the Green Belt, and whether it harms any of the purposes Green Belt is meant to serve;
  - whether there are any other considerations which clearly outweigh any harm to the Green Belt, by reason of inappropriateness and any other harm, sufficient to amount to very special circumstances.

#### Character and appearance of the area

165. The site lies on the edge of the built-up area of Greater London. To its east lies the WLIP. The WLIP is comprised of a wide variety of building types, densities, and hard standings. However, it does end abruptly at the eastern side of the

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River Colne and is separated from the RCWLL by a mixture of boundary treatments. In places along the walkway the boundary is tight against the footpath. Elsewhere there are broad open spaces separating the path from the boundary of the WLIP. As a result, the WLIP boundary forms a firm physical and visual barrier between the built-up area of Greater London and the open land beyond.

166. The River Colne reinforces the sense of transition at this point, between the hard built-up area of the WLIP and the softer more open character of the land beyond. The transition from built form to a more rural landscape character is reinforced by the presence of numerous trees along the banks of the Colne. Whilst they, to a certain extent limit views from the RCWLL, it is clear when walking the path, that there is built development on one side, evidenced by the boundary features of the WLIP, and open land on the other, evidenced by open views through the trees and vegetation across the site.
167. The appeal site is free from built development and divides primarily into 3 areas, each with a slightly different character. To the north lies a long entrance track which finishes at a lake currently used for fishing. At this point, the carriageways of the M25 are visible, both from within the site and through gaps in the fence between the site and the motorway. This is the only significant view from the site to the M25 carriageways. Notwithstanding the presence of the motorway, the site is largely open at this point, with trees and other vegetation surrounding the lake. The trees along the River Colne are visible together with glimpsed views of the WLIP. The pylons along the eastern boundary of the site provide a clear demarcation between the open site and the WLIP. The open nature of the area, views over the M25 to trees beyond, presence of trees around the lake, open grass land and the vegetation along the River Colne combine to give this part of the site a semi-rural character.
168. To the south of this area lies scrub and grassland crossed by access tracks. In this area the banks of the River Colne become more accessible and the trees along the river give the area a more tranquil character. There is less of an influence of the M25, mainly due to the topography, with some of the land at this point being elevated above the motorway and some, closer to the River Colne being lower. From the western parts of this area the countryside to the south of the site, beyond Iver Lane, and that on the western side of the M25 becomes visible. Whilst the presence of the M25 is still audible, the views out of the site to the countryside beyond at this point and the trees along the River Colne give it a more rural and countryside character than the area to the north.
169. The southern part of the site is below a ridge line which has been caused by the quarrying/landfilling which has taken place on the site in the past. The area below that ridge line appears not to have been subject to quarrying/landfilling and is used for pasture. It has a distinctly rural/countryside character from the presence of mature trees, hedgerows, and its visual association with the countryside further south. Whilst there is housing along Iver Lane this is a ribbon of development that extends from the main built-up area of Greater London out into the countryside at this point and terminates well before the M25 over bridge. Therefore, the presence of the housing on Iver Lane and the sporadic development along Palmers Moor Lane does not alter the rural and countryside character and appearance of this part of the site.

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170. Overall, the site lies beyond the hard edge to Greater London formed by the western boundary of the WLIP. In this respect it has an unbuilt character and appearance. Furthermore, its open character and its visual relationship to the countryside around it, both to the south and the west give the site a rural and countryside character, this is emphasised by the abrupt transition from the WLIP to the site. Moreover, the presence of trees along the banks of the River Colne and trees, vegetation, and grassland within the site reinforce the countryside/rural feel of the site.
171. I understand that a majority of the land is not in active use, however that does not mean it cannot have a rural countryside character as areas of open land with no particular use can be located in rural/countryside areas. Indeed, this is recognised in the Landscape Character Assessment which describes, amongst other things, the area within which the appeal site is located as 'rough textured farmland'. Whilst the whole of the appeal site is not farmed it does have a 'rough texture' brought about by the scrub and grassland which cover a large part of the area. This has also been set out in the Council's Landscape Evidence [20,45,46].

#### *Impact of the appeal proposal*

172. The whole of the site would be altered by the appeal proposal. To the north and central part of the site, whilst the lake would be retained, 3 large buildings would be constructed. These would be accompanied by parking and manoeuvring areas, lighting columns, fencing and hard and soft landscaping. To the south the area which is currently in use as pasture would become parkland with public access. The main vehicular access to the site would also cut through this area.
173. The buildings themselves would have a roof height of 23m, with 27m high flues. The buildings would be rectilinear in form and would be clad, for the most part, in green walls and brown roofs [36,49]. Whilst the green walls and brown roofs could help to soften the impact of the buildings in the landscape it would be difficult, given their form, height, and bulk, to mask their presence, especially their upper floors, and they would still form a significant feature in the area. Their size and bulk would be emphasised by the buildings being significantly higher and bulkier than those on the nearby WLIP.
174. Therefore, the appeal proposal would significantly alter the character and appearance of the area from that of open land with characteristics of a rural/countryside location to that of an area dominated by 3 large buildings surrounded by ancillary structures (fencing, gates, lighting columns) and other areas (car and cycle parking and landscaping). The proposal to create parkland to the south, together with the main access to the site would change the character of this area from that with a rural countryside character to a parkland that would help to provide a pleasant access to the site with public access.
175. The appellant's have argued that whilst the proposal would be significant in terms of its scale and bulk, the views into the site are limited and therefore the perception of the scale and bulk of the proposal would be restricted to certain viewpoints [76,77]. However, when the buildings are viewed from relatively close to, for example from the RCWLL, Palmers Moor Lane, the bridges over the M25 and the M25 itself, views of the upper floors of the buildings would be dominant due to their height, mass, bulk, and size.

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176. Moreover, and in terms of the current enclosure of the site, the views from along the RCWLL, whilst to a certain extent restricted by existing trees, still give the impression that the land is open [48,75,76,77]. The introduction of 3 tall and bulky buildings, together with more intensive planting would close down the existing views into the site and remove the impression altogether that there is open land beyond. This would significantly change the character and appearance of the area.
177. Furthermore, with the introduction of external lighting, fencing and access roads the site would be perceived as being occupied 24hrs a day 7 days a week in contrast with its current unused and open character [2,23].
178. Policy EP3 of the DLP [17] relates to the use, design, and layout of development. It is a general policy that applies to all development. In this respect it is serving a similar purpose to that of paragraph 130 of the Framework. Therefore, in terms of the wording of the Policy and its intention it is consistent in its approach with that of the Framework. I, therefore, despite its age, give the policy substantial weight in this report.
179. The Policy expects all new development, amongst other things, to respect the scale, height, and form of developments in the area. As I have described above, the site in its current state has a rural/countryside character with no existing buildings. To the east it is near to but separate from the WLIP. To the west, beyond the M25 is open countryside, whilst to the north and south are either open countryside or low development that is characteristic of urban fringe locations. Therefore, the development of 3 blocks of 23m high with a 27m flue would not be compatible with the area as required by the policy. Moreover, the lighting and traffic movement would detract from the current countryside and rural character of the area. Consequently, I find that the proposal would be in conflict with this policy of the development plan.
180. Policy CP8 of the DCS [17] seeks to ensure that all new development is of a high standard of design and makes a positive contribution to the character of the surrounding area. The development itself would lead to an urbanisation of the appeal site through the introduction of 3 large buildings and associated car parking, lighting, and fencing. It would therefore harm the current countryside/rural character of the area. In this respect, despite the proposals for additional planting, the proposal would be in conflict with this policy of the development plan.
181. Policy CP9 [17] is a hybrid policy that deals with landscape and nature conservation. Whilst it seeks to conserve the landscape character of area by not permitting development that would harm landscape character it does caveat this position by stating that '*unless the importance of the development outweighs the harm caused.*' In terms of the effect of the appeal proposal on the landscape character of the area I have outlined above how the proposal would harm the landscape of the area, in terms of the size, height and bulk of the proposed buildings, the ancillary works and the activity associated with them. However, and in terms of whether the importance of this development outweighs this harm I will consider this later in this recommendation.
182. The Council has described the Colne Valley Flood Plain as being dominated by rough grazing, gravel extraction shaping the landscape, a network of meandering rivers with the River Colne running along the eastern boundary, transport

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corridors (M25/M40) have a strong visual and audible influence, it lies within the Colne Valley Regional Park with a well-established network of public rights of way and roads and pylons fragment an otherwise simple landscape [45.46]. These also descriptors reflect the character of the appeal site for the reasons I have outlined above.

183. The evaluation of these factors led to the identification of the landscape and visual sensitivities of the area, and these include River courses (including the River Colne, the natural setting of the River Colne and public rights of way (particularly within the valley (of the River Colne)). In turn these landscape and visual sensitivities are developed into landscape guidelines which assist in managing development within the character area. These guidelines include managing and improving this part of the Colne Valley, conserving open views (particularly across the Colne Valley), restricting further incremental development along the flood plain – particularly vertical development which will greatly impact on the low-lying open character and enhance degraded landscape through positive restoration plans [20].
184. It is clear to me that whilst the appeal site does suffer from being a damaged landscape due to its history of quarrying and landfill its current appearance and character is not untypical of landscape in this character area. This is due to the grassland that covers the majority of the site having the appearance of rough grazing, its proximity to the River Colne, the presence of significant rights of way such as the RCWLL and the Colne Valley Trail and the presence of major transport routes. Therefore, and recognising that the landscape is not pristine countryside, it has value in the context of the Colne Valley. Consequently, I see no reason why the landscape guidelines where they state restricting further incremental development along the flood plain, particularly vertical development should not be applied to the appeal proposal.
185. Overall, therefore the appeal proposal is in conflict with paragraph 130 of the Framework in that it fails to add to the overall quality of the area, and it is not sympathetic to the local character and landscape setting by reason of the height and bulk of the proposed buildings. It would therefore harm the character and appearance of the area.
186. Consequently, in terms of the development plan, I find that, for the reasons given above, that the appeal proposal is in conflict with the policies of the development plan. However, I acknowledge that should I find later in this report that the importance of the development outweighs the harm I have identified then the proposal will be in conformity with Policy CP9 of the CS. Therefore, and for the reasons set out above I give the harm the development would cause to the character and appearance of the area substantial weight in this recommendation.

### Nature Conservation

187. The appeal site lies in the Colne Valley Biodiversity Opportunity Area (BOA). The site is not covered by any nature conservation designations. However, it is next to the River Colne which is designated as a Site of Importance for Nature Conservation (SINC), a local wildlife site. This is graded as being of Metropolitan Importance which contains the best examples of London's habitats. It has also been subject to an Ecological Impact Assessment (EcIA) carried out by the

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appellant to support the planning application [27,28,52,118,115,116]. The matters at issue in relation to nature conservation include:

- the status of the BOA;
- the impact of the proposal on protected and other species which might be present on the site;
- the impact of the proposal on priority habitats which might be present on the site;
- the fragmentation of habitats caused by the proposal; and,
- the importance of the site as a wildlife corridor and the effect the proposal would have on that corridor.

### *Biodiversity Opportunity Area*

188. A description of BOAs and their purpose is given in CD.G8a appendix DW1. In essence they are identified as *'the most important areas for biodiversity in the country, 'represent a targeted landscape approach to conserving biodiversity and a basis for an ecological network'*. They are action focused with emphasis on parties working together to improve biodiversity across a wide area.

189. It is also clear from this document, that they are a spatial representation of targets from the Biodiversity Action Plans (BAPs). However, they are not statutory designations, and neither are they a constraint on activities [52]. It appears to me that they are areas which are identified in order to assist partners and other interested bodies to direct resources in order to help develop large scale biodiversity improvements.

190. The PPG refers to mapping local ecological networks in order, amongst other things, to identify main landscape features, which due to their linear or continuous nature support migration, dispersal, or gene flow. These include areas identified by local partnerships, such as the Natural Environment Partnership in this area of Buckinghamshire, with potential for habitat enhancement or restoration.

191. Whilst the appeal proposal would result in 3 large buildings being constructed across part of the site, the wildlife corridor along the River Colne would be retained. Moreover, the appeal proposal in outline form has had regard to this corridor by setting the nearest building off the bank of the river [3]. Additionally, there is space both between the buildings and to their west to accommodate the movement of species should the appeal site be part of that north/south wildlife corridor. I am therefore satisfied that the north/south movement of wildlife will not be prevented by this development and consequently it should not lead to the fragmentation of sites in this part of the BOA.

192. BOAs are also referred to in Policy CP9 of the DCS where it is stated that the Council will seek a net gain in local biodiversity within the BOAs as part of development proposals. This reinforces the position of BOAs as not constraints to development but seeking to maximise the opportunity for ecological improvements within them.

193. The appeal proposal includes a BNG of 6.85% as well as other enhancements to the ecology of the site and the River Colne. Whilst the Council has accepted

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the appellant's calculation of the BNG it has cast doubt on its achievability, due to its small size and the need for the brown roofs and green walls to be installed and maintained properly over a period of 30 years. Moreover, the Council has also argued that there might be larger areas of Open Mosaic Habitat on Previously Developed Land (OMHPDL) than has been identified in the appellant's surveys [53].

194. I understand the Council's position with regard to the provision of BNG, however the Framework does not specify a figure that development proposals should meet in order to comply with its requirement for a BNG to be achieved. Therefore, a figure of 6.85% BNG would comply with national policy. Furthermore, it appears to me that the brown walls and green walls are capable of being delivered and maintained over the life time of the development provided suitable conditions are attached to any grant of outlined planning permission. In this instance that delivery and maintenance of these features will be in the Council's hands [110]. Finally, whilst there has been some dispute about the amount of priority habitat present on the site, in the absence of a full EcIA from the Council, the evidence put forward by the appellant that shows a limited amount of OMHPDL present on the site is compelling [107,108].
195. I therefore find that the appeal proposal is capable of delivering a BNG of 6.85% and therefore is in compliance with the requirements of the Framework.
196. Therefore, in accordance with the reasons set out above I find that the appeal proposal is consistent with Policy CP9 of the DCS and the objectives of the BOA.

#### *Impact on protected species and habitats*

197. The appellant has carried out a full EcIA as part of the planning submission. The EcIA covers the following matters: a desk study including a review of pre-existing data; habitat and botanical surveys; follow up surveys dealing with the presence of protected species, an analysis of the results of the surveys; evaluation and identification of key receptors; impact assessment methodology; impact assessment and assessment of residual effects with overall conclusions. The EcIA is supported by maps, figures, and contains the BNG calculations.
198. The overall conclusions indicate that the net residual effect of the proposals in terms of key ecological receptors is anticipated to be a slight positive effect measured at the parish level. However, this is contingent on the design of the surface water drainage, lighting schemes, successful implementation of the habitat enhancements and the future management of the undeveloped land. This conclusion is consistent with the calculation of the BNG figure.
199. The Council has accepted the appellants calculation of the BNG, and I have no evidence to disagree with the accepted figure of 6.85%. However, the Council has raised a number of issues in relation to the impact of the appeal proposal on the nature conservation value of the appeal site.
200. The first of these issues relates to the presence on the site of the priority habitat OMHPDL and the capacity of that habitat to support invertebrates. The Council has made the case that the site might have more OMHPDL than has been identified in the appellant's EcIA [53]. This was supported by reference to DEFRA and Natural England Magic Maps and a letter from Buglife dated 24 January

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2023. Both the Magic Maps and the Buglife letter made the case that the whole of the site was OMHPDL.

201. Neither Natural England nor Buglife appear to have visited the site in connection with the appeal proposal [109]. The Natural England Magic Maps are presented at a large scale, and it is clear that more work would need to be done in order to verify that the whole of the site is OMHPDL. A similar caveat must be applied to the letter from Buglife. Indeed, their letter states that they would expect a specific assessment of the site against the established OMHPDL criteria to be undertaken by an appropriate expert. They rely on large scale maps and a generic description of OMHPDL. The appellant on the other hand has carried out a full EcIA and whilst that has identified a small area of OHMPDL, it by no means covers the entire site. At my site visit whilst certain areas that might constitute OMHPDL were pointed out to me by the Council's witness, these were very small in size and certainly did not cover a significant area of the site. I therefore conclude that the evidence does not demonstrate that OMHPDL constitutes a significant habitat type on the appeal site.
202. In addition to the above the Council has further argued that the proposal would cause fragmentation to the habitats currently present on the site [55]. The evidence in the EcIA and that presented by the appellant at the inquiry shows that the site contains a variety of habitats [108]. However, the predominant type appears to be coarse neutral grassland and scrub matrix which covers most of the former landfill site. Other types of habitats appear to be located around the edges of the site, along the River Colne and the M25 motorway or to the south around Palmers Moor Lane.
203. The main impact of the appeal proposal will be on the grassland scrub in the centre and northern part of the site. The other areas will remain either undisturbed or be subject to improvement. In the south there are proposals to recreate lowland meadows, a nationally rare habitat type. Therefore, whilst the appeal proposal will lead to the loss of an area of grassland and scrub, other areas on the site will be retained, enhanced, or improved. Consequently, whilst there will be some loss of grassland, there will still be a variety of habitats present on the site should the appeal proposal be implemented [3].
204. In terms of protected species that might be affected by the appeal proposals these are identified as bats, grass snakes, invertebrates, and badgers as well as certain ground nesting bird species such as skylarks [52].
205. In terms of bats, it appears that their main roost sites are either in the trees along the corridor of the River Colne or in trees that line the northern access. They currently forage over the grassland in the centre of the site, along the river corridor and over the lake. Whilst the appeal proposal will introduce 3 large buildings across the north and centre of the site, thereby reducing the area of grassland and scrub for foraging, the river corridor will be enhanced, the lake retained, and further grassland will be improved to the south. The roosts will be largely unaffected apart from during the construction phase. Therefore, whilst there will be some disruption to bats during the construction phase, roosts and foraging areas will still be available following the delivery of the appeal proposal[52].
206. I accept that post completion of the appeal proposal its effect on the local bat population will depend to a large extent on features such as external lighting

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- which might be present on the buildings or around the site. However, the proposal is in outline form and matters such as lighting are capable of being dealt with at the reserved matters stage. I therefore do not regard the possibility of lighting being installed on the site as an overriding impediment to the appeal proposal in terms of its effects on the local bat population.
207. In terms of grass snakes their presence appears to be largely confined to the periphery of the site away from the likely site of the buildings. Therefore, it is unlikely that this species will be directly affected by the appeal proposal. In any event and given the nature of protection afforded to the species the developer will have to ensure that they are protected both during the construction phase and once the development is completed. I therefore conclude that the effect of the appeal proposal on grass snake populations present on the site is likely to be minimal [52].
208. Whilst ground nesting birds are present on the site it is likely that these will be displaced to other areas in the locality. Species such as skylark are documented in the EcIA as being nationally rare, but relatively common in Buckinghamshire and there is likely to be habitat locally where they can be accommodated. It is therefore unlikely that significant harm will be caused to this species [52].
209. The presence of badgers on the site, whilst it was recorded, no setts were found on site, and it is likely that their presence is transitory. It is therefore unlikely that the appeal proposal will harm badgers in the area [52].
210. In terms of invertebrates, whilst it is inevitable that some areas suitable for invertebrates will be lost to development, large areas will still remain, both along the River Colne, around the proposed buildings, and in the south of the site. As outlined above I do not consider that large areas of OMHPDL will be lost. Therefore, whilst some areas suitable for invertebrates will be lost to the appeal proposal, it is unlikely overall that there will be significant harm to invertebrates on the appeal site given the amount of undeveloped land that will remain.
211. The appeal proposal delivers a net gain of 6.85%. Moreover, it establishes habitats, such as Lowland Meadow and maintains the links with existing ecological networks through its proximity to the River Colne corridor [3]. The proposal is consistent with this policy of the Framework.
212. Reference was made to the Environment Act 2021 and to forthcoming target of a 10% BNG [54]. Whilst I have had regard to the argument put forward by the Council in relation to this Act, I have made this recommendation on the basis of the current policy which is contained in the Framework. Therefore, of itself, the anticipated BNG of 6.85% complies with the requirement set out at paragraph 174 d) of the Framework which requires developments, amongst other things, to provide a BNG.
213. The approach set out in paragraph 180 of the Framework outlines the biodiversity hierarchy which is to be followed in relation to proposals that result in significant harm to biodiversity. The first assessment that must be made in applying this paragraph to a proposal is whether significant harm would result from the appeal proposal.
214. I have set out above that whilst some harm might be caused to the habitats of ground nesting birds and there might need to be relocation of grass snakes from

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the site during the construction phase at least, overall, the appeal proposal is positive for biodiversity, giving a net gain and providing other biodiversity improvements such as 'faunal' improvements with the tern islands and the control of invasive species in the River Colne [52]. On top of this the proposal would lead to the creation of lowland meadows and the enhancement and creation of flood plain grazing marsh in the southern part of the site. Therefore, I do not consider that the proposal would result in significant harm to biodiversity and as a consequence it is not necessary to go on and apply the biodiversity hierarchy. This approach is consistent with paragraph 180 a) of the Framework.

215. The application is in outline with all matters reserved apart from the main access. Therefore, the design of the buildings shown on the illustrative material submitted with the planning application are just that, illustrations. As a result, the size of the green walls and brown roofs will be decided at the reserved matters stage. It will be up to the Council, should this appeal be allowed, to decide whether any brown roofs or green walls submitted as reserved matters provide for the necessary level of BNG. Consequently, I am satisfied that the BNG proposed is capable of being delivered and controlled through the reserved matters process. Equally the maintenance of the green walls and brown roofs can be control through an appropriate condition/s to be attached to any reserved matters approval should the appeal be allowed. I therefore conclude that the proportion of BNG as provided by the proposed green walls and brown roofs is capable of being delivered.

#### *Other issues – increased public access*

216. The Council has argued that increased public access, especially at the south of the appeal site will cause disturbance to wildlife [55]. Whilst the site currently has no public access, it is not inaccessible to people. In the north of the site there appears to be regular public access to both bodies of water, albeit the smaller pond appears to have less regular access. In the south of the appeal site a public footpath runs along Palmers Moor Lane and the Lane itself is an access to numerous houses and a bridge across the M25. Therefore, whilst there is likely to be more public access to the site than at present, through for example the opening of a route from Palmers Moor Lane through the site and across a reopened bridge over the River Colne to the RCWLL. It is likely that for the most part public access will be confined to specific routes and this access is capable of being managed. I therefore do not consider that increased public access will unacceptably harm the nature conservation interests on the site.

#### *Nature Conservation – Conclusions*

217. The principal policy of the development plan is CP9 of the DCS. This is a policy that combines consideration of landscape and nature conservation matters. It sets out the Council's approach to development in areas with the highest nature conservation status (e.g., the Chilterns Area of Outstanding Natural Beauty and the Burnham Beeches Special Area of Conservation). It also considers areas of a lower importance for nature conservation such as where the appeal site is situated. In respect of sites in these areas the Policy is negatively worded by not permitting development that would harm nature conservation interests.

218. The Framework, whilst it supports nature conservation, seeks to minimise the impacts of development on biodiversity, it does not seek to prevent all development that would affect nature conservation interests. However, Policy

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CP9 also contains a series of caveats which would allow development in certain circumstances. Therefore, whilst the Policy is negatively worded the caveats show that it does not seek to impose a blanket ban on new development where nature conservation interest are affected. In this respect the Policy is consistent with the Framework as it does allow new development in certain circumstances provided that nature conservation interests are considered. I therefore give the Policy substantial weight in this recommendation.

219. The Policy allows for new development provided its importance outweighs the harm caused. Additionally, the Council needs to be reasonably satisfied that the development cannot be reasonably located on an alternative site, that it result in less or no harm, appropriate mitigation is in place, and it results in a net gain in biodiversity. I shall return to the matter of the availability of alternative sites later in this report, suffice to say at this point the Council has not advanced any alternative sites for the development.
220. However, and in the context of Policy CP9, it is clear that the Council gave significant weight to the need for a data centre in the determination of this application [28,32]. I also heard evidence at the Inquiry emphasising the national need for new data centre capacity [28]. I therefore consider that the harm the data centre would cause to the nature conservation interests of the appeal site would be outweighed by the need for new data centre capacity. Moreover, the absence of an identified and readily available site or sites in the SAZ, and the agreed 6.85% BNG, indicates to me that the appeal proposal is consistent with this part of CP9.
221. The Policy also refers to the BOA. I have established above that the BOA is not a constraint on development [52,117]. I have also found that the appeal proposal would not sever an ecological corridor as this would be maintained along the River Colne and part of the undeveloped appeal site. Therefore, the appeal proposal would also be consistent with this part of Policy CP9.
222. Finally, the proposal would not prejudice the aims of the Colne Valley Park Action Plan and would assist in improving the urban/rural fringe by providing better public access to at least part of the land.
223. Overall and for the reasons given above the appeal proposal is consistent with the approach of Policy CP9 and is therefore in conformity with the development plan in terms of biodiversity and nature conservation. It would therefore not unreasonably affect the nature conservation value of the site, including its impact on species and habitats present on the site. I therefore find that the appeal proposal is consistent with this policy of the development plan.

#### *Inappropriate development in the Green Belt*

224. Both parties agree that the development constitutes inappropriate development in the Green Belt [26 -27]. The Framework states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. However, the Framework goes on to state that when planning applications (or appeals) are considered that substantial weight should be given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal is clearly outweighed by other considerations.

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*The effect of the proposal on the openness of the Green Belt and its purposes*

*Openness of the Green Belt*

225. The site is currently open and free from built development [46]. However, public views of the whole site are limited. Anglers making use of the fishing lake can view the entire site. In addition, there are locations that do benefit from views of substantial parts of the site, and these include: the RCWLL; Palmers Moor Lane; Slough Road M25 bridge; the Iver Lane M25 bridge; Palmers Moor Lane M25 Bridge; the M25 itself; and views from Iver Lane. Glimpse views of the site are obtained from points within the urban area to the east and the countryside to the west. These views tend to be layered and transient, with no views of the whole site from these directions. However, wherever the site is viewed from and whether that is of the whole site, views across the site or views of part of the site it would always be viewed as being open with no built development intruding, apart from pylons.
226. The proposed buildings are large in terms of their height and bulk, being around 23m high, with flues extending to 27m high, The footprint of the 3 buildings is anticipated to extend to around 163,000 sqm (GEA) [24,37]. In addition, they will have car parking, manoeuvring areas, lighting, and fencing around them [3]. The development will have a significant impact on openness, both visually and spatially. However, their impact on openness from each view point will be different.
227. From Palmers Moor Lane and the public footpath to the south there are views over the southern pasture land and towards an embankment which marks the start of the former land fill site. Looking north from this public footpath the buildings would be highly visible and form a significant presence, blocking out areas of sky. Whilst they would have green walls and a brown roof their rectilinear form and height, including the flues, would make them very prominent. Consequently, when viewed from this direction the buildings would have a substantial effect, both spatially and visually on the openness of the Green Belt.
228. At present the RCWLL has a semi-rural/countryside character. Views to the west across the appeal site are, whilst partially obscured by trees, open with views of grassland. There is an impression of open land, even though there are no clear views across the site due to the difference in the levels. The proposed buildings would be visible through the tree cover, and it would be clear to anyone using this footpath that the site was developed, due to increased activity levels, lighting columns and security fencing, in addition to the views of the buildings. Therefore, even with the tree cover along this route the buildings would be visible and the activity on the site would be apparent. Therefore, the openness of the Green Belt at this point would be significantly harmed both spatially and visually.
229. The buildings would be visible from the over bridges across the M25. At present from these points there are views across the appeal site with the backdrop of Uxbridge town centre and the WLIP. The views of the appeal buildings would be, to some extent, obscured by vegetation along the motorway and the surface of the appeal site would not be readily or wholly visible from these points. However, the buildings would be visible above the vegetation along the motorway. Moreover, the form of the buildings and their bulk would be a prominent and incongruous feature standing above this vegetation. Therefore,

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the appeal proposal would have a significant impact on the openness of the Green Belt, both spatially and visually, when viewed from these points.

230. The appellant has argued that due to the low density of site coverage (buildings would only cover 13% of the site)[76] that the openness of the Green Belt in this location would be maintained, should the appeal proposal go ahead. I disagree. It is not just the footprint of the buildings that harms the openness of the Green Belt in this location. Their bulk, size and height all contribute to that harm as does the associated activity, and it would not be adequately mitigated by the proposed tree planting as it would take time to mature and even then, the buildings would still be visible above it as I have explained above.
231. The presence of the buildings and therefore their effect on the openness of the Green Belt would also be discernible from other points around the site, including Beeches Way and the Ivers [77]. Whilst for the most part these views would be glimpsed and transient, they would still add to the impression that the site was not open. Consequently, the openness of the Green Belt would be harmed by the appeal proposal.
232. Overall, the proposal due to the size, bulk, and height of the proposed buildings, would significantly harm the openness of the Green Belt in this location. The Framework states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and the essential characteristics of Green Belts are their openness and their permanence. I will return to the matters of urban sprawl and the permanence of the Green Belt later. However, it is clear from what I have set out above that the appeal proposal would harm the openness of the Green Belt, both spatially and visually, and therefore be in conflict with this policy of the Framework.
233. The most relevant development plan policy is GB1 of the DLP. This generally sets out to restrict development in the Green Belt to a number of defined categories of development, which largely correspond to those set out in paragraphs 149 and 150 of the Framework. Furthermore, the Policy recognises at (g) that a characteristic of the Green Belt is its permanence, openness, and undeveloped character. I have acknowledged that the Policy does not refer to any other matters which might be considered to constitute very special circumstances so as to allow development. However, whilst this makes the Policy not wholly consistent with the Framework it does broadly reflect the Framework's approach. I have therefore given this policy substantial weight in this recommendation.

*Purpose – to check the unrestricted sprawl of large built-up areas*

234. I have set out above that the appeal site lies on the edge of the Greater London conurbation, the largest built-up area in the country [11-14]. I have also identified that the edge of the WLIP forms a well-defined boundary of the urban area. Moreover, the appeal site has a rural/countryside character [46,47].
235. The appeal proposal would be developed on the opposite bank of the River Colne to the WLIP. In this respect it would lead to development crossing this well-defined boundary and therefore is capable of being defined as 'sprawl' [88] of the large built-up area. It has been argued that this 'sprawl' would not be unrestricted, as the M25 on the western edge of the site would limit any further westward expansion of the urban area [90].

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236. I disagree, the M25 is a relatively new piece of infrastructure and should therefore not be regarded as the new urban edge of Greater London in this location. Moreover, the parties have accepted that due to a change in levels, existing vegetation, and boundary treatments, the M25 carriageways are predominantly screened from the appeal site [28]. Therefore, whilst there are not completely unrestricted views from the appeal site across the motorway into the open countryside to the west, it is clear enough that the site has a similar open character to that land. As a result, any development on the appeal site would appear as unrestricted sprawl in this location, notwithstanding the presence of the motorway.

237. This is further reinforced by views from the top of the capped (landfill area) within the site, where views into the open countryside to the south can be obtained. The development would stand above the housing on both Palmers Moor Lane and Iver Lane making it visible from the open land to the south. It would also be visible from open land to the south, through the gap between where development ends on Iver Lane and the M25 bridge. From both the near views on Iver Lane and Palmers Moor Lane and from the open land south of Iver Lane the development would appear as sprawl that has 'leap frogged' the well-established boundary of the River Colne, as the M25 carriageways would not be prominent in this view. The development would therefore appear as unrestricted sprawl when views out of the site across the M25 and to the south are taken into account. I therefore conclude that the appeal proposal would lead to the unrestricted sprawl of a large built-up area. I give substantial weight to this harm.

*Purpose – prevent neighbouring towns from merging*

238. Iver and Iver Heath are not towns. This was accepted by the Council and the appellant. Therefore, in the strict sense of this purpose the proposal would not in itself lead to the merging of neighbouring towns. However, the countryside and open land between towns is constantly under pressure from development and it is rarely the case that a single development, on its own, would cause neighbouring towns to merge. Moreover, the areas between towns where there is a dynamic and growing economy can be lost incrementally and can over time lead to the merger of neighbouring towns. This would harm this purpose of the Green Belt.

239. In this case there would be a loss of Green Belt land between the towns and Uxbridge in the east and Slough in the west. This would contribute to the diminution of the gap between these towns. Therefore, the proposal would contribute to the possibility of these towns merging, which would be more of a possibility with the appeal proposal in place. As a result, whilst I do not consider that the proposal would lead directly to the merging of neighbouring towns it would not assist that purpose of Green Belt policy. I therefore give limited weight to this harm.

*Purpose – to assist in safeguarding the countryside from encroachment*

240. The appeal proposal would introduce urbanising features such as 3 large buildings, parking areas, lighting, fencings, hard standings, and access roads [3]. In these respects, the appeal proposal would represent the encroachment of built development into the countryside surrounding Greater London and therefore harm this purpose of the Green Belt [28]. I give substantial weight to this harm.

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### *Other Green Belt Purposes*

241. It was accepted by the parties that the other two purposes of the Green Belt, to preserve the setting and special character of historic towns and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land, were either not harmed by the proposal or caused limited harm to the urban regeneration purpose [41,81]. I have seen no evidence to disagree with that assessment and therefore do not consider that these Green Belt purposes would be harmed by the appeal proposal.

### *Other Green Belt matters*

242. The Council has referred to the work carried out by Arup to review the Buckinghamshire Green Belt for the withdrawn local plan [36,38]. The parties have agreed that this evidence is material to this recommendation [28]. The review was carried out in recognition that in order to fulfil the areas development needs until 2036 there would need to be a release of Green Belt land. The review therefore identified how individual areas of Green Belt performed against the purposes Green Belt is meant to serve. The appeal site lies within 'General Area 83' (GA 83) as identified by this review. GA 83 performs strongly against the Green Belt purposes set out in the Framework. As a result, the area was not identified as being appropriate for development.

243. GA 83 is significantly larger than the appeal site [94,95]. However, the whole of the appeal site is located within it. The report acknowledges that only 10% of the area is covered in built form (there is none on the appeal site), that the boundary between it and the urban edge is formed by the River Colne, as is the appeal site, and this is readily recognisable and durable, it also recognises that it occupies a narrow gap between Uxbridge and the Ivers (as does the appeal site). On the basis of these findings a strong role in meeting the purposes of the Green Belt was identified. Notwithstanding the fact that GA 83 is significantly larger than the appeal site, I consider that the appeal site shares many of the defining characteristics of GA 83 and as a result can be said to perform strongly in meeting the purposes Green Belt is meant to serve.

244. Finally, I have also had regard to the fact that the appeal site is part of the land that was first designated as Green Belt around London in the mid 1950's, as an essential characteristic of Green Belts is their permanence [33,34,35,36]. The appeal proposal would, should it be allowed, give the impression that long standing Green Belt land can be developed. That would conflict with this essential characteristic as they would no longer be seen as permanent.

### *Green Belt Conclusions*

245. The Government attaches great importance to Green Belts and their fundamental aim is to prevent urban sprawl by keeping land permanently open, with their essential characteristics being their openness and permanence. The Framework sets out 5 purposes Green Belt is meant to serve and those are discussed above.

246. The proposal would introduce 3 large buildings into an area of Green Belt that is currently open. Thereby significantly effecting the openness of the Green Belt in this location. Whilst the whole of the site would not be visible from outside the height of the buildings would mean that they would be seen from a variety of

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vantage points around the site and therefore both the spatial and visual openness of the Green Belt would be harmed by the appeal proposal.

247. Furthermore, the appeal proposal would harm the fundamental aim of preventing urban sprawl through the creation of 3 large buildings on land that is currently open. It would not be restricted by the M25 as at this point the M25 lies below the level of the land and the land to its west and so would therefore be seen as development in the wider countryside around this part of Greater London. Moreover, there is already a readily recognised and firm boundary to the Green Belt in this location and that is the edge of the WLIP and the River Colne,

248. Furthermore, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The parties have agreed that the development would constitute inappropriate development in the Green Belt.

249. Finally, for the reasons given above, the proposal would also harm 3 of the 5 purposes Green Belt is meant to serve, namely: *'to check the unrestrictive sprawl of large built-up areas'*; *'to prevent neighbouring towns from merging into one another'* and *'to assist in safeguarding the countryside from encroachment'*.

250. In terms of the development plan, whilst its principal Green Belt Policy, GB1, is not fully consistent with the Framework it does mirror some of the main areas covered. Therefore, and for the reasons given above I find that the appeal proposal is in conflict with the Green Belt Policies of the development plan as it would harm its openness, harm at 3 of the purposes it is meant to serve and damage the fundamental aim of Green Belts which is their permanence. Consequently, I give substantial weight to the Green Belt harm identified above.

#### *Any other harm*

251. I have set out above that the development would harm the character and appearance of the area and I have given substantial weight to this harm.

#### *Other considerations*

##### *The need for a data centre and the appeal proposals contribution*

252. There is an urgent and overwhelming need for new hyperscale data centres both in the UK and within the SAZ. The need has been estimated as a range with a mid-point of 1730MW by 2027, equating to an estimated need for around 12 to 15 new hyperscale data centres in this period in the SAZ [28,32,69,70,117,120]. The growth in the need to store and process data is being driven by a number of factors, including the growth in cloud computing, personal internet usage, the obsolescence of smaller less efficient data centres and the exponential expansion of digital data [119].

253. The importance of the site lying within the SAZ is that hyperscale data centres need to be developed in clusters in order to provide resilience and support for each other in the event of power loss. The SAZ lies close to digital connections which run from London out to the south west and across the Atlantic to North America. This has driven the growth of data centres along this corridor which includes other areas within London [22,28,60,119,120,121]. Hyperscale data centres will not be developed outside recognised availability zones as they will not be able to ensure that access to the data they hold will always be available

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due to the time taken for data to move between sites. Therefore, the market will not develop beyond these areas. The location of data centres is entirely market driven [59].

254. The SAZ includes parts of the counties of Berkshire, Buckinghamshire, Hertfordshire, and west London. Although the area has been referred to as the Thames Valley, which would appear to me as covering a much wider area. There are other Availability Zones in London, including Acton and Docklands. However, the SAZ accounts for at least 65% of the capacity across London [22,28]. As a result, I give significant weight to the need for additional data centre capacity within the UK and the SAZ.
255. It is clear that the DIT recognises the importance of data centres to the national economy and that the UK is an attractive location for data centres [28].
256. The Framework does not contain a specific policy related to hyperscale data centres and there is no plan led approach in Buckinghamshire to the delivery of data centre capacity. However, the Framework does support building a strong and competitive economy. It does this through, amongst other things, by expecting planning decisions to create the conditions in which business can invest, expand, and adapt. It expects decision makers to give significant weight to the need to support economic growth and take account of the wider opportunities for development. Moreover, it states that this is particularly important where Britain can be a global leader in driving innovation. The Framework also acknowledges that planning decisions should recognise and address the specific locational requirements of different sectors, including making provision for clusters or networks of knowledge and data driven industries.
257. It is clear that the Government places considerable importance on data centre provision and the contribution they can make to the national economy, growth, and the objectives of the Government as a whole.
258. The appeal proposal would deliver around 147MW towards the anticipated demand of 1730MW in the SAZ up until 2027. This would be a significant contribution to meeting that demand.
259. I have no doubt that there is a significant and substantial demand for new data centres in the SAZ. Furthermore, the provision of data centres would make a significant contribution to the UK economy. Moreover, the appeal proposal would make a significant contribution to this need. I therefore give considerable weight to the need for a new hyperscale data centre in the SAZ.

*Why this site?*

260. Apart from its location in the SAZ, the importance of which is set out above, the site is close to the Iver electricity substation [121]. A key requirement of data centres is a large and reliable source of electrical power. The total power requirement of the appeal proposal is anticipated to be 147MW.
261. The applicant has reserved 57MW from the National Grid, the operators of the Iver substation this is anticipated to serve the needs of building 1. There is an assumption that the operator of the appeal proposal could buy additional power to serve the rest of the buildings by 2026, once the Iver substation has been upgraded, as this additional power has also been reserved. Therefore, whilst the appellants are confident that the power will be available to serve the whole of the

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appeal proposal after 2026 some doubt remains whether this can be achieved due to the need to upgrade the Iver substation [63,121].

262. I also heard evidence that one of the advantages of this site is its proximity to London as it has the greatest concentration of data centres in the country (linked to the above concerning availability zones), the city is attractive for investors and skilled staff, and it has '*world class expertise*' in various fields. In this context the development of new hyperscale data centres is entirely market driven. I have no reason to disagree with this position, however this is not the only area around Greater London that could meet these locational requirements [61].

263. The appeal site whilst it is located in the SAZ, and it is in close proximity to the Iver substation has few other specific locational advantages. It appears to me that the factors related to the attractiveness of the area to skilled staff, the attractiveness of the area to investors and its proximity to central London could apply to most if not all of the SAZ and other 'availability zones' in London. Therefore, I give the attributes of the appeal site moderate weight in this recommendation.

#### *The absence of an alternative site*

264. A range of other sites in the SAZ which might be suitable for a new hyperscale data centre have been analysed by the appellant. The overall conclusion of that evidence is that there is no alternative site currently available for the appeal proposal. Indeed, all of the other sites which have been considered have no planning permission and it is uncertain whether planning permission would be forthcoming[28]. The Council agreed that it had not identified any alternative sites for a hyperscale data centre. However, no analysis of sites that might be located in other availability zones in London has been undertaken [61]. I therefore give the absence of an identified and readily available alternative site for a hyperscale data centre in the SAZ significant weight.

#### *Economic impacts and investment in the UK economy*

265. The appeal proposal would represent a significant investment by a foreign owned company in the UK economy. The total investment including construction costs and fit out costs is estimated to be around £2.5 billion [124].

266. The Government has recognised the importance of securing foreign investment in the digital sector including data centres[28,125].

267. I have seen no evidence to dispute this figure and I have had regard to both the Government's position express through the DIT's letter and other Government strategies. I therefore give significant weight to this level of investment in the economy of the UK.

#### *Construction jobs*

268. The appeal proposal is anticipated to deliver around 7,300 person years of direct employment during the construction phase. The indirect effects of the proposal will mean that the appeal proposal will generate around 12,100 person years of employment in the construction process [127].

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269. Whilst these jobs would be significant, they will be transient in nature and could be generated by the construction of a large development in any location I therefore give this factor limited weight.

*Operational jobs and economic effects*

270. Once completed it is estimated that around 370 full time equivalent jobs would be created on site and a further 4 to 5 jobs in the wider economy. It is anticipated that the jobs would be well paid (above the local average). Moreover, the value to the economy, expressed as GVA is estimated to be £410m to £530m per annum [128].

271. As these would be permanent jobs, I give this factor significant weight

*Social benefits*

272. The creation of public access to parkland off Palmers Moor Lane, the creation of a footpath link between the RCWLL and the Colne Valley trail and assisting in maintaining a reliable digital infrastructure are regard as benefits of the proposal. [129]

273. Whilst I consider that the creation of additional public open space and more footpath links would be a benefit of the appeal proposal there is no indication that there is a need for this type of provision in the area. The maintenance of digital infrastructure is not unique to the appeal proposal. I therefore give these factors limited weight.

*Addressing climate change*

274. In terms of addressing climate change I recognise that the appeal proposal would to a certain extent be replacing older, less energy efficient data centre. However, it appears its electricity (at least initially) would be sourced from the National Grid via the Iver substation and not from sources that would be readily identified as renewable [130]

275. There are no proposals to generate power from renewable sources on site. In this respect the appeal proposal would be reliant to the same extent as other users of electricity on generation from non-renewable sources. I note the commitment by operators to begin a switch to renewable power by 2026, however the site might still be reliant on non-renewable sources until at least 2031. I recognise that this hyperscale data centre would be more energy efficient than older data centres. However, in the environment of a pressing need for new data centres which could encourage older data centres to be retained, and in the absence of a specific data centre/s that this proposal will replace, I can only attribute limited weight to this consideration.

*Parkland and BNG*

276. The appeal proposal would result in the creation of parkland to the south of the site and the creation of a BNG of 6.85% [132]. The creation of parkland with public access would be in accordance with the objectives of the Colne Valley Regional Park. I have no doubt that should the appeal succeed that the parkland area is capable of being delivered. However, it is also clear that the current site delivers some benefits in relation to users of the Colne Valley Trail, giving access to, and views across open countryside close to the urban edge of Uxbridge. The

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appeal proposal would to a certain extent close off those views. I therefore attach minimal weight to this benefit.

277. The appeal proposal would, through a variety of methods, deliver a BNG of 6.85%. The current version of the Framework requires that all sites provide net gains for biodiversity. The Environment Act 2021 will require developments to provide a BNG of 10%. This part of the Act has not yet been brought into force. Therefore, a BNG of this level complies with the requirements of the Framework. However, the Framework requires all developments to provide for BNG. Consequently, as it is already a requirement for proposals to deliver a BNG I attach neutral weight to this benefit.

#### *Building beautiful*

278. Whether buildings are 'beautiful' or not is subjective. It is clear with the green walls and brown roofs, the layout of the site and an emphasis on ensuring that the development is sited in attractive grounds that the issue of beauty has been taken account of in the appeal proposal. I agree that it would be in stark contrast to the disorderly appearance of the WLIP immediately to the east [133].

279. However, the Framework already recognises the need to create high quality, beautiful and sustainable buildings, and places and that this is fundamental to what the planning and development process should achieve. Therefore, if the appeal proposal had not had regard to the design of the buildings, the way it related to its surroundings and its setting, it would potentially have been in conflict with the policies of the Framework and the development plan. As a result, whilst I acknowledge the work that has been done on making the scheme beautiful, this would have been necessary in any case in order to comply with the requirements of the Framework and the development plan. Consequently, I afford neutral weight to this matter.

#### *Education and employment initiatives*

280. I note that as part of the appeal proposal it will deliver a local education initiative aimed at improving digital skills and such schemes are supported by local business organisations. I can see benefits in such an initiative and therefore give it moderate weight [138].

#### *District heating system*

281. The appeal proposal would provide an external connection so that excess heat generated by the activities within the buildings could be made available to local residents should a district heating system be installed. At present there is no district heating system in the area of the appeal site that could utilise this heat. Moreover, from the evidence I have seen there is no prospect in the foreseeable future of such a network being installed [27]. I therefore give this matter minimal weight in this recommendation.

#### *Site remediation*

282. The part of the site where the buildings are proposed to be constructed has been used for landfill and is alleged to contain asbestos and other hazardous material [140]. It is anticipated that the appeal proposal will benefit the local environment by reducing infiltration rates, provide a more effective cap over the landfill site and management of landfill gas. I have seen no evidence that the

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current site is causing pollution in the local area. Moreover, any development proposed for the former landfill part of the site would need to address these matters. Therefore, I give this matter neutral weight in this recommendation.

Other matters raised by interested parties

283. Matters have been raised by interested parties relating to the development increasing traffic congestion in the area, causing contamination to be released from the former landfill site, leading to an increase in air pollution and noise in the area and increasing flood risk.
284. In terms of the increasing traffic congestion, I have had regard to the Transport Statement produced for the planning application. This demonstrates that the appeal proposal would not have a material adverse impact on the safety or operation of the adjacent highway network. I have seen no evidence to disagree with that conclusion and therefore I conclude that the proposal would have no adverse impacts on the local road network.
285. The appeal site would occupy part of a former landfill site where contaminated waste was deposited. The development of the appeal proposal would need to take account of any contamination on the site should it be developed. In terms of the risk of contamination on the site being released as a result of the appeal proposal, it is clear to me that the matter of contamination has been dealt with through correspondence between the Council and the appellant<sup>66</sup>. Therefore, the matter is capable of being dealt with through the imposition of an appropriate condition should planning permission be granted.
286. The proposed legal agreement between the Council and the appellant and/or the Unilateral Undertaking submitted by appellant is capable of dealing with any air pollution which might be generated by the appeal proposal. An appropriate condition dealing with noise could mitigate any intrusive noise which might be generated by the appeal proposal.
287. The Flood Risk Assessment and Drainage Strategy produced for the planning application showed that the proposed buildings lie in Flood Zone 1 (at the lowest risk of flooding). It is also proposed, should the appeal be allowed, to impose conditions to ensure that flood risk is minimised.

Planning obligations

288. Notwithstanding the recommendation on this proposal, I have made the following assessment of the planning agreement submitted following the close of the Inquiry to assist the Secretary of State should the appeal be allowed, and planning permission be granted.
289. Since the close of the Inquiry, I have received a sign planning agreement made under s106 of the Town and Country Planning Act 1990 (the agreement). The completed agreement covers the following matters:
- a contribution towards monitoring the obligations;
  - the provision of equipment to enable the appeal proposal to be connected to a district heating network, should that become available;

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- the provision of a travel plan to enable works to access the site from local transport hubs;
  - a contribution towards mitigating and monitoring the effects of the development on air quality in the area;
  - a contribution towards developing local labour skills;
  - a contribution towards the provision, management, and monitoring of the proposed parkland;

290. I have also been provided with a CIL compliance statement from the Council.

*Air quality provisions*

291. Additionally, and since the close of the Inquiry I have received information from the appellant and the Council regarding the contribution set out in the signed obligation towards monitoring air quality and any potential mitigation. This has included a signed Unilateral Undertaking (UU) from the appellant.

292. The UU seeks to remove the requirement for an initial contribution from the appellant towards an 'initial air quality contribution' and the 'air quality monitoring contribution'. It also removes a defined fee to be payable should the owners of the site fail to submit air quality monitoring information or exceed the total annual emissions cap. These are replaced with provisions that allow these amounts to be agreed between the owner and the Council, with appropriate dispute resolution procedures.

293. The submitted UU is less precise than the signed s106 agreement and the lack of defined contributions could lead to future disputes between the owner of the facility and the Council and therefore would not resolve the issue of air quality in the area and the contribution that the appeal might make to it.

294. The s106 agreement includes a provision for the appellant to make an initial air quality contribution to the Council and to the ongoing monitoring of emission from the site. The level of any future contributions towards the mitigation of emissions from the site will be based on whether the operator of the site submits monitoring information or whether emissions from the site exceed certain levels.

295. The site lies within an Air Quality Management Area (AQMA) which is an acknowledgement that air quality in the areas is in need of improvement. I accept that the impact of the emissions from the appeal proposal could be at least negligible, however that is not the same as zero. Policy CP13 of the DCS seeks, amongst other things, improvements in air quality, especially adjacent to the motorways. The M25 forms one of the boundaries to the site. Moreover, the INP requires proposals to demonstrate that they will not worsen local air quality. Therefore, and in view of the fact that the area where the appeal site is located already has poor air quality, I find that this obligation dealing with air quality is necessary.

296. In terms of whether it is fairly and reasonably related to the development it appears to me that, outside the requirement to provide for monitoring and an initial contribution to the Council, the level of contribution will be related to the emissions produced from the site or whether monitoring is carried out. Consequently, to an extent the total amount of contributions will be related to

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the operation of the site itself. Moreover, the contribution is based on national guidance produced by DEFRA – Air Quality Damage Cost Guidance (January 2023) – and would be used for measures to tackle poor air quality in the area, such as reducing congestion, electric vehicle charging points, car clubs and encouraging the use of electric vehicles. I therefore find that the provision is fairly and reasonably related to the scale and kind of the development.

297. Overall, in relation to air quality, for the reasons given above I find that the agreement made under s106 of the Town and Country Planning Act 1990 complies with the Regulations and the tests set out in the Framework.

#### *Local labour skills*

298. The obligation relates, amongst other things to the use of local labour during construction and when the site is operational and equipping local young people with the skills to be able to take advantage of the employment opportunities the appeal proposal would offer.

299. Policy CP10 whilst not directly addressing this issue seeks to encourage a greater proportion of people to live and work locally. It is not clear to me that the appeal proposal would be unacceptable should this provision not be included in the agreement. I therefore do not consider that this provision of the agreement is necessary in order to make the appeal proposal acceptable.

#### *Parkland contribution*

300. An integral part of the development is the parkland setting for the buildings. This would not only provide a landscape within which the buildings would be located but assist in habitat re-creation which is a benefit ascribed to the appeal proposal. It is therefore necessary to make the development acceptable.

301. Within the agreement at the sixth schedule there is a choice of clauses to be applied should the appeal be allowed, and planning permission granted. This is derived from a disagreement between the parties as to whether the trigger point for the submission of a management scheme should be the prior to the commencement of the development or prior to the occupation of the development.

302. The Council would prefer the scheme to be submitted prior to the commencement of the development as they consider that this would provide certainty that the parkland is both viable and deliverable before the development is commencing. On the other hand, the appellant considers that the trigger point should be prior to the occupation of the development as that would reduce the burden of pre-commencement requirements, allow for flexibility and reduce delays in the commencement of the development.

303. As the location, layout and management of the parkland is integral to the acceptability of the proposal, I find that the contribution to 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 and therefore complies with the Regulations and the tests in the Framework.

304. Furthermore, as the location, layout and management of the parkland needs to be considered at the same time as the siting and layout of the buildings in order

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that the development functions as a whole, I recommend that Clause 1.2(a) should apply as the layout of the development and the siting of the buildings will influence the siting and character of the parkland.

#### *District heating network*

305. It is accepted by the parties that the appeal proposal will generate excess heat. It is proposed as part of the obligation to provide a connection on the site to allow the excess heat to be used by the local community through a district heating network, should that become available. This would assist in helping the building to meet targets related to its carbon emissions. I therefore find that the obligation would meet the requirements of the Regulation and the Framework.

#### *Travel plans*

306. The provision of travel plans to allow people accessing the site to travel by means other than the private car is necessary in order to reduce carbon emissions generated from the users of the site, to assist in reducing congestion on the local road network and to ensure that air quality in the area is harmed as little as possible. The contribution associated with this obligation is set in accordance with a formula used by the Council. I therefore find that the obligation would meet the requirements of the Regulations and the Framework.

#### Conditions

307. I have assessed the conditions suggested by the Council and the appellant and in the light of the discussions at the Inquiry. In doing so I have applied the policy and guidance on the use of conditions set out at paragraph 56 of the Framework.

308. I have also had regard to the fact that the appeal proposal is in outline with all matters reserved, apart from the main access. As with the assessment of the planning obligation this assessment of the conditions is given in order to assist the Secretary of State should the appeal be allowed, and planning permission be granted. I therefore recommend that the conditions set out in Annex F be applied should the appeal be allowed, and planning permission granted.

309. In the interests of clarity, a standard condition is necessary for reserved matters applications setting out all the matters that are to be reserved for further approval, including the time limits for submitting the reserved matters, for the commencement of development.

310. A condition is necessary, for the avoidance of doubt, setting out the plans to which any planning permission relates.

311. However, given the emphasis at the Inquiry on the quality of the development, in particular its landscape setting, it is necessary to ensure that the plans submitted to discharge the reserved matters have regard to the submitted parameter plans, including how the scheme will comply with the energy requirements of the Council. This is necessary in order that the reserved matters deliver the objectives set out in the outline application.

312. There are a number of conditions relating to the matters of layout, appearance and landscape which would appear not to be necessary as they are already reserved matters and will be automatically addressed in future submissions. The suggested conditions offer guidance on what the Council would expect detailed

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- submissions at the reserved matters stage to include. Therefore, I regard these conditions as necessary in order to ensure that the standard of development anticipated is delivered. These conditions include, 8, 9, 10 and 11.
313. I do not consider that a condition requiring the provision of electric vehicle charging points is necessary as that is covered by the Building Regulations.
314. A condition/s is necessary to ensure that any archaeological remains on the site are identified, recorded and where appropriate preserved. To ensure that the archaeological value of the site is assessed and where appropriate preserved.
315. A condition is necessary to ensure that all existing trees on site are protected during the construction phase to protect and enhance the character and appearance of the local area.
316. A condition is necessary to ensure that harm to wild birds using the site is reduced once the development is completed in order to protect the wildlife in the area.
317. A condition requiring the submission of a Construction Environment Management Plan is necessary in order to ensure that wildlife present on the site is protected.
318. A condition is necessary for the provision of a Landscape and Ecological Management Plan. This shall only include matters that are in the appellant's control and should not include reference to a Water Framework Directive Scoping assessment, this should be subject to a separate condition in the interests of clarity. The condition is necessary as it will assist in enhancing and preserving the biodiversity of the area.
319. A Biodiversity Net Gain Plan is necessary to ensure that the BNG anticipated can be achieved on site. However, this should be separate from the landscape and ecological plan referred to above.
320. A Construction Management Plan is necessary to ensure that the traffic impacts of the construction of the buildings and associated infrastructure can be accommodated on the local road network.
321. An access management plan for how the Slough Road access to the site is to be managed as an emergency access, once the development is complete, is necessary in order to ensure that highway and pedestrian safety is properly managed in this location.
322. A condition requiring an Air Quality and Dust Management Plan (AQDMP) is necessary in order to manage any effects that dust and other matter might have on air quality in the area during the construction phase to protect people living near the site.
323. A condition requiring a remediation method statement and a verification statement to be approved to the Council prior to the commencement of enable works is necessary to ensure that the contamination on site is dealt with and the local environment is protected.
324. A condition requiring an asbestos management plan to be submitted to and approved by the Council is necessary in order to mitigate any harm which might

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- be caused should asbestos be found or disturbed on the site. To protect those living in the local area.
325. A condition requiring a piling method statement is necessary to be submitted to and approved in writing by the Council is necessary to ensure that the piling does not affect the landfilled waste and therefore harm the local environment.
326. A condition/s are necessary to deal with any noise that might be generated by the proposal in order to protect people living in the local area from excessive noise from the appeal proposal.
327. A condition requiring a surface water drainage plan is necessary to ensure that the risk of flooding from the site is minimised.
328. A condition is necessary to control external lighting on the site to avoid light spill into the surrounding areas and to ensure that species present on or around the site are protected.
329. A condition is necessary in order to ensure that the site is secure, through the use of Secure by Design requirements. To ensure that criminal activity is not attracted to the area by an insecure site.
330. A condition requiring a delivery and servicing management plan is necessary so that servicing and deliveries do not harm the living conditions of local residents.
331. A condition requiring details of any photovoltaic panels and any other energy generating equipment to be used on the external surfaces of the proposed buildings be submitted to and approved in writing by the Council is necessary in order to ensure an acceptable external appearance.
332. A condition is necessary to ensure that the foul water generated by the appeal proposal can be accommodated in the existing sewers in order to avoid any pollution or flooding incidents.
333. A condition detailing a scheme for the resurfacing of the bridleway along Palmers Moor Lane will be needed to be submitted to and approved by the Council. In order to help promote access to the countryside and the enjoyment of the Colne Valley Regional Park.
334. A condition is necessary to ensure that the principal means of access to the site from Iver Lane is constructed to the required standard in the interests of highway safety.
335. A condition is necessary to ensure that the site's surface water drainage network is maintained for the whole life of the development. To ensure that the risk of flooding is minimised.
336. A condition is necessary to ensure the emission from the appeal proposal are controlled through an Emission Reduction Plan. In order to ensure that the air quality in the local area is not made worse by the development.
337. A condition is necessary to ensure that the emissions from the proposed standby generators are regular tested to ensure that the risk of air quality being made worse by the operation of these generators is minimised.

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338. A condition is necessary to ensure that the standby generators are fitted with appropriate devices to ensure their emissions when they are in operation, are minimised, so that the air quality in the local area is not worsened by the development.
339. A condition is necessary to ensure that the required remediation statement is implemented. To reduce the risk of contamination from the former landfill site being release.
340. A condition is necessary to deal with unforeseen contamination in order to reduce the risk of contamination from the former landfill site or elsewhere being released.
341. A condition is necessary to ensure that any ground gas being generated by the former landfill site is dealt with. To ensure that harm to the surrounding area by reason of landfill gas is minimised.
342. A condition is necessary to ensure that each of the proposed buildings achieves a BREEAM excellent rating and that this is confirmed to the Council. To ensure that the buildings are as sustainable as possible.
343. A condition is necessary to ensure that the routine testing of the generators is carried out during normal working hours. In order to protect the living conditions of local residents.
344. A condition is necessary to restrict the heights of buildings on the site so that they do not interfere with aircraft movements at Heathrow airport.
345. A condition is necessary to ensure that the buildings are used for a data centre only and for no other purpose that might be allowed by virtue of the Town and Country Planning (Use Classes Order) 1987 (as amended). To prevent a change of use that might not be justified by very special circumstances.
346. A condition is necessary to ensure that any new hedgerow, tree, or shrub that is planting in accordance with an approved landscaping scheme is replanted within a reasonable timescale.

*Planning Balance and Very special circumstances*

347. The starting point is whether the other considerations, identified above, clearly outweigh the harm I have identified to the Green Belt, so as to comprise very special circumstances, which would allow me to recommend that the appeal be allowed.
348. The Framework states that inappropriate development is by definition harmful, and that substantial weight should be given to any harm to the Green Belt. Therefore, I give substantial weight to the development being inappropriate in the Green Belt.
349. However, the development also harms the fundamental aim of Green Belt policy that of preventing urban sprawl and keeping land permanently open. I have found for the reasons set out above that the appeal proposal would harm the openness of the Green Belt both spatially and visually.

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350. Furthermore, I have identified harm to 2 of the purposes that Green Belts are meant to serve: to check unrestricted sprawl of large built-up areas, and to assist in safeguarding the countryside from encroachment.
351. Overall, I have found that the appeal proposal would cause significant and substantial harm to the Green Belt. As I am required to by the Framework I give substantial weight to this harm.
352. The appellant has advanced other considerations which could be considered as very special circumstances which would allow the proposal to be approved even in the face of the Green Belt harm I have identified. The existence of very special circumstances is only achieved if all other matters clearly outweigh the harm to the Green Belt.
353. A principal concern in this case is that in order to begin to address the need for data centre capacity in the SAZ the data centre buildings need to be large. The size and scale of the buildings themselves therefore are a main cause of harm to the Green Belt, in terms of their effect on openness (both visual and spatial), the contribution to urban sprawl and encroachment into the countryside. Additionally, the area within which they are located has been identified as an area that performs strongly in its role as Green Belt [36].
354. Whilst the appellant has advanced arguments with regard to the need for a data centre both nationally and in the SAZ and has carried out work to identify whether there are any alternative sites within the SAZ this work has not included an assessment of how the sites meet Green Belt purposes. Moreover, there has not been any assessment of whether there are suitable sites in other availability zones in London or elsewhere.
355. I also understand the need for data centres to have access to a source of power. However, power is available from various points around the grid, and I have seen no compelling evidence that this is the only point that power would be available for this site. Furthermore, the need for skilled staff and the sites proximity to London could be met on other sites around the capital and in other availability zones.
356. I have had regard to the economic benefits of the appeal proposal and whilst these appear to be large they could apply to other data centre proposals in non-Green Belt locations or in Green Belt locations that are less sensitive than the appeal site.
357. The appellant has advanced other arguments in support of the proposal, and these can be summarised as increased skills and employment in the local area, social benefits, the creation of construction jobs, its ability to address climate change, the creation of parkland and the delivery of BNG, the beauty of the development, the creation of a district heating system and the remediation of the site.
358. I therefore find that the combined weight of the other considerations identified by the appellant does not clearly outweigh the harm I have identified to the Green Belt. Therefore, other considerations do not clearly outweigh the harm to the Green Belt and consequently very special circumstances cannot exist.
359. The DLP at Policy GB1 sets out its Green Belt Policy. It predates the Framework and does not contain a provision for assessing other considerations in

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favour of a development proposal in terms of whether they could amount to very special circumstances in which to allow it. In this respect it is inconsistent with the Framework. However, in most other respects it is consistent with the Framework. I therefore attached substantial weight to this policy. The policy seeks to restrict development in the Green Belt to certain categories which it defines, these are similar to those set out in the Framework, the appeal proposal does not fall within one of the categories defined in the Policy. Therefore, it is in conflict with this policy of the development plan.

360. I have attached substantial weight to the harm I have identified to the Green Belt. I have also identified conflict between the appeal proposal and the other Policies of the development plan. Therefore s38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. I have found that the appeal proposal is in conflict with the policies of the development plan in relation to harm to the character and appearance of the area. I have also found the proposal would harm the Green Belt by reason of inappropriateness and that very special circumstances do not exist. Therefore, the material considerations in this case are not sufficient to indicate that the appeal should be allowed. I therefore consider that the appeal should be dismissed.

Recommendation

361. That appeal be dismissed.

362. If the Secretary of State is minded to disagree with my recommendation, Annex F lists the conditions that I consider should be attached to any permission granted.

*Peter Mark Sturgess*

Inspector

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## **ANNEX A: APEARANCES**

### **FOR THE COUNCIL**

Annabel Graham Paul Counsel

Instructed by Leonie Woodward, Solicitor, Legal and Democratic Services, Buckingham Council

She called

Rachel Marber BSc, MA, MRTPI Principal Planning Officer, Planning, Growth & Sustainability, Buckinghamshire Council

Agni-Louiza Arampoglou MSC ACIEEM Ecological Officer, Planning, Growth & Sustainability, Buckinghamshire Council

Chris Kennett<sup>67</sup> CMLI, DipUD MSc, Landscape Architect and Urban Designer, Planning, Growth & Sustainability, Buckinghamshire Council

### **FOR THE APPELLANT**

Ian Ponter Counsel

Instructed by JLL

He called  
Architects

Paul Harris<sup>68</sup> BA Dip LA CMLI mhp Chartered Landscape

Anthony Crean<sup>69</sup> KC

Dominic Woodfield CEcol CEnv MCIEEM, Managing Director Bioscan (UK) Limited

Stephen Nicol BA MA Managing Director, Nicol Economics

David Hutchison BSc(Hons), DipTP, MRTPI, Executive Director Pegasus Group

### **INTERESTED PERSONS**

Michael Garvey

Buckinghamshire Business First

Cllr Wendy Matthews

Buckinghamshire Council – Local Councillor

Cllr Paul Griffiths

Buckinghamshire Council – Local Councillor

Michael Hook

Resident

Jane Kelvey<sup>70</sup>

Resident

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<sup>67</sup> Took part in the RTS on character and appearance and openness of the Green Belt

<sup>68</sup> Took part in the RTS on character and appearance and openness of the Green Belt

<sup>69</sup> Took part in the RTS on character and appearance and openness of the Green Belt

<sup>70</sup> Requested to ask a question very late in the Inquiry – points put in writing with the agreement of the parties.

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## **ANNEX B: THE EVIDENCE**

### FOR THE COUNCIL

CD.G18m -n	Proof of Evidence of Rachel Marber (including appendices and summary)
CD.G18e-l	Proof of Evidence of Agni-Louiza Arampoglou (including appendices and summary)
CD.G18a-d	Proof of Evidence of Chris Kennet (including appendices and summary)

### FOR THE APPELLANT

CD.G7a-b	Proof of Evidence of Paul Harris (including appendices and summary)
CD.G20	Proof of Evidence of Anthony Crean KC
CD.G8a-b	Proof of Evidence of Dominic Woodfield (including summary)
CD.G9a-c	Proof of Evidence of David Hutchison (including appendices and summary)

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## **ANNEX C: CORE DOCUMENTS**

CD.A1	Application form
CD.A2	Completed CIL form
CD.A3	Press advert
CD.A4a	Planning Statement
CD.A4b	Planning Statement Appendix 1 – Iver Capacity Commitment
CD.A4c	Planning Statement Appendix 2 – EIA Screening Opinion Letter
CD.A4d	Planning Statement Appendix 4 – Inspectors Report 1994
CD.A4e	Planning Statement Appendix 7 – DB Symetry Appeal
CD.A4f	Planning Statement Appendix 7 – Newton Le Willows Appeal
CD.A4g	Planning Statement Appendix 7 – Rail Freight Interchange Decision
CD.A4h	Planning Statement Appendix 7 – Wingates Appeal
CD.A5	Planning Obligations Heads of Terms
CD.A6	Design and Access Statement
CD.A7	Development Specification
CD.A8	Parameter Plans
CD.A9	Site Location Plan @A0
CD.A10a	Alternative Site Assessment and Appendices 1 and 2
CD.A10b	Alternative Site Assessment and Appendix 3 – Proformas Part 1
CD.A10c	Alternative Site Assessment and Appendix 3 – Proformas Part 2
CD.A11	Statement of Community Involvement
CD.A12	Energy Statement
CD.A13	Sustainability Statement
CD.A14	Fuel Storage Report
CD.A15	Minerals Assessment
CD.A16a	Landscape and Visual Impact Assessment (LVIA)
CD.A16b	LVIA Appendix A – VP1-VP7 LVIA viewpoint photographs
CD.A16c	LVIA Appendix B – VP18 – VP28 LVIA viewpoint photographs
CD.A16d	LVIA Appendix D – Landscape Assessment Methodology

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CD.A16e	LVIA Appendix C – photomontage Images _ Part 1
CD.A16f	LVIA Appendix C – photomontage Images _ Part 2
CD.A16g	LVIA Appendix C – photomontage Images _ Part 3
CD.A16h	LVIA Appendix C – photomontage Images _ Part 4
CD.A16j	LVIA Appendix C – photomontage Images _ Part 6
CD.A16k	LVIA Appendix C – photomontage Images _ Part 7
CD.A16l	LVIA Appendix C – photomontage Images _ Part 8
CD.A16m	LVIA Appendix C – photomontage Images _ Part 9
CD.A16n	LVIA Appendix C – photomontage Images _ Part 10
CD.A16o	LVIA Appendix C – photomontage Images _ Part 11
CD.A17	Ecological Impact Assessment
CD.A18a	Arboricultural Assessment Part 1
CD.A18b	Arboricultural Assessment Part 2
CD.A18c	Arboricultural Assessment Part 3
CD.A18d	Arboricultural Assessment Part 4
CD.A18e	Arboricultural Assessment Part 5
CD.A18f	Arboricultural Assessment Part 6
CD.A18g	Arboricultural Assessment Part 7
CD.A18h	Arboricultural Assessment Part 8
CD.A18i	Arboricultural Assessment Part 9
CD.A18j	Arboricultural Assessment Part 10
CD.A19a	Tree Survey Part 1
CD.A19b	Tree Survey Part 2
CD.A19c	Tree Survey Part 3
CD.A19d	Tree Survey Part 4
CD.A19e	Tree Survey Part 5
CD.A20	Flood Risk Assessment and Drainage Strategy
CD.A21	Geo Environmental Assessment
CD.A22	Preliminary Geo-Environmental Risk Assessment
CD.A23	Remediation and Verification Strategy
CD.A24	Transport Statement

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CD.A25	Travel Plan
CD.A26	Delivery and Servicing Management Plan
CD.A27	Air Quality Assessment
CD.A28	Noise Impact Assessment
CD.B1a	LVIA Appendix E – Winter Viewpoint Photographs
CD.B1b	LVIA Appendix A – VP1-VP7 Viewpoint Photographs (Rev A)
CD.B2	Cross Section through River Colne Corridor @A1
CD.B3	Building Heights Parameters Plan (Rev F)@ A1
CD.B4	Proposed Building Access Plan @ A3
CD.B5	Bound Layout @A1
CD.B6	Baseline Habitats Plan
CD.B7	Proposed Habitats Plan
CD.B8	JLL Email to Case Officer 02.03.2022
CD.B9	JLL Email to Case Officer 07.01.2022
CD.B10	JLL Email to Case Officer 07.03.2022
CD.B11	JLL Email to Case Officer 07.04.2022
CD.B12	JLL Email to Case Officer 10.01.2022
CD.B13	JLL Email to Case Officer 10.03.2022
CD.B14	JLL Email to Case Officer 10.06.2022
CD.B15	JLL Email to Case Officer 11.02.2022
CD.B16	JLL Email to Case Officer 13.12.2021
CD.B17	JLL Email to Case Officer 15.02.2022
CD.B18	JLL Email to Case Officer 15.03.2022
CD.B19	JLL Email to Case Officer 16.03.2022
CD.B20	JLL Email to Case Officer 16.12.2021
CD.B21	JLL Email to Case Officer 17.01.2022
CD.B22	JLL Email to Case Officer 19.01.2022
CD.B23	JLL Email to Case Officer 21.01.2022
CD.B24	JLL Email to Case Officer 27.07.2022
CD.B25	JLL Email to Case Officer 31.01.2022
CD.B26	Delta Simons Presentation (January 2022)

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CD.B27	Flood Risk Assessment and Drainage Strategy (January 2022)
CD.B28	Delta Simons note to Buckinghamshire SUDs team (2 February 2022)
CD.B29	NVTC Data Centre Report 2022
CD.B30	District Heating Network Feasibility Scheme (March 2022)
CD.B31	District Heating Network Feasibility Scheme (May 2022)
CD.B32	Landscape Response to Officers Comments (10 May 2022)
CD.B33	Copenhagen Economics European Data Centres (February 2018)
CD.B34	Microsoft Datacentre Academy – Curriculum Guide
CD.B35	Economic Benefits and Needs Assessment
CD.B36	Education and Employment Obligation PL.21.4429.OA
CD.B37	Gigafactory Committee Report
CD.B38	Buckinghamshire Business First Letter (14 April 2022)
CD.B39	Iver Hyperdata Centre – Briefing Note on North Virginia Data Centres Report
CD.B40	Letter in Response to South Bucks Pre-App (17 January 2022)
CD.B41	Malmesbury Appeal Decision
CD.B42	Response to Consultation Letter
CD.B43	Response to Climate Change Officer
CD.B44	West London Technology Park Availability Zone
CD.B45	Education and Employment Jobs
CD.B46	Plot A and G Section 106 – Training and Procurement Highlights
CD.B47	Proposed Draft Conditions PL.21.4429.OA
CD.B48	Response to BC Ecology objection – 16.02.22
CD.B49	Response to BC Ecology objection – 19.01.22
CD.B50	Response to further BC Ecology objection - 6.04.22
CD.B51	Response to residual BC ecology queries – 04.03.22
CD.B52	Proposed Heat Network SEE Letter
CD.B53	Air Quality Consultants Letter (25 March 2022)
CD.B54	Air Quality Consultants Letter (10 February 2022)
CD.B55	Final Metric 3.0 readout – 15.10.21
CD.B56	Stack Infrastructure EMEA Letter IPI (22 March 2022)

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- CD.B57 Ecological Officer Consultation Response (11.01.22) – *upload date referenced*
- CD.B58 Ecological Officer Consultation Response (03.02.22) – *upload date referenced*
- CD.B59 Biodiversity Metric 3.0 (excel format, revised 08.03.22)
- CD.B60 Ecological Officer Consultation Response (05.04.22) – *upload date referenced*
- CD.B61 Climate Change Officer Consultation Response (14.04.22) – *upload date referenced*
- CD.B62 Landscape Officer Consultation Response (28.04.22) – *upload date referenced*
- CD.B63 Landscape Officer Consultation Response (10.06.22) – *upload date referenced*
- CD.B64 Climate Change Officer Consultation Response (05.09.22) – *upload date referenced*
- CD.B65 Air Quality Officer Consultation Response (28.01.22) – *upload date referenced*
- CD.B66 Tree Officer Consultation Response (06.12.21) – *upload date referenced*
- CD.B67 John Gregory email 20/02/23
- CD.C1 PI\_21\_4429\_OA-Case\_Officer\_Report\_Delegated-4566871
- CD.C2 PL\_21\_4429\_OA-Decision -4566880
- CD.D1 South Bucks Core Strategy Development Plan Document (adopted February 2011)
- CD.D2 Saved Policies from the South Bucks District Local Plan (adopted March 1999)
- CD.D3 Buckinghamshire Minerals and Waste Local Plan 2016-2036 (adopted July 2019)
- CD.D4 Buckinghamshire Air Quality Action Plan South Bucks Area 2020
- CD.D5a South Bucks Core Strategy Proposals Map (Extract – Page 17)
- CD.D5b South Bucks Core Strategy Proposals Map (Index)
- CD.5c South Bucks Core Strategy Proposals Map (Key)
- CD.D6 Buckingham Council Biodiversity Net Gain SPD (July 2022)
- CD.D7 South Bucks District Landscape Character Assessment (October 2011)  
22.4 LCA Iver Heath Mixed Use Terrace
- CD.D8 South Bucks District Landscape Character Assessment (October 2011)  
26.3 Colne Valley Floodplain

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CD.E1	Joint Employment Topic Paper 2019
CD.E2a	Bucks GB Assessment Report 2016 – Annex Report 1F (856476) – Appendix B – Bucks SofC
CD.E2b	Bucks GB Assessment Report 2016 – chapters 1-4 (856476) – Appendix B – Bucks SofC
CD.E2c	Bucks GB Assessment Report 2016 – chapters 5-7 (856476) – Appendix B – Bucks SofC
CD.E3	Chiltern and South Bucks Stage 2 Green Belt Assessment 2018 (856476 – Appendix C – Bucks Sof C)
CD.E4	The Ivers Neighbourhood Plan – Referendum Plan 2022 (856476 – Appendix H – Bucks SofC)
CD.E5	Chiltern and South Bucks Local Plan 2036
CD.E6	The Green Belt Assessment Part 2 dated updated 2019 version
CD.F1	National Planning Policy Framework (July 2021)
CD.F2	National Planning Practice Guide
CD.F3	Community Infrastructure Levy Regulations 2010
CD.F4	National Design Guide
CD.F5	Procedural Guide Planning Appeals
CD.F6	HM Government, White Paper on a new national Industrial Strategy, November 2017
CD.F7	HM Government, National Cyber Strategy, Feb 2022
CD.F9	HM Treasury, Autumn Statement, November 2022
CD.F10	Department for International Trade (DIT), Policy Paper on digital trade, September 2021
CD.F11	Department for International Trade (DIT), Inward Investment into the UK for 2021/22, June 2022
CD.F12	DCMS, National Data Strategy, December 2020
CD.F13	DCMS, Government response to the consultation of the National Data Strategy, May 2021
CD.F14	DCMS, UK Digital Strategy, 2022
CD.F15	Department for International Trade (DIT), Data Centres Sector Proposition, January 2021
CD.F16	Office for Budgetary Responsibility (OBR), Economic and fiscal outlook, November 2022

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CD.F17	Guidelines for landscape and visual impact assessment Third Edition (Landscape Institute and Institute for Environmental Management and Assessment)
CD.F18	Living with Beauty – Building Better, Building Beautiful Commission (dated Jan 2020)
CD.F19	Natural England – Biodiversity Metric 3.0 – Auditing and accounting for biodiversity User Guide (July 2021)
CD.F20	Government Circular 06/2005: Biodiversity and Geological Conservation – Statutory Obligations and their impact within the planning system (August 2005)
CD.F21	Levelling-up and Regeneration Bill; reforms to national planning policy
CD.F22	Michael Gove Creating Beautiful Popular, Healthy and Sustainable Places letter dating 01.12.22
CD.F23	Michael Gove Levelling Up and Regeneration Bill: Planning and Local Control in England dated 04.12.22
CD.G1	Planning Appeal Application Form – Appellant (21 September 2022)
CD.G2	Planning Appeal Application Form – Buckinghamshire Council (24 November 2022)
CD.G3	Statement of Case – Appellant (21 September 2022)
CD.G4a	856476 – Buckinghamshire Council – Statement of Case – Nov 2022
CD.G4b	856476 – Appendix A – Bucks SofC – Officer delegated report
CD.G4c	856476 – Appendix D – Bucks SofC – South Bucks Landscape Character Assessment 2011 – Character of South Bucks landscape
CD.G4d	856476 – Appendix D – Bucks SofC – South Bucks Landscape Character Assessment 2011- Introduction
CD.G4e	856476 – Appendix D – Bucks SofC – South Bucks Landscape Character Assessment 2011 – LCA 26.3 Colne Valley Floodplain_Redacted
CD.G4f	856476 – Appendix D – Bucks SofC – South Bucks Landscape Character Assessment 2011 – Method Statement
CD.G4g	856476 – Appendix E – Bucks SofC – Colne Valley Landscape Character Assessment 2017
CD.G4h	856476 - Appendix F - Bucks SofC - Colne Valley – Landscape on the edge – Action Plan 2018
CD.G4i	856476 – Appendix G – Bucks SofC – Colne and Crane Valleys Green Infrastructure Strategy 2019 – Mid Colne Sub-Area 2_compressed
CD.G4j	856476 – Appendix G Part 1- Bucks SofC – Colne and Crane Valleys Green Infrastructure Strategy 2019 – Main Strategy_compressed – 1-19

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CD.G4k	856476 – Appendix G Part 2 – Bucks SofC – Colne and Crane Valleys Green Infrastructure Strategy 2019 – Main Strategy compressed_1-19
CD.G5a	Draft Statement of Common Ground (21 September 2022)
CD.G5b	Draft Statement of Common Ground Annex A – Bucks Screening opinion PL.21.3140 EIASR (21 September 2022)
CD.G5c	Draft Statement of Common Ground Annex B – Draft Conditions (21 September 2022)
CD.G6a	Stephen Nicol Proof of Evidence (Need and Impact)
CD.G6b	Stephen Nicol Proof of Evidence Summary Note (Need and Impact)
CD.G6c	TechUK, The UK data Sector – The most important industry you’ve never heard of, September 2020
CD.G6d	Digital Realty, The Data Economy Report 201, May 2018
CD.G6e	Savills, European Data Centre 2020, A tipping point for the industry, November 2020
CD.G6f	US Chambers of Commerce, Data Centers – Jobs and Opportunities in Communities Nationwide June 2017
CD.G6g	Knight Frank, Q1 2021 review of the EMEA data centre market, April 2021
CD.G6h	Turner and Townsend, 2022 Data Centre cost index (extract from website)
CD.G6i	Policy Lab National Data Strategy – Review of commonly quoted statistics, June 2019
CD.G6j	Department of International Trade Letter (9 Jan 2023)
CD.G7a	Paul Harris – Proof of Evidence (Landscape)
CD.G7b	Paul Harris – Proof of Evidence Summary Note (Landscape)
CD.G7c	The Ivers Neighbourhood Plan 2021- 2040, dated Dec 2021
CD.G7d	Active Travel in the Ivers Parish: A report to the Highways and Infrastructure Committee of the Ivers Parish Council, dated September 2020
CD.G8a	Dominic Woodfield – Proof of Evidence (Ecology)
CD.G8b	Dominic Woodfield – Proof of Evidence Summary Note (Ecology)
CD.G8c	CVRP objection inc Groundwork suggestion for gain
CD.G8d	Extracts from CVRP website
CD.G8e	Extracts from NEP website Colne Valley BOA
CD.G8f	Extracts from RCAN website
CD.G9a	David Hutchison – Proof of Evidence

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CD.G9b	David Hutchison – Proof of Evidence (Appendices)
CD.G9c	Davide Hutchison – Proof of Evidence (summary note)
CD.G10a	Mike Gennaro – Land Contamination Technical Note
CD.G10b	Email from Mike Gennaro to Council (Response to Comments of EPO) – 23.02.2022
CD.G10c	Ground Conditions Technical Note_WLTP_21-05-14 Issue 1 (May 2021)
CD.G10d	Indicative Earthworks General Layout – 210617-PIN-00-XX-DR-C-0001-P3
CD.G10e	PL_21_4429_OA - Consultation Response – Environment Agency (dated 24.12.2021)
CD.G10f	PL_21_4419_OA - Consultation Response – Environmental Health (dated 02.04.2022)
CD.G10g	PL_21_4419_OA – Consultation Response – Environmental Health (dated 15.03.2022)
CD.G10h	PL_21_4419_OA – Greystoke Response to EIA Screening Direction (dated 20.12.2022)
CD.G10i	PL_21_4419_OA – Statement of Common Ground (version dated 01.12.2022)
CD.G10j	Planning Permission (ref. SBD_8201_2000)
CD.G10k	Waste Management Licence 1997
CD.G11a	Flood Risk Assessment and Drainage Strategy – Technical Note (dated Jan 2023)
CD.G11b	PL_21_4419_OA – Consultation Response – LLFA (dated 22.12.2022)
CD.G12a	Air Quality Position Technical Note (January 2023)
CD.G12b	LB Hillingdon Local Plan Part 1 Strategic Policies 2012 (Extract)
CD.G12c	LB Hillingdon Local Plan Part 2 Development Management Policies 2020 (Extract)
CD.G12d	LB Hillingdon SPD Planning Obligations 2014 (Extract)
CD.G12e	LB Hillingdon Air Quality Action Plan 2019 – 2024
CD.G12f	The London Plan 2021 (Extract – Ch. 9 Sustainable Infrastructure)
CD.G12g	Mayor of London Air Quality Neutral Guidance 2022
CD.G13	Letter from Pins confirming the appeal has been recovered by the SoS, dated 21.12.2022
CD.G14	European Data Centres – Deep dive in the data sphere (Savills), dated Nov 2022
CD.G15	Richard Redstone – Proof of Evidence

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CD.G16	Post CMC Note
CD.G17	Email from the LPA to PINS listing alternative sites, dated 13.01.2023
CD.G18a	Chris Kennett – Proof of Evidence
CD.G18b	Chris Kennett – Proof of Evidence – Appendix A
CD.G18c	Chris Kennett – Proof of Evidence – Appendix B
CD.G18d	Chris Kennett – Proof of Evidence – Appendix C
CD.G18e	Agni-Louiza Arampoglou – Proof of Evidence
CD.G18f	Agni-Louiza Arampoglou – Proof of Evidence Appendix 1
CD.G18g	Agni-Louiza Arampoglou – Proof of Evidence Appendix 2
CD.G18h	Agni-Louiza Arampoglou – Proof of Evidence Appendix 3
CD.G18i	Agni-Louiza Arampoglou – Proof of Evidence Appendix 4
CD.G18j	Agni-Louiza Arampoglou – Proof of Evidence Appendix 5
CD.G18k	Agni-Louiza Arampoglou – Proof of Evidence Appendix 6
CD.G18l	Agni-Louiza Arampoglou – Proof of Evidence Appendix 7
CD.G18m	Rachel Marber – Proof of Evidence
CD.G18n	Rachel Marber – Proof of Evidence – Appendix A
CD.G19	Department for International Trade, Data Centres and Buckinghamshire letter 09/01/23
CD.G20	Anthony Crean – Proof of Evidence (Design and Building Beautiful)
CD.H1a	Appeal Decision – Link Park
CD.H1b	Link Park Appellant Rebuttal
CD.H1c	Link Park Appellant SoC
CD.H1d	Link Park LPA SoC
CD.H1e	Link Park LPA SoCG
CD.H2	High Court Judgement Telford and Wrekin Council v. SSCLG (2016)
CD.H3	South Bucks Council EIA screening decision PL_21_3140_EIASR (dated 14.10.21)
CD.H4	Appeal Decision - Great Boughton
CD.H5	Appeal Decision – Beeches Park, Beaconsfield
CD.H6	Appeal Decision – Chalfont St Giles
CD.H7	SoS letter on Iver MSA Appeal Sept 1995
CD.H8	Turner v. SSCLG 2016 EWCA Civ 466

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- CD.H9 Wealden Judgement
- CD.H10 Sefton Metropolitan Borough Council v. Secretary of State for Housing, Communities, and Local Government [2021] EWHC 1082 (Admin)
- CD.H11 Dignity Funerals Ltd v. Breckland District Council [2017] EWHC 1492 (Admin)

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## **ANNEX D: INQUIRY DOCUMENTS**

ID1	Appellant appearances
ID2	Appellant opening statement
ID3	Council appearances
ID4	Council opening statement
ID5	Addendum to Statement of Common Ground
ID6	Appeal Decision 3289431
ID7	Community Infrastructure Levy Compliance Statement
ID8	List of suggested conditions
ID9	List of suggested conditions, highlighting areas of disagreement
ID10	Clean copy of draft section 106 agreement
ID11	Map highlighting view points for Inspector site visit
ID12	Statement from Jane Kelvey
ID13	Council closing statement
ID14	Appellant closing statement, including appendix relating to 'beauty'
ID15	Agreed pylon heights

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**ANNEX E: DOCUMENTS RECEIVED AFTER THE CLOSE OF THE INQUIRY**

- IDAC 1 Signed s106 agreement
- IDAC 2 Signed Unilateral Undertaking relating air quality
- IDAC 3 Emails from parties relating to air quality issue and the s106 agreement
- IDAC 4 Explanatory note from the appellant on air quality.

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## **ANNEX F: SCHEDULE OF CONDITIONS**

1. Details of the appearance, landscaping, layout, and scale (hereinafter called 'the reserved matters') shall be submitted to and approved in writing by the Council before any development takes place and the development shall be carried out in accordance with the approved details.
2. The application/s for approval of the reserved matters shall be in accordance with the following parameter plans:
  - Land use parameter plan ref: 21091.301 Rev. F
  - Development Zones parameters plan ref: 21091.302 Rev. F
  - Building heights parameters plan ref: 21091.303 Rev. F
  - Building lines parameters plan ref: 21091.304 Rev. F
  - Indicative Green Infrastructure Parameter Plan ref: 21091.305 Rev E.
  - Access and movement parameter plan ref: 21091.306 Rev E
3. Application/s for the approval of the reserved matters shall be made to the Council not later than 3 years from the date of this permission.
4. The development hereby approved shall commence no later than 2 years from the date of the approval of the last of the reserved matters to be approved.
5. The development hereby approved shall be carried out in accordance with the following plans:
  - Land use parameter plan ref: 21091.301 Rev F
  - Development zones parameters plan ref: 21091.302 Rev F
  - Building heights parameters plan ref: 21091.303 Rev F
  - Building lines parameters plan ref: 21091.304 Rev F
  - Indicative Green Infrastructure parameter plan ref: 21091.305 Rev E
  - Access and movement parameters plan ref: 21091.306 Rev E
  - The access arrangement plan ref: 23128-08 Rev C
6. All reserved matters applications shall be accompanied by a statement to demonstrate compliance with the approved parameter plans and accompanying development specification.
7. The details submitted with any reserved matters application shall include a scheme and measures to demonstrate how the development will secure at least 10% of its regulated energy from decentralised and renewable or low carbon sources. The agreed measures shall then be implemented and maintained for the lifetime of the development.
8. The details to be submitted seeking to determine the reserved matter of 'layout' shall include a scheme for the parking and manoeuvring of vehicles in

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accordance with the Buckinghamshire Countywide Parking Guidance policy document, the parking of cycles, the parking of motor cycles and the parking of vehicles used by disabled people. The approved scheme shall be implemented and made available for use before the development is first occupied and thereafter retained for the parking and manoeuvring of vehicles for the lifetime of the development.

9. The details to be submitted seeking to determine the reserved matter of 'layout' shall be accompanied by a scheme for maximising the number of Electric Vehicle Charging points, in accordance with the current standards. The number of active and passive spaces should be designed to meet current and future demand and to deal with changes in technology or a move to other zero carbon fuels (including hydrogen). The scheme shall include a plan detailing the location of all active and passive charging spaces. The spaces shall be installed in accordance with the approved details prior to the first occupation of the development and confirmation that the charging/fuelling provisions have been installed on the site shall be submitted to the Council. The charging/fuelling provisions shall be retained and maintained on the site for the lifetime of the development.
10. The details to be submitted seeking to determine the reserved matters of 'appearance' shall include full details and sample panels of all the external surface materials, including details of the green walls and brown roofs. These details should be submitted to and approved in writing by the Council prior to the commencement of above ground development. The sample panels shall be made available on site prior to the commencement of above ground building works on each element of the scheme. The brown roof details shall include details of installation, including its substrate base, planting, drainage and a management and maintenance plan setting out the details of all future maintenance. The development shall be constructed in accordance with the approved details.
11. The details to be submitted seeking to determine the reserved matter of 'landscape' shall include all hard landscaping works which will include, but not limited to the following: excavations, ground modelling, proposed finished levels and contours, boundary treatments and means of enclosure, surfacing of parking and manoeuvring areas, external furniture (seating, signs, lighting etc) and infrastructural elements (above and below ground) including cables, manholes, pipes etc.

These details will also include soft landscaping works which will include, but not limited to the following: details of trees and tree groups to be retained, new planting (including trees, shrubs, hedgerows, and grass), written specifications of soil depth, mulching, cultivation, watering and irrigation, staking and other operations associated with the establishment of new vegetation, schedule of plants (including species), planting sizes and densities. These details shall incorporate underground systems and provide a sufficient area of growth for medium- and long-term tree growth and a programme of planting.

All hard and soft landscaping works shall be carried out in accordance with the approved details, approved implementation programme and British Standard BS4428:1989 Code of practice for General Landscape Operations. Where

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possible, the implementation programme for all planting, seeding, and turfing shall be carried out no later than the first planting and seeding season following occupation of the first building on the site. The developer shall complete the approved works and confirm this in writing to the Council prior to the date agreed in the implementation programme.

- 12.No development shall commence until a written scheme of archaeological evaluation has been submitted to and approved in writing by the Council. The written scheme shall include archaeological evaluation in the form of a geophysical survey and trial trenching. Thereafter the development shall accord with the approved written scheme of archaeological evaluation.
- 13.No development shall commence until, a methodology for the preservation in situ of any significant archaeological remains found during the archaeological investigations has been submitted to and approved in writing by the Council. Thereafter the development shall accord with this approved methodology.
- 14.Where archaeological remains are recorded by evaluation and are not of sufficient significance to warrant preservation in situ but are worthy of recording, no development shall take place until a programme of archaeological works has been implemented in accordance with a written programme which has been first approved in writing by the Council.
- 15.No works or development shall take place on site until a tree constraints plan and method statement (in accordance with British Standard 5837:2012 'Trees in relation to design, demolition and construction') has been submitted to and approved in writing by the Council. The method statement shall provide, as required, details of no dig driveway, siting of work huts and contractor parking areas, areas for the storage of materials, the siting of skips and work spaces, the erection of scaffolding. Protective fencing detailed in the method statement shall consist of a vertical and horizontal scaffold framework, braced, and tested to resist impacts, with vertical tubes spaced at a maximum of 3m. On to this, weldmesh panels shall be securely fixed with wire scaffold claps. The fencing shall be erected to protect existing trees and hedgerows during construction and shall conform to British Standard 5837:2012; 'Trees in Relation to Construction.' The approved fencing shall be retained and maintained until all building, engineering or other operations have been completed. No works shall be carried out or materials stored within the fenced areas. The approved method statement shall be complied with for the duration of the construction work.
- 16.No development shall commence until a Bird Hazard Management Plan (BHMP) has been submitted to and approved in writing by the Council. The submitted plan shall include details of management of any flat/shallow pitched/green roofs on buildings within the site which might be attractive to nesting, roosting and loafing birds. The BHMP shall be implemented as approved and shall remain in force for the lifetime of the development.
- 17.No development shall take place (including ground works and vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Council. The CEMP:Biodiversity shall include the following:
  - Risk assessment of potentially damaging construction activities;

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- Identification of biodiversity protection zones;
  - Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction;
  - The location and timing of sensitive works to avoid harm to biodiversity features;
  - The times during construction when specialist ecologists need to be present on site to oversee work;
  - Responsible persons and lines of communication;
  - The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person;
  - Use of protective fences, exclusion barriers and warning signs;

The approved CEMP shall be adhered to and implemented throughout the construction period in accordance with the approved detail.

18.No development shall take place until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the Council. The LEMP shall be carried out as approved for the life time of the development. The LEMP shall include the following:

- Description and evaluation of features to be managed;
- Ecological trends and constraints on site that might influence its management;
- Aims and objectives of management will include the provision of biodiversity net gain within the site as shown within the biodiversity gain plan;
- Appropriate management options for achieving the aims and objectives;
- Prescriptions for management action;
- Preparation of a work schedule;
- Details of the body or organisation responsible for implementation of the plan;
- Ongoing monitoring and remedial measures;
- Detailed proposals for the river corridor, the backwater (where it is in the applicant's control), the new wetland area and the hay meadow;
- Details of the river restoration plan including a feasibility study for the potential backwater connection, where this is within the applicants control;
- Completed biodiversity net gain assessment – including the use of the reiver metric, showing 6% net gain in biodiversity
- Details of surface water drainage and SUDs schemes impacting on the river, including the detailed design of any proposed outfalls;

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

19. A Water Framework Directive (WFD) scoping assessment that takes into account the cumulative impact of development in the catchment to ensure that it meets the objectives of the Thames River Basin Management Plan shall be submitted to and approved in writing by the Council. The development shall be implemented in accordance with the findings of the approved scoping assessment.

20. No development shall commence until a revised Biodiversity Net Gains Plan and associated biodiversity metric demonstrating that BNG can be achieved on site, has been submitted to and approved in writing by the Council. The BNG plan should adhere to best practice and include:

- A summary of key points
- Introduction to the site, project, planning status, certainty of design assumptions made, the aims and scope of the study and relevant policy and legislation
- Methods taken at each stage; desk study, approach to BNG and evidence of technical competence
- Baseline conditions of the site including important ecological features and their influence on the deliverability of BNG, baseline metric calculations and justifying evidence, and a baseline habitat plan that clearly shows each habitat type and areas in hectares
- Justification of how each of the BNG good practice principles has been applied
- Proposed design to include a proposed habitat plan and details of what will be created. This can be taken from the site layout plan, illustrative masterplan, green infrastructure plan or landscape plans. The plan should clearly show what existing habitat is being retained and what new habitat will be created. It should be easy to identify the different habitat types and show the areas in hectares for each habitat or habitat parcel
- Biodiversity metric spreadsheet, submitted in excel form that can be cross referenced with appropriate plans
- Implementation Plan including a timetable for implementation.

21. No development shall take place until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Council. The CTMP shall include details of:

- A construction programme

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- The accessing and routing of construction vehicles, which will include measures to prevent any damage or adverse impacts to the existing bridges over the Grand Union Canal
  - Number of HGV movements (with an agreed daily maximum)
  - Measures/systems to manage HGV construction traffic
  - Measures to ensure the safety and convenience of pedestrians using Footpath IVE/7E/1, including a suitable surface
  - The parking of vehicles of site operatives and visitors
  - The loading and unloading of plant and materials
  - Storage of plant and materials used in constructing the development
  - Wheel washing facilities
  - Measures to minimise the impact of construction of the development on air quality.

The approved plans shall be adhered throughout the construction period.

22. Prior to occupation an access management plan for the emergency access onto Slough Road, must be submitted and approved in writing by the Council. This shall include details of measures to restrict the use of this access to emergency vehicles only during the operation of the development. The approved access arrangements shall be adhered to for the lifetime of the development.
23. No development shall commence until an Air Quality Dust Management Plan (AQDMP) for the construction phase has been submitted to and approved in writing by the Council. The AQDMP must include an Air Quality Dust Risk Assessment (AQDRA) that considers sensitive receptors off the development site. The AQDMP submitted must include an inventory and timetable of dust generating activities during construction, dust, and emission control measures (including on-road and off-road construction traffic). Developers must ensure that on-site contractors always follow best practical means to minimise dust and emissions. The approved details shall be fully implemented and permanently retained and maintained during the construction phase of the development.
24. Prior to the commencement of the enabling works, a remediation method statement (which includes an options appraisal) and a verification plan shall be submitted to and approved in writing by the Council. The remediation method statement shall detail the required remediation works and shall be designed to mitigate the risks identified in the approved quantitative risk assessment and in accordance with the Preliminary Geo-Environmental Risk Assessment (Report ref: 21-0912.01), Geo- Environmental Assessment (Report ref. 21-0912.01). All works must be carried out in compliance with and by a competent person in accordance with the guidance set out in the Land Contamination: Risk Management.
25. No development shall commence until an Asbestos Management Plan has been submitted to and approved in writing by the Council. The Asbestos

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Management Plan should describe how asbestos (fibres and fragments in capping soils, asbestos waste in the body of the landfill, fibre release by fugitive emissions etc. will be managed during the different phases of construction and address who is responsible for managing asbestos materials; the asbestos register (the asbestos survey information), plans for work on asbestos material (if any), the schedule for monitoring asbestos materials' condition and informing protocol for interested parties. The asbestos management plan shall be implemented in accordance with the approved details through the relevant project period.

26. No piling shall take place until as Piling Method Statement or foundation works risk assessment (detailing the depth and type of foundation works to be undertaken and the methodology by which such foundation works will be carried out, including measures to prevent and minimise the potential for damage to subsurface water infrastructure, and the programme for the works) has been submitted to and approved in writing by the Council. The risk assessment should be prepared with due cognisance of best practice guidance for foundation works into land affected by contamination and must be undertaken in accordance with the Environment Agency's land contamination risk management guidance (LCRM). Foundation work must be undertaken in accordance with the terms of the approved Piling Method Statement or foundation works risk assessment.
27. No development shall commence until a noise impact report has been submitted to and approved in writing by the Council. The report shall include a survey of operational noise measured during static and stationary sources. The rating penalties shall be agreed with the Council. Details of any required noise mitigation measures shall be included in the report and these measures shall be implemented and retained as part of the development.
28. Prior to the installation of any building plant, details shall be submitted to and approved in writing by the Council, of external sound levels emitted from plant/machinery/equipment and mitigation measures as appropriate. The measures shall ensure that the external sound level emitted from plant/machinery/equipment accords with the details contained within the hereby approved Noise Impact Assessment completed by Sandy Brown. The assessment shall be made in accordance with BS4142:2014 at the nearest and/or most affected noise sensitive premises, with the machinery operating in accordance with a typical test regime. A post installation noise assessment shall be carried out where required to confirm compliance with the sound criteria and additional steps to mitigate noise shall be taken, as necessary. Approved details shall be implemented within 12 months of first occupation of the development each building and thereafter permanently retained for the lifetime of the development.
29. No development shall commence until a Construction Management Plan and a Construction Logistics Plan has been submitted to and approved in writing by the Council. These shall include details of the proposed control measures and monitoring for dust, noise, vibration, lighting, delivery locations, restriction of hours of work and all associated activities audible beyond the site boundary to 08:00 – 1800 hrs Monday to Fridays and 0800-1300 on Saturdays, advance notification to neighbours and other interested parties of proposed works and public display of contact details including accessible phone contact to persons

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responsible for the site works for the duration of the works. The details shall include the numbers, size and routes for construction vehicles, any vehicle holding areas and access arrangements, low emission strategy, delivery locations on the site, provisions within the site to ensure that all vehicles associated with the construction works are properly washed and cleaned to prevent the passage of mud and dirt on to the highway, and other matters relating to traffic management to be agreed. The Construction Management Plan and the Construction Logistics Plan shall be implemented in accordance with the approved details and retained throughout the relevant project period.

30. 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 Council. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:

- A minimum of 2 outfalls to the River Colne equating to a total discharge rate of 50.1l/s
- Lining of all surface water drainage components
- Water quality assessment demonstrating that the total pollution mitigation index equals or exceeds the pollution hazard index, priority should be given to above ground SuDs components
- Floation calculations for components in areas of higher groundwater levels, based on groundwater levels encountered during the groundwater level monitoring completed between 2017 and 2018
- Full construction details of all SuDs and drainage components
- Detailed drainage layout with pipe numbers, gradients, and pipe sizes complete, together with storage volumes of all SuDs components
- Calculations to demonstrate that the proposed drainage system can contain up to the 1-30 storm event without flooding. Any onsite flooding between 1 in 30 and the 1 in 100 plus a climate change storm event should be safely contained on site.
- Details of proposed overland flood flow routes in the event of system exceedance or failure, with demonstration that such flows can be appropriately managed on site without increasing flood risk to occupants, or adjacent downstream sites
- Flow depth
- Flow volume
- Flow direction.

31. No above ground development hereby permitted shall commence until details of any external lighting and a lighting design strategy for biodiversity, have been submitted to and approved in writing by the Council. The lighting design strategy shall:

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- Identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging
  - Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their breeding sites and resting places.

Lighting contours shall be submitted to demonstrate that the vertical illumination of neighbouring premises is in accordance with the recommendations of the Institution of Lighting Professionals in the Guidance Notes for the Reduction of Light Pollution 2021 (or relevant guidance) to ensure that any lighting proposed does not harm the existing amenities of the occupiers of neighbouring properties.

All external lighting shall be installed in accordance with the approved details and the lighting design strategy for biodiversity and shall thereafter be maintained in accordance with the approved details and strategy.

32. No development shall commence until (excluding demolition, grounds and enabling works) a statement of how 'Secure by Design' requirements are to be adequately achieved has been submitted to and approved in writing by the Council. Such details shall include, but not be limited to, sitewide CCTV, access controls, security measures and means to secure the site through construction. No part of the development shall be used or occupied until these measures have been implemented in accordance with the approved details and the measures shall thereafter be retained for the lifetime of the development.
33. No development shall commence until a Delivery and Servicing Management Plan has been submitted to and approved in writing by the Council. Details shall include times and frequency of deliveries and collections, vehicle movements, silent reversing methods, location of loading bays, quiet unloading measures etc. Thereafter the operation of the development shall accord with the approved details.
34. No development shall commence until details of the proposed photovoltaic panels on the roofs including the angle to surface of the roofs of the buildings and proposed air sources heat pumps, where relevant have been submitted to and approved in writing by the Council. Such details shall be implemented prior to the first occupation or use of the building to which they related and permanently retained thereafter.
35. The development shall not be occupied until confirmation has been provided that either: 1. All the foul water network upgrades required to accommodate the additional flows from the development have been completed or 2. A development and infrastructure phasing plan has been agreed with the Council to allow the development to be occupied. Where a development infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed development and infrastructure phasing plan.

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36. Prior to the first occupation of the development, scheme for the resurfacing and provision of bridleway IVE/9/1 along Palmers Moor Lane, shall be submitted to and approved in writing by the Council. The bridleway shall be subsequently resurfaced and upgraded with a 4m wide rubber crumb surface with 1m grass verges, to manufacturers' recommendations appropriate for bridleways.
37. No part of the development hereby permitted shall be occupied until the existing means of access onto Iver Lane has been resurfaced and widened in accordance with drawing number 23128-08 Rev c and constructed in accordance with Buckinghamshire Council guide note 'Industrial Vehicular Access Within the Public Highway'.
38. Prior to the first occupation of the development hereby permitted, a whole life maintenance plan for the site's surface water drainage scheme shall be submitted to and approved in writing by the Council. The plan shall set out how and when to maintain the full drainage system (e.g., a maintenance schedule for each drainage/SuD component, with details of who is to be responsible for carrying out the maintenance. The plan shall include as-built drawings and/or photographic evidence the drainage scheme has been carried out by a suitably qualified person. The plan shall be implemented in accordance with the approved details.
39. Prior to operation of the development an Emissions Reduction and Management Plan (ERMP) for the development shall be submitted to and approved in writing by the Council. This shall outline and commit to a programme for carrying out a viability study to review emissions performance and alternative options for the diesel backup units, with clear timescales, to be submitted no later than year 21. The viability study shall be based on the BAT (best available techniques) principle giving weight to the sustainability principles and aligned with the objectives of the Council on improving air quality. This shall include, but is not limited to the following:
- A review of options for reducing NOx and PM2.5 emissions impact for national grid power failures
  - A review of options for reducing NOx and PM 2.5 emissions for the testing and maintenance regimes
  - A review of options for reducing NOx and PM 2.5 emissions by improved SCR systems/alternative retrofitting systems
  - A review of options for reducing NOx and PM2.5 emission by alternative fuel technologies
  - A feasibility study including benefit analysis for potential upgrades of the backup generators or other changes to infrastructure (e.g., SCR), type of fuel, generator type and operational regimes on the site that could reduce emissions over time. Alternative emergency backup solutions are also to be evaluated e.g., fuel cells etc.
  - Use of the above information to proposed appropriate changes in generator type, selection of generators or other potential options for decreasing emissions over time no later than year 21

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- Proposal for an appropriate timescale for improvement

Thereafter the development shall be implemented and operated in accordance with these details.

40. Prior to the operation of the development, a scheme for testing NO<sub>x</sub> and PM<sub>2.5</sub> emissions of the proposed standby generators for the development shall be submitted to and approved in writing by the Council. The agreed testing regime shall start from year 3 of the proposed development and run throughout the lifetime of the proposed generators in accordance with the agreed schedule. The monitoring of emissions must include all backup generators, or a set number to be agreed, and allow a frequency that will enable the calculation of the total annual emissions per engine for each year stipulated in the plan.
41. Prior to the operation of the development, evidence that the backup generators are to be fitted with selective catalytic reduction (SCR) technology achieving at least 95% reduction in relation to the values reported in the air quality report submitted in support of the planning application is to be submitted and approved in writing by the Council. Evidence is to include, but is not restricted to, a written warranty and supporting documentation by the equipment manufacturer that this NO<sub>x</sub> emission concentration is achieved within 20 minutes of the generator start up. Thereafter the development shall be implemented and operated in accordance with these details.
42. No part of the development shall be occupied until the approved remediation method statement has been carried out in full and a verification report confirming these works has been submitted to, and approved in writing, by the Council. This report shall include, details of the remediation works carried out, results of any verification sampling, testing, or monitoring including the analysis of any imported soil, all waste management documentation showing the classification of waste, its treatment, movement, and disposal. The agreed works must be carried out by a competent person and in compliance with the approved details and in accordance with the guidance as set out in the Land Contamination: Risk Management.
43. If, during development, contamination not previously identified is found to be present on the site, the Council is to be informed immediately and no further development (unless otherwise agreed in writing by the Council) shall be carried out until a report indicating the nature of the contamination and how it is to be dealt with, is submitted to, and agreed in writing by the Council. The required remediation shall be detailed in an amendment to the remediation statement and verification of these works included in the verification report. The works must be carried out by a competent person and in compliance with the approved details and accord with guidance as set out in Land Contamination: Risk Management.
44. The development shall not be occupied until an onward monitoring methodology report to assess the impact of the development on the ground gas regime and existing ground gas protection measures, are submitted to and approved in writing by the Council. Where further monitoring is required following completion of the development, works to verify the success of the remediation be undertaken. A verification report of these monitoring works shall then be submitted to and approved in writing by the Council. The

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monitoring work must demonstrate that the mitigation measures have reduced the potential risks from ground gas to very low levels. Where required, contingency for additional ground gas measures i.e., gas collection, venting measures, shall be agreed in writing with the Council and thereafter implemented in accordance with the agreed measures. All works must be carried out by a competent person and in accordance with the approved details and in accordance with the guidance set out in Land Contamination: Risk Management.

45. Within 12 months of occupation of each building, a BREEAM certificate confirming that the relevant building achieves an 'Excellent' BREEAM rating shall be submitted to and approved in writing by the Council.
46. The emergency backup generators shall be of the same emission levels or better than the value for nitrogen oxides of 190mg/Nm<sup>3</sup> at a temperature and pressure of 273.15K and 101.3KPa with a correction for water vapour content of the waste gases to dry gas, standardised O<sub>2</sub> concentration of 15% and the value for particular matter of diameter 2.5 microns (PM<sub>2.5</sub>) of 10mg/Nm<sup>3</sup> at a temperature and pressure of 273.15K and 101.3kPa with a correction for water vapour content of the waste gases to dry gas, standardised to O<sub>2</sub> concentration of 15%. The maximum total annual emissions (tonnes/year) for oxides of nitrogen (NO<sub>x</sub>) of 18.235578 tonnes/year and of particulate matter of diameter 2.5 microns (PM<sub>2.5</sub>) of 0.923460 tonnes/year as a result of the operation of the 171 backup generators are not exceeded as agreed with the Council and as set out in the Emission Reduction and Management Plan in year one (1) which shall be submitted to and approved by the Council.
47. Routine testing of the generators serving the data centre shall be restricted to the hours of 09:00am to 6:00pm Monday to Friday.
48. No buildings or structures of the development hereby permitted shall exceed 106m AOD.
49. The development hereby approved shall be used as a data centre only and for no other purposes including any purposes in Class B8 of the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.
50. If within a period of five years from the date of the planting of any tree/hedge/shrub that tree/hedge/shrub, or any replacement, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the Council, seriously damaged or defective, another tree/hedge/shrub of the same species and size as that originally planted shall be planted on the same location as soon as reasonably possible and no later than the first available planting season.

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## **ANNEX G: List of Abbreviations**

AI	Artificial Intelligence
AQDMP	Air Quality and Dust Management Plan
AQMA	Air Quality Management Area
BAP	Biodiversity Action Plan
BMWLP	Buckinghamshire Minerals and Waste Local Plan
BNG	Biodiversity Net Gain
BOA	Biodiversity Opportunity Area
BREEAM	Building Research Establishment Environmental Management Methodology
CIL	Community Infrastructure Levy
CMC	Case Management Conference
DCMS	Department for Culture Media and Sport
DCS	South Bucks District Core Strategy
DEFRA	Department for Environment, Farming and Rural Affairs
DIT	Department for International Trade
DLP	South Bucks District Local Plan
DLUHC	Department for Levelling Up, Housing and Communities
EcIA	Ecological Impact Assessment
EIA	Environmental Impact Assessment
FTE	Full Time Equivalent
GEA	Gross External Area
GVA	Gross Value Added
IEMA	Institute of Environment Management and Assessment
INP	Iver Neighbourhood Plan
IT	Information Technology
LI	Landscape Institute
LVIA	Landscape and Visual Impact Assessment
MHCLG	Ministry of Housing Communities and Local Government
MW	Mega Watts
NE	Natural England
OBR	Office for Budgetary Responsibility

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ODPM	Office of the Deputy Prime Minister
OMHPDL	Open Mosaic Habitat on Previously Developed Land
PPG	Planning Practice Guidance
RCWLL	River Colne Walkway and London Loop
SAZ	Slough Activity Zone
SINC	Site of Importance for Nature Conservation
SoCG	Statement of Common Ground
UU	Unilateral Undertaking
WLIP	West London Industrial Park



# Department for Levelling Up, Housing & Communities

[www.gov.uk/dluhc](http://www.gov.uk/dluhc)

## 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.