Department for Communities and Local Government

Our ref: APP/K0425/W/16/3149747
Your ref: WJM/841/254/DCLG

Mr Bill Morle
Wilks Head & Eve
6th Floor, Fairgate House
78 New Oxford Street
London WC1A 1HB

20 July 2017

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL MADE BY MOLINS PLC
FORMER MOLINS SPORTS AND SOCIAL CLUB, MILL LANE, MONKS RISBOROUGH, BUCKINGHAMSHIRE
APPLICATION REF 15/07870/OUT

1. I am directed by the Secretary of State to say that consideration has been given to the report of Christina Downes BSc, DipTP, MRTPI, who held a public local inquiry for 6 days between 31 January and 8 February 2017 into your client's appeal against the failure of Wycombe District Council to give notice within the prescribed period of a decision on your client's application for planning permission for the construction of up to 140 new dwellings with associated roads, pathways, ancillary refuse/ bicycle storage and car parking areas, amenity spaces, play spaces and landscaping, in accordance with application ref:15/07870/OUT dated 6 October 2015.

2. On 14 July 2016 this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be dismissed.

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

Procedural Matters

Department for Communities and Local Government
Philip Barber, Decision Officer
Planning Casework Unit
3rd Floor Fry Building
2 Marsham Street
London SW1P 4DF

Tel: 0303 444 2853
Email: PCC@communities.gsi.gov.uk

5. The proposed development was amended at appeal stage, with the maximum number of dwellings being reduced to 131. The Inspector concluded (IR2) that there would not be prejudice to any party in taking this revision into account, and the Council did not object. The Secretary of State is satisfied that no-one has been unfairly disadvantaged by the amendment.

Matters arising since the close of the inquiry

6. Following the close of the inquiry, the Secretary of State received representations from local residents, as well as from your Consultancy and the Council regarding groundwater, as listed below at Annex A.

7. On the 17 May 2017, the Secretary of State wrote to the main parties to afford them an opportunity to comment on the implications, if any, of the Supreme Court judgment on the cases of Cheshire East BC v SSCLG and Suffolk Coastal DC v SSCLG, which was handed down on Wednesday 10 May 2017. A list of representations received in response to this letter is at Annex B. These representations were circulated to the main parties on 8 June 2017.

8. The Secretary of State is satisfied that the issues raised do not affect his decision and no other new issues were raised to warrant further investigation or necessitate additional referrals back to parties. The issue of groundwater levels is dealt with at paragraph 28 below. Copies of these letters may be obtained on written request to the address at the foot of the first page of this letter.

9. An application for a partial award of costs was made by Molins plc against the Council and an application for a full award of costs by the Council against Molins plc (IR1). These applications are the subject of separate decision letters.

Policy and statutory considerations

10. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.

11. In this case the development plan consists of the saved policies of the Wycombe District Local Plan (LP), adopted in 2004; the Wycombe Development Framework Core Strategy Development Plan Document (CS), adopted in 2008; and the Delivery and Site Allocations Plan Development Plan Document (DSAP), adopted in 2013. The Secretary of State considers that the development plan policies of most relevance to this case are those set out at IR14-16.

12. 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').

Emerging plan

13. The emerging plan comprises the New Wycombe District Local Plan (WDLP). The Secretary of State considers that the emerging policies of most relevance to this case include those set out at IR17.

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

15. The Inspector concludes that the emerging WDLP is at an early stage in the adoption process and has many hurdles to overcome (IR163). In accordance with the advice in paragraph 216 the Secretary of State agrees and as such, while concluding that the emerging policies are largely in accordance with the Framework, attaches limited weight to the plan at this time.

Main issues

16. The Secretary of State agrees with the Inspector that the main issues are those set out at IR156.

Planning policy context and approach to decision making

17. The Secretary of State agrees with the Inspector's reasoning and conclusions at IR157-160 and IR162-163. He agrees that the appeal site is defined as countryside for policy purposes and the proposal would therefore not accord with policies CS2 and CS7. However, in light of the recent Richborough judgment, the Secretary of State does not consider that policies CS2 and CS7 are relevant policies for the supply of housing (IR161). He finds them consistent with the Framework and gives them significant weight. He gives limited weight to policy CS12, given the shortfall of housing land supply, and the fact that it is based on housing figures which are no longer tenable (IR161).

18. Given his findings on 5 year housing land supply below, the Secretary of State concludes that paragraph 14 of the Framework is engaged. In the absence of a 5-year supply of housing land, paragraph 14 states that planning permission should be granted unless (a) any adverse impacts of doing so significantly and demonstrably outweigh the benefits, when assessed against policies in the Framework as a whole or (b) specific policies in the Framework indicate development should be restricted.

19. Given the location of the site in the AONB and the Green Belt, the final clause of paragraph 14 indicates that the 'tilted balance' will not apply unless the proposals do not offend the restrictive policies relating to these designations. The Secretary of State goes on to consider this at paragraph 22 below.

20. With regards to prematurity, he agrees with the Inspector and the main parties, that there is no justification for an objection on these grounds (IR163).

Whether the proposed development of the site is needed to meet the housing needs of the district

21. The Secretary of State agrees with the Inspector's assessment at IR164-173. He agrees that the 2016 HEDNA figure provides the most up-to-date assessment of FOAN for the

district (IR164) and that a 5% buffer is appropriate (IR165). Like the Inspector, the Secretary of State takes the view that for the purposes of this appeal, the housing land supply assessment should not rely on the emerging WDLP and the potential of neighbouring authorities to take some of its FOAN (IR166-167). He agrees with the 2016 position statement which gives 4.91 years of housing supply (IR168). On the matter of reducing the short term housing deficit, he agrees with the Inspector that the proposal would be able to contribute to reducing the deficit (IR170). Turning to affordable housing, the Secretary of State notes that there is a significant level of affordable housing need in Wycombe District, which year on year will grow, and that the appeal development would provide the policy level of affordable bedspaces (IR171-172). Overall, the Secretary of State agrees with the Inspector's conclusion at IR173, that the contribution of the proposed development to housing delivery can be given considerable weight in the planning balance.

Whether the harm caused by the inappropriate nature of the proposed development and any other harm would be clearly outweighed by other considerations

22. The Framework makes clear that the development constitutes inappropriate development in the Green Belt, which is by definition harmful and that substantial weight should be given to this harm (IR174). In consideration of other Green Belt harm, the Secretary of State agrees with the Inspector's reasoning and conclusions at IR175-187. He agrees that although there would be negligible harm to the visual amenity of the wider Green Belt, the site itself would be significantly less open than it is now following development, and this would be a permanent change (IR177). Turning to the effect on Green Belt purposes, the Secretary of State shares the Inspector's view that 131 houses would urbanise the intervening space between the present settlement edge and the adjoining area of Green Belt countryside, and therefore harm the purpose of safeguarding the countryside from encroachment (IR181 &187). He agrees with the Inspector's overall conclusion, that the appeal proposal would thus be contrary to policy CS 9 in the CS, and that the harm in this case, which would relate to inappropriateness, loss of openness and conflict with GB purposes, would be substantial (IR187).

Whether the proposed development would be acceptable in terms of its design and layout

23. The Secretary of State agrees with the Inspector's reasoning and conclusions at IR188-196. He agrees that the design of the proposal would not achieve a village street environment as intended, but rather an estate predominated by terraced housing and hard surfacing (IR193). Like the Inspector, he considers that cars would likely appear as dominant features in the street scene and there would be limited opportunity for meaningful tree planting along the street frontages (IR194-195). The Secretary of State agrees with the Inspector's conclusion that the evidence has failed to demonstrate that a development of 131 dwellings would be capable of providing an acceptable design solution or layout in keeping with its surroundings or in accordance with The Chilterns Building Design Guide (IR196). The appeal proposal would thus conflict with saved policy H8 in the LP and policy CS 19 in the CS, and it would also fail to accord with the design objectives of the Framework (IR196).

The effect of the proposal on the Chilterns AONB

24. The Secretary of State agrees with the Inspector's reasoning and conclusions at IR197-209. Like the Inspector, he is satisfied with the Landscape and Visual Impact Assessment carried out on behalf of the appellant (IR198). He notes that many of the special qualities referred to in the Chilterns AONB Management Plan are largely absent from the appeal

site (IR200). In terms of views from Whiteleaf Hill, the Secretary of State agrees with the Inspector that the appeal site once developed would represent a very apparent and rather incongruous change to the landscape and would thus have an adverse impact on the AONB in terms of the special qualities that define its scenic beauty (IR202). However, the Secretary of State concludes, in agreement with the Inspector, that although the views would be harmed mainly from the elevated escarpment to the east, this adverse impact would be of minor adverse significance overall, as it would be seen within the context of existing development and a wide panorama (IR206). He agrees that the appeal proposal would be contrary to saved policy L1 in the LP and policy CS 17 in the CS (IR206).

The Mill Lane appeal decision and the relevance of the proposed expansion to Princes Risborough

25. The Secretary of State has had regard to the Inspector's analysis at IR207-209. He agrees that the extent of GB and AONB designations in the District mean that a significant level of development is likely to take place at Princes Risborough on land that is not covered by those designations. However, he further agrees that the proposed expansion to the town would be a strategic allocation and that its landscape impact would be carefully considered against other objectives.

26. The Secretary of State has noted the Inspector's comments on the Mill Lane appeal, and agrees, for the reasons given, that the intensity of built form on the western part of the site would give rise to the harmful impact, rather than the principle of development itself (IR209).

27. Turning to consider the proposal in terms of Paragraph 116 of the Framework, the Secretary of State agrees with the Inspector's reasoning and conclusions at IR210-218. He agrees that the proposal should be considered a major development, taking into account the number of dwellings in the local context (IR212). In terms of Paragraph 116 analysis and the question of need, the Secretary of State is in agreement with the Inspector that there is a need for the development (IR215). As for the cost and scope for delivering elsewhere, he shares the view that there is no evidence that at the present time the need could be met in any other way (IR216). However, in terms of the third consideration, the Secretary of State has already concluded that the proposal will have a detrimental effect on the landscape, and agrees with the Inspector that it is unlikely this could be moderated (IR217). The Secretary of State concludes on whether exceptional circumstances exist in relation to the AONB justifying the development in the planning balance at paragraph 38 below (IR218).

Whether the proposal would result in unacceptable risk of surface water flooding taking account of the policy requirements for a sequential test

28. The Inspector's report notes that the appeal site is in Flood Zone 1 where there is a low probability of flooding from rivers or the sea (IR220). The Secretary of State has also taken into consideration the representations of the parties referred to at paragraph 7 above. He is satisfied with the Inspector's assessment at IR219-222 and agrees that it would not be proportionate or necessary to require a sequential test (IR222). Turning to the on-site drainage strategy, the Secretary of State agrees with the Inspector's reasoning and conclusions at IR223-227, that the appeal proposal would make adequate provision for the disposal of surface water so that future residents would be safe during the lifetime of the development and it would deliver a benefit to those living to the south-west of the site by significantly reducing the potential for flooding through surface water

flowing off the site. Like the Inspector, he considers that the proposal would thus be in accordance with policy CS 18 and would also accord with the Framework and Planning Practice Guidance in respect of flooding issues (IR227).

Whether the proposal would make adequate provision for compensatory strategic open space

29. The Secretary of State notes that the land is not allocated either for green space or sports purposes in either the CS or the DSAP (IR230). Although the site is allocated as a sports ground in the draft Princes Risborough Town Plan, he agrees with the Inspector that this can have very little weight at the present time (IR232), for the reasons given at IR17.4, and at paragraph 15 above. The Secretary of State has had regard to the objection of Sport England to the proposal. However, he agrees with the Inspector's conclusion that the evidence suggests it is unlikely that the sports ground would be reinstated in the event of the proposal being dismissed. In terms of whether the provision of a synthetic sports pitch would be justified, the Secretary of State agrees with the Inspector's reasoning and conclusions at IR234 that a planning obligation in the UU to this effect would not be justified and could not therefore be taken into account in the planning balance.

Other matters

30. With regards to highway safety, the Secretary of State agrees with the Inspector's reasoning and conclusions at IR235-241. He agrees that there is no putative reason for refusal relating to highway safety (IR235). He notes that the Highway Authority has not raised issues about the capacity of the local network to accommodate the additional traffic (IR237), and considers that its conclusions that a highway safety objection could not be sustained on the inadequacies of Crowborough Road and Asset Village Lane must be given considerable weight (IR239). Like the Inspector, the Secretary of State is satisfied that the site would be accessible and would allow new occupiers to exercise a number of modal choices other than the car (IR240).

31. The Secretary of State agrees with the Inspector's assessment at IR242-244, regarding local infrastructure.

32. On the matter of residential amenity, the Secretary of State agrees with the Inspector's reasoning and conclusions at IR245-246.

Planning conditions

33. The Secretary of State has given consideration to the Inspector's analysis at IR137-151 and IR247-248, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal and refusing planning permission.

Planning obligations

34. Having had regard to the Inspector's analysis at IR152-153, the planning obligation dated 2 February 2017, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector's conclusion for the reasons given in IR249-262 that the

obligation complies with Regulation 122 of the CIL Regulations and the tests at paragraph 204 of the Framework and is necessary to make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and kind to the development. However, the Secretary of State does not consider that the obligation overcomes his reasons for dismissing this appeal and refusing planning permission.

Planning balance and overall conclusion

35. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with policies CS 2, CS 7, CS 9, L1, CS 17, H8 and CS 19 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 accordance with the development plan.

36. Considering paragraph 14 of the Framework, the Secretary of State has concluded above that the proposal would not offend restrictive Framework policies in regard to the AONB, but that it would conflict with restrictive Framework polices in regard to the Green Belt. As such the Secretary of State concludes that the 'tilted balance' would not apply. As such he considers that the development should not be approved except in very special circumstances, which will only exist if the potential harm to the Green Belt and any other harm is clearly outweighed by other considerations.

37. Weighing in favour of the proposal is the contribution of the appeal proposal to the provision of housing, in particular affordable housing, which the Secretary of State affords considerable weight. He attributes moderate weight to the economic advantages arising from the appeal scheme, including job creation at construction stage. He considers that the sustainable drainage strategy would also be a benefit of significant weight. Furthermore, there would be some enhancement to biodiversity and an opportunity to increase connectivity between Mill Lane, the public footpath network and Crowbrook Road and the railway station, the Secretary of State affords these benefits moderate weight.

38. Weighing against the proposal is the harm to the AONB. The Secretary of State finds that the appeal proposal would be major development in the AONB. He agrees that the *Wealden* judgement found that in considering whether there are exceptional circumstances in the public interest, the three factors in paragraph 116 of the Framework do not exclude other relevant matters. Therefore, although the proposal would not accord with the third consideration under paragraph 116, the Secretary of State considers that the benefits of the scheme would outweigh the minor adverse impact on the landscape and scenic beauty of the AONB. He thus concludes that, with regard to the AONB, there would be exceptional circumstances in this case and the appeal proposal would be in the public interest. However, the Secretary of State shares the Inspector's view that the harm to the AONB would not be a determinative issue in this case.

39. Also weighing against the proposal is the harm to the Green Belt resulting from inappropriateness, loss of openness and conflict with the purpose of preventing encroachment. This harm is given substantial weight. Additionally, there would also be harm as a result of the unsatisfactory nature of the design and layout of the proposed development, which he affords significant weight.

40. Overall, the Secretary of State concludes that the harm caused by the inappropriate nature of the proposed development in the Green Belt and any other harm, would not be

clearly outweighed by other considerations and thus very special circumstances would not exist in this case to justify development in the Green Belt.

41. As such, in the absence of very special circumstances, the appeal proposal would not be sustainable development. Thus there are no material considerations to indicate that the appeal proposal should be determined other than in accordance with the development plan.

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

Formal decision

43. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeal and refuses planning permission for the construction of up to 131 new dwellings with associated roads, pathways, ancillary refuse/ bicycle storage and car parking areas, amenity spaces, play spaces and landscaping in accordance with application ref: 15/07870/OUT dated 6 October 2015.

Right to challenge the decision

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

45. A copy of this letter has been sent to Wycombe District Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

Philip Barber

Authorised by Secretary of State to sign in that behalf

Annex A SCHEDULE OF REPRESENTATIONS

General representations

Party	Date
Local resident - Mrs M J Maun	5 April 2017
Local resident - Robert Kirby	24 May 2017
Appellant's Agent	20 April 2017 & 9 May 2017
Wycombe District Council	2 May 2017 & 17 May 2017

Annex B

Representations received in response to the Secretary of State's letter of 17 May 2017

Party	Date
St Dunstan's Close Residents Association	22 May 2017
Local resident - Andrew Woodruff	31 May 2017
Wycombe District Council	31 May 2017
Appellant's Agent	1 June 2017

The Planning Inspectorate

Report to the Secretary of State for Communities and Local Government

by Christina Downes BSc DipTP MRTPI

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

Date: 10 April 2017

TOWN AND COUNTRY PLANNING ACT 1990

WYCOMBE DISTRICT COUNCIL

Appeal made by

MOLINS PLC

Inquiry held on 31 January, 1-3 February, 7 and 8 February 2017

Site visits held on 31 January and 8 February 2017

Former Molins Sports and Social Club, Mill Lane, Monks Risborough, Buckinghamshire HP27 9LG

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ABBREVIATIONS LIST

Term	Acronym
Buckinghamshire Housing and Economic Development Needs Assessment	HEDNA
Chilterns Area of Outstanding Natural Beauty	AONB
Chilterns Conservation Board	CCB
Community Infrastructure Levy	CIL
Delivery and Site Allocations Plan Development Plan Document	DSAP
Dwellings per hectare	dph
Flood Risk Assessment	FRA
Full objectively assessed housing need	FOAN
Landscape and Visual Impact Assessment	LVIA
Landscape Character Area	LCA
Landscape Institute's Guidelines for Landscape and Visual Impact Assessment	GLVIA
Lead Local Flood Authority	LLFA
Metropolitan Green Belt	GB
Molins Plc	The appellant
National Planning Policy Framework	The Framework
New Wycombe District Local Plan	WDLP
Planning Obligation by Unilateral Undertaking	UU
Statement of common ground	SCG
Sustainable drainage system	SuDS
Wycombe Development Framework Core Strategy Development Plan Document	CS
Wycombe District Council	The council
Wycombe District Local Plan	LP

File Ref: APP/K0425/W/16/3149747
Former Molins Sports and Social Club, Mill Lane, Monks Risborough, Buckinghamshire HP27 9LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Molins Plc against Wycombe District Council.
- The application Ref 15/07870/OUT is dated 6 October 2015.
- The development proposed is the construction of up to 140 new dwellings with associated roads, pathways, ancillary refuse/ bicycle storage and car parking areas, amenity spaces, play spaces and landscaping.

Summary of recommendation: that the appeal be dismissed.

PROCEDURAL MATTERS

1. At the inquiry applications for costs were made by Molins Plc (the appellant) against Wycombe District Council (the council) and by the council against the appellant. These applications are the subject of separate reports.

2. The application was submitted in outline form with all matters save for access reserved for future consideration. At appeal stage the appellant requested that the maximum number of dwellings be reduced to 131. A revised illustrative layout was also produced, reference 9500-L-00-01K. Bearing in mind that this would entail a slightly smaller development and that the layout is only indicative, it is not considered that there would be prejudice to any party in taking this revision into account. The council did not object and was content that the nature of the scheme would remain the same. In the circumstances, the inquiry proceeded on the basis of the revised indicative layout and description (***Plan B***).

3. At application stage the council determined that the proposal was environmental impact assessment development. However the matter was referred to the Secretary of State who determined in his screening direction that the proposal was not environmental impact assessment development. An environmental impact assessment was therefore neither required nor submitted (***Documents CD 9.5, Section 5; APP 6, Appendix B***).

4. The appeal was recovered by the Secretary of State for his own determination on 14 July 2016. The reason was that the appeal involves a proposal for significant development in the green belt (***Document APP 2***).

5. On 29 June 2016 the council formally resolved that it would have refused planning permission had it been in a position to do so. There were 11 putative reasons for refusal, which are reproduced in the statement of common ground (SCG) (***Document CD 9.5, section 2.7***). A number of these matters were addressed following discussion between the main parties and the submission of the Planning Obligation by Unilateral Undertaking (UU). The council's remaining objections concern the effect on the Metropolitan Green Belt (GB) and the Chilterns Area of Outstanding Natural Beauty (AONB); the need to undertake a sequential test in relation to flooding that covers the whole district; whether an acceptable design and layout could be achieved, taking account of site constraints and whether adequate provision had been made to compensate for the loss of strategic open space.

THE SITE AND SURROUNDINGS

6. There are some helpful photographs of the site and its surroundings in the landscape evidence, which also includes plans showing the site context with the various designations, contours and footpath network marked (***Documents APP 10, Appendices L-5, L-12, L-17; APP 18, NH-1, NH-9, NH-10***) .

7. The appeal site adjoins the northern edge of the settlement, which at this point comprises relatively low density frontage housing along Mill Lane and Crowbrook Road. Bungalows built in the 1930's are interspersed with more modern two-storey infill housing. These properties have generous rear gardens with fenced or hedged boundaries backing on to the appeal site. The northern section of the site comprises a small bungalow known as The Haven, which fronts onto Crowbrook Road. To its rear is a garden area and beyond that a paddock studded with trees. The northern, southern and eastern perimeters of The Haven landholding is well screened by trees and hedgerow species.

8. The south-eastern part of the appeal site adjoins St Dunstan's Close, which is a small, modern housing development that was built on the site of a former factory. Along the common boundary there is a shallow stream and hedgerow planting. To the rear of St Dunstan's Close is an area of woodland and beyond this is open countryside. Some fields to the north and east and north of the appeal site have been subdivided by post and rail fencing into pony paddocks. This land is crossed by public footpaths, including one that runs close to the northern boundary with The Haven.

9. The appeal site is relatively flat, although there is a lower point within the south-western corner. It is about 5.3 ha in extent and the majority comprises rough grassland. Apart from the land associated with The Haven, the site was used as a sports ground for the workforce of Molins, which had a factory nearby. This closed in 2007 and the sports pavilion has now been removed and the grass football pitches, bowling green and cricket pitch have disappeared. A number of hard surfaced bases remain in the southern part of the site, including the former tennis courts, a five-a-side football pitch and parking areas. There is a hard surfaced track, partly overgrown with vegetation that leads from Mill Lane into the south-eastern corner of the site.

10. Monks Risborough is a smaller settlement to the north of Princes Risborough although the two communities merge together and are known locally as The Risboroughs. Most of the shops and other facilities are about a mile to the south in the larger settlement of Princes Risborough. There is a small parade of shops in Place Farm Way, about half a mile away from the appeal site. There is also a railway station, which is off Crowbrook Road immediately to the west of the appeal site. This comprises a single track line and unmanned platform with services to Aylesbury and London.

11. The western, southern and north-eastern edges of the appeal site form the boundary of the GB and AONB at this point. The frontage housing and St Dunstan's Close are excluded from the designation, which continues northwards and eastwards and washes over the village of Askett. To the east is the steeply sloping Chilterns escarpment and the historic chalk carving known as Whiteleaf Cross. The railway line forms the boundary of the settlement and just north of the appeal site it also provides the boundary to the GB and AONB. To the west

of this is the undesignated vale landscape and a small outlier of houses off Mill Lane, which form a cul-de-sac known as Kingsmead.

RELEVANT PLANNING POLICY

12. The development plan comprises the saved policies of the Wycombe District Local Plan, adopted in 2004; the Wycombe Development Framework Core Strategy Development Plan Document, adopted in 2008; and the Delivery and Site Allocations Plan Development Plan Document, adopted in 2013. Those policies that the main parties consider to be relevant to this proposal are set out in the SCG (***Document CD 9.5, Section 6***).

13. Whilst I have taken all relevant policies into account in this report, I have set out below those that I consider to be most pertinent to this case.

14. **Wycombe District Local Plan** (LP) (***Document CD 3.3***)

    14.1. Saved **policy G3** seeks to ensure that proposals achieve a high standard of design and layout that respects its local context and reinforces its distinctiveness and character. Detailed design guidance is set out in Appendix 1 to the plan. Saved **Policy H8** sets density thresholds but also requires development to achieve high quality and attractive residential environments.

    14.2. The boundaries of the GB and AONB are defined on the proposals map. Saved **policy GB2** establishes the purposes for which development would be acceptable. In all cases the open character and visual amenities of the GB should be respected. Whilst saved **policy GB9** is referred to in the putative reasons for refusal, the appeal site is not identified as a major developed site on the proposals map.

    14.3. Saved **policy L1** requires development within the AONB to have special regard to the conservation of its scenic beauty. Development will not be permitted that is likely to damage the special character, appearance or natural beauty of the landscape or the future public enjoyment of the area. Major development will not be permitted except where it is in the public interest and where no suitable alternative site is available either within or outside the district.

15. **Wycombe Development Framework Core Strategy Development Plan Document** (CS) (***Document CD 3.1***)

    15.1. **Policy CS 1** establishes the over-arching principle of achieving sustainable development. **Policy CS 2** sets out the spatial strategy with the principal focus of development being at High Wycombe. Princes Risborough is one of the smaller rural settlements where development will be on a lesser scale in keeping with the size and relative sustainability of the settlement. Elsewhere the emphasis is on protecting rural character, including in the GB and AONB.

    15.2. **Policy CS 7** concerns rural settlements and rural areas and how they are to be sustained. This includes ensuring the character and sense of place of villages are respected, local community facilities are supported and development in the open countryside is strictly controlled. **Policy CS 9** seeks to protect the GB from inappropriate development. Apart from

some named changes, GB boundaries are to remain unaltered. **Policy CS 17** refers to the conservation and improvement of environmental assets, including the AONB. It also refers to the protection of open spaces, amongst other things.

15.3. **Policy CS 12** sets out the housing provision for the plan period 2006-2026 of 8,050 dwellings or 402.5 per annum. This was based on a requirement derived from the now revoked South East Plan. **Policy CS 13** seeks to ensure that developments include a mix of dwelling size, type and tenure to meet the identified needs of the community. The aim for developments on greenfield sites is for at least 40% of the bedspaces to be within affordable dwellings. **Policy CS 19** includes a number of criteria that aim to improve design quality.

15.4. Amongst other things, **Policy CS 15** seeks to resist the loss of buildings with a sports or community use or the development of land allocated for such facilities for other purposes. The policy permits the replacement of facilities elsewhere or a proportionate contribution if this would result in a community benefit.

15.5. **Policy CS 18** includes provisions to avoid flood risk. It also encourages sustainable drainage solutions. **Policy CS 20** requires development to provide satisfactory vehicular access to ensure that the safety and free flow of traffic on the highway network is maintained. Suitable access for pedestrians and cyclists is required as well as integration with local public transport services. Travel demand is to be minimised and managed, including through appropriate travel plans. The policy also seeks to ensure adequate infrastructure capacity is available, including water supply and foul drainage. **Policy CS 21** makes provision for contributions towards infrastructure, amenities or facilities where the development would exacerbate existing deficiencies.

16. **Delivery and Site Allocations Plan Development Plan Document** (DSAP) (***Document CD 3.2***)

16.1. **Policy DM1** sets out the presumption in favour of sustainable development. **Policy DM2** establishes transport requirements for development sites and encourages the use of travel plans as a way to promote sustainable travel. Amongst other things, **Policy DM13** seeks to avoid harm to protected sites and species whilst **Policy DM14** requires development proposals to maximise biodiversity.

16.2. **Policy DM16** establishes the standards for local and strategic open space to meet the needs of new residential occupiers. **Policy DM17** concerns flood risk management and includes the circumstances in which a sequential test is required.

16.3. **Policy DM19** includes provisions for financial contributions through planning obligations in order to address a need for further infrastructure as a result of the development proposal. The policy also takes account of viability considerations.

17. **Emerging planning policy**

17.1. The **New Wycombe District Local Plan** (WDLP) is intended to replace

the LP and the CS. A draft was issued for consultation in June 2016. Draft **policy CP2** sets out the spatial strategy. It includes a provision to protect the AONB and GB by only allocating sites which perform weak GB functions and that have limited visual impact on the AONB. No changes are proposed in respect of the appeal site. Draft **policy CP4** sets out a full objectively assessed need (FOAN) of around 15,000 homes over the plan period of 2013-2033 or 751 per annum. This was based on the *Buckinghamshire Housing and Economic Development Needs Assessment 2015* (HEDNA) for the housing market area and individual local authority areas. The draft policy proposes that around 2,600 homes would be accommodated at Princes Risborough and 5,000 would be taken by Aylesbury Vale District under the duty to co-operate (***Document CD 8.3, page 11; CD 8.5***).

17.2. A 2016 update of the HEDNA reconsidered the FOAN in the housing market area and individual authorities, taking account of changed population and household projections. The FOAN for Wycombe District was reduced to about 12,900 dwellings or 645 per annum. A need for at least 155 affordable homes per annum was also identified. The council undertook further capacity work that concluded that it could accommodate 11,200 of these homes. There is a Memorandum of Understanding with Aylesbury Vale District Council that it would accommodate the unmet need of 1,700 houses, on current evidence (***Documents CD 8.4, page 11; CD 8.11***).

17.3. The draft **Princes Risborough Town Plan** was intended as an Area Action Plan and consultation was undertaken in early 2016. Draft **policy PRTP1** establishes an expansion area to accommodate 2,000-2,500 dwellings, two local centres and supporting infrastructure. A concept plan is included showing areas proposed for high, medium and low density housing as well as other uses, green corridors and open space to the north of Mill Lane. Draft **policy PRTP12** indicates that Molins Sports Ground is designated for outdoor sports use. Draft **policy DM31** addresses the AONB and, amongst other things states that proposals constitute major development on account of the significance of their impact (***Document CD 8.9***).

17.4. The council's Cabinet agreed in December 2016 that the draft Princes Risborough Town Plan would be subsumed into the emerging WDLP and that there would be some delay in submission for examination in order to correspond with the programme of the Aylesbury Vale Local Plan. The latest **Local Development Scheme** indicates that the submission version of the WDLP will be published in April 2017 and submitted for examination in July 2017. Adoption is anticipated in March 2018 (***Documents CD 8.14; CD 8.16***).

18. The **National Planning Policy Framework** (the Framework) establishes that the presumption in favour of sustainable development is a golden thread running through plan making and decision taking. It sets out the economic, social and environmental dimensions to sustainability, which gives rise to the need for the planning system to perform a number of inter-related roles. Of particular relevance in this case are Section 6 of the Framework, which seeks to boost significantly the supply of housing; Section 7 relating to good design;

Section 9 concerning the protection of GB land; Section 10, which includes the sequential, risk-based approach to the location of development; and Section 11 relating to conserving and enhancing the natural environment.

19. The **Planning Practice Guidance** is a web-based resource and provides further relevant advice in respect of the above matters.

THE PROPOSAL

20. As has already been mentioned, the proposed number of dwellings has been reduced from a maximum of 140 to a maximum of 131. This was primarily in order to provide an additional ecology area for protected species, including great crested newts. The revised layout is for illustrative purposes. However, the ecology area, which would occupy the northern and north-eastern part of the site and would extend down the eastern side adjacent to the stream, would be fixed. It is proposed that this would be secured through the UU. It also seems reasonable to surmise that the detention basin in the south-western corner would occupy its indicative position as this is the lowest point on the site (***Document INQ 21***).

21. The revised illustrative layout indicates a mix of flats and detached, semi-detached and terraced houses (***Plan B***). There were indicative concept sketches and a street scene but it was clarified at the inquiry that these were based on the original layout of up to 140 dwellings. The information provided indicates that development would be primarily two-storey with two focal points where it would rise to two and a half storeys. Parking would be provided either at the side or front of dwellings or in parking courts. A play area is shown to occupy an area towards the centre of the site with an area of open space adjoining it.

22. Access is not a reserved matter and *The Town and Country Planning (Development Management Procedure) (England) Order 2015* makes clear that this includes accessibility within the site and circulation routes. The main entrance would be off Crowbrook Road at the north-western corner of the site. The internal road is shown to wind through the development ending in the south-eastern corner. The large loop, which would extend into the south-western part of the site, would be connected at either end by a non-vehicular pathway. An emergency access would join Mill Lane in the position of the current access into the former sports ground. This would be for use as a pedestrian and cycle route.

23. The planning application was accompanied by various supporting documents, including ecological surveys, a design and access statement, landscape and visual appraisal flood risk assessment (FRA) and transport assessment. The ecological information was updated following the submission of the appeal and there was also a revised FRA. All of this information can be found in the core documents although it should be noted that these relate to the original scheme for up to 140 dwellings. Clarification of what was submitted with the application and what was submitted with the appeal is set out in the SCG (***Documents CD 1.2-CD 1.24; CD 9.5, Paragraphs 2.2, 2.8***).

THE CASE FOR THE APPELLANT: MOLINS PLC

*The appellant's case is fully set out in its evidence, including its opening and closing submissions (**Document INQ/24**).*

The main points are:

24. The appellant owns the land. There is nothing to prevent the immediate delivery of housing on the appeal site and certainly within the current five year period for housing land supply.

25. The appeal site is within, but on the very edge of, the Chilterns AONB and the GB. It is self-contained, well-screened and there are limited views into it. It does not form part of the wider, rural and open countryside due to the visual and physical enclosure provided by the vegetated boundaries. The site is contiguous with and well related to the edge of the urban area and is influenced by the residential buildings on the north-west, south and south-east boundaries[1]. It is properly characterised "semi urban" or "peri urban". Indeed the former term was used in the council's own draft *Green Belt Part 2 Site Assessmen*t dated June 2016. The descriptors used by Natural England to define the term peri urban apply here in that the appeal site sits at the interface between rural and urban landscapes (***Documents CD 8.13, page 278; APP 10, Appendix L7***).

26. The appeal site is located in what is agreed to be a sustainable settlement that benefits from key services and facilities. The proposed access is almost immediately opposite Monks Risborough Station with services to London and Aylesbury. It is a settlement which the Council is seeking to expand materially. Some 26% of the Council's housing target is proposed at Princes Risborough. There is no question it is a sustainable location for housing development (***Document CD 9.5, paragraph 3.4***).

27. There are considerable areas of agreement between the main parties:

    27.1. The council cannot show a five year supply of housing and cannot meet its full objectively assessed need without both releasing land from the GB and decanting some of its need to Aylesbury Vale district.

    27.2. There is an urgent need for affordable housing.

    27.3. There is no basis for objection on the grounds of prematurity[2].

    27.4. There are no issues with highway safety or capacity.

    27.5. The proposal would bring about significant improvements to flood risk in the locality.

    27.6. There are no air quality issues.

    27.7. There is no issue in relation to ecology. Indeed it is accepted that, subject to conditions, the biodiversity of the site can be enhanced.

[1] This was agreed by Mrs Jarvis in cross-examination by Mr Glover.
[2] This was confirmed by Mrs Jarvis in answer to my question.

27.8. There are no concerns in relation to heritage impacts and archaeology, subject to the imposition of conditions.

27.9. There is no issue in relation to residential amenity or noise.

Landscape and visual impacts

28. There is important context to landscape and visual considerations. The council is promoting a very significant development in the form of the expansion of Princes Risborough, which will be highly visible from the AONB escarpment. Its extent is of far greater magnitude than the appeal site and it covers ground that is not well enclosed but forms part of the open vale countryside to the west of the railway line. Indeed the council estimates that this land has a medium to low capacity for housing, which is no better than its estimate of the appeal site. Clearly the Princes Risborough expansion would have a materially greater effect on the AONB than the appeal scheme. The Inspector in the Mill Lane appeal decision commented about the particular visual prominence of the expansion area when seen from the AONB. She plainly thought the expansion proposal was material and it is curious that the council failed to consider its relevance to any impacts occasioned by the appeal scheme (***Documents CD 11.1, paragraph 65; INQ 2; INQ 9; INQ 10***).

29. The council confirmed that the AONB designation was not a bar to housing development but what was at issue was the quantum[3]. Its concern was the effect on views from Whiteleaf Hill. However, it did not explain why the 2,500 houses in the Princes Risborough expansion, which would have a far greater impact on such views, would be acceptable whilst 131 houses on a well-enclosed site would not. The Inspector considered the effect of the Mill Lane appeal proposal for up to 170 dwellings on the views from the AONB. She concluded that it would be seen in the context of existing urban development and that, whilst there would be change, there would be no demonstrable harm to the special character and appearance of the AONB. These observations are equally applicable to the appeal proposal. The council incorrectly concentrated on the small change caused by development of the western part of the appeal site rather than its impact on the nature of the panorama as a whole. Although the council was also concerned about views from the west towards the AONB it should be noted that these would be from within the land proposed as the Princes Risborough expansion area (***Document 11.1, paragraphs 61, 62***).

Landscape impacts

30. There were a number of methodological difficulties in the council's approach to landscape assessment:

30.1. The special qualities of the AONB identified in the *Chilterns AONB Management Plan* were not considered relevant to the assessment of impacts. This was because the AONB was said to be a designation rather than a characteristic and also because the site does not exhibit any of the special qualities identified in that plan. However, the Landscape Institute's *Guidelines for Landscape and Visual Impact Assessment* (GLVIA) plainly recognises designation as an indicator of value. GLIVA is explicit in that

[3] This was confirmed by Ms Huijer in cross-examination by Mr Glover.

the landscape assessor must seek to understand the degree the criteria and factors that are used to support the case for designation are represented in the specific study area. The absence of the special qualities identified in the management plan is a strong indicator that the study area is a sensible place into which to consider locating development (***Documents CD 6.3, pages 18-20; CD 6.9, paragraph 5.19, 5.23; APP 9, paragraphs 5.30-33***).

30.2. AONB and landscape character were said not to be relevant landscape receptors. AONB in this case is perhaps the most relevant receptor. It is the landscape character that is sought to be protected and this is why GLVIA explicitly lists it as a landscape receptor. That is why most landscape impact assessments conclude with results that are related to landscape character areas (***Document CD 6.9, paragraph 2.19, 5.34***).

30.3. The council did not produce its own LVIA but rather commented on the appellant's work. However, that does not obviate the need for the council's approach to be clear and transparent as emphasised in GLVIA. The council's written evidence was notable for the absence of objection in relation to visual impacts. The single viewpoint of concern related to Whiteleaf Hill. However, at the inquiry visual concerns from other viewpoints were introduced and, in the absence of rebuttal evidence, there was no clear or transparent exposition of the council's judgements.

30.4. There is no explanation or apparent logic to the study area adopted by the council. Further, having identified that area its evidence focused almost exclusively on the key characteristics of the appeal site. These were said to be significantly affected by the proposal. That though is a statement of the obvious as the proposal would introduce housing where there is no housing now and is an inevitability of any proposal for housing on open land. It does not assist in the important judgement that needs to be made in this case about whether the proposed development can be accommodated on the appeal site without unacceptable adverse impacts on the surrounding area.

30.5. There was no consideration of the potential impacts from the proposed expansion of Princes Risborough or the proposed allocation of the appeal site for sports use, with the associated need for buildings, fences, lights, vehicular access and parking.

30.6. The appellant's landscape assessment did follow a clear, transparent and GLVIA compliant procedure. Indeed, when the council did provide judgments on impacts it adopted the appellant's methodology without criticism.

31. Landscape and visual matters are mainly a matter of judgement for the Secretary of State. The appellant's judgements relating to the existing site were criticised by the council but they just reflect the facts. It was the council who underplayed the influence of the adjacent settlement and the tarmac on the appeal site. The terms peri urban or semi urban were rejected even though they concur with the Natural England definition and the council's own definition of the site in its GB assessment. The incorrect assessment of the landscape baseline by the council has permeated its later judgements.

32. The council concluded that the special qualities of the AONB were not relevant to the landscape assessment because the appeal site does not exhibit any of them. Policy D6 in the *Chilterns AONB Management Plan* provides that new housing should only be permitted if its scale, massing and density reflect the local context and has regard to the special qualities of the AONB. The plan defines the special qualities, which are the reason underlying the designation. They are relevant to an assessment of landscape impacts because they are the elements of the landscape that are sought to be preserved and which combine to make it outstanding (***Document CD 6.3, pages 18-20, 75***).

33. Natural England's guidance for assessing landscapes for designation makes clear that a field by field evaluation is not appropriate. Plainly it would be an impossible task if every parcel of land had to demonstrate special qualities in order to be designated. However, the assessment of the impacts of a proposed development is a completely different task. If a field in the AONB were to be chosen for potential development it would be one that does not exhibit the special qualities of the AONB in order to conserve those qualities. If the special qualities are unaffected by the development of the site, it must follow that the development would not have any adverse impacts on the AONB in landscape terms. The council failed to identify a single adverse effect on the defining features of the AONB, apart perhaps in terms of the views from Whiteleaf Hill (***Document CD 6.8, paragraph 5.3***).

34. The council contended that the appeal site shares a high number of key characteristics with the Risborough Chalk Foothills Landscape Character Area (LCA) in which it lies. However, it agreed that there would be very little effect on these key landscape characteristics following the proposed development.[4] All the land in this LCA forms part of the foothills of the Chiltern escarpment so it is not a particular feature of the appeal site but simply reflects its location. Developed areas in the LCA include Princes Risborough and so the proposal to build on the appeal site would not be alien to the LCA or its position in the foothills. The site is not used for grazing and does not reflect historic boundaries in that there has been modern development along Mill Lane and Crowbrook Road within the historic field boundary. To the extent the appeal site has any coherence as a historic field, its boundaries would not change and the historic position of those boundaries would still be able to be appreciated. It was agreed that the proposal would not have an impact on the position and prominence of Princes Risborough or transport corridors and infrastructure. Following development there would still be long views to and from the escarpment, albeit with some interruption to views from the appeal site itself.

Visual impacts

35. These will be primarily assessed on site and the remarks regarding the visual assessment are therefore limited to the disputed viewpoints, which have been summarised in ***Document INQ 1***:

    35.1. From the public footpaths to the north and east the proposed development would not be visible. Boundary vegetation would remain

[4] The council's assessment of the key characteristics of the LCA is set out in ***Document APP 18, paragraph 5.22***. Mr Glover went through each one in cross-examination and Ms Huijer agreed that they would be largely unaffected by the proposed development.

following development and housing would stand very well back behind the ecological area. The effect would be neutral (***Document APP 10, viewpoints 2, 3 and 8***).

35.2. From the elevated railway station outside the AONB the observer would be on a journey and it would be part of a transient experience. That experience would include the dwellings on Crowbrook Road and so further housing would not comprise a significant change in the view. Views up to Whiteleaf Hill would remain. The effect would be negligible and minor adverse for train passengers and those waiting on the platform respectively (***Document APP 10, viewpoint 15***).

35.3. The view from Crowbrook Road opposite The Haven is not of the AONB but rather of a bungalow in a residential street scene. The dwelling would be demolished which would allow views into the existing vegetation rather than of built form. This would be a positive aspect of the scheme (***Document APP 10, viewpoint 16***).

35.4. Views from the public rights of way to the west are outside the AONB. The council identified potential effects from here because it was unsure there would be any effects. If the height of the proposed dwellings was a real concern it could be dealt with by a planning condition. However, there is the wide extent of existing two-storey development and it is obvious that the views of Whiteleaf Cross and the escarpment would remain post development. The views from the footpaths to the south-west would be affected by distance and vegetation screening. Moreover these viewpoints are within the proposed Princes Risborough expansion area, which will fundamentally change the existing view (***Document APP 15, viewpoints 17, 19, 28-30***).

35.5. From Whiteleaf Hill the appeal site forms a small part of a wide panorama and the proposal would merely introduce housing adjacent to the existing settlement. There would be change but given the width of the view, the small element that the appeal site comprises and the adjacent existing built form, any harm would be minimal. The character and amenity of the view would remain (***Document APP 9, paragraphs 5.51, 7.19, 7.20; 38***).

35.6. The council also refers to views from the appeal site to Whiteleaf Cross and the escarpment but takes no account of the fact that those views would remain available from parts of the appeal site after development. Also, anyone enjoying those views today is trespassing on private land. At present these views are tenuous and terminable. Following development they would be available and sustainable.

36. For these reasons there is no landscape or visual basis to refuse the appeal.

Housing need

37. There is no dispute that the council cannot show a five year housing land supply. Very significant weight should be given to this factor because of the Government's determination to boost significantly the supply of housing. Even if greater weight may be given to a larger deficit that should not dilute the importance attached to the shortfall itself. It is a core planning principle of the Framework that planning should deliver the homes that the country needs. If

there is not a supply to meet the next five years of the FOAN, then that core planning principle is breached and considerable weight should be attached to that (***Document APP 6, paragraphs 3.3-3.4***).

38. Similarly, the possibility that, at some time in the future, a portion of the council's needs may be met within the area of another local authority should not undermine the importance to be attached to the lack of a five year supply[5]. The FOAN of 12,900 gives rise to the calculation of the five year requirement from April 2016. There would be no justification for assuming that any will be met outside Wycombe District. As a result of its inability to show a five year housing land supply, paragraph 47 of the Framework is not being complied with by this council.

39. There is a significant national housing shortage that urgently needs to be addressed. The number of houses built last year was 141,690[6]. In order to deliver the Government's target of one million homes in this Parliament the country needs to build at least 200,000 dwellings a year. A significant additional housing push is required through the grant of planning permissions if the need is even going to be partially met. Some difficult choices will have to be made, none more so than in this council's area where the housing need is high and the area is heavily constrained by the GB and AONB[7]. This council has a significant task in meeting its housing requirement.

40. The council's current position is that it can provide 11,200 of the FOAN in the plan period, from within its own boundaries and without unacceptable impact on constraints. That includes 2,500 dwellings in the proposed extension to Princes Risborough and 1,160 from sites currently in the GB. It is thus clear that the council considers it appropriate in all the circumstances to promote an urban extension close to, and clearly apparent from, the AONB, and to release GB sites for housing development. Neither main party is suggesting that either of those courses is inappropriate in the particular circumstances. Those uncontroversial facts are important starting points in the consideration of whether there are very special circumstances for the purposes of GB policy and exceptional circumstances in AONB policy, if that latter test applies in this case.

41. Nevertheless, the council has yet to identify sufficient sites to meet its own requirement in its own area. It therefore proposes to decant some of its FOAN to a neighbouring authority. The council accepted that Aylesbury Vale District Council, through the Memorandum of Understanding, is not simply undertaking to accommodate 1,700 units. The parties in question agree that if the evidence changes and the council finds that it can accommodate more houses then it should do so. If planning permission is granted in this appeal it ought to result in Aylesbury Vale District Council taking 131 fewer houses[8]. That would be a good thing because the starting point is for this Council to seek to meet as much of its own FOAN within its own boundaries as possible (***Documents CD 8.11;***

[5] This was confirmed by Mrs Jarvis in her evidence-in-chief and cross-examination by Mr Glover.
[6] DCLG Housing Statistical Release, year to September 2016.
7 Mrs Jarvis accepted in cross-examination by Mr Glover that the housing needs of each district should be met within that district and it is only if that is not possible that it starts to look elsewhere in the housing market area.
[8] Mrs Jarvis agreed this proposition in cross-examination by Mr Glover.

INQ 13).

42. The Council is heavily reliant too on the delivery of large sites, including the Princess Risborough expansion, which accounts for some 26% of the housing target. There is a long process and many objections to overcome before that proposal becomes adopted policy[9]. Furthermore, there is talk of local government reorganisation in Buckinghamshire. The effect of the proposed new town in Aylesbury Vale District has yet to be fully considered in the context of the Buckinghamshire emerging plans. There is also the *Housing White Paper* which has now been published. There is much work to be done and many hurdles to be surmounted before there can any real confidence that the council can make the necessary arrangements to meet its housing target over the plan period ***(Document APP 8, paragraphs 4.6, 4.7***).

43. In addition, completions in recent years are running at about 50% below the required rate. The five year supply shortfall is not therefore the whole story and there is real doubt as to the ability of this council to meet its housing needs. In such circumstances it would be unfortunate to forgo housing on a sustainable site where the impacts are almost entirely limited to the site itself (***Documents APP 6, paragraph 4.11; APP 8, paragraph 4.9***).

Effect on the GB

44. It is accepted that the proposal comprises inappropriate development in the GB and that very special circumstances must be demonstrated. Paragraph 88 of the Framework dictates that harm by reason of inappropriateness is to be given substantial weight. Very special circumstances result from a balancing exercise and it explicitly involves looking not only at the benefits brought about by a proposal but also the extent of the harm it would cause to GB interests.

45. As established above, the council accepts that it should seek to meet its housing need within its borders. However, some 50% of its land is designated as GB. Given the housing need, it accepts that it is appropriate to release GB land for housing and it is agreed that if land is suitable for release it ought to be released. The council has undertaken an assessment of GB sites to be released for housing and proposed 9 sites for housing development. It has concluded that the circumstances of those sites are so particular, unusual or special that housing development should be allowed, even though all the sites lie in the GB and perform GB functions.

46. The appeal site performs in relation to the GB release criteria similarly to the nine sites that the Council proposes for development. The criterion that distinguishes it from the candidate sites concerns the confidence that the site could contribute to meeting housing needs if it was removed from the GB. This related to the 10 non-GB putative reasons for refusal. If these putative reasons were found not to be justified by the Secretary of State the appeal site ought to be released having regard to the desirability of the council to meet as much of its housing need as possible within its own borders. Indeed, it was agreed that in such circumstances the council itself would be promoting the appeal site for

[9] Mrs Jarvis agreed in cross-examination by Mr Glover that there was no definitive adoption date for the new local plan despite the recent publication of a new and delayed timetable.

housing through the local plan process[10] (***Document CD 8.13, pages 22-34 and appendix 4, page 279***).

47. It is clear from the council's own independent analysis of the appeal site that it is a strong candidate for release. It is said to be well connected to the built form; largely contained by development on three sides; to have strong border features on the east; not to act as a barrier to sprawl; not to form a gap between settlements; not to perform a role separating settlements; to have little link to the surrounding countryside; to be semi urban; and to score weakly against GB purposes. If removed it would provide moderately strong GB boundaries. It is a site plainly capable of being removed from the GB and used for housing without harming its purposes. There is therefore no reason why this site should not be released in circumstances where the council is in need of more sites, where the appeal site performs well against the release criteria, where the council accepts that it would be promoting the appeal site if it were not for the non GB putative reasons for refusal and where there is agreed to be no prematurity objection (***Document CD 8.13, appendix 4, pages 276-279***).

48. New buildings in the GB are for the most part inappropriate because generally they harm openness and the purposes of including land in the GB. That is why policy requires substantial weight to be placed on harm by reason of inappropriateness. It would be double counting to seek to consider harm to openness and purposes as "any other harm". The council confirmed that harm to visual amenity was related to GB openness and purposes. There was no mention of adverse visual effects to the GB in its expert landscape evidence[11]. The appeal proposal would not have any effect on the openness of the GB beyond the site itself. It would also have no greater impact on the openness and rural amenity of the GB than does the existing urban edge of Monks Risborough. It would respect the character of the neighbouring residential edge, with the location of a retained arc of landscaping maintaining the site's relationship with the wider landscape. The development would not alter the perception of leaving Monks Risborough along Crowbrook Road. Whilst there would be changes to the appeal site itself these would not have a wider effect on the GB (***Document APP 9, section 9***).

49. On the basis of the Council's own work, this site meets the criteria for release. The actual GB impacts would be minimal. Any harm would be small and entirely driven by policy, as opposed to "on the ground" effects.

Effect on the AONB

50. The statutory duty under section 85 of the *Countryside and Rights of Way Act* is that the decision maker should have regard to the purpose of conserving and enhancing the natural beauty of the AONB. By applying the relevant development plan and national policies the decision maker will be complying with that duty. However the duty is to have regard to the aims of conservation

[10] Mrs Jarvis agreed in cross-examination by Mr Glover that it was due to the 10 non-GB putative reasons for refusal that the site was not a candidate for GB release. If the council had concluded there was no valid non-GB reason for refusal the site would have been promoted for release through the LP process.

[11] Mrs Jarvis in cross-examination by Mr Glover indicated that openness has a visual dimension. Ms Huijer's evidence did not raise any issue about the visual amenity of the GB.

and enhancement not to achieve them. The conclusion that the impacts on the wider AONB beyond the appeal site were neutral does not therefore mean that the appeal should be dismissed as suggested by the CCB (***Document APP 6, paragraph 6.6***).

51. Paragraphs 115 and 116 in the Framework establish the national policy context for proposed development in the AONB. Although the existence of the AONB is always a material consideration of great weight[12], it is only in the case of major development that any necessity arises to show exceptional circumstances. Paragraph 116 concerns major development but there is no definition of this in the Framework. The courts have rejected a numbers approach but indicated that the word has a natural meaning in the English language, albeit not one that is precise[13]. The meaning of "major development" is a matter of planning judgment[14]. The *Planning Practice Guidance* reiterates this by advising that the application of the policy in paragraph 116 is a matter for the relevant decision taker, taking into account the proposal in question and the local context.

52. The saved LP provides that development is major if it is national in character. It is difficult to see how 131 houses in Monks Risborough could be said to be national in character. In emerging policy, draft policy DM31 and its supporting text provide that whether development is major cannot be defined in terms of numbers but rather in terms of the degree of harm to the AONB. That properly captures the Paragraph 116 test as interpreted by the Courts. The council accepted that if the Secretary of State agreed with the appellant's judgment on the impacts of the proposal on the AONB, the scheme would not be major development for the purposes of draft policy DM31[15](***Documents CD 3.3, paragraph 10.10; CD 8.5, page 165 and paragraph 6.81***).

53. The council contended that the presence of the third bullet point in paragraph 116 suggested that the degree of impact is irrelevant to deciding whether a proposed development is "major". That is an untenable proposition for a number of reasons:

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[12] In *Bayliss v Secretary of State for Communities and Local Government* [2014]EWCA Civ 347, the Court of Appeal determined that national policy guidance has to be interpreted in the light of the obvious point that the effect of a proposal on an AONB will itself vary from case to case. It may be trivial, it may be substantial or it may be major. The decision maker is entitled to attach different weights to this factor depending upon the degree of harmful impact anticipated and it would be irrational to do otherwise. The adjective "great" in the term "great weight" therefore does not take one very far (***attached to Document INQ 24B, paragraph 18***).

[13] In *Aston v Secretary of State for Communities and Local Government* [2013] EWHC 1936 (Admin), Wyn Williams J rejected the argument that the reference to "major" development in paragraph 116 of the Framework should be given the precise definition in the *Town and Country Planning (Development Management Procedure) Order* 2010. Rather the term should be construed in the context of the document in which it appears (***attached to Document INQ 24B. paragraphs 90-93***).

[14] *In R (The Forge Field Society) v Sevenoaks District Council* [2014] EWHC 1895 (Admin), Lindblom J followed Williams J in Aston and said that the meaning of "major development" is a matter of planning judgment (***attached to Document INQ 24B. paragraph 69***).

[15] Mrs Jarvis agreed in cross-examination by Mr Glover that if the Secretary of State concluded that the proposal conserves the landscape and scenic beauty in the AONB, the proposal would not be major development in terms of draft policy DM31.

53.1. The bullet points in Paragraph 116 ask the decision maker faced with major development to consider the need for that development, the practicalities of that need being met elsewhere and the environmental harm of meeting the need on the AONB site. Those considerations can be applied just as readily if the decision whether the development is major has been based on the impact of the development on the AONB as if it has been simply numerical. Indeed, the third bullet point appears to start from the assumption that major development would have a detrimental effect. Thus it starts from the premise that there has been a prior assessment of the development's impact. The only prior stage at which this could be made is in assessing whether the development is major.

53.2. Both the courts and the *Planning Practice Guidance* indicate that the decision as to whether a development is major is a matter of planning judgement, taking into account the proposal in question and the local context. It is difficult to believe that a planning judgement of that sort can be taken without having regard to the impact on the AONB.

53.3. The council's approach leads to the counter-intuitive result that a development that had no or negligible impacts on the AONB but was "major" in terms of quantum could be refused on the basis of AONB policy despite the absence of harm.

54. The council agreed[16] that if the Secretary of State concurs with the appellant on the issue of major development and with the appellant's judgment on the impacts of the proposal on the AONB, there would be no breach of saved policy L1 in the LP or policy CS 17 in the CS in relation to the AONB. The impacts on the AONB would be minimal. The proposal would accord with development plan policy on the AONB. The evidence vindicates the Secretary of State's conclusion when screening the development under the EIA Regulations that the proposed development would be unlikely to result in significant environmental effects. As a result of the minimal impacts, the scheme would not fall to be considered as major development for the purposes of Paragraph 116 of the Framework and exceptional circumstances do not need to be shown. There are in any event exceptional circumstances as demonstrated below (***Document APP 7, appendix B***).

Flood risk and the sequential test

Surface water drainage

55. The council does not dispute that the scheme would cause no on-site flood risk. It also agrees that it would not cause any off-site harm but rather that there would be significant off-site benefits for neighbouring properties. The areas likely to flood are the properties to the south-west outside the appeal site. This is caused by the flow of run-off water over impermeable hard standings and clay soils. The removal of these hardstandings and the installation of a flood attenuation basin and a sustainable drainage system (SuDS) would lead to a significant benefit in terms of a reduction in flood risk to these properties. The proposal would comply with Policy CS 18 in the CS. Winter ground water monitoring is being undertaken at the request of Buckinghamshire County Council as lead local flood authority (LLFA), which will inform the detailed

[16] Mrs Jarvis agreed this proposition in cross-examination by Mr Glover.

drainage strategy (***Documents CD 7.1, page 18, figure 10; APP 14, paragraphs 3.3, 4.1, 4.2***).

56. The reason for refusal relating to on-site drainage was withdrawn. The council also indicated that in such circumstances it would withdraw the reason for refusal relating to the sequential test. There has been no explanation as to why a different approach was taken at the inquiry and more importantly there is no justification for it (***Document APP 14, appendix A***).

Sequential test

57. The notion that development which is agreed to significantly improve flood risk for neighbouring residents should be refused if it were not also shown to pass the sequential test is perverse. Ultimately the purpose of the sequential test is to address flood risk. The development is plainly sustainable in terms of flood risk and no more ought to be required. The appeal site is in Flood Zone 1 and it is at low risk from flooding from all sources. In such circumstances the need for a sequential test does not arise. The council did not present any expert evidence and the professional judgment of the appellant's expert witness was not challenged.

58. The *Planning Practice Guidance* advises that it should not normally be necessary to apply the sequential test to sites in Flood Zone 1 except where the Strategic Flood Risk Assessment, or other more recent information, indicates that there may be flooding issues now or in the future. The LLFA produced a statutory report into flooding that occurred at Monks Risborough in February 2014. This followed a prolonged period of above average rainfall when soils were waterlogged and water levels in the chalk aquifer were unusually high. Surface water could not get beneath the railway station due to a restricted culvert and it could not drain away under the Mill Lane railway bridge because of a blockage or insufficient capacity in the drainage system. The proposal would help mitigate the risk to properties that were flooded in that event (***Documents CD 7.1, Figure 10 and section 5; APP 15, paragraph 3.2***).

59. Third parties have mentioned flooding in the south-west corner of the appeal site but the photographic evidence shows only localised shallow standing water following three months of unprecedented rainfall in an area that would form the attenuation basin. The latest information in relation to groundwater flooding shows the site to be at the lowest level of risk. This is not surprising given that the clay soil would act as a barrier to a rising water table. In terms of surface water flood risk, 70% of the appeal site is very low risk and 30% is low. There is a very small area over the hardstanding at medium risk but this would be removed by the development (***Document APP 15, paragraphs 3.3-3.5***).

60. The SCG indicates that the site and its surroundings are in an area of surface water and groundwater flooding. To the extent that there was some dissonance between that statement and the appellant's expert flood evidence, the latter should be preferred. The expert witness was clear that he was not the author of that statement and would not have written it like that (***Document CD 9.5, paragraph 9.5.1***).

61. In all the circumstances there is no justification for carrying out a sequential test. However, one has been undertaken, which covers the Princes Risborough area and shows that all sites have a significant proportion of their area shown to

be at risk of surface water flooding and that there are therefore no similar available sites that have a lower surface water flood risk. Furthermore, all sites in the area are in a groundwater emergence zone and hence no sites are sequentially preferable. In circumstances where the Council seeks to provide 26% of its reduced housing target in Princes Risborough it is entirely appropriate to look at that area and not the district as a whole. (***Document CD 1.21, section 5.4; APP 14, 3.22, 3.33***).

62. A full district-wide sequential test would be a lengthy process and one that could not be done without the cooperation of the council. There are maps available on the Environment Agency's website for fluvial, surface water and reservoir flooding. There are also other recognised sources of flooding such as groundwater, canals, large sewers and water mains. To do a full sequential test all these sources would have to be considered. Furthermore, the areas of each site at each level of risk of each type of flooding would need to be assessed. It would then have to be decided how to compare a site that has, for example, 10% of its area in fluvial Flood Zone 2 and 40% of its area at medium risk of surface water flooding. The council is carrying out a sequential test in connection with the emerging WDLP. The appellant asked for the appeal site to be included or, if that could not be done, for the methodology to be provided so that a comparison could be made on the same basis. The council was not willing to do either. In all the circumstances, it would have been wholly disproportionate to carry out a district wide sequential test and the reality is that the council stood in the way of the appellant being able to do that.

63. The council claimed that the local planning authority has in effect done a sequential test in the emerging WDLP process and it has shown alternative sites. This is difficult to understand as it failed to provide the sequential test that it had done for the urban expansion site proposed at Princes Risborough. Nonetheless, there is no reason to suppose that the council could meet its housing need within its district on sites with less flooding risk than the appeal site (***Document APP 19, paragraph 6.45***).

64. The two specific development plan policies relating to flood risk are policy CS 18 in the CS and policy DM17 in the DSAP and the council agreed that the proposal would not be in conflict with either of them[17]. It therefore has to rely on the generic sustainability policies as a reason to withhold permission. However, it is not tenable to suggest that where the specific policies are passed, the generic policies are a bar to development. There are thus no material reasons to indicate that the proposal should be refused on the basis of flood risk. On the contrary, the amelioration of flood risk for neighbouring properties is a significant point in favour of the development.

Design and layout

65. The proposal is in outline form with layout a reserved matter and the detailed design is yet to be undertaken. Following the resolution of the ecological issue, which was at the heart of putative reason for refusal five, there cannot now be a

[17] Mrs Jarvis agreed that the relevant parts of policy CS 18 are provisions 2 and 4 and she agreed that the proposal would meet both. Policy DM17 relates to the sequential test in Flood Zones 2 and 3. Mrs Jarvis agreed that the proposal would not conflict with it although she considered that the wording did not comply with the Framework.

serious suggestion that a successful design for 131 dwellings would be unachievable at the reserved matters stage.

66. The proposed distribution of trees and dwellings had in mind the views from Whiteleaf Hill. Indeed the proposed development would result in the public being able lawfully to have views of Whiteleaf Hill from the appeal site. (***Document APP 12, page 27***).

67. The council put forward a number of criticisms but none provide any basis on which to say that a successful detailed design for 131 dwellings on the appeal site could not be achieved:

    67.1. There is more than adequate space to provide a wooded entrance. This is identified in the *Chilterns Buildings Design Guide* as a feature of valley bottom and scarpfoot villages (***Documents CD 6.1, page 18; APP 12, paragraphs 6.3, 9.5***).

    67.2. The terraces would have breaks, which would reflect the local vernacular and also would provide articulation. In reality the complaint about disjointed street frontages seemed to be that the terraces would be too uniform. This uniformity would be more properly described as consistency of plot size, which would comprise a good foundation for the articulation of building form at the later detailed design stage, as indicated in the concept sketches[18] (***Documents CD 6.1, page 29; APP 12, paragraph 9.7; Plan A, page 9***).

    67.3. The disposition of parking would be a matter of balance. The area of particular concern was the parking court in the south-east corner, which would be overlooked by both plot 97 and plots 120 and 121. There was also criticism of the parking in front of dwellings, but this is a feature of Monks Risborough itself (***Document APP 12, photograph on page 2 and paragraph 9.8***).

    67.4. Every flat would have private amenity space in the form of a balcony (***Document APP 12, paragraph 9.9***).

    67.5. A key feature of the design would be the open space and the pedestrianised area around it. Also, there would be public access through the appeal site linking Mill Lane to the public rights of way to the north and providing a pleasant route to the railway station. Connectivity would also be provided by the green network of gardens, open spaces, trees and hedgerows (***Document APP 12, paragraphs 9.10, 9.12***).

    67.6. An objection relating to back-to-back distances between buildings was raised at the inquiry. However, this was not mentioned as a concern in the council's evidence. Also it contradicted the report to the Planning Committee, which stated that there would be a good amount of amenity space and acceptable relationships between dwellings (***Document CD 9.3, paragraph 5.107***).

[18] The concept sketches relate to the original layout for up to 140 dwellings. However, the council did not suggest that the same could not be done on the revised layout for up to 131 dwellings.

68. The density of the proposed development on 4.25 ha, which excludes the access strips of land and the ecological protection area, would be 31 dwellings per hectare (dph). This would be very similar to St Dunstan's Close, which has a density of 30 dph. It accords with saved policy H8 in the LP where a net density of less than 30 dph will not generally be acceptable. It is not appropriate to compare the appeal scheme with the much older residential properties fronting Mill Lane and Crowbrook Road, given the requirements of saved policy H8 and national policy, which require higher densities and the optimal use of land. The layout evolved from the constraints of the site rather than from trying to accommodate a specific number of dwellings. The concept is to create a village within the village of Monks Risborough and to avoid a uniform estate layout. The proposal seeks to optimise the use of the land having regard to the need for housing and the need to respect the character and appearance of the area (***Documents APP 8, Section 2; APP 12, paragraphs 6.3, 7.3-10***).

Loss of existing strategic open space

69. No existing strategic open space would be lost. The private sports use of the site by the Molins' workforce ended in 2007. It was unviable given that it provided facilities for only 58 members and was costing Molins £20,000 a year to keep it running. At no stage has the council approached Molins to seek to secure the sports ground. Since the closure, the pavilion building has been demolished and the bowling green, netball court and tennis courts have been removed (***Document APP 6, paragraphs 2.9-2.14***).

70. Reliance on policy CS 15 by the council is misplaced. The relevant part is said to be the second provision. However, there would be no loss of existing buildings and the land is not allocated for community or sports facilities. The contention that the land is allocated within the meaning of the policy is incorrect. The supporting text is absolutely clear about what the policy is referring to by the term 'allocate'. Were this site allocated for the purposes of policy CS 15, that allocation would be found in policy DM12 of the DSAP. This policy allocates many sites, but not this one. There is, therefore, no development plan objection to development for a use other than sport. Nor do material considerations indicate otherwise (***Document CD 3.1, paragraph 4.85***).

71. Paragraph 74 of the Framework is concerned with existing open space and recreational facilities. This is not an existing playing field and has not been for nearly ten years. Were it an existing playing field, it would have been identified by the council in the *Wycombe District Sports Facilities Strategy*, which provides an audit of existing sports land and buildings. Paragraph 70 of the Framework provides the reason why national policy seeks to protect existing facilities, which would reduce the community's ability to meet its day-to-day needs. This site has not been meeting any such community needs for nearly ten years. Development of the site for housing would not alter the sporting provision available day-to-day to the community (***Document CD 4.5, pages 2, 19-24, 27-29***).

72. There is no realistic prospect of the site being commissioned into sporting use in the future whatever the outcome of this appeal. The only access is from Mill Lane and this is self-evidently inadequate for vehicular use. The council has clearly not given any thought to this matter and is unlikely to be able to defend policy PRTP12 or any successor policy as sound. The council could also not explain how the allocation would be delivered or by whom. There was no evidence on the number of pitches to be achieved at the site, no strategy for

their provision and no evidence on how ancillary facilities such as a pavilion would be provided. There was no evidence on how any of the capital requirements would be financed or how the maintenance of the pitches and facilities once built would be funded (***Document APP 10, Appendix L12, photo S4***).

73. The unilateral undertaking includes a contribution of £400,000 to be used by the council to fund the provision of a new youth all weather sports pitch at St Peter's School in Monks Risborough or a similar project within reasonable proximity to the appeal site. The loss of the theoretical potential for the sporting re-use of the appeal site would be more than outweighed by the practical reality of a facility that would be used for sport. Indeed it plainly amounts to a material improvement in terms of sports provision in the area. This would be a material benefit of the scheme.

The planning balance

Exceptional circumstances

74. If the Secretary of State considers that the appeal proposal would comprise major development, exceptional circumstances and whether they would be in the public interest must be considered. Paragraph 116 of the Framework establishes three considerations that need to form part of that judgement. These considerations were considered in the *Wealden* court of appeal judgement[19] (***Document INQ 8, paragraph 63***):

    74.1. It is agreed that there is a market housing need and a significant affordable housing need and that the impact of permitting the scheme would be beneficial to the local economy. The first consideration falls in favour of the development.

    74.2. The Court of Appeal upheld the Inspector's conclusion that because other sites in the district collectively failed to meet the full objectively assessed need they did not amount to an alternative. In this case, there is no five year housing land supply and, more importantly, having scoured its area, this council still needs to decant homes to Aylesbury Vale District Council. That demonstrates that there is not the scope to develop elsewhere. The second consideration falls in favour of the appeal proposal (***Document INQ 8, paragraph 66***).

    74.3. The harm to the AONB both in landscape and visual terms would be very limited indeed. The third consideration also favours the development.

75. The *Wealden* judgement also made clear that the three considerations in Paragraph 116 of the Framework do not exclude other considerations relevant to deciding whether there are exceptional circumstances in the public interest. In this case the benefits of the appeal proposal also need to be taken into account when considering this matter (***Document INQ 8, paragraph 63***).

Very special circumstances

76. Whether the circumstances in a case are "very special" is a matter of planning

[19] *The Secretary of State for Communities and Local Government and Knight Developments Ltd v Wealden District Council* [2017] EWCA Civ 39.

judgment for the decision maker. Even if they are not considered as such individually they may be so when combined together. Although it is a distinct test from the test of exceptional circumstances applied to major development in the AONB, factors that weigh in one test may also weigh in the other. An unusual aspect of this case is the fact that the council has itself carried out the balancing exercise in its draft GB assessment. Were it not for the mistaken belief that the non-GB putative reasons for refusal prevented delivery of housing on this site, the council would have concluded itself that this site should be developed for housing. That is a rare and particular circumstance. (***Document CD 8.13***).

77. If the non-GB reasons for refusal prove not to be the constraint the council feared, then the benefits provided by development of the site outweigh the harm to the GB and GB policy. It is appreciated that the means by which the council is promoting the GB sites for development is by means of the emerging WDLP. However, the judgement relating to benefits and harm is essentially the same. Furthermore, the council do not eschew a prematurity argument.

78. The council's draft GB assessment itself concludes that having regard to GB interests and purposes, this site performs as weakly as its candidate sites for release. In the circumstances, the only tenable conclusion is that the GB harm is at the lowest end of the scale. The council would be promoting the site itself if it were not for its objections on flood risk, design and AONB issues.

79. The council confirmed that it accepted both the nature and force of the benefits of the scheme identified by the appellant[20]. The only thing, therefore, that is at issue between the parties is the balance of those benefits with any harm. The benefits would be as follows:

    79.1. The appeal site no longer fulfils any of the purposes of the GB, especially in a situation where the council is looking to release other such sites for much needed housing, including affordable housing. The proposal as shown on the illustrative layout would provide long term defensible GB boundaries to the north and north-east and would have minimal impact, if any, on the GB beyond (***Document APP 6, paragraphs 4.30-4.35, 5.3-5.14***).

    79.2. The proposal would provide much needed housing in an area where there is no five year housing land supply and where there are serious challenges to meeting even the reduced housing target over the plan period.

    79.3. The proposal would provide a significant element of affordable housing, which is estimated to be about 55 dwellings, in an area with an acute affordable housing need (***APP 6, paragraphs 5.16-5.24***).

    79.4. The proposal would bring about significant improvements to flooding and drainage, protecting existing residents from future flood events.

    79.5. There would be significant highways and public transport improvements brought about by the development.

[20] Mrs Jarvis agreed in cross-examination that she did not dispute the benefits set out in Mr Birnbaum's proof, only the weight to be attached to them in the planning balance (***Document APP 6, paragraphs 5.29-5.39, 8.4***).

79.6. The proposal would provide managed on-site open space, a play area and ecological habitat bringing about an improvement in biodiversity;

79.7. As a result of this development, the Council would be able to build a new sports pitch in circumstances where there is in reality no extant sports provision on the appeal site.

80. Placing these very significant benefits against the low level of harm identified to the AONB and GB there would be exceptional circumstances, if these are needed, and very special circumstances such that there are no policy reasons to refuse planning permission.

Sustainable development

81. Having passed the restrictive policy tests, the development can benefit from the presumption in favour of sustainable development. Having demonstrated that the proposal would conserve the AONB and that there are very special circumstances in relation to the GB it accords with the development plan and planning permission should be granted without delay (***Document CD 10.13, paragraphs 33-37***).

82. The appeal proposal would accord with the three dimensions of sustainable development in the Framework when taken together as follows:

82.1. The construction of the houses and the spend from future residents would comprise a material economic benefit to the area.

82.2. The provision of a mix of market and affordable housing in an area with clear needs for both is in accordance with the social role of sustainable development. Furthermore, the appeal scheme would open up the site to the public who would benefit from the open space and connectivity from Mill Lane to the public rights of way network to the north as well as the provision of a more pleasant route through to the railway station.

82.3. The position in relation to the AONB and the landscape and visual impacts has been set out above. The council is satisfied with the ecological proposals and agrees that there would be a net benefit to biodiversity.

THE CASE FOR WYCOMBE DISTRICT COUNCIL

*The council's case is fully set out in its evidence, including its opening and closing submissions (**Document INQ/23**).*

The main points are:

Housing need

83. The latest five year housing land supply position statement (December 2016) gives the requirement and supply position as at 1 April 2016. The requirement is based on the most recent assessment of objectively assessed need derived from the 2016 HEDNA, which is for about 12,900 dwellings for the period 2013-2033. Aylesbury Vale District Council has agreed to make provision for 1,700 dwellings as part of Wycombe's need in accordance with the duty to co-operate. However, the council has properly based its position statement on the assumption that the entirety of its FOAN is met within the district. The upshot is that there is a 4.91 years' supply of deliverable sites, which results in a shortfall

of 74 dwellings. The appellant has accepted this assessment[21] (***Documents CD 8.4; 8.11; 8.15, Table 2***).

84. In considering both the weight to be given to development plan policy and whether there are very special circumstances that warrant the grant of planning permission in the GB, the modest scale of the housing supply shortfall is relevant[22]. Furthermore a new local plan is being produced, which will be required to show a five year supply of sites on adoption. This will include allocations sufficient to meet the assessed need over the plan period, albeit moderated to take account of constraints within the district. The recent assessment of GB sites in Buckinghamshire concluded that the appeal site should remain in the GB. The evidence indicates therefore that there is no need for the 131 dwellings proposed on the appeal site, either to ensure a five year supply of sites or to meet the housing needs of the district over the longer term (***Documents CD 8.13; CD 8.14***).

85. The appellant would seek to sell the site on to a housebuilder. This would entail the need to gain further permissions and to secure the involvement of a registered provider to deliver the affordable housing. Development may well not begin on site before the new local plan had been adopted, even bearing in mind the reduced timetable for implementation that the appellant has agreed. In these circumstances the issue of unmet need is not particularly compelling. It is recognised that there are potential policy consequences flowing from the lack of a five year supply, taking account of paragraph 49 of the Framework. However, the policies that are deemed to be out of date are in fact no less relevant than they were, although the weight to be given to them may be affected (***Document APP 19, paragraphs 8.10-8.12***).

The GB and very special circumstances

86. It is common ground that the proposed residential development would be inappropriate development in the GB and that it would be harmful by definition and should not be approved except in very special circumstances. It is also agreed that substantial weight should be given to any GB harm and that very special circumstances will not exist unless the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations (***Document CD 9.5, paragraph 9.3.1***).

87. In terms of the purposes of the GB, the site assists in safeguarding the countryside from encroachment. Although the site is not the only parcel of land that caps the northern edge of Monks Risborough, it undoubtedly plays a part in containing the settlement. The proposal would replace the strong linear western, southern and eastern site boundaries by an irregular and less defensible development boundary. The dwellings on plots 122-131 would protrude without any ostensible logic into the countryside (***Document APP 19, paragraphs 6.23-6.28***).

88. The draft *Green Belt Part 2 Site Assessment* may show the appeal site scoring

[21] Mr Birnbaum accepted the council's housing land supply assessment and its 4.91 years of supply in cross-examination by Mr Green.
[22] *R (Hunston Properties Limited) v SSCLG* [2013] EWCA Civ 1610, paras 28-29, 32 (CD10.17); *SSCLG v Hopkins Homes* [2016] EWCA Civ 168, para 47 (CD10.1).

no worse as a site to be removed from the GB than other sites that have been proposed for removal. However, its purpose is to inform the preparation of the emerging WDLP, which is the appropriate forum in which to consider whether such boundaries should be changed. Paragraph 83 of the Framework stresses that, once established, GB boundaries should only be altered in exceptional circumstances through the preparation or review of the local plan. It is in that context that the judgments in the site assessment document should be scrutinised, which is not something that has happened yet. In any event, having looked at the appeal site the assessment is that it should remain in the GB. When the Secretary of State makes his decision it is anticipated that the site will still be GB land, with no proposal from the council for its removal. In these circumstances, full weight should be given to the policies in the Framework that seek to preserve the openness of the GB (***Document CD8.13, page 29 and appendix 4 pages 276-279***).

89. The harm likely to be caused to the GB arises from inappropriateness, loss of openness, urban sprawl, encroachment into the countryside and detriment to character and amenity. Given the size of the proposed development the harm would be extensive (***Document APP 19, paragraphs 6.9-6.35***).

90. The appellant sets out a number of factors to weigh against harm in the planning balance:

    90.1. The *Planning Practice Guidance* states that unmet housing need is unlikely to outweigh the harm to the GB and other harm so as to constitute the very special circumstances justifying inappropriate development. On the facts here the extent of the shortfall in the five year supply is modest.

    90.2. Sustainability reflects the site's location close to the urban area. However, that is to ignore the environmental dimension to sustainability and the site's position in the GB and AONB.

    90.3. Highway improvements would be required as a result of the increased pedestrian and vehicular traffic generated by the development and would not amount to significant benefits capable of outweighing GB harm.

    90.4. The majority of the unquantified economic, social and environmental benefits would either be generic benefits of the sort found in any housing development or connected with measures that would be needed to overcome objections to the appeal proposal. It is accepted that the proposed drainage scheme would reduce surface water run-off by 25%, which would be of some benefit to neighbours adjacent to the south-west corner of the site. Also that the formal sports provision proposed could be enjoyed by the wider community. However, these benefits accrue because the proposal is for residential development in an area at elevated risk of flooding on a field which has a lawful sports use protected in national and development plan policy. In other words, they are benefits intended to balance "any other harm" created by the development.

91. Whether or not there are matters that would clearly outweigh the harm caused by the development to the GB and any other harm is ultimately a question of planning judgment. However, where the harm is as extensive as it is here the balance falls decisively against the grant of permission.

The AONB and exceptional circumstances

92. Paragraph 115 of the Framework indicates that great weight should be given to conserving landscape and scenic beauty in the AONB. Paragraph 116 advises that except in exceptional circumstances, permission for major development should be refused. Policy L1 in the LP is expressed in similar terms. The terms of paragraph 115 apply regardless of whether or not the development is major. The statutory duty in section 85(1) of the *Countryside and Rights of Way Act* 2000 requires decision makers to have regard to the purpose of conserving and enhancing the natural beauty of the AONB.

93. There is no dispute that in terms of scale this would be a major development. However, the appellant contended that when looking solely at impact the proposal would not amount to major development. It was nevertheless accepted that the way the third bullet point in paragraph 116 was phrased suggested that major development could be development with little if any effect on the environment or landscape. However, ultimately in the absence of any further definition the term has to be construed in its context[23]. Although the appellant referred to the way major development is approached in draft policy DM31 and its supporting text at para 6.81 in the emerging WDLP, this simply represents the council's attempt to define what national policy has left undefined. Amongst other things, the supporting text refers to judging the significance of a proposal in its specific context rather than in terms of a numerical threshold. Looking at the specific context of the appeal proposal the development would be major development (***Documents APP 6, paragraph 1.9; APP 19, paragraph 6.63; CD 8.5, paragraphs 4.19, 6.81***).

94. The attempt by the appellant to draw a dividing line between scale and impact is ultimately unhelpful in this context. Development may be major because of its scale, its impact or both. In the present case both parties agree that the quantum of the proposal amounts to major development and that should be the end of the matter. It is thus for the appellant to establish exceptional circumstances and the public interest that would justify the grant of permission. In this context it connotes rarity, so that the appellant must be able to point to circumstances which, individually or in combination, are both unusual and sufficiently compelling to outweigh any harm to the natural beauty of the AONB[24]. This is not just a simple balancing exercise[25].

95. The appeal site is mainly open grassland. Although along the southern boundary there are the remnants of tennis courts and other areas of hardstanding left over from the sports club use, they cover only about 9% of the site. In near and far views the site appears as part of a mosaic of fields within the AONB that frame Monks Risborough. The northern and eastern boundaries are shown in 19th century maps and today the site looks little different from the pastures and

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[23] See *R (The Forge Field Society) v Sevenoaks DC* [2014] EWHC 1895 (Admin) (***attached to Document INQ 24B***). In paragraph 69 Lindblom J (as he then was) focused on the size of the development and concluded that 'major developments' would normally be projects much larger than six dwellings on a site the size of Forge Field.
[24] *R (Mevagissey PC) v Cornwall Council* [2013] EWHC 3684 (Admin) (***attached to Document INQ 23B, paragraph 7***).
[25] See *R (CPRE Kent)) v Dover District Council* [2016] EWCA Civ 936 (***CD 10.4, paragraph 30***).

paddocks in the fields nearby. Looking across the site to the north and east, there is a visual connection with the countryside and escarpment beyond. Although the nearby houses, roads and railway line are intermittent sources of noise the appeal site is generally peaceful. It looks like an agricultural field that comes up to the settlement edge and forms part of its historic setting (***Documents APP 8, Appendices L17, L12 view S9; APP 14, paragraphs 5.13, 5.16, Appendices NH-2, NH-3, NH-4, NH-9, NH-10***).

96. The appellant described the site as peri urban, which was defined as the transition between rural and urban landscapes. However, this explains nothing about the characteristics or qualities of the appeal site itself or what it contributes to the natural beauty of the AONB, only that it is located alongside the urban area. There are some methodological curiosities in the appellant's LVIA. For example the AONB designation is treated as a landscape receptor. Also it is difficult to understand why external landscape receptors are considered when the landscape effects are confined to the appeal site (***Document CD 6.9, paragraph 5.34***).

97. However, of more importance is the differing approach to the baseline character and qualities of the appeal site. It is essential to have an accurate understanding of the baseline if sound judgments on the likely effects of development are to be reached. In a number of respects it is clear that the appellant's evidence underplays the green and rural qualities of the site while emphasising to an unreasonable degree the urban influences, including the tarmacadam areas and existing dwelling. Given the focus of both statute and policy on protecting the natural beauty of the AONB, this landscape character assessment and its conclusion that the site has a peri urban character does not provide the assistance it should.

98. The appellant's landscape evidence asserts that the appeal site does not exhibit any of the special qualities of the Chilterns AONB as set out in the *Chilterns AONB Management Plan*. However, these special qualities include "fine long views across the lower lying vales to the north and west" and "a mosaic of fields with arable crops and livestock, bordered by ancient hedgerows and trees". There is no dispute that the appeal site can be seen in views from Whiteleaf Hill, and while the site is not currently in agricultural use, it is part of a mosaic of fields within the AONB and retains two of its historic boundaries marked by hedgerows and trees (***Document CD 6.3, pages 18-20***).

99. The AONB designation extends across 833 km^2 of the Chiltern Hills and embraces landscape features that will never be found on a single development site. The relevant question is not whether the site shares the special qualities of the AONB but rather whether the site contributes to its natural beauty. It plainly does so and it is therefore difficult to see how the proposed development could be carried out without harm to the natural beauty of the AONB. There is likely to be change in the broad area to the west of the site in the form of the proposal for the expansion to Princes Risborough. This is illustrated on the concept plan in the draft Princes Risborough Town Plan and informed by the *Landscape Sensitivity and Capacity Study*. However, this would not detract from the contribution that the appeal site makes to views from the escarpment. Indeed it may even add to its importance (***Documents CD 8.9, pages 34, 35, 38; INQ 2***).

100. There are a number of viewpoints where, using the appellant's methodology, a different assessment of visual impact has been reached. However, it is

ultimately for the Secretary of State, informed by the site visit, photographic and illustrative material, to arrive at his conclusions on the value of the site to the natural beauty of the AONB and the likely effect that the proposed development would have on that beauty. In terms of approach, the council's landscape evidence is to be preferred (***Documents INQ 1; INQ 10***).

101. The appeal proposal would harm both the landscape of the appeal site and near and far views of it. It is a field of essentially open grassland appreciated by local residents, and visible to commuters and walkers on the adjacent footpaths and escarpment. Although those walking on the site have been described as trespassers, there is nothing in the appellant's evidence to suggest that public enjoyment of the site would be brought to an end if the appeal were dismissed. Its contribution to public enjoyment is part and parcel of its value. The proposal would cause real harm to the landscape and scenic beauty of the AONB and no exceptional case has been made out.

102. A further factor weighing against the development is that the appellant has made no attempt to consider the cost of, and scope for, developing elsewhere outside the AONB or meeting the need for housing in some other way[26]. This is not surprising as the appellant is a landowner interested only in the sale of the land to a housebuilder. Nevertheless, it is a significant omission and it is no answer to say that the council has failed to identify sufficient alternative sites. The shortfall in the five year supply is less than the proposed number of dwellings. In the longer term the emerging WDLP will identify how housing needs can be met, including through the co-operation of Aylesbury Vale District Council. Even if the proposal was not major development, permission should be refused due to the harm that would be caused and the need to give great weight to conserving landscape and scenic beauty (***Document INQ 8, paragraph 63***).

Flood risk

103. There is no dispute that the appeal site is in an area at risk of flooding. The appellant asserts that the proposal would help to meet the district's need for housing. The sequential assessment that was carried out was confined to Princes Risborough, notwithstanding that the council had asked for an assessment across the district[27]. The appellant contended that this approach was for reasons of practicality even though the area in question is subject to ground and surface water flooding (***Documents CD 1.21, paragraphs 5.2.8, 5.2.28; CD 9.5, paragraph 9.5.1, Plan C, page 17***).

104. *The Planning Practice Guidance* advises that the area of any sequential assessment should be agreed with the local authority, which must satisfy itself that an appropriate catchment area has been considered. There is insufficient justification for the smaller search area chosen. As the appellant has not shown that it has met the sequential test, planning permission should be refused. The fact that the development can be made safe from flooding is no reason to side-step the sequential test.

105. The proposed drainage measures would, amongst other things, reduce run-off

[26] This was accepted by Mr Birnbaum in cross-examination by Mr Green.
[27] This was accepted by Mr Wheeler in cross-examination by Mr Green.

from the site and this would be of potential benefit to neighbouring properties adjacent to the south-western corner of the site. Whilst this would be a positive attribute of the scheme, it would provide no justification for ignoring the requirement to carry out an adequate sequential assessment. If it were otherwise, development would not be directed to areas at lowest risk of flooding, contrary to the whole thrust of national flood risk policy.

Design and layout

106. The appellant accepted that the development of the site should follow the guidance in the *Chilterns Buildings Design Guide*[28]. However, the revised illustrative layout would not accord with the provisions of this document or the *Residential Design Guide* in the LP (***Documents 6.1, pages 26, 29, 39; CD 3.3, Appendix 1; APP 19, paragraph 6.92***):

    106.1. The cul-de- sac layout would be perceived as separate and detached from the wider village with insufficient space to provide a well planted entrance from Crowbrook Road.

    106.2. There would be an unvarying and uncharacteristic two-storey building height across almost all of the buildings.

    106.3. The scheme would include uncharacteristic flatted development and extensive terraced housing with minimal gaps between terraces

    106.4. There would be a repeated use of pattern book dwellings with the incorporation of unusual end of terrace structures.

    106.5. The layout would be dominated by frontage parking and parking areas would be separated from the dwellings they would serve.

    106.6. There would be inadequate back-to-back separation distances between certain properties and insufficient amenity space for the flats.

    106.7. This would be a new, essentially suburban, housing estate of uncharacteristic layout and design. It would be out of context with its surroundings and unsympathetic to the adjacent settlement and countryside.

107. It is appreciated that the appellant wishes to maximise the development of the site. However, many of the shortcomings would result from the relatively high density of the built-up part of the scheme. It is relevant to exclude the ecology area, open space and SuDS area when comparing the density with adjoining developments. This would be 42 dph in comparison with 13 dph in the existing frontage housing along Mill Lane and Crowbrook Road and 30 dph at St Dunstan's Close. The result would be an unacceptable scheme with no evidence that the number of dwellings proposed could be constructed in a layout that would meet the principles in the design guide. For this reason also, the proposed development should be rejected (***Document APP 19, paragraphs 6.93-6.98***).

[28] This was accepted by Mr Baker in cross-examination by Mr Green.

Loss of compensatory strategic open space

108. The open space needs of the new occupiers would be met satisfactorily by the proposed on-site provision and a contribution towards strategic open space elsewhere. However, the proposal would also result in the loss of an existing sports facility. Although the use no longer takes place the lawful use is for this purpose. The land is privately owned and the facilities were run for the benefit of the members of the Molins sports and social club. However, there was a wide range of memberships and guests and visitors from affiliated clubs could make use of the sports ground. Policy CS 15 in the CS seeks to prevent the loss of outdoor sports facilities. In the draft *Princes Risborough Town Plan* the site was designated for outdoor sports uses under draft policy PRTP12. This plan is now to be absorbed into the emerging WDLP (***Document APP 19, paragraphs 4.21, 6.116***).

109. Paragraph 70 of the Framework seeks to plan positively for the provision of community facilities, including sports venues. Paragraph 74 aims to safeguard existing open space, including playing fields, unless an assessment shows that the facility is surplus to requirements or an equivalent or better provision is made elsewhere. There are identified shortages in the Princes Risborough area of youth football pitches, cricket pitches and a synthetic turf pitch. The proposed contribution of £400,000 would be used to fund an all-weather sports pitch in Princes Risborough. However not all sports can be played on synthetic surfaces and this would not be a replacement with equivalent facilities (***Documents CD 4.5; APP 19, paragraphs 3.56, 6.113-5, 6.119***)

Sustainable development

110. Having regard to the breaches of GB, AONB, flood risk and design policies, the proposal would come nowhere near establishing very special or exceptional circumstances to warrant granting planning permission. It would thus fail to produce a development that would be sustainable in all its dimensions.

OTHER ORAL REPRESENTATIONS TO THE INQUIRY

The main points are:

111. **Mr M Stubbs** is planning adviser to the Chilterns Conservation Board (CCB) and provided a written proof of evidence as well as written representations to the planning application and the appeal (***Documents APP 1; APP 5; APP 20***). The purpose and statutory duties of the CCB include the requirement to prepare a *Chilterns AONB Management Plan*. This establishes the special features of the AONB. The decision maker in this appeal must have regard to the purpose of conserving and enhancing the natural beauty of the AONB in paragraph 85 of *The Countryside and Rights of Way Act 2000*. The proposal would be contrary to this legal duty as well as conflict with saved policy L1 in the LP, policies CS 2 and CS 17 in the CS and paragraphs 115 and 116 in the Framework (***Document CD 6.3***).

112. The appeal site was in use as a sports ground in 1965 when the AONB was designated. The designation also had regard to the proximity of the existing residential area to the south and west. Even though the sports use of the site has now ceased, the field is still used by local people for walking and exercise, whether or not it is private land. It serves a social purpose as open amenity

land and could easily become accessible natural green space, which benefits both the AONB and helps further a social purpose vested in the CCB.

113. There is clear inter-visibility between the appeal site and the escarpment to the east. From the western part of the site there is a sense of connection and identification with the dramatic scarp slope. When seen from Whiteleaf Hill and Brush Hill the depth and width of the view is apparent. The open character of the site is seen within the context of the wider AONB and in terms of the historic relationship of the AONB with the settlement, which follows the spring line at the foot of the scarp slope. The site is also seen in the context of the longer views across the lower lying vale to the north and west of the AONB. These are mentioned in the Management Plan as contributing to the special qualities of the AONB. The Inspector in the Mill Lane appeal accepted the inter-visibility of that site, which lies to the west of the appeal site and outside the AONB, with the AONB escarpment (***Document CD 6.3, page 19; 11.1***).

114. It is clear that the proposed quantum of development would be major. The appellant considers the impact on the AONB to be neutral but this is the wrong test in law, which is to conserve and enhance. The exceptions test in paragraph 116 of the Framework is not met because the need for housing is being accommodated elsewhere through the emerging WDLP. An expansion area for 2,500 homes is being planned in Princes Risborough outside the AONB. The appeal site is not designated for development and if the proposal were to go ahead it would prejudice the proper delivery of the proposed expansion area.

115. The boundaries of the AONB were reviewed in the 1980s and no revisions were proposed in respect of the appeal site. The criteria for a nationally protected landscape include its landscape and scenic quality, relative wildness and tranquillity, natural and cultural heritage, amongst other things. The appeal site performs well in relation to a number of these criteria and merits its AONB status. Its open character, historic field boundaries and relationship with wider views contribute to a sense of scenic beauty in this location. The appellant's LVIA downplays the qualities of the site in terms of it being degraded and damaged and only causing localised harm. This is not the case as the site is visible from elevated views and provides a clear edge to the urban area. The site is not peri urban or urban edge and the proposed development would fail to conserve the landscape and scenic beauty of the AONB.

116. **Councillor A Turner** is a district councillor, town councillor and long term resident of the area. He provided a statement, which he read to the inquiry (***Document INQ 7***). *The Princes Risborough Town Plan* has involved huge effort by the local community and will form a vital part of the emerging WDLP. The Government has urged communities to embrace housing growth. It has been hard for local people to accept that the size of the town is likely to almost double. However, the local community has engaged in the process with the clear understanding that sustainable growth must be located appropriately with adequate infrastructure provision.

117. The appeal site is in the AONB and GB and provides a buffer between Monks Risborough and Askett. The Government has resolved to protect the GB and there is no justification for building houses on this land. For over 40 years the appeal site operated as a community facility with a wide range of outdoor sports. It was used by the wider public and considered county-wide to provide a magnificent sporting venue. The Town Council supported by the council and

wider community sought to purchase the site but offers to do so were rejected. The site should be designated in line with its established use as a sports ground.

118. The area around Mill Lane has longstanding issues with flooding and the appeal site plays a major role in alleviating it by acting as a natural sponge. Even if the proposal were to address issues of flooding on the site it is likely to make matters worse for nearby properties. The development would generate a large amount of additional vehicle movements on surrounding roads and into Askett. These roads are already being used as rat-runs and they are wholly unsuitable for the increased traffic flows.

119. **Mr M Summers** is a local resident and also has a local business. The site may be well screened but it is still a valuable part of the AONB and GB. If it is developed then the new buildings would form a new edge to the built-up area. Although the proposal is only in outline, its character would be very different from surrounding development in Askett and Monks Risborough. There are no two and a half storey developments in either.

120. Increased traffic is of great concern to local people. Crowbrook Road becomes very narrow as it enters Askett and its conservation area due to on-street parking. There is now a 20 mph speed restriction but the lack of pavements and street lighting make it hazardous for pedestrians, including children who walk to the bus stop. There is already much traffic travelling through the village to the main road. Construction traffic and the large increase in vehicle movements associated with the development would make the situation far worse. Most people recognise that there has to be more housebuilding but it must be properly planned and integrated with improvements to infrastructure and facilities.

121. It is said that the site is run-down and would not be used for sport again. However, it is more valuable for use as building land. Since the 2012 Olympic Games the desperate shortage of land for sport and recreation has been highlighted. In the winter of 2013/14 there were high groundwater levels. The ditch along Crowbrook Road was full and seeped out into the road. It would be difficult to prove that the proposal would improve flooding conditions.

WRITTEN REPRESENTATIONS

Written representations to the appeal

*It should be noted that the representations were on the basis of the original layout for 140 dwellings when some three storey buildings were proposed (**Document APP 5**).*

122. The **Rt Hon John Bercow** is Member of Parliament for Buckingham and supports the community in opposition to the development. Whilst not specifically commenting on issues dealt with by statutory consultees he points out that the draft *Princes Risborough Town Plan* makes clear that the site should be designated for sports and recreation. He would like that ambition to be realised.

123. The **Askett Society** aims to ensure that proposals are consistent with the conservation and enhancement of the character of the village and its conservation area. The appeal site is on land within the GB and AONB that provides an important buffer so that Askett retains its own distinct sense of place. The development would result in the permanent loss of a significant

sporting facility in a town where there will be a desperate need for such facilities in the future. The density would be excessive and would not provide a quality living environment. The traffic along Crowbrook Road and through Askett would substantially increase leading to increased risk to routes that are already dangerous and restricted to 20 mph. Flooding in 2013/ 2014 was a huge issue and further hard surfacing would increase flood risk to the surrounding area.

124. There were a large number of representations from individual residents. Many of these raised similar objections and, rather than reporting each one individually, I have summarised the main points below:

Planning policy

124.1. The site is within the GB and AONB and is designated in the *Princes Risborough Town Plan* for recreational purposes. The proposal would result in the loss of a playing field and sports facilities, contrary to the advice of Sports England.

124.2. A substantial number of new houses are already proposed through the properly planned growth of Princes Risborough. There is no good reason for permitting this speculative development on greenfield land in the AONB, which is a precious landscape that should be protected.

124.3. Piecemeal proposals of this kind are an attempt to avoid contributing to the infrastructure improvements that are necessary as part of a properly planned development through the WDLP.

Character and appearance

124.4. The site is close to Askett, which is a small village of about 80 houses. A large part of the hamlet is a designated conservation area. A large and homogeneous development of the type and density proposed in such close proximity would not be appropriate or in keeping with the village or its conservation area.

124.5. The proposal would adversely impact on the conservation areas of Askett and Monks Risborough. In the *Princes Risborough Town Plan* it is part of the buffer zone between the two.

124.6. The proposed density and layout, which would include three storey buildings, would be out of keeping with the local area of bungalows and houses on spacious plots.

Residential amenity

124.7. The development would be close to existing residential properties and would cause overlooking and loss of privacy. There would also be noise and pollution on what is presently a quiet open space. This would be a particular issue for those dwellings on either side of the proposed new access road.

Highway safety and congestion

124.8. The Highway Authority has failed to consider the implications of traffic in the context of the many proposals for development in this area.

124.9. A 20 mph speed limit has recently been applied to Crowbrook Road. This is because it is very narrow and in many places has no footpaths. It is frequently used by pedestrians, including children, horses, dog walkers and the like. Drivers often ignore the speed limit. Any further traffic along Crowbrook Road and through Askett village and its various junctions would not be sustainable and there would inevitably be accidents, probably involving children.

124.10. The roads from the site through Askett and along Mill Lane are narrow and unsuitable for increased traffic flows, including heavy construction lorries and delivery vehicles.

124.11. The junction of Mill Lane and Crowbrook Road has poor visibility and is unsuitable for the traffic generated by the proposed development. The proposed improvement to this junction would be insufficient to improve its safety sufficiently. The low railway bridge inhibits movement for larger vehicles and curtails visibility for those travelling from a westerly direction.

124.12. Parts of Mill Lane are narrow and it is already hazardous for residents to pull out of their driveways and join the oncoming traffic. The lack of a footway along sections of Mill Lane means that it is a hazardous route for pedestrians, including those walking to the school. The significant increase in traffic resulting from the development would result in increased risk to driver and pedestrian safety.

124.13. There are already traffic queues at the junction of A4014, Aylesbury Road and Mill Lane due to heavy and continuous flows on the main road. More cars would compound this problem and lead to increased use of Place Farm Way as an alternative route. There would also be increased danger due to the proximity to Monks Risborough junior school and the pedestrian movement associated with it.

124.14. Some considered that whatever the use of the appeal site, access should only be from Mill Lane as it is the link between the A4010 and B4009. Others felt that two access points were necessary.

124.15. The layout shows insufficient parking on the site and this would result in overspill parking in surrounding roads. Parking from the railway station already occurs along Crowbrook Road and some parking associated with St Dunstan's Close takes place in Mill Lane. The proposal would add to traffic problems and nuisance to existing residents.

Ecology

124.16. There are bats, badgers, foxes and roe deer within the appeal site. Skylark nests were destroyed by the mowing of the grass to make the field appear managed.

Drainage and flooding

124.17. The site is low lying, contains several springs and is subject to frequent flooding. Additional surface water runoff would exacerbate existing flooding issues in the surrounding area.

124.18. The sewerage system reached its limit when St Dunstan's Close was built.

124.19. The Inspector rejected an appeal for development at Mill Lane on the grounds of flooding and a similar conclusion should be reached here.

Local infrastructure

124.20. There is inadequate infrastructure in Monks Risborough to cope with the additional population. There is no doctor's surgery, the primary school is over-subscribed and there is one shop and no post office. There are also few facilities in Askett.

124.21. Lack of local jobs as well as shops and facilities mean that the new residents would be dependent on cars to travel about. This would add to the traffic problems in the area.

124.22. Existing facilities in the area are operating above capacity already, including schools, doctors, dentists and hospitals as well as the train service to London where passengers frequently have to stand.

Written representations to the planning application

125. **Princes Risborough Town Council** objects to the proposal on the grounds that the site is in the GB and AONB. It does not want development of this land as a matter of policy (***Document CD 2.3***).

126. There were also many objections from local residents at planning application stage and these are included in the questionnaire (***Document APP 1***). They generally made similar comments to those reported above. Additional points were:

126.1. Addressing the issue of healthy lifestyles by increasing physical activity and supporting mental wellbeing will not be achieved by building on the AONB and land designated for sports use for the existing population.

126.2. There is no regular bus service into Princes Risborough from near the site but rather a small bus run at irregular times by volunteers. The nearest bus route is some distance away on Aylesbury Road.

126.3. There are many available brownfield sites, which would be more suitable for development than this greenfield land.

Consultation responses

127. **Sport England** object to the scheme (***Document CD 2.1***). Its aims are to protect existing facilities, enhance the quality, accessibility and management of existing facilities and provide new facilities to meet demand. The site was last used as a playing field and falls to be considered under paragraph 74 of the Framework. National policy makes no distinction between privately and publicly available sports provision. Whilst not in active use at present, the site remains capable of being used for its lawful purpose. Sport England's playing fields policy is to resist any development that would result in the loss of a playing field unless one of five exceptions apply. One of these is replacement with equivalent or better playing fields in terms of quantity, quality and accessibility. No evidence has been given that this would be fulfilled.

128. The council does not appear to have produced a playing pitch strategy. In the *Wycombe District Sports Facilities Strategy* it identifies a shortage of playing pitches (***Document CD 4.5, paragraph 4.3.2***). The appeal site could be used in part to remedy that shortfall. It is up to the appellant to find a replacement site rather than the council. Provision on site or off site also needs to be made for the sporting and recreational needs of the new population.

129. **Buckinghamshire County Council as LLFA** withdrew its objections in terms of surface water and groundwater flood risk. It is now satisfied that the revised FRA includes a drainage strategy that should control flooding on the site as well as provide a significant reduction in flood risk in the Crowbrook Road area. It was pointed out that a 25% reduction in greenfield run-off rates would be achieved. It was commented that a groundwater monitoring programme was to be carried out over the winter months and it is understood that this is ongoing (***Documents APP 14, paragraph 3.3.5; CD 2.4; CD 2.10; CD 2.13***).

130. **Thames Water** identified that existing waste water infrastructure was not able to accommodate the new development. It suggested a Grampian style condition that development should not commence until a drainage strategy detailing any drainage works had been approved and implemented. The developer should make proper provision for surface water drainage to the ground, watercourses or a suitable sewer (***Document CD 2.5***).

131. **Buckinghamshire County Council as Local Education Authority** comments that all primary schools are currently at capacity, taking account of recent planning permissions. There are expansion projects currently being proposed at Princes Risborough School and Great Kimble School to accommodate increased housing growth. As things stand the additional capacity would be sufficient for the appeal site too. Funding would be expected through a financial contribution to the expansion of Great Kimble School (***Documents CD 2.8; APP 7; INQ 3***).

132. **Buckinghamshire County Council's Archaeological Service** has identified finds in the vicinity through the *Historic Environment Record*. It has therefore concluded that the site has the potential to include heritage assets of archaeological interest. It is considered that appropriate conditions could be imposed so that evaluation is carried out and, depending on what is found, a scheme for investigation and recording is undertaken before development takes place.

133. There is a footpath level crossing over the single track railway to the north-west of the appeal site and north of the railway station. **Network Rail** recommended that the impacts on the crossing from the new population should be assessed. Following such an assessment by the appellant the objection was withdrawn although Network Rail commented that usage of the level crossing would continue to be monitored (***Documents CD1.20; CD 2.11; CD 2.14***).

134. **Buckinghamshire County Council as Highway Authority** raised no objections to the appeal proposal, subject to a number of conditions (***Document CD 2.15***). It is content with the Transport Assessment and its assumptions about trip distribution although it considered that the daily trip rate should be slightly higher on the basis of TRICS information. Visibility to the right when exiting the junction of Crowbrook Road and Mill Lane would need improvement. There is also a capacity issue at the Tesco roundabout and this would justify requiring an improvement to the New Road arm.

135. The Transport Assessment estimates 203 additional daily vehicle movements along the northern section of Crowbrook Road, through Askett village and up to the A4010 junction. Despite local concerns there are no objective reasons for refusing permission on highway grounds. Taking account of the 20 mph speed restriction that was introduced in 2015, there may be more people walking between Monks Risborough and Askett for leisure purposes. There is at present no footway for a 400m stretch of Crowbrook Road up to its junction with Askett Village Lane. Balancing this with the increased vehicle movements would justify a section of new footway, albeit this would not cover the whole 400m stretch.

136. The appeal site is within reasonable distance of a high quality bus route between Aylesbury and High Wycombe, making use of the proposed link from the site onto Mill Lane. In order to improve the attractiveness of the bus service there is a requirement for a contribution to provide real time passenger information at the nearest two bus stops. The main route between the site and Princes Risborough for pedestrians and cyclists is via Place Farm Way and Wellington Avenue. Improvements in the form of signage along the cycle route and signalisation to the zebra crossing would provide a link for cyclists between the site into the existing cycle network in Longwick Road.

PLANNING CONDITIONS

137. The council and the appellant produced a list of conditions, which were discussed at the inquiry (***Documents APP 3; INQ 19***). I have considered these having regard to paragraph 206 of the Framework and the *Planning Practice Guidance*. In some cases I consider the suggested conditions to be overly complex or prescriptive and have recommended shorter and more focused alternatives. The conditions that I commend to the Secretary of State, if he is minded to grant planning permission, are set out in annex three. The numbering does not accord with that within the above documents as some conditions have not been recommended for the reasons explained below. For the avoidance of doubt the condition numbers in this section of the report and referred to in the conclusions concur with the numbering in annex three.

138. **Conditions 1-3** are the standard conditions relating to the implementation of outline planning permissions. In order to contribute to the housing land supply shortfall in the short term it is reasonable to reduce the implementation period from that normally applied to outline permissions. A reduced period for implementation following the submission of reserved matters was agreed. However the appellant did not wish to reduce the time for submitting reserved matters in case the decision was challenged through the Courts.

139. There are two highway plans that are not illustrative and these show details of the site access and the improvement to the junction of Crowbrook Road and Mill Lane. These are listed in **condition 4** for the avoidance of doubt and in the interests of proper planning. **Condition 5** specifies the maximum number of dwellings as 131. The number was reduced from 140 at appeal stage and my consideration has been on the basis of this amended number as explained in paragraph 2 of the report. In the circumstances it is reasonable to include a condition to make clear that 131 dwellings is the maximum number permissible on the site.

140. The parties suggested a landscaping condition. However, this is unnecessary because landscaping is a reserved matter and not to be considered at this stage. **Conditions 6 and 7** concern the trees and hedgerows within the ecology area site boundaries that are shown for retention on the revised illustrative layout. These are important both visually and for ecological purposes and it is necessary at outline stage to ensure that they are protected during the construction period and for 3 years thereafter. It is unlikely that such protection could justifiably be imposed through the landscaping reserved matters. Whilst I appreciate that the council wish to specify what is to be included in the Arboricultural Method Statement this seems to me overly prescriptive and unnecessary.

141. Construction usually causes a certain degree of disruption and inconvenience both to those living nearby and to highway users. In order to mitigate adverse impacts **condition 8** requires the submission of a Construction Management Plan. It was confirmed at the inquiry that the reference to phasing was in order to ensure that there would be control over the siting of the works compound. However, it seems unlikely that a development of this size would be built in phases or that the compound would need to move about the site once established. I have not included a requirement for a survey of the condition of the surrounding highway network as it is unclear what this would entail. In any event the construction traffic routes are to be approved and this seems to me sufficient to protect the interests of highway safety and local amenity. Dust and dirt emission can be a problem for those living nearby and so I have added this as a matter to be included for consideration in the Construction Management Plan.

142. It was clarified at the inquiry that the suggested condition relating to external lighting was not intended to apply to residential properties. The site is outside the settlement and within the darker AONB landscape. It also has ecological interest and so it is necessary to control the amount and type of lighting in the public open spaces. **Condition 9** is a simplified version of the suggested condition. The likelihood of the developer installing the approved lighting system and then changing it for a more intrusive one seems remote and it is unnecessary to cover this eventuality in the condition. Street lighting has a highway safety aspect and this is covered by **condition 15**.

143. The updated FRA provides an outline strategy for SuDS, with which Buckinghamshire County Council as LLFA is content (***Documents CD 1.21; CD 2.13***). Whilst a detailed strategy is necessary, I have reworded **condition 10** to refer to the FRA, which contains the principles on which the details will be based. The future management and maintenance of the SuDS is detailed in the UU and therefore a condition is not required to cover this matter. The FRA indicates that a minimum floor level of 150 mm above surrounding ground levels should be achieved to ensure that flood risk to occupiers would be minimised in extreme events. **Condition 11** secures this requirement but in order to be effective it also requires details of any changes that may be proposed to ground levels. The condition has been reworded accordingly.

144. **Condition 12** requires details for the disposal of foul drainage. Thames Water as the statutory provider and has indicated that existing waste water infrastructure would not be able to accommodate waste from the development. It has suggested a condition that a drainage strategy detailing drainage works

on or off the site should be submitted for approval before development commences (***Document CD 2.5***). However, there is no evidence provided by the statutory undertaker as to the nature of the insufficiency or how it should be resolved. The council commented at the inquiry that it had tried unsuccessfully to obtain an update from Thames Water on the matter. In the circumstances there is insufficient evidence to show that the suggested requirement is necessary or indeed that such a vague and open ended provision would be reasonable. Thames Water has a statutory duty to provide a connection and given the circumstances it would be unduly onerous to require the appellant to submit anything for approval other than a foul drainage scheme. I have worded the condition accordingly.

145. The Historic Environment Record indicates that there have been finds in the vicinity of the site and it is therefore reasonable to conclude that there is the potential for heritage assets of archaeological interest. The Archaeological Service at Buckinghamshire County Council is now satisfied that the matter can be adequately dealt with by pre-commencement conditions requiring evaluation and either recording or preservation in situ, depending on what is found. Two of the three conditions put forward by the Archaeological Service are required to be discharged before reserved matters are submitted. Such timing is unusual but in this case I consider it is justified. This is because there does not appear to have been preliminary archaeological work carried out on the site by the appellant. The approach advocated by the Framework is that this should be undertaken before any grant of planning permission. The proposed timing therefore seems to me to be a pragmatic solution which ensures that any finds justifying preservation in situ would not be compromised by a layout that had already been approved. **Conditions 13 and 14** are worded in a slightly different way in the interests of clarity and precision.

146. The ecology area is identified on Plan 3 in the UU and a planning condition relating to this matter is thus unnecessary. However, Plan 3 also shows an ecology corridor that is not specifically referred to in the Deed itself. **Condition 15** refers to the provision of this area and requires details of its future maintenance and management. This is necessary in the interests of nature conservation and the enhancement to biodiversity in accordance with Paragraph 118 of the Framework.

147. Access is not a reserved matter. The *Town and Country Planning (Development Management Procedure) (England) Order* 2015 makes clear that access includes the positioning and treatment of circulation routes within the site. **Condition 16** is thus necessary to ensure that the internal roadways are provided to satisfactory specifications even though it is not known at this stage whether the Highway Authority will adopt them or not. The suggested conditions have been combined and reworded in the interests of precision and require drainage, surfacing and lighting details to be submitted for approval. It is also necessary to ensure that each dwelling has a satisfactory vehicular connection to the public highway prior to occupation. The council has suggested a condition relating to parking, garaging and manoeuvring areas. However, it seems to me that these matters would be best dealt with as part of the layout at reserved matters stage.

148. **Condition 17** is required to ensure that a safe and convenient access from Crowbrook Road into the site is provided before any other development gets

underway. It is unnecessary for the condition to go any further than this because the UU includes a covenant for the creation of the access in accordance with the Highway Authority's specifications. As construction traffic would be using the access it is not reasonable to require the surface course to be provided until development has been completed or the access has been adopted.

149. The existing driveway to the former sports ground is overgrown and poorly surfaced. It is intended that this should be used as a pedestrian and cycle link to Mill Lane and an emergency access. This would require some form of removable barrier to prevent use by vehicular traffic. **Condition 18** requires further details to be submitted for approval. It is appreciated that it may not be safe to provide this link whilst construction work is underway on the southern part of the site. The condition that is recommended therefore allows flexibility in the implementation of this link in the interests of public safety.

150. The use of Travel Plans is supported by policy CS 20 in the CS and policy DM2 in the DSAP. The Framework also indicates that Travel Plans provide a key tool to facilitate the use of sustainable transport modes. **Condition 19** is therefore necessary in the interests of promoting accessibility and encouraging occupiers to use modal choices other than the private car.

151. The council seeks to protect and retain views across the site from the west and north-west towards the escarpment and Whiteleaf Cross. A condition is therefore suggested requiring the submission of cross sections to demonstrate the impact of development on such views. I have considered this in paragraph 203 of the Report. For the reasons given there I do not consider that a condition relating to this matter is necessary. I have considered whether a building height restriction should be imposed at this stage. However the appellant has indicated that the proposal would involve mainly two-storey development with two areas where it may rise to two and a half storeys (***Document APP 9, paragraph 5.6***). Whilst this is only indicative I do not consider that the matter is so critical that it would justify imposing a limitation at this stage. There is sufficient control available at reserved matters stage when the appearance, layout and scale of development will all be submitted for the council's consideration.

PLANNING OBLIGATION BY UNILATERAL UNDERTAKING (UU)

152. The fully executed Deed is in the form of two identical counterparts dated 2 February 2017. The parties to the UU are the site owner, Molins Plc and the mortgagee, Lloyds Bank Plc and the Deed is made in favour of Wycombe District Council. There is a "blue pencil" clause in the Deed whereby a planning obligation will cease to have effect if the Secretary of State concludes that it does not comply with the Community Infrastructure Levy (CIL) Regulations (***Document INQ 21***).

153. Nine schedules contain the various covenants. These are as follows:

    153.1. **Schedule One** makes provision for a minimum of 40% of bedspaces within the residential accommodation to be affordable. The provision of the affordable units is linked to the delivery of the market homes in three stages. The final stage is that all affordable units must be provided before more than 70% of market houses are occupied. The tenure mix is 66% affordable rented or social rented housing and 34%

shared ownership. A scheme for the location and size of units is to be agreed with the council. **Schedule Two** establishes that shared ownership units are to be occupied by those with a local connection to the district.

153.2. **Schedule Three** is in four parts:

- Part A establishes the arrangements for the provision, management and future maintenance of the on-site open space.
- Part B provides for a contribution of £250,000 towards off-site strategic open space, which is specified as a synthetic turf sports pitch in Princes Risborough.
- Part C provides for a contribution of £400,000 to fund a new youth all-weather sports pitch at St Peter's School, Monks Risborough or a similar project nearby if the terms of Regulation 123 of the CIL Regulations are breached. Provision is made to pay the contribution in two tranches linked to the occupation of the dwellings.
- Part D relates to the ecology area, which is defined on Plan 3 of the Deed. It includes the requirement for a detailed scheme for the provision, maintenance and management of this area.

153.3. **Schedule Four** concerns the SuDS and makes provision for a regime for its delivery, management and maintenance. This will either be by the statutory drainage authority or the Management Company.

153.4. **Schedule Five** concerns the Management Company, which will administer and maintain the ecology area, open space and potentially the SuDS. No market unit may be occupied until the Management Company is established and operational. Provision is made for its initial funding and for funding during the lifetime of the development.

153.5. **Schedule Six** provides for the off-site highway works, which are identified on Plan 2 of the Deed as follows:

- The creation of a new access into the site from Crowbrook Road, built to Buckinghamshire County Council's highway specifications.
- Off-site works to improve visibility at the Mill Lane/ Crowbrook Road junction.
- Off-site mitigation works at the Tesco roundabout to improve capacity.
- Provision of a new section of footway along Crowbrook Road.
- Provision of signage along the Place Farm Way and Westmead cycle route.
- Provision of an off-road cycle path on Wellington Avenue.
- Signal controls to the Longwick Road zebra crossing for cyclists.

Provision is made for a scheme for the delivery of the above works, including security, for example through a bond.

153.6. **Schedule Seven** provides for a contribution of £40,000 for improvements to two bus stops on Aylesbury Road, which are identified on Plan 2.

153.7. **Schedule Eight** provides for a pre-school and primary school contribution of £479,078.00 or such other sum once the number and mix of dwellings has been determined. This will accord with a formula set out in the schedule.

153.8. **Schedule 9** covenants to pay £1,000 annually for five years following the commencement of development in order for Buckinghamshire County Council to monitor the Travel Plan.

INSPECTOR'S CONCLUSIONS

The numbers in square brackets refer back to earlier paragraph numbers of relevance to my conclusions.

154. There is no dispute that a development of up to 131 houses would be inappropriate development in the GB, having regard to paragraph 89 in the Framework [***44; 86***].

155. The position of the appellant regarding whether this would be major development in terms of paragraph 116 of the Framework was less clear. In terms of housing numbers it was agreed that it was. However the argument was made that it was also necessary to consider the impact. In terms of that the appellant did not consider that the proposal would be major. In the circumstances I have considered the issue of whether or not the proposal would fall within the category of a major development in the AONB under consideration five [***52; 93***].

156. The main considerations are therefore as follows:

- **Consideration one**: planning policy context and approach to decision making
- **Consideration two**: whether the proposed development of the site is needed to meet the housing needs of the district.
- **Consideration three**: whether the harm caused by the inappropriate nature of the proposed development and any other harm would be clearly outweighed by other considerations.
- **Consideration four**: whether the proposed development would be acceptable in terms of its design and layout.
- **Consideration five**: the effect of the proposal on the Chilterns AONB.
- **Consideration six**: whether the proposal would result in unacceptable risk of surface water flooding taking account of the policy requirements for a sequential test.
- **Consideration seven**: whether the proposal would make adequate provision for compensatory strategic open space
- **Consideration eight**: other matters
- **Consideration nine**: whether any conditions and obligations would be necessary to make the development acceptable.

- **Consideration ten**: Overall conclusions and planning balance to determine whether the proposal would be a sustainable form of development, taking account of the three dimensions in the Framework.

CONSIDERATION ONE: PLANNING POLICY CONTEXT AND APPROACH TO DECISION MAKING

157. The development plan comprises the CS, the DSAP and the saved policies of the LP. There is no dispute that the appeal site is outside the settlement boundary of Monks Risborough, which follows the rear boundaries of residential properties in Mill Lane and Crowbrook Road and the western edge of St Dunstan's Close. For policy purposes it is therefore defined as countryside where policies CS 2 and CS 7 seek to ensure that development is strictly controlled. The proposal for up to 131 houses would not accord with these policies [***7; 12; 15.2; 15.3***].

158. There is also no disagreement that the site is within the GB and AONB. The boundaries of these designations are coincidental with the settlement edge at this point. Whilst the CS included some changes to the GB boundary, most of these involved land that was to be added to the designation. The boundaries of the AONB were reviewed in the 1980's. No changes have been proposed or implemented in respect of the position of the appeal site in either designation. The emerging WDLP, although at a very early stage in the adoption process, is not seeking to change that position [***11; 15.2; 17.1; 115***].

159. Saved Policy L1 in the LP does not permit development that would damage the natural beauty of the AONB landscape. Policy CS 17 in the CS requires its conservation and enhancement. Paragraph 115 of the Framework makes clear that great weight is to be given to conserving the landscape and scenic beauty of the AONB, which has the highest status in relation to those attributes. National policy reflects the statutory duty under section 85 of the *Countryside and Rights of Way Act* where regard is to be paid to the purpose of conserving and enhancing the natural beauty of such landscapes. Housing development in the AONB is not unacceptable as a matter of principle and its acceptability is a matter of planning judgement [***14.3; 29; 15.2; 50; 111***].

160. Policy CS 9 in the CS indicates that the GB will be protected from inappropriate development, which is consistent with national policy in the Framework. This makes clear that such development should not be approved except in very special circumstances. These will not exist unless the harm to the GB by reason of inappropriateness and any other harm is clearly outweighed by other considerations [***14.2; 15.2***].

161. Paragraph 47 of the Framework seeks to boost significantly the supply of housing. Amongst other things it aims to ensure that there is a supply of deliverable sites sufficient to provide five years' worth of housing along with a buffer to ensure choice and competition in the market for land. There is no dispute that the council is only able to demonstrate a 4.91 year supply of deliverable sites against the buffered requirement. Paragraph 49 of the Framework makes clear that housing applications should be considered in the context of the presumption in favour of sustainable development. However, if a five year supply cannot be demonstrated then relevant policies for the supply of housing should not be considered up-to-date. Policies CS 2 and CS 7 are such policies because they restrict housing provision. It is also the case that policy CS 12 is out of date because it is based on a housing requirement that is no longer

tenable. This is considered further in the next section [***15.1; 15.3; 83***].

162. Paragraph 14 of the Framework provides the relevant decision making context when relevant development plan policies are out-of-date, although this does not change the statutory primacy of the development plan. The relevant part of paragraph 14 contains two limbs. Due to the location of the site in the AONB and GB the second limb is relevant. This indicates that the "tilted balance" in the first limb will not apply unless the proposal does not offend the restrictive Framework policies relating to the protective designations. If that proves to be the case then the test in the first limb is carried out to determine whether the proposal would be sustainable development to which the presumption applies.

163. It has recently been decided to amalgamate the draft *Princes Risborough Town Plan* with the emerging WDLP. The latest *Local Development Scheme* anticipates that the combined document will be submitted for examination in July 2017 and adopted in March 2018. There is also a need to correspond with the programme of the Aylesbury Vale District Local Plan due to the likely reliance on that local authority to accommodate some of Wycombe's housing need under the duty to co-operate. I agree with the main parties that there is no justification for an objection on the grounds of prematurity. The appeal proposal would not be so substantial, or the cumulative effect with other developments in Princes Risborough so significant, that its approval would undermine the plan-making process. In addition the emerging plan is at an early stage in the adoption process and has many hurdles to overcome [***17.1; 17.4; 27.3; 44; 77; 114***].

CONSIDERATION TWO: WHETHER THE PROPOSED DEVELOPMENT OF THE SITE IS NEEDED TO MEET THE HOUSING NEEDS OF THE DISTRICT

Housing requirement

164. The most up-to-date assessment of housing need is provided as part of the evidence base to the emerging WDLP. The 2016 HEDNA update established a FOAN for Wycombe District of some 12,900 dwellings for the period 2013-2033 or 645 dwellings per annum. This was lower than the 2015 assessment but took account of new population and household projections. The requirement is considerably in excess of the 8,050 dwellings in policy CS 12 of the CS for the period 2006-2026, which amounted to 402.5 dwellings per annum. However, that figure was derived from the now revoked South East Plan and is thus out-of-date. Even though the 2016 HEDNA figure has not yet been tested through the examination of the emerging WDLP, I agree with the main parties that it provides the most up-to-date assessment of FOAN for the district [***15.3; 17.1; 17.2; 83***].

165. The five year period relevant to this appeal is April 2016-April 2021. Delivery since 2013 has not met expectations and so the shortfall needs to be added to the requirement. The Framework makes clear that to this should be added a buffer, brought forward from later in the trajectory, to ensure choice and competition in the market for land. In the absence of any convincing evidence that this is a council with a record of persistent under delivery there is no reason to apply other than a 5% buffer. The calculation is undertaken in the council's 2016 position statement, which establishes a buffered five year target of 4,300 dwellings or 860 dwellings per annum [***38; 43***].

166. It is important to recognise that this figure reflects the FOAN without any

account of the element that is likely to be taken by Aylesbury Vale District Council under the duty to co-operate. The latest position between the two councils in their Memorandum of Understanding is that 1,700 dwellings of the 20 year requirement would be accepted by the adjacent local authority. This is because of constraints in Wycombe District, including the substantial amount of GB and AONB land that it contains. This is clearly a matter that will be considered during the examination of the WDLP in due course. However, at the present time that plan is at an early consultation stage and has very limited weight. It would be incorrect for the purposes of this appeal to take any account of the potential for Wycombe District to only meet part of its FOAN [***38; 41; 83***].

167. It is clearly desirable for the council to meet as much of its FOAN as possible in its own boundaries and conversely to rely as little as possible on its neighbour. The consequence of planning permission being granted on the appeal site may well be that the neighbouring authority would need to take 131 less houses. However, it does not seem to me appropriate to speculate on a matter that will be determined through the local plan process in due course. In the circumstances I do not consider that this would be a benefit of the appeal proposal to be included in the planning balance. In this appeal the housing land supply assessment should not rely on the emerging WDLP or its housing allocations [***41; 42***].

Five year housing supply

168. Turning to the supply of sites, the 2016 position statement identifies 4,226 deliverable dwellings, which would result in the 4.91 years supply mentioned above. The appellant did not challenge these figures but I had some concern about some of the 453 dwellings on "other identified deliverable sites". However, having received further information from the council I am satisfied that they would be deliverable within the next five years[29] [***83***].

The shortfall and its significance

169. In this case the housing deficit is relatively small, being 0.09 years, which would amount to some 77 dwellings[30]. The Framework does not distinguish between a small and a large deficit when considering five year housing land supply and the policy approach that should be taken to it. Indeed one of the core planning principles in the Framework is that the housing needs of an area should be objectively identified and then met. Nevertheless, the weight to be given to the benefit of contributing to housing land supply would depend in part on the extent and significance of the shortfall. In this case it is relatively small and in terms of the number of dwellings involved it is considerably less than is being proposed in the appeal development. Whilst there is no suggestion that overprovision is a bad thing, the Framework specifically requires a buffer to provide flexibility. The buffer is not an additional requirement but rather part of the supply brought forward from later in the housing trajectory [***37; 83- 85***].

170. The significance of the shortfall will also depend on how long it is likely to

[29] See ***Documents INQ 5 and INQ 6***.
[30] The council calculated this as 74 dwellings. However, on the basis of a buffered target of 860 dwellings per annum, a 4.91 year supply would translate to a 0.09 year shortfall of 77 dwellings (860 x 0.09 = 77.4).

persist and the measures that the council is taking to address it. The emerging WDLP is presently at an early stage and has a number of complex issues to resolve. The adoption date of March 2018 in the Local Development Scheme may be rather optimistic. The appellant is not a housebuilder although it is noted that there is confidence that the site would be easily marketable. There would be reserved matters to resolve and pre-commencement conditions to satisfy. Nevertheless, it is not unreasonable to surmise that the site would be able to contribute to reducing the short term housing deficit and this may well happen before a five year supply is in place through an adopted development plan [***24; 42; 85***].

Affordable housing

171. There is a significant level of affordable housing need in Wycombe District. The most recent assessment is in the 2016 HEDNA which indicates an annual need of at least 155 dwellings per annum over the period 2013-2033. Policy CS 13 in the CS seeks to ensure that at least 40% of bedspaces in greenfield developments are affordable, although this is subject to viability. The council's latest Monitoring Report indicates that the affordable bedspaces achieved as a proportion of annual completions was nothing near 40%. This means that year on year the shortfall in affordable provision will grow [***15.3; 17.2; 79.3***].

172. The appeal development would provide the policy level of affordable bedspaces, which the appellant estimates to amount to around 55 dwellings. The tenure mix would accord with need in terms of intermediate and affordable rented or social rented products [***79.3; 153.1***].

Conclusion

173. The size of the proposed development relative to the short term housing deficit would reduce the benefit to be given to the proposed housing provision. Nonetheless, its contribution should be recognised in meeting local housing need, in particular the affordable housing provision, which is a pressing issue in Wycombe District. In the circumstances I consider that the contribution of the proposed development to housing delivery can be given considerable weight in the planning balance.

CONSIDERATION THREE: WHETHER THE HARM CAUSED BY THE INAPPROPRIATE NATURE OF THE PROPOSED DEVELOPMENT AND ANY OTHER HARM WOULD BE CLEARLY OUTWEIGHED BY OTHER CONSIDERATIONS

174. Paragraph 89 of the Framework makes clear that the construction of new buildings is inappropriate development in the GB, subject to a limited number of exceptions. The building of up to 131 dwellings is not one of them and there is no dispute on this matter by any party. Inappropriate development is, by definition, harmful to the GB and should not be approved except in very special circumstances. Paragraph 88 says that very special circumstances will not exist unless the potential harm to the GB by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The Courts have held that "any other harm" also includes harm other than to the GB. The latter will be considered in subsequent sections of the report. It is thus clear that a conclusion on very special circumstances follows from the balancing exercise and this is undertaken in the final section of this report [***44; 86***].

175. The Framework indicates that substantial weight should be given to any harm to the GB. The effect of a development on openness and the purposes of including land within the GB is instrumental in determining inappropriateness in some of the exceptions listed in paragraph 89 of the Framework. However, that would not be the case with the appeal proposal, which would be inappropriate as a matter of principle. It is therefore justifiable to consider other GB harm, which relates to openness, conflict with purposes and visual amenity as separate matters [***48***].

Effect on openness and visual amenity

176. The appeal site is at present an open field with The Haven bungalow and its garden and paddock at the northern end. Whilst it is understood that a sports pavilion once stood on the southern part of the site and there would have been netting round the tennis courts, these features no longer exist. Some remnant hard surfaced courts and bases are still in place but the site is in large part undeveloped. The appeal proposal is for "up to" 131 dwellings but it is reasonable to assume that the maximum number could be built. It is difficult to see how this scale of housing could be constructed without a significant diminution in the openness of the land, even taking account of the removal of The Haven and the built development that previously existed in connection with the sports ground use. It is acknowledged that there would be a swathe of open space along the northern and eastern sides of the site and that the existing hedge and boundary trees would be retained. There would therefore be a good buffer between the new built development and the wider GB to the north and east. In addition there are urban influences, including the prominent settlement edge so that there would be negligible harm to the visual amenity of the GB, in my opinion [***25; 48; 89***].

177. However, whilst the Courts have determined that openness has a visual dimension, it is predominantly a spatial concept. The quality of the landscape is not the primary factor in GB designation. The essential characteristics of the GB are its openness and permanence. The argument that there would be no change to the openness of the GB beyond the boundaries of the site rather misses the point. The fact is that the site is itself GB. Following development it would be significantly less open than it is now and this would be a permanent change [***48***].

Effect on GB purposes

178. The purposes of the GB are set out in paragraph 80 of the Framework. The proposal would undoubtedly result in the spread of the urban area onto land that is predominantly undeveloped. To that extent it would result in urban sprawl. However, it seems to me that the first purpose in paragraph 80 of the Framework is more specific as it refers to the unrestricted sprawl of large built-up areas. I am not convinced that the scale of the proposed development and the size of this settlement would qualify in these terms. It is appreciated that local objectors are concerned about the merging of the hamlet of Askett with Monks Risborough. However, it does not seem to me that this is what the purpose relating to the merging of neighbouring towns is likely to have had in mind. In any event the open land that would remain, along with the intervening vegetation, would ensure that the separate identities of the two settlements would be protected [***87; 117; 123; 124.4; 124.5***].

179. Local people have also mentioned the role of the site in maintaining the setting and special character of the Askett and Monks Risborough conservation areas. I acknowledge that these heritage assets are separated by a relatively narrow swathe of GB land that includes the appeal site. However, bearing in mind existing frontage development along Mill Lane and the woodland, trees and hedgerows in the intervening space, I am satisfied that the setting and identity of the conservation areas would be preserved. The purpose relating to urban regeneration is not applicable here [***87; 123; 124.5***].

180. The purpose that would be most affected relates to encroachment. The appeal site at present adjoins the developed edge of Monks Risborough. At this point the settlement boundary is not a uniform line and this reflects the historic pattern of development with frontage housing along Mill Lane and Crowbrook Road. Mill Lane has some more recent in-depth development, including St Dunstan's Close, which was built on a former factory site. The rear line of this housing extends level with the southern half of the appeal land. It is therefore the case that the western, southern and a half of the eastern boundaries adjoin the settlement edge and the southern part of the appeal site is particularly affected by urban influences [***25; 87***].

181. This though is not unusual and often the GB and the built-up area will be in juxtaposition with indentations rather than a regular edge. Indeed it could be argued that the parts of the GB nearest the settlement are the most vulnerable in terms of development pressure. I have already explained that the purpose of the GB is largely as a spatial tool and whether or not the land is unkempt or physically contained are not primary factors in the consideration of encroachment. Effectively the appeal development would result in a new urban edge. Bearing in mind the position of the ecology area, which would be fixed, I do not consider that the new urban edge would be likely to be any more defensible than what exists at present. Visually it could be made greener and more attractive but that would not outweigh the harm arising from the encroachment itself. The fact of the matter is that 131 houses would urbanise the intervening space between the present settlement edge and the adjoining area of GB countryside. The site may be relatively small in terms of the size of the whole designation but that does not mean that its role is unimportant. The proposal would result in significant encroachment and therefore would harm one of the purposes of the GB [***47; 79.1***].

182. The appellant referred to a recent decision by the Secretary of State where planning permission was granted for a large residential development at Boorley Green, Eastleigh. However, the conclusions in relation to countryside encroachment concerned development within a local gap. That is a very different proposition to the present case where the designation in question is of national importance [***79.1***].

GB releases and the emerging WDLP

183. There is no dispute that in order to meet its future housing requirements the council will need to release some land from the GB. This is addressed in the emerging WDLP and a subsequent review has concluded that GB sites could accommodate about 1,160 dwellings. However, the sources of supply and the amount of housing that Aylesbury Vale District Council is willing to take under the duty to co-operate are matters for consultation and consideration during the examination process. There is no guarantee that this position will not be subject

to significant change prior to the plan's adoption [***40; 45; 88***].

184. It is acknowledged that when the council considered Molins sports ground as part of its GB assessment, it performed equally well to other favoured sites when tested against GB purposes and the other criteria for release. Where it fell down was in relation to the other non-GB objections, set out in the putative reasons for refusal. Indeed the council in its evidence to the inquiry, agreed that it would have promoted the release of the site had it not been for these other constraints. That may well be the case but it seems to me of limited relevance to this appeal because the council does not rely on any GB releases for its five year housing land supply at the present time [***46; 47; 76; 78; 88***].

185. The Framework stresses the permanence of GB boundaries and that, once established they should only be altered in exceptional circumstances through the preparation and review of the local plan. The council has started this process but it is far from complete and has many hurdles to overcome. The GB releases are intended to contribute to supply in the longer term and the examination is the place to test the council's assessment and whether the appeal site could justifiably be added to the GB releases for housing. Indeed it is noted that the appellant has submitted representations to the 2016 consultation drafts of the WDLP and *Princes Risborough Town Plan* on these grounds[31].

186. It is not for this appeal to short circuit the local plan process. Whilst there is no argument of prematurity being advanced by the council, this is neither the time nor the place to be considering whether there is justification for release of the appeal site from the GB. That judgement is for the future within the context of the district as a whole. The judgement that has to be made in this appeal is a different one. It is not only specific to this particular site but also to the harms and benefits flowing from this particular proposal and whether they amount to the very special circumstances that would be needed to justify granting planning permission [***47; 77; 88***].

Conclusion

187. Drawing the above points together it is concluded that harm to the GB would arise through the inappropriate nature of the development. There would also be an erosion of openness and harm to the purpose of safeguarding the countryside from encroachment. The appeal proposal would thus be contrary to policy CS 9 in the CS. Paragraph 88 of the Framework establishes that substantial weight should be given to any harm to the GB. It is my judgement that the harm in this case, which would relate to inappropriateness, loss of openness and conflict with GB purposes, would be very substantial indeed. The implications that this would have will be considered further in the planning balance [***48; 49; 89***].

CONSIDERATION FOUR: WHETHER THE PROPOSED DEVELOPMENT WOULD BE ACCEPTABLE IN TERMS OF ITS DESIGN AND LAYOUT

188. Although the council's putative reason for refusal related to a proposal for up to 140 dwellings, it confirmed that its concerns had not been allayed by the reduction in number. The application was made in outline form with layout,

[31] See ***Document APP 7, appendices J and K***.

appearance, scale and landscaping reserved for future consideration. Whilst a layout has been submitted it is very clear that this is intended to be illustrative. Nevertheless there are some fixed elements, which include the ecology area. Also the detention basin is likely to be in the south-west corner as this is where the ground level is lowest. Access is to be considered at this stage and *The Town and Country Planning (Development Management Procedure) (England) Order 2015* makes clear that this matter includes accessibility within the site and circulation routes. The internal roadway loop is thus another fixed element of the layout [***20; 22; 65; 147***].

189. The proposal is for "up to" 131 dwellings and thus gives the potential for a lesser number. However, that cannot be assumed and any planning permission granted should be on the basis that there would be no in-principle objection to the maximum. The purpose of the illustrative layout is to satisfy the decision maker that an acceptable layout could be achieved for 131 dwellings even if something different materialises at reserved matters stage. It was suggested that any concerns could be allayed by capping the number of dwellings through a planning condition. Even if this was not considered to change the nature of the proposal, there is no evidence on which a lower cap could reasonably be based.

190. The Framework makes clear that good design is a key aspect of sustainable development. Whilst it is important to respond to local character and reflect the identity of local surroundings it is also necessary to optimise the potential of a site in order to make effective use of the scarce land resource. This requires a balanced approach to be adopted. The established residential area to the south and west of the site is traditional frontage housing built to a relatively low density. However, it would not be reasonable to expect the appeal site to be similarly developed [***68; 107***].

191. The density of the appeal scheme would depend on the area of land on which it is calculated. In order to undertake a meaningful comparison with surrounding development it is important to calculate like with like. In the case of St Dunstan's Close, for example, there are no areas within the development specifically dedicated to ecology, recreation or SuDS. On this basis the appeal site would have a density of about 42 dph in comparison with about 30 dph in St Dunstan's Close. A sense check confirms that the proposed housing area envisaged on the illustrative layout would be significantly more tightly developed than its neighbour to the south-east [***68; 107***].

192. In this case the constraints mean that there is only a limited part of the appeal site that would be available for built development. *The Chilterns Buildings Design Guide* has been produced by the CCB as part of its task to ensure that the special qualities of the AONB are conserved and enhanced. It outlines the characteristic qualities and vulnerabilities of scarpfoot villages, which is agreed to provide the relevant context in this case. There is no dispute that the guide is of relevance when considering the issue of design. I was told that the appeal proposal had not been driven by the need to accommodate a fixed number of dwellings but rather by the identification of opportunities for development within the context of physical constraints. The ambition is to create a village environment with a wooded entrance and close groups of cottages. It seeks to avoid the uniformity of estate housing [***68; 106***].

193. In my opinion the design shown on the illustrative layout has not been altogether successful in achieving the intended aspirations. This is mainly

because the area available for development would be insufficient to satisfactorily accommodate 131 dwellings in a manner that respects its context. The result to my mind would not be a village street environment but rather an estate predominated by terraced housing built around a long looping cul-de-sac roadway. I acknowledge that there would be sufficient space to accommodate an attractive green entrance with views across the ecology area to the escarpment beyond. However, once the built area is entered, there would be an over domination of built form and hard surfacing [***106.7***].

194. It may well be that the terraces could be articulated by indentations and the use of different materials. Whilst the majority of the development would be two-storey there would be scope for some variation in height and the two and a half storey focal points would not necessarily be unattractive, even though they may not be typical of the local area. However, it seems likely that there would be insufficient space to provide meaningful breaks in the terraces, which would result in unrelieved building frontages. Whilst different design options could be used, it seems probable that some flats would be included. A low rise solution would inevitably result in wider or deeper building footprints and these would further intensify the built-up character of the street frontages. Whilst some parking could be placed behind the frontage buildings, it is likely to be necessary to accommodate a substantial amount close to the road and in front of the dwellings. Although this may not be an uncommon feature in the locality it is also not a particularly attractive one. Cars would likely appear as dominant features in the street scene and this would be more redolent of a housing estate than a village environment in the AONB [***21; 67***].

195. It is appreciated that green spaces would be provided by the rear gardens and of course there would be a great deal of green space on the northern and eastern side of the site. However, there would be limited opportunity for meaningful tree planting along the street frontages. The illustrative layout does show trees but I consider it most unlikely that there would be space for these to be of sufficient stature or number to effectively soften the hard elements that I have described above. The screening effect of trees parallel to the building lines that is envisaged by the appellant's architect seems unlikely to be realised [***66***].

196. Drawing together the above points, it is concluded that the evidence has failed to demonstrate that a development of 131 dwellings would be capable of providing an acceptable design solution or layout in keeping with its surroundings or in accordance with *The Chilterns Building Design Guide*. The appeal proposal would thus conflict with saved policy H8 in the LP, which not only establishes density thresholds but also requires attractive, high quality residential environments. It would also offend policy CS 19 in the CS, which relates to the quality of place-shaping and design. Furthermore, the scheme would fail to accord with the design objectives of the Framework [***14.1; 15.3***].

CONSIDERATION FIVE: THE EFFECT OF THE PROPOSAL ON THE CHILTERNS AONB

197. The statutory starting point when considering development in the AONB is the Countryside and Rights of Way Act. Paragraph 85 requires the decision maker to have regard to the purpose of conserving and enhancing its natural beauty. Saved policy L1 in the LP seeks to protect the natural beauty of the landscape and policy CS 17 in the CS requires its conservation and enhancement. Whilst paragraph 115 of the Framework places great weight on conserving and

enhancing landscape and scenic beauty, the Courts have determined that this must be interpreted having regard to the proposal itself and the effect that it will have on the designated area [***14.3; 15.2; 50; 51; 92; 111***].

The landscape and visual impact on the AONB

198. The only LVIA is that carried out on behalf of the appellant, which was re-worked for the purposes of the appeal, taking account of the revised layout for up to 131 dwellings. The council had some concerns about the methodology but generally I am satisfied that this follows the approach in GLVIA. One of the council's main criticisms was that too much emphasis was placed on whether the AONB's special qualities are present on the appeal site itself. These qualities are set out in the *Chilterns AONB Management Plan* and seem to me to be a logical starting point when considering landscape value. The Chilterns AONB covers a large area of some 833 km^2. It would have been an impossible task to undertake an evaluation of every field when assessing the landscape for designation purposes, as is made clear in Natural England's guidance on the matter. Nevertheless it is the special qualities in particular that make the landscape outstanding. It is not unreasonable to surmise that the places where these are not prevalent are where development may be more acceptable [***30; 32; 33; 97-99; 112***].

199. The boundary of the AONB at this point follows the same line as the GB. The existence of housing adjacent to the western, southern and part of the eastern boundaries and the presence of hard standings on the southern part of the site does influence the character of the AONB at this point, in my opinion. Peri urban is a term used to describe the transition between rural and urban landscapes or the urban-rural fringe. This seems to me to be a fair description of the appeal site and does not downplay the presence of the grassland or the trees and historic hedgerows in the northern and eastern sections of the site [***11; 31; 95-97; 112; 115***].

200. Many of the special qualities referred to in the *Chilterns AONB Management Plan* are largely absent from the appeal site. Whilst clearly some of them would not be expected to be found at the individual field level there are others that may be present at the smaller scale. Of these the special quality that is most relevant relates to the "fine long views" towards the west. Another quality is the "mosaic of fields with arable crops and livestock bordered by ancient hedgerows and trees". The sports ground and the grounds of The Haven do not fit the former description very well but there are old hedgerows around the site as is referenced by their presence on the historic maps. In this vicinity there has been modern development within the historic field boundaries and it is thus difficult to consider the land as providing a historic setting for the settlement. On the other hand, insofar as historic field boundaries continue to exist, the appeal proposal would not interfere with these perimeters or the vegetation along them [***32-34; 95; 98; 115***].

201. On both occasions that I saw the site from the escarpment the weather conditions were far from ideal. However, on the second occasion, despite the presence of low cloud, I was able to appreciate the panorama sufficiently to draw my own conclusions about the views. The most direct and impressive views are from Whiteleaf Hill. Although I also visited Brush Hill, the views from there towards the appeal site are more oblique and filtered by trees on the upper slopes. From Whiteleaf Hill on the other hand the appeal site is central to

an uninterrupted view and seen as an element of the wider AONB landscape. However, it is a relatively small part of a wide panorama that includes the built up area of the Risboroughs and Askett as well as the extensive vale landscape to the north of the railway line. In these views the insertion of development onto the appeal site would be seen sitting between the frontage development stretching along Crowbrook Road and St Dunstan's Close. Whilst it would stretch further eastwards than the latter development, that part of the site would be screened to a large extent by woodland and boundary vegetation [***99; 35.5; 113***].

202. The visibility of the scarpfoot villages from elevated viewpoints is one of the characteristic qualities of the AONB as referred to in *The Chilterns Design Guide*. From Whiteleaf Hill the appeal site appears largely undeveloped and green. Its western side is particularly prominent due to the tree screen and woodland along the eastern boundary and behind St Dunstan's Close. It is appreciated that the developed site would be seen within the context of the housing along Crowbrook Road, Mill Lane and to some extent St Dunstan's Close. However, for the reasons given in the preceding section I consider it likely that the built up part of the site, which is also the most visible western section, would be intensively developed. This would sharply contrast with existing housing which provides the context against which it would be viewed. To my mind it would particularly stand out in the view from Whiteleaf Hill and would represent a very apparent and rather incongruous change to the landscape at this point. In the circumstances I consider that the appeal proposal would have an adverse impact on the AONB in terms of the special qualities that define its scenic beauty [***35.5***].

203. The appeal site is within the Risborough Chalk Foothills LCA and an important landscape characteristic is the views looking eastwards towards the chalk escarpment. The appeal site is on the western edge of the LCA and the views in question are mainly appreciated from its western side. From here the escarpment is a prominent landscape feature that provides a dramatic and imposing backdrop. The sense of place is enhanced by the relative quietness of the location, although there is background traffic noise and periodic disturbance from the passenger and goods trains travelling up and down the nearby railway line. Following development there would be some interruption of views due to the presence of the proposed new houses and the site would become less tranquil with the activity arising from the new population. Nevertheless, the upper part of the scarp slope and the views of the historic Whiteleaf Cross would still be clearly evident and would remain as influential landscape features that contribute to local distinctiveness and character. The appeal site is well used by local residents for dog walking. Although this seems to continue without objection from the landowner it is nonetheless privately owned land. In the circumstances I am not convinced that much weight can be placed on the contribution that the appeal site makes to the AONB in terms of its current recreational value [***34; 35.6; 95; 101; 112; 113***].

204. During my site visit I went to all of the viewpoints agreed by the main parties to be of importance. The existing vegetation along the northern and eastern site boundaries would screen views into the site from the footpaths that cross the adjacent fields within the AONB. New houses would stand well back with the ecological area providing a further visual buffer. Even taking account of the potential for lighting within the new scheme and the high sensitivity of those using the footpaths, I consider that there would be an insignificant visual effect.

The elevated railway station platform on the western side of Crowbrook Road is on the eastern side of the single line and so passengers would generally stand with their backs to the appeal site. If they were to turn around, the escarpment dominates the view as a backdrop to the housing fronting Crowbrook Road. The appeal scheme would result in built development behind this but the main impression of the steeply rising hillside would prevail above the new roofscapes and would continue to be seen as a prominent landscape feature from this point. Those travelling on the train would receive a fleeting view and for both receptors I consider that there would be negligible change [***35; 100***].

205. I walked the footpaths within Longwick Vale to the east of Kingsmead and also on the southern side of Mill Lane. In the former views the escarpment is still an impressive landscape feature and I did not judge that this would change significantly following development. Whilst the new rooflines may be seen they would be within the context of the railway embankment and station platform. This infrastructure dominates the view and, bearing in mind this context, I consider that the impact of the appeal scheme would be of negligible importance. As for views from footpaths to the south-west, there would be the benefit of increasing distance and intervening vegetation. The existing settlement also provides the context against which the new development would be seen. Again the effect would be insignificant [***35; 100***].

206. Drawing the above points together it is clear that the site itself would change, with the introduction of up to 131 houses. The land is largely open at present but it is well contained with trees and hedgerows and already has a peri urban character. The proposal would include an extensive ecology area and open spaces on its northern and eastern sides, which would adjoin the wider AONB landscape. Nevertheless, one of the landscape qualities of the AONB relates to its views and, in my judgement, these would be harmed, mainly from the elevated escarpment to the east. However, the adverse impact would be seen within the context of existing development and a wide panorama and would therefore be of minor adverse significance overall. The effect would though be negative and the landscape and scenic beauty of the AONB would thus not be conserved. The appeal proposal would be contrary to saved policy L1 in the LP and policy CS 17 in the CS.

The Mill Lane appeal decision and the relevance of the proposed expansion to Princes Risborough

207. The emerging WDLP is proposed to include an urban extension to Princes Risborough for some 2,500 dwellings, in accordance with the draft *Princes Risborough Town Plan*. This would be on the western side of the railway line and thus on land outside the GB and AONB. The insertion of a development of this scale into the landscape would have a significant impact on views from the AONB escarpment. However, this is recognised in the draft plan and the concept drawing shows the land to the north of Mill Lane being proposed mainly for designated open space. It is this that would provide the backdrop to the appeal site [***28; 99; 114***].

208. The extent of the GB and AONB designations in Wycombe District mean that a significant level of development is likely to take place at Princes Risborough on land that is not constrained by these designations. However, the proposed expansion to the town would be a strategic allocation and its landscape impact on the AONB would have to be carefully considered against other objectives. It

does not seem to me that this appeal is the proper forum in which to make such judgements or that they are of primary importance when considering the impact of the appeal scheme on the AONB [***28; 29; 30.5***].

209. In June 2016 an appeal was dismissed for up to 170 dwellings on the land north of Mill Lane, to the east and north of Kingsmead. When viewed from Whiteleaf Hill this land is seen beyond the appeal site on the land currently shown as open space in the proposed Princes Risborough expansion area. Whilst it is outside the AONB, my colleague referred to the strong inter-visibility with the escarpment. Nevertheless she considered that in views from the AONB the site would be seen in the context of the established urban development of the town and Kingsmead. She considered that whilst views would change, there would be no demonstrably detrimental effect on the special character and appearance of the AONB. However, in view of the flooding issues that were determinative in that case, the Inspector was not convinced that the development could satisfactorily be accommodated to enhance the landscape and built characteristics of the site and the wider context. This echoes my own concern about the appeal proposal as it is the intensity of built form on the western part of the site that would give rise to the harmful impact I have identified rather than the principle of development itself [***28; 29; 113***].

Whether the proposal would be major development

210. The AONB designation does not prevent housing development as a matter of principle. However, paragraph 116 of the Framework indicates that major development should be refused unless there are exceptional circumstances. The Framework does not define "major". Judgements handed down by the Courts establish that it should not be given the meaning in *The Town and Country Planning (Development Management Procedure) Order 2010*, where it is defined as 10 dwellings or more. Rather, it should be understood in the context of the document in which it appears and is a matter of planning judgement. This is reiterated in the Planning Practice Guidance [***29; 51; 53.2; 92***].

211. The supporting text to saved policy L1 considers major development to be more national than local in character. Whilst the 131 houses proposed on the appeal site could not be described as a project of national importance that could be said of many larger scale housing developments. The supporting text to draft policy DM31 in the emerging WDLP indicates that the council considers that major development should not be defined in terms of numbers but is a matter of impacts or the extent of harm to the AONB. The emerging plan has not yet been considered in terms of its soundness and one of the considerations will be its compliance with national policy. In the circumstances I do not give that interpretation a great deal of weight [***17.3; 52; 92; 93].***

212. It should also be remembered that paragraph 116 of the Framework addresses all types of development and not just housing. In some cases there may not be a numerical solution but in housing developments it seems reasonable to me to consider the size of the development. In these terms the main parties both agree that the proposal would be defined as major. I note that in the *Wealden* judgement there was no dispute that 103 dwellings was major development, notwithstanding that the Inspector had found it to have a neutral effect on the AONB. In my judgement the number of dwellings in this case, taking account of the local context would be sufficient for the present proposal to be considered major development. I am not convinced by the appellant's argument that the

three considerations start from the premise that major development would have some detrimental effect. If paragraph 116 is read on its face the issue of impact is addressed under consideration three [***50; 53; 92-94; 114***].

Exceptional circumstances

213. Paragraph 116 sets out three considerations in determining whether there are exceptional circumstances to justify the grant of planning permission for major developments in the AONB and where it can be demonstrated that they would be in the public interest. The *Wealden* judgement held that the three considerations are a matter of planning judgement [***74***].

214. On the question of need, the identification of more land for housing is a national priority. In order to boost significantly the supply of housing the council is required to identify and annually update a five year supply of deliverable sites. There is no dispute that the council is unable to do this at the present time. Although it is working towards resolving this situation, the emerging WDLP is still at an early stage and has many hurdles to overcome before it is adopted [***74.1; 82***].

215. Even though the size of the deficit is relatively small and less than the development proposed in this appeal, the provision of market homes would be a benefit. Furthermore, there is a significant shortfall of affordable housing and this is getting worse year on year. The policy compliant level of affordable housing that the appeal proposal would deliver would make an important contribution towards meeting this need. The additional population would result in both direct and indirect benefits to the local economy, through expenditure and job creation. Taking all these factors into account, I consider that there is a need for the development in accordance with the first requirement of paragraph 116 of the Framework [***74.1; 102***].

216. Considering the cost of and scope for developing elsewhere, Wycombe District is highly constrained with a substantial part of its area within the Chilterns AONB and also a considerable part in the GB. The land supply that the council relies on is insufficient to meet its housing needs over the next five years and there is no evidence that there are other deliverable sites outside the AONB to address the shortfall. There is therefore no evidence that at the present time the need could be met in any other way. There is of course the large urban expansion planned for Princes Risborough, which is only a short distance from the appeal site. However, that is a proposed allocation within the emerging WDLP. It is a large and controversial site and is not being relied on at the present time [***74.2; 102; 114***].

217. I have concluded that the appeal proposal would have an adverse impact on the landscape and scenic beauty of the AONB and it seems unlikely that this could be moderated. Paragraph 115 of the Framework indicates that this designated area should have the highest status of protection and that great weight should be given to conserving its defining attributes. The appeal proposal would not comply with this objective [***74.3; 101; 102***].

Conclusion

218. Drawing together the above points, it is concluded that the appeal proposal would be major development in the AONB. Whilst it would perform positively in

respect of two of the considerations in paragraph 116 it would not do so in respect of the third. However, the *Wealden* judgement indicated that other considerations may also be taken into account and these would comprise the benefits that are being advanced in favour of the scheme. In the circumstances, the final conclusion on whether exceptional circumstances exist in this case is resolved in the planning balance in the final section of the report.

CONSIDERATION SIX: WHETHER THE PROPOSAL WOULD RESULT IN UNACCEPTABLE RISK OF SURFACE WATER FLOODING TAKING ACCOUNT OF THE POLICY REQUIREMENTS FOR A SEQUENTIAL TEST

The Sequential Test

219. The Framework advocates a risk based approach whereby development is directed to those areas with the lowest probability of flooding. A sequential test is expected to be applied in areas known to be at risk from any form of flooding. The Strategic Flood Risk Assessment is the starting point in considering this matter [***57***].

220. The appeal site is in Flood Zone 1 where there is a low probability of flooding from rivers or the sea. The Environment Agency's flood map for surface water indicates that a small part of the site that is covered by an existing hardstanding is at medium risk whilst the risk on the remainder is low or very low. Rain will tend to collect on this impervious surface and, in any event it is proposed to remove it as part of the development. The Strategic Flood Risk Assessment indicates that the site, along with a large area in the vicinity of Princes Risborough is in a groundwater emergence zone. However the appellant's expert evidence is that this is based on mapping that has now been superseded and that the up-to-date position shows a negligible groundwater flood risk. Standing water in the south-western corner of the site is explained by impermeable clay deposits, the slight hollow in this area and the lack of any drainage system. This expert evidence was not challenged by the council [***57; 59***].

221. The Strategic Flood Risk Assessment refers to the Flood Investigation Report produced by the LLFA in response to flooding in Monks Risborough in February 2014. This was caused by a prolonged period of exceptionally heavy rainfall in the preceding winter. Blocked culverts and inadequate road drainage under the Mill Lane railway bridge were found to be unable to channel overland water flows successfully. There were also areas, including the appeal site and land to the west of the railway, where there are no defined watercourses. In the case of the appeal site, uncontrolled ground and surface water flowed in a south-westerly direction towards properties in Mill Lane and Crowbrook Road [***58***].

222. There is no dispute that groundwater and surface water flooding has occurred on the site and in the surrounding area. However, that does not necessarily mean that a sequential test is necessary. The latter is determined on probability and, as discussed above, the appeal site itself is at low or very low risk from all types of flooding apart from a small area of hardstanding where the risk of surface water flooding is medium. In my judgement, it would not be proportionate or necessary to require a sequential test in these circumstances, especially as the surfacing in question is to be removed. It is appreciated that the appellant did carry out a sequential assessment but it is unnecessary to consider it further. However, that is not an end to the matter. It is important to

ensure that any development would include a drainage strategy that would deal effectively and safely with surface and ground water disposal and that the proposed development would not make matters worse for those living nearby [***60; 61; 103***].

On-site drainage strategy

223. It is appreciated that there is a great deal of local concern about flooding and this is quite understandable in view of past flood events, including over several weeks in February 2014. Following a revised site-specific FRA, the LLFA was satisfied with the drainage proposals and the council withdrew its putative reason for refusal on these grounds. It is noted that in the aforementioned Flood Investigation Report the lack of a defined drainage system was cited as the cause of surface water flows off the appeal site and into adjoining properties [***55; 56; 105; 118; 123; 124.17; 129***].

224. The indicative surface water drainage strategy in the revised FRA proposes a SuDS approach with an attenuation basin within the south-western corner of the site. The maximum allowable discharge would be set to ensure a 25% improvement to the existing situation, taking account of existing runoff rates as well as the extra runoff that would be unable to infiltrate the ground. Discharge would be by pipeline to the watercourse south of the Mill Lane and Crowbrook Road junction. This would result in an improvement for those properties downstream of the site. A variety of sustainable techniques are proposed, including pervious and permeable surfaces, swales, filter drains and strips. The sustainable drainage strategy would accommodate events up to and including the 1 in 100 year plus a 20% allowance for climate change. It would address the observation in the Flood Investigation Report concerning the lack of a defined drainage system. The submission and approval of a detailed surface water drainage strategy could be controlled through a planning condition. It is very important that once established, the SuDS system would be properly maintained and managed so that it would operate effectively for the lifetime of the development. This would be the responsibility of either the statutory drainage authority or the Management Company and the relevant covenants are provided in the UU [***53.3; 55; 58; 90.4; 105; 129; 143;***].

225. At the request of the LLFA groundwater monitoring is being undertaken within the site and this is intended to inform the detailed SuDS design. The FRA also recommends that all dwellings have a minimum finished floor level set at 150mm above external finished ground levels. This could be controlled through a planning condition [***55; 129; 143***].

226. It is appreciated that surface water and groundwater flooding was a reason for dismissing the Mill Lane appeal. However, in that case the Inspector was not satisfied with the drainage strategy proposed and there were objections on this ground from the Environment Agency and the council [***124.19***].

Conclusion

227. Drawing the above points together, I am satisfied that a sequential assessment is not required in this case. The appeal proposal would make adequate provision for the disposal of surface water so that future residents would be safe during the lifetime of the development. Furthermore, the SuDS system would deliver a benefit to those living to the south-west of the site by significantly reducing the

potential for flooding through surface water flowing off the site. The proposal would thus be in accordance with policy CS 18. Policies CS 1 in the CS and DM1 in the DSAP relate to sustainable development and will be considered in the final section of the report. Policy DM17 in the DSAP concerns development in Flood Risk Zones 2 and 3 and allocated sites and the appeal site is in neither of these categories. The proposal would also accord with the Framework and Planning Practice Guidance in respect of flooding issues [***15.1; 15.5; 16.2; 64***].

CONSIDERATION SEVEN: WHETHER THE PROPOSAL WOULD MAKE ADEQUATE PROVISION FOR COMPENSATORY STRATEGIC OPEN SPACE

228. The majority of the appeal site was used as a sports ground for the workforce of Molins Plc for many years. It eventually closed in 2007 when the number of members dwindled and it was not considered viable to keep it open. This was a private facility but the evidence makes clear that there were various affiliated forms of membership, which meant that the local community could use it too. In its heyday it seems to have been a popular and well regarded sporting venue. Its facilities included a bowling green, football pitches and tennis courts and there was a pavilion for social events. There is still some evidence of this former use but the site is now primarily a grass field with some hard surfaced areas and remnant tennis courts in the southern section. The previous access off Mill Lane is present but is overgrown and in disrepair [***9; 69; 108; 117; 123; 124.1; 126.1***].

229. The Framework establishes that planning policies and decisions should, amongst other things, plan positively for the provision and use of sports venues to enhance the sustainability of communities. Paragraph 74 indicates that existing sports and recreational land, including playing fields, should not be built on unless surplus to requirements or their loss is replaced by equivalent or better provision elsewhere. However, although there is no dispute about its lawful use, this is not an existing sports facility and has not made any contribution to community wellbeing for many years other than as a popular dog walking route. It is noted that the site is not identified in *The Wycombe District Sports Facilities Strategy*, which provides an audit of existing sports uses [***74; 108; 109***].

230. Turning to the development plan, policy CS 15 resists the development for other purposes of land allocated for sports facilities unless it can be shown that there is no community need. *The Wycombe District Sports Facilities Strategy* identifies shortages in the Princes Risborough area of youth football pitches, cricket pitches and a synthetic turf pitch. However, the land is not allocated either for green space or sports purposes in either the CS or the DSAP [***15.4; 70; 108; 121***].

231. The fact that the land is privately owned is not of particular relevance in considering its value as a recreational resource. Local and national planning policies make no distinction between public and private facilities in this regard. The site may not have been meeting community needs for some years although that does not necessarily mean to say that it does not have the potential to do so in the future. It is appreciated that the access from Mill Lane is not ideal in terms of width but from my observations improvements could be made if the encroaching vegetation were cleared. I note that it is considered satisfactory to provide an emergency vehicular access for the proposed development. Furthermore, there is no evidence that its use in connection with the sports ground led to inherent problems of highway safety [***71; 72; 108***].

232. However, the appellant has stated that regardless of the outcome of the appeal the site would not be returned to use as a sports ground. The council has not made any attempt to secure it through the use of compulsory purchase powers, for example. It is understood that the Town Council tried to buy the site but for whatever reason this did not have a positive outcome. Whilst the site is allocated as a sports ground in the draft *Princes Risborough Town Plan*, which is to be incorporated into the emerging WDLP, this can have very little weight at the present time. In any event there is a lack of information about what the allocation would entail or how it is proposed to be implemented [***17.3; 72***].

233. Sport England objects to the proposal. Its policy seeks the replacement with equivalent facilities in terms of quantity, quality and accessibility. It is appreciated that local people valued the sports ground when it was in use and I can understand that they wish to see it reinstated. Of course it cannot be said for sure that this would not happen if the appeal were dismissed but the evidence suggests that such an outcome is unlikely. There is a need in the Princes Risborough area for a synthetic sports pitch and the contribution of £400,000 in the UU would allow such provision to be made [***73; 109; 124.1; 127; 128; 153.2***].

234. It is also necessary to consider whether such provision would be justified. It does not seem to me that the proposed synthetic sports pitch would provide satisfactory compensatory provision for the sports ground that previously occupied the site. However, for the reasons given above, there is no policy support in this case for such compensatory provision to be made. Furthermore, notwithstanding the lawful use of the site it is unlikely to be reinstated to its former use. Bearing in mind Regulation 122 of the CIL Regulations the planning obligation in the UU would not be justified and could not therefore be taken into account in any grant of planning permission. This means that the synthetic sports pitch could not be treated as a benefit of the appeal proposal in the planning balance [***73; 109; 127***].

CONSIDERATION EIGHT: OTHER MATTERS

Highway safety

235. There is no putative reason for refusal relating to highway safety although many local objectors have raised it as a concern. Buckinghamshire County Council as Highway Authority has not objected to the appeal proposal, subject to a financial contribution to upgrade the nearest bus stops and various off-site highway works to be completed before the development is occupied. In terms of the main access onto Crowbrook Road, it is satisfied that the requisite sight lines could be achieved. From my own observations, I consider that there is no reason why the proposed access should not operate safely for those entering and leaving the new development [***27.4; 124.11***].

236. The planning application was accompanied by a Transport Assessment and the Highway Authority was broadly satisfied with the trip assignment and trip rate. A growth factor was included in the analysis and the proposal for housing development on the Mill Lane site was also taken into account in the transport work. This proposal has now been refused permission. Bearing in mind that the appeal scheme is now for a maximum of 131 dwellings rather than the 140 dwellings assessed, it seems to me that the analysis is robust. Whilst a large urban expansion is proposed nearby this is only a draft proposal and should not

be included as a commitment at this stage [***124.8; 134***].

237. The Highway Authority has not raised issues about the capacity of the local network to accommodate the additional traffic generated by the appeal scheme. However, it has required mitigation at some junctions to increase capacity, including the Tesco roundabout, which would be delivered through the UU. An improvement to the Mill Lane and Crowbrook Road junction was also considered necessary in order to improve visibility. However, the improvement would be limited due to the position of the railway infrastructure [***124.11; 124.12; 134; 153.5***].

238. The assignment agreed with the Highway Authority shows that the majority of trips leaving the site would turn left onto Crowbrook Road. Whilst I note concerns about the queues and safety of the junction at Mill Lane and Aylesbury Road, there is no evidence that it is operating above capacity or has a poor accident history. Crowbrook Road has a 20 mph speed restriction and there is considerable local concern about additional traffic using the route through Askett. In the transport assessment it is indicated that there would be some 203 additional trips per day in this direction with about 48 being in the morning peak and about 67 in the evening peak. It is understood that there is a considerable amount of pedestrian movement within this vicinity, including children walking to the bus stop. Pavements are relatively narrow and to the north-east of the site there is no footway for a 400 metre stretch of Crowbrook Road, up to its junction with Askett Village Lane [***27.4; 118; 120; 123; 124.9; 124.10; 124.13; 135***].

239. The Highway Authority specifically considered whether a highway safety objection could be sustained on account of the inadequacies of Crowbrook Road and Askett Village Lane but concluded that it could not. I do not underestimate the strength of feeling that local residents have about this matter. However, the duty of the Highway Authority is to ensure that its network operates in a safe and efficient way and I consider that its conclusions must be given considerable weight. The appeal proposal would include an extension to the footway along the eastern side of Crowbrook Road. This would only result in a short additional section and there would still be a significant stretch up to the Askett Village Lane junction with no segregated route for those on foot. Nevertheless it would provide a small improvement for pedestrians [***135***].

240. The appeal proposal would provide a pedestrian and cycle route between Mill Lane and Crowbrook Road. For those wishing to travel by non car modes it seems to me that there would be a number of choices. Local people mentioned the community bus and this appears to offer a rather unreliable service. However, there is a regular bus service between Aylesbury and High Wycombe, which runs along Aylesbury Road. Bus stops are within reasonable walking distance of the site and the appeal proposal would contribute to their upgrading with real time passenger information. This improvement would result in a better quality experience for those choosing to travel on the bus. The site is also close to the train station on Crowbrook Road with its services to Aylesbury and London. For those wishing to cycle, the main route between the site and Princes Risborough would be along Place Farm Way and Wellington Avenue. Various improvements, including to signage of the cycle route, to the off-road cycle path and to the zebra crossing on Longwick Road are proposed through the UU. In the circumstances I am satisfied that the site would be accessible and would allow new occupiers to exercise a number of modal choices other than the car

[***10; 26; 67.5; 82.2; 90.2; 126.2; 136***].

241. I note the concern by some objectors about inadequate provision on the site for car parking. However, the illustrative layout shows that spaces can be provided to meet the council's car parking standards, albeit that I expressed concerns about their visual impact. I would expect the council to ensure that any detailed scheme made sufficient provision for new occupiers to park their cars on the site. That being so there is no reason why the surrounding roads should become congested with overspill parking to the detriment of those living in Crowbrook Road or Mill Lane [***124.15***].

Local infrastructure

242. A number of local objectors considered that existing infrastructure would be inadequate to accommodate the new population. Buckinghamshire County Council as Local Education Authority has pointed out that local primary schools are at capacity. Expansion plans are being considered, including to Great Kimble School and a contribution would be provided through the UU accordingly. Any required improvements to secondary education provision would be funded through CIL. [***153.7; 124.20; 124.22; 131***].

243. It is appreciated that Monks Risborough itself does not contain much in the way of shops or facilities although there is a small local parade in Place Farm Way. However, as indicated above there would be options for cycling or travelling by bus in order to meet day to day needs. The link from the site onto Mill Lane would provide pedestrians and cyclists with a convenient route. I observed that footways are not present along all stretches of Mill Lane. However, from the aforementioned link eastwards the walking route up to Aylesbury Road is relatively good [***10; 124.12; 124.21***].

244. The comment has been made that doctors' and dentists' surgeries as well as hospitals are operating above capacity. This is clearly unsatisfactory and is unfortunately a problem in many areas. However, I am not aware of any specific representations from the health providers that the needs of the new population could not be accommodated. The council has not sought any site specific contribution to meet shortfalls in this area. Furthermore I note that health facilities would be provided under CIL [***124.20; 124.22***].

Residential amenity

245. The proposal is in outline form and although there is an illustrative layout it is quite possible that this would change at reserved matters stage. The disposition of windows and orientation of dwellings is therefore not definitive at this stage and there is no reason to believe that a design could not be achieved that would satisfactorily respect the privacy of those living in existing properties adjacent to the site. Of course the proposal would result in a significant change in outlook but there is no right to a view across third party land [***27.9; 124.7***].

246. The new access road would enter the appeal site between two residential properties in Crowbrook Road. It is appreciated that there would be vehicles travelling back and forth at a point where the only traffic at present is that associated with The Haven. However, the new road would only occupy the central part of this land and there would be room either side to provide a landscaped buffer and also appropriate boundary treatment. Properly executed

there is no reason why adequate mitigation could not be provided to ameliorate any adverse effects arising from the increased vehicular activity [***124.7***].

CONSIDERATION NINE: WHETHER ANY CONDITIONS AND OBLIGATIONS WOULD BE NECESSARY TO MAKE THE DEVELOPMENT ACCEPTABLE.

Planning conditions

247. The planning conditions are at annex three and the justification is provided in paragraphs 137-151 of the report and also in various parts of my conclusions.

248. It is considered that the conditions are reasonable, necessary and otherwise comply with Paragraph 206 of the Framework and the provisions of the *Planning Practice Guidance*.

Planning Obligation by Unilateral Undertaking (UU)

249. A fully executed UU has been submitted, which is in the form of two identical counterparts. This creates planning obligations for the purposes of Section 106 of the 1990 Act and seems to me to be legally correct and fit for purpose [***152***].

250. The policy justification for contributions towards infrastructure, facilities and amenities is provided by Policy CS 21 in the CS and Policy DM19 in the DSAP. The Council has also adopted a CIL charging regime. The Regulation 123 list includes various infrastructure projects and environmental improvements as well as the provision of additional secondary school places, amongst other things. The *Planning Obligations* supplementary planning document was adopted in April 2013[32].

251. It is necessary to consider whether the obligations that have been made meet the statutory requirements in Paragraph 122 of the CIL Regulations and the policy tests in Paragraph 204 of the Framework in order to determine whether or not they can be taken into account in any grant of planning permission. The requirements are that the obligations must be necessary, directly related and fairly and reasonably related in scale and kind to the development in question. Furthermore, under the pooling restrictions in Regulation 123, a planning obligation cannot constitute a reason for granting planning permission if it provides for the funding or provision of an infrastructure project or type of infrastructure for which five or more separate planning obligations have been entered into. It is noted that the UU contains a “blue pencil” clause that the obligations are conditional on the Secretary of State finding that they comply with the CIL Regulations [***152***].

Affordable housing [***153.1***]

252. There is a considerable need for affordable housing in the district as highlighted in paragraphs 171-172 above. The Deed provides for 40% of the total number of bedspaces to be affordable, which complies with policy CS 13 in the CS. The tenure mix of rented and shared ownership units is in accordance with the *Planning Obligations* supplementary planning document. The local connection provision is necessary to ensure that the affordable homes benefit the needs of

[32] The Planning Obligations SPD is at ***Document CD 4.1***. The April 2016 CIL Charging Schedule is at ***Document CD 4.3***. The June 2016 CIL Regulation 123 List is at ***Document CD 4.4***.

the district. The obligations are in accordance with Regulation 122 and can be taken into account in any grant of planning permission. Affordable housing is not a matter that is funded by CIL and Regulation 123 is thus not applicable.

Open space and recreation [***153.2***]

253. Policy DM16 in the DSAP establishes standards for local and strategic open space, which relate to the size of the site and the population to be accommodated. The local open space element is expected to be provided on-site to meet the needs of new occupiers and this is satisfactorily dealt with by the Deed. For strategic sites, where demand for open space is greater, strategic open space is expected to be provided on-site and so this would not be a provision covered by CIL. The appeal site is considered to be equivalent to a strategic site in terms of its size with reference to paragraph 6.103 of the DSAP and this was not a point that was disputed. However, in this case the site is expected to provide a relatively extensive ecology area and it is not reasonable to expect a further open area to be set aside for strategic open space. In the circumstances the council has agreed to a financial contribution instead. As this would not normally happen, there is no standard formula to be applied.

254. It was explained that the financial contribution of £250,000 was worked out on the basis of the number of people likely to occupy the site and the cost of providing the requisite amount of each type of open space that makes up the strategic provision. A sum has also been added for management and maintenance over a 10 year period. The contribution would go towards the provision of a synthetic turf pitch, which is a project mentioned in the *Wycombe District Sports Facilities Strategy*. I understand that there are not five contributions towards this project and so it would not offend Regulation 123. Having regard to the evidence I consider that this obligation is reasonable, necessary and proportionate and would accord with Regulation 122[33].

255. A financial contribution of £400,000 is made for a new youth all-weather sports pitch to replace the loss of the sports ground at the appeal site. This has been addressed in paragraphs 229-235 above and I have concluded that there is insufficient justification to support it. The planning obligation would not therefore comply with Regulation 122 and it should not be taken into account in any grant of planning permission.

256. The covenant relating to the on-site ecology area is required in order to ensure that protected species are not harmed and that biodiversity enhancements are achieved in accordance with policies DM13 and DM14 in the DSAP. The ecology evidence was not disputed and I am satisfied that the presence of protected species, including great crested newts require the various measures to be put in place. Clearly it is important that the land is properly managed to ensure that nature conservation interests are protected in perpetuity. This planning obligation would accord with Regulation 122. As this is an on-site provision, Regulation 123 would not be engaged.

[33] See ***Documents CD 4.5, Appendix 1; APP 4; INQ 15***.

Sustainable drainage [***153.3***]

257. Policy CS 18 in the CS seeks to avoid increasing, and where possible reduces flood risk from sources including surface and ground water. I have dealt with this issue in paragraphs 224-225 above and concluded that a sustainable drainage system would not only meet the needs of the development itself but also ensure that flood risk elsewhere would not be exacerbated. However, the effectiveness of such a system in the longer term requires that it is properly maintained. The management regime in the Deed is therefore a necessary pre-requisite to ensure that this happens. This planning obligation would accord with Regulation 122. As this is an on-site provision, Regulation 123 would not be engaged.

Management Company [***153.4***]

258. This would be responsible for looking after the various public areas, including the ecology area, which are necessary elements of the overall development. The Deed includes important covenants regarding the establishment, constitution and on-going funding of the Management Company. These are necessary to ensure its effectiveness during the lifetime of the development. This planning obligation would accord with Regulation 122. As this is an on-site provision, Regulation 123 would not be engaged.

*Highway works, bus stop improvements and Travel Plan [**153.5; 153.6; 153.8**]*

259. The justification for the highway works has already been considered in paragraphs 236-241 above. The improvements to the Tesco roundabout and the Mill Lane and Crowbrook Road junction are required to ensure the safety of highway users and the free flow of traffic. The other measures would improve accessibility and hence the attractiveness of non car modal choices for new occupiers. The financial contribution to upgrading the bus stops with real time passenger information would be based on actual costs. These planning obligations would accord with Regulation 122. The information provided indicates that there are currently no other obligations in place relating to these projects. Regulation 123 would not therefore be offended.

260. The use of Travel Plans to encourage more sustainable travel behaviour is a well known tool that is supported in national and local planning policy. The Travel Plan itself would be provided by means of a planning condition. However, it is also important that it remains effective once it has been established. Monitoring is undertaken by the Highway Authority who provides a bespoke service. This is in addition to its statutory duties and the fee to carry out this work is reasonably based on the costs of provision. This fee seems to me to be reasonable and necessary and the obligation would therefore accord with Regulation 122 [***150***].

Education [***153.7***]

261. The evidence from Buckinghamshire County Council as Local Education Authority is that there would be inadequate capacity at local primary schools to accommodate the children from the proposed new development. This is based on demographic information and pupil yield rates and also takes account of recent planning permissions in the Princes Risborough area. The contribution has been worked out on the basis of the number of primary age children likely

to be generated by the development and the cost of providing the necessary school accommodation. The contribution was changed in the UU to reflect the reduction in maximum housing numbers to 131. However as this is an outline proposal where the final number and mix of dwellings is presently unknown, the covenant includes flexibility in terms of the contribution to be paid. [***131***].

262. The contribution would be used towards the expansion of the nearby Great Kimble School for which a feasibility study has been undertaken. The planning obligation would provide the necessary funding to ensure that the primary education needs of the new population would be addressed and it would thus accord with Regulation 122. I understand that there are not five obligations contributing towards this project and Regulation 123 would not be offended. Any necessary improvement to secondary education would be funded through CIL [***131***].

CONSIDERATION TEN: OVERALL CONCLUSIONS AND PLANNING BALANCE TO DETERMINE WHETHER THE PROPOSAL WOULD BE A SUSTAINABLE FORM OF DEVELOPMENT, TAKING ACCOUNT OF THE THREE DIMENSIONS IN THE FRAMEWORK.

263. The appeal site is outside the settlement of Monks Risborough and therefore for policy purposes it is within the countryside where development will be strictly controlled. The proposal would thus be contrary to policies CS 2 and CS 7 of the CS. The residential proposal would also be inappropriate development in the GB and would conflict with Policy CS 9 in the CS. I have concluded that there would be a degree of harm to the landscape and scenic beauty of the AONB. The proposal would thus fail to preserve and enhance the designated landscape, which would be contrary to the provisions of saved policy L1 in the LP and policy CS 17 in the CS. Despite its outline status and the illustrative nature of the layout, I do not consider that it has been demonstrated that 131 dwellings could be satisfactorily accommodated on this constrained site in order to provide a high quality residential environment. The appeal proposal would therefore offend saved policy H8 in the LP and policy CS 19 in the CS. I will now consider whether there are material considerations to indicate that the decision should be made other than in accordance with the development plan.

264. At the present time the council is unable to demonstrate a five-year supply of deliverable sites against its objectively assessed housing need. For the reasons given in paragraph 161 above, policies CS 2 and CS 7 relating to the supply of housing should not therefore be considered up-to-date. However, for the reasons given in paragraph 162 above, the context for decision making in the GB and AONB is provided by the second limb of paragraph 14 of the Framework. In other words it is necessary to first consider the proposal against the relevant policies in the Framework that indicate development should be restricted. The "tilted balance" test will only be applicable if the proposal is concluded not to offend the aforementioned restrictive policies.

Whether very special circumstances exist to outweigh the harm to the GB and any other harm

265. Harm to the GB would result from inappropriateness, loss of openness and conflict with the purpose relating to encroachment, as identified in paragraphs 174-182 above. There would also be harm to the AONB and as a result of the unsatisfactory nature of the design and layout of the proposed development.

These additional factors would add to the negative side of the balance. However, even on the basis of the GB harm alone it is my judgement that the adverse impact would be very substantial indeed.

266. The provision of housing in the absence of a five year housing land supply is a positive factor of importance. It seems likely that the site would deliver the new homes within the next five years. On the other hand the weight to be given to the provision of market housing is reduced because the deficit in the five year housing land supply is small and the appeal proposal would exceed it. However, the proposal would also deliver affordable homes in accordance with policy requirements. Not only is there a pressing need for such housing but the shortfall in provision is getting more serious year on year as addressed in paragraphs 171-172 above. Overall, the contribution of the appeal proposal to housing provision should be given considerable weight.

267. There would be economic advantages arising from the appeal scheme, including job creation at construction stage and also indirectly as a result of the new population.

268. The appellant places great importance on the council's GB assessment and the performance of the site therein. For the reasons given in paragraphs 183-186 above, I consider that this matter has little weight as a benefit in this case [***76***].

269. The appeal proposal would include a sustainable drainage strategy. Whilst this would be necessary to ensure a satisfactory development it would also result in significantly wider benefits by limiting surface water flows from the appeal site. This would reduce the potential for flooding in residential properties immediately to the south-west of the site. It would thus convey a benefit of significant weight as discussed further in paragraphs 224-225 above.

270. There would be some advantage to the established population that would arise from the various road works and accessibility enhancements; provision of open space, a play area and the off-site strategic recreational facility; and provision of an extensive ecology area. However, these would be necessary in order to mitigate adverse impacts and meet the needs of the new population. I do not therefore view them as benefits that should be given much weight in the planning balance. It is acknowledged that there would be some enhancement to biodiversity and that there is an opportunity to increase connectivity between Mill Lane, the public footpath network and Crowbrook Road and the railway station. I therefore afford these factors modest weight. It is noted that the appellant includes the provision of the new sports facility as a material benefit. However, for the reasons given in paragraph 235 above I do not consider that this can be justified under Regulation 122 of the CIL Regulations. In the circumstances it is therefore not a matter that can be taken into account in the planning balance [***27.7; 79.6; 79.7; 82.2; 82.3; 90.3; 90.4***].

271. The Planning Practice Guidance makes clear that unmet housing need is unlikely to outweigh the harm to the GB and any other harm. In this case I have afforded the provision of housing considerable weight, in particular due to the affordable housing that would be provided. The reduction in flood risk for adjoining occupiers is a matter of significant weight. There would also be some other advantages to add to the positive side of the planning balance. However, it is my judgement that the very substantial harm to the GB is sufficient in itself to outweigh these benefits. Also a degree of further harm would arise from the

adverse impact on the AONB and the unsatisfactory design and layout and this would add to the negative side of the balance. In conclusion, the harm caused by the inappropriate nature of the proposed development and any other harm would not be clearly outweighed by other considerations. Very special circumstances would not exist in this case and the proposal would be contrary to saved policy GB2 in the LP, policy CS 9 in the CS and the Framework in terms of GB policy [***90.1***].

Whether exceptional circumstances exist to justify major development in the AONB

272. For the reasons given in paragraphs 211-213 above it has been concluded that the appeal proposal would be major development in the AONB. In paragraph 218 above it has been concluded that it would have an adverse impact on the landscape and scenic beauty of the AONB and therefore would not accord with the third consideration in the assessment of exceptional circumstances under paragraph 116 of the Framework. Paragraph 115 states that great weight should be given to conserving landscape and scenic beauty but this needs to be considered in the context of the effect of this particular proposal where I have found the harm to the AONB to be of minor adverse significance [***Footnote 12***].

273. The *Wealden* judgement found that in considering whether there are exceptional circumstances in the public interest, the three factors in paragraph 116 do not exclude other relevant matters. In this case it seems appropriate to also balance the benefits of the scheme in reaching a conclusion. These have been set out above in relation to the GB and the housing provision has been concluded to be a matter of considerable weight. When added to the other advantages, in particular that relating to flood risk, it seems to me that the benefits of the scheme would outweigh the minor adverse impact on the landscape and scenic beauty of the AONB, even accepting that this is a matter of great importance [***75***].

274. In my judgement there would therefore be exceptional circumstances in this case and the appeal proposal would be in the public interest. This is a material consideration of some force and indicates that the proposal should be determined other than in accordance with saved policy L1 in the LP and policy CS 17 in the CS. In reaching this conclusion I have had regard to the purpose of conserving and enhancing the natural beauty of the AONB under section 85 of the *Countryside and Rights of Way Act*. However, I have reached the conclusion in this case that the harm to the AONB would not be a determinative issue [***50; 111***].

Overall conclusions on sustainable development

275. The Framework makes clear that the purpose of the planning system is to contribute to achieving sustainable development. Paragraph 7 establishes the economic, social and environmental dimensions of sustainable development and the roles in relation to them that the planning system needs to perform. Paragraph 8 makes clear that these roles are interrelated and should not be viewed in isolation. For the reasons given above the appeal proposal would make a contribution to the economic role of sustainability. Although it would also make some contribution to the environmental and social roles there would also be a very substantial negative environmental contribution in terms of the harm caused to the GB. Furthermore, the failure to demonstrate that a high

quality built environment could be achieved would also negatively impact on the social role.

276. Returning to paragraph 14 of the Framework, it has been concluded that national policies restricting development in the AONB would not be offended in this case. However, the same conclusion has not been reached in respect of the GB. The very substantial harm that would be caused is an overriding and compelling objection. In the absence of very special circumstances, paragraph 87 of the Framework indicates that the development should not be permitted. In such circumstances the appeal proposal would not be sustainable development and the presumption in its favour would not apply.

277. There are no material considerations to indicate that the appeal proposal should be determined other than in accordance with the development plan. In particular, the appeal proposal would conflict with saved policies H8 and GB2 in the LP and policies CS 2, CS 7, CS 9 and CS 19 in the CS. Furthermore it would be contrary to policy DM1 in the DSAP, which sets out the presumption in favour of sustainable development and policy CS 1, which establishes the overarching principle of achieving sustainable forms of development and echoes the underlying principle of Framework policy. In the circumstances the appeal proposal would not comply with the development plan, considered as a whole.

INSPECTOR'S RECOMMENDATION

278. That the appeal should be dismissed and planning permission should be refused.

279. If the Secretary of State disagrees and decides to grant planning permission, he is recommended to impose the conditions set out in annex three.

Christina Downes

INSPECTOR

ANNEX ONE: APPEARANCES

FOR THE APPELLANT:

Mr Richard Glover	of Queen's Counsel
Mr Mark Westmoreland-Smith	of Counsel, both instructed by Mr R Messenger, Wilks Head & Eve

They called:

Ms L Simes BA(Hons) DipLA DipUD CMLI	Senior Technical Director of fabric Ltd
Mr R Arnold BSc(Hons) MRes CIEEM CEnv	Technical Director of Thompson Ecology Ltd
Mr P Baker BA BArch RIBA	Partner of Synergy Construction and Property Consultants LLP
Mr M Wheeler BSc(Hons) MSc DIC CEng MICE CIWEM	Associate Director of WSP UK Ltd
MR S Birnbaum BA DipUPI MRTPI	Director of SMB Town Planning Ltd
*Ms N Gooch	Associate of Irwin Mitchell LLP

FOR THE COUNCIL:

Mr Robin Green	Of Counsel, instructed by the Solicitor of Wycombe District Council

He called:

Ms N Huijer BA(Hons) PGDip MLI	Natural Environment Officer (Landscape) with Wycombe District Council
Mrs P Jarvis BSc(Hons) DipTP MRTPI	Principal of PJPC Ltd
*Mr S Chainani MSc	School Place Planning Commissioning Partner within the Children and Young People Division of Buckinghamshire County Council
**Mr C Power MA MRTPI	Development Management Team Leader with Wycombe District Council

**Contributed to the round table discussion on the Planning Obligation*
***Contributed to the round table discussion on the Planning Obligation and planning conditions*

INTERESTED PERSONS:

Mr M Stubbs DipTP MSc PhD MRICS	Planning Adviser to the Chilterns Conservation Board
Councillor A Turner	District Councillor for the Risboroughs ward; Town Councillor for Princes Risborough and local resident
Mr M Summers	Local resident
Ms C Young	Local resident and Director of the St Dunstan's Close Residents' Association

ANNEX TWO: DOCUMENTS AND PLANS

CORE DOCUMENTS

Application documents

CD 1.1 Application Form
CD 1.2 Great Crested Newt eDNA Survey, 31st July 2015
CD 1.3 Arboricultural Survey, July 2015
CD 1.4 Badger Survey, July 2015
CD 1.5 Bat Inspections Survey, July 2015
CD 1.6 Design and Access Statement, Aug 2015
CD 1.7 Desk Study and Extended Phase 1 Habitat Survey, September 2015
CD 1.8 Landscape and Visual Appraisal, September 2015
CD 1.9 Landscape Strategy, August 2015
CD 1.10 Planning Statement, Doc Ref: 07/2015/841/254 Rev.C
CD 1.11 Reptile Survey, July 2015
CD 1.12 Sustainability and Energy Report, Doc Ref: 08/2014/841/254 Rev.A
CD 1.13 Flood Risk Assessment, revised 28/09/2015
CD 1.14 Flood Risk Assessment, revised 06/04/2016
CD 1.15 Transport Assessment including Appendices A-H, and figures 1-19 September 2015
CD 1.16 Badger Sett Monitoring and Badger Survey, June 2016
CD 1.17 Bat Survey, June 2016
CD 1.18 Great Crested Newt Survey, July 2016
CD 1.19 Updated Reptile Survey, July 2016
CD 1.20 Transportation Technical Note 2016
CD 1.21 Flood Risk Assessment Rev 6, Nov 2016
CD 1.22 Desk study and extended phase one habitat survey 2013
CD 1.23 GCeDNA report 2015
CD 1.24 Draft outline ecological mitigation and management plan 2016

Application plans / drawings

CD 1.25 3011-SK-002-A
CD 1.26 3011-SK-003-B
CD 1.27 9500-05 REV A
CD 1.28 9500-06
CD 1.29 9500-08 REV B
CD 1.30 9500-L-00-01 REV F
CD 1.31 WDC1 - LOCATION PLAN
CD 1.32 WDC2 - CONCEPT SKETCHES
CD 1.33 9500-L-00-01 Rev K

Consultee responses

CD 2.1 Sport England, November and December 2015
CD 2.2 WDC Control of Pollution Officer
CD 2.3 Princes Risborough Town Council
CD 2.4 Buckinghamshire County Council/Lead Local Flood Authority (Senior SUDs Officer), December 2015

CD 2.5 Thames Water, December 2015
CD 2.6 Buckinghamshire County Council (Strategic Access Officer), December 2015
CD 2.7 Buckinghamshire County Council (Strategic Planning Officer), December 2015
CD 2.8 Buckinghamshire County Council (School Place Planning Commissioning Officer), December 2015
CD 2.9 Buckinghamshire County Council (Senior Archaeology Officer), August 2016
CD 2.10 Buckinghamshire County Council/Lead Local Flood Authority, November 2016
CD 2.11 Network Rail consultation response, 29 June 2016
CD 2.12 Statement from the Chilterns Conservation Board to the Planning Inspectorate , 4 July 2016
CD 2.13 Buckinghamshire County Council email chain regarding drainage and flood risk, December 2016
CD 2.14 Network Rail consultation response, 5 December 2016
CD 2.15 Buckinghamshire County Council highway consultation responses

The development plan

CD 3.1 Adopted Core Strategy, 2008
CD 3.2 Adopted Delivery and site Allocations Plan, 2013
CD 3.3 Adopted Local Plan (as saved and extended (2007) and replaced by the Adopted core strategy July 2008 and delivery and site Allocations plan July 2013)

Supplementary planning documents and guidance documents

CD 4.1 Planning Obligations SPD (2013)
CD 4.2 Buckinghamshire County Council Guidance on Planning Obligations for Education Provision (2010)
CD 4.3 CIL Charging Schedule (April 2016)
CD 4.4 CIL Regulation 123 List (June 2016)
CD 4.5 Wycombe District Sports Facilities Strategy 2015-2020
CD 4.6 Buckinghamshire County Council Countywide Parking Guidance
CD 4.7 Not used
CD 4.8 Princes Risborough Tesco Roundabout Study Rev 0
CD 4.9 Local Transport Plan 3 2011 – 2016, Transport for Buckinghamshire
CD 4.10 WDC Strategic Flood Risk Assessment, Level 1 Update Nov 2014
CD 4.11 Open Space Framework December 2010
CD 4.12 Extracts from Buckinghamshire County Council Local Transport Plan 4 2016

National planning policy and guidance

CD 5.1 National Planning Policy Framework
CD 5.2 *Planning Practice Guidance* (extracts)
CD 5.3 Ministerial Letter to Chief Executive of PINS from Brandon Lewis, 19 December 2014
CD 5.4 Written Statement - Planning Update March 2015, DCLG /

Eric Pickles, 25th March 2015
CD 5.5 Prime Minister Press Release, 12th October 2015
CD 5.6 Building for Life 12
CD 5.7 OPDM Circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within The Planning System
CD 5.8 Natural England – Great Crested Newts surveys and mitigation for development projects 2015
CD 5.9 English Nature – Great Crested Newts Mitigation Guidelines, 2001
CD 5.10 Green Infrastructure Guidance – Natural England
CD 5.11 Manual for Streets 1 – Extracts: p90 - 94
CD 5.12 Manual for Streets 2
CD 5.13 CHT – Guidelines for providing journeys on foot 2000
CD 5.14 Guidelines for planning for public transport in developments, 1999

Design guidance documents and landscape and visual guidance documents

CD 6.1 Chilterns Buildings Design Guide
CD 6.2 Technical Notes (2010): Chilterns Brick, Chilterns Flint, Roofing Materials
CD 6.3 Chilterns AONB Management Plan
CD 6.4 Wycombe District Landscape Character Assessment
CD 6.5 Monks Risborough Conservation Area Character Survey
CD 6.6 Buckinghamshire Historic Landscape Characterisation 2006
CD 6.7 Natural England 'An Approach to Landscape Characterisation' 2014
CD 6.8 Guidance for assessing landscapes for designations as National Park or AONB in England – Natural England
CD 6.9 Guidance for Landscape and Visual Impact Assessment Third Edition (same document as CD6.10)
CD 6.10 Not used
CD 6.11 Topic Paper 6 'Techniques and Criteria for Judging Landscape Capacity and Sensitivity' (Countryside Agency and Scottish Natural Heritage, 2004)
CD 6.12 Landscape Plan for Bucks 2000
CD 6.13 Landscape Character Assessment October 2011

Flooding report

CD 7.1 Flood investigation report (Feb 2014)

Emerging development plan

CD 8.1 New WDLP Options Consultation Document (Jan 2014)
CD 8.2 WDC Housing and Economic Land Availability Assessment (HELAA) (Extract relating to appeal site)
CD 8.3 WDC Buckinghamshire Housing and Economic Needs Assessment (Jan 2015)
CD 8.4 Buckinghamshire HEDNA Update 2016 – Report of Findings(Draft 20 October 2016)
CD 8.5 WDC Draft New Local Plan Consultation Document, June 2016

CD 8.6 WDC 5 Year Supply Position Statement, November 2015
CD 8.7 Wycombe Local Development Scheme (March 2016)
CD 8.8 Cabinet Decision Report re: Draft Princes Risborough Town Plan (26 Jan 2016)
CD 8.9 Princes Risborough Town Plan (PRTP), Draft Plan Consultation Document (February 2016)
CD 8.10 Draft PRTP Consultation Responses Report, November 2016
CD 8.11 Bucks Authorities Memorandum of Understanding, August 2015 and February 2016 and 08/12/2016
CD 8.12 Buckinghamshire County Council Green Belt Assessment, March 2016
CD 8.13 Wycombe District Council Draft Green Belt Part 2 Site Assessment, June 2016
CD 8.14 Cabinet Report for 12/12/2016 re PRTP and new Local Plan
CD 8.15 Updated 5 Year Housing Land Supply Position Statement December 2016
CD 8.16 Updated Local Development Scheme – December 2016

Other documents relevant to the appeal

CD 9.1 Appellant's Statement of Case
CD 9.2 Council's Statement of Case
CD 9.3 Planning Committee Report
CD 9.4 Planning Committee Minutes
CD 9.5 Statement of Common Ground
CD 9.6 Draft Section 106 Agreement
CD 9.7 Emerging DP – G L Hearn Report for AVDC Aug 2016
CD 9.8 WDC Response 2 Nov 2016
CD 9.9 WDC Monitoring Report 2013-15

Legislation and case law

CD 10.1 Suffolk Coastal District Council v Hopkins Homes Limited and Secretary of State for Communities and Richborough Estates Partnership LLP v Cheshire East Borough Council and Secretary of State for Communities and Local Government (17th March 2016) EWCA Civ 168
CD 10.2 Court of Appeal SSCLG, Reigate and Banstead Borough Council, Tandridge District Council and Redhill Aerodrome Ltd [2014] EWCA Civ 1386
CD 10.3 Turner v SSCLG and East Dorset Council EWCA 2016 Civ 466
CD 10.4 CPRE v Dover [2016] EWCA Civ 936
CD 10.5 Wildlife and Countryside Act 1981 (as amended)
CD 10.6 Countryside and Rights of Way Act 2000 (as amended)
CD 10.7 Conservation of Habitats and Species Regulations 2010
CD 10.8 Natural Environment and Rural Communities Act 2006 (as amended)
CD 10.9 Protection of Badgers Act 1992 (as amended)
CD 10.10 The Wild Mammals (Protection) Act 1996
CD 10.11 East Staffordshire Borough Council v Secretary of State for Communities and Local Government (1) Barwood Strategic Land II LLP (2) [2016] EWHC 2973 (Admin)
CD 10.12 St Modwen Developments Ltd v Secretary of State for

	communities and Local Government (1) East Riding of Yorkshire Council (2) & Save Our Ferriby Action Group [2016] EWHC 968 (Admin)
CD 10.13	Forest of Dean District Council v Secretary of State for Communities and Local Government, & Gladman Developments Ltd [2016] EWHC 421 (Admin)
CD 10.14	Forest of Dean District Council v Secretary of State for Communities and Local Government (1) Gladman Developments Ltd (2) [2016] EWHC 2429 (Admin)
CD 10.15	Stroud District Council v Secretary of State for the Communities and Local Government & Gladman Developments Ltd [2015] EWHC 488 (Admin)
CD 10.16	Gladman Developments Ltd v Daventry District Council & Secretary of State for Communities and Local Government [2016] EWCA Civ 1146
CD 10.17	City and District Council of St Albans v The Queen (on the application of) Hunston Properties Limited, Secretary of State for Communities and Local Government & anr [2013] EWCA Civ 1610
CD 10.18	Oadby and Wigston Borough Council Appellant v (1) Secretary of State for Communities and Local Government (2) Bloor Homes Ltd. [2016] EWCA Civ 1040
CD 10.19	Cheshire East Borough Council v Secretary of State for Communities and Local Government (1) Richmond Estates Partnership LLP [2015] EWHC 410 (Admin)

Appeal decisions

CD 11.1	Mill Lane, Monks Risborough (APP/K0425/W/15/3011900)
CD 11.2	Land off Barn Road, Longwick (APP/K0425/W/15/3018514)
CD 11.3	Land to the north west of Boorley Green, Winchester Road, Boorley Green (APP/W1715/W/15/3130073)

APPEAL DOCUMENTS SUBMITTED PRIOR TO THE INQUIRY

APP 1	Questionnaire
APP 2	Secretary of State's recovery letters
APP 3	Draft list of planning conditions
APP 4	Regulation 122 and 123 information provided by the council
APP 5	Correspondence to the appeal from local people
APP 6	Mr Birnbaum's proof of evidence
APP 7	Mr Birnbaum's appendices A-S
APP 8	Mr Birnbaum's rebuttal proof of evidence
APP 9	Ms Simes' proof of evidence
APP 10	Ms Simes' appendices L1-L23
APP 11	Ms Simes' rebuttal proof of evidence
APP 12	Mr Baker's proof of evidence and appendices 1-6
APP 13	Mr Baker's appendix (revised layout)
APP 14	Mr Wheeler's proof of evidence and appendices A-D
APP 15	Mr Wheeler's rebuttal proof of evidence
APP 16	Mr Arnold's proof of evidence
APP 17	Mr Chainani's proof of evidence and appendices 1-4

APP 18	Ms Huijer's proof of evidence and appendices NH-1-NH-11
APP 19	Mrs Jarvis' proof of evidence and appendices PJ1-PJ2
APP 20	Mr Stubbs' proof of evidence and appendices A-C

DOCUMENTS SUBMITTED AT THE INQUIRY

INQ 1	Comparison table of visual assessments from the agreed viewpoints, submitted by Ms Huijer's and Ms Simes
INQ 2	Draft Landscape Sensitivity and Capacity Study (February 2016), submitted by Mr Green
INQ 3	Clarification of education matters, submitted by Mr Green
INQ 4	Information on reserve sites that have been released for development, submitted by Mr Green
INQ 5	Information about deliverability of housing sites, submitted by Mr Green
INQ 6	Further information about deliverability of housing sites, submitted by Mr Green
INQ 7	Statement delivered to the inquiry by Councillor Turner
INQ 8	Court of Appeal judgement relating to the case of *the Secretary of State for Communities and Local Government and Knight Developments Ltd v Wealden District Council* [2017] EWCA Civ 39.
INQ 9	Photograph showing the landscape capacity areas of the proposed Princes Risborough expansion area, submitted by Mr Green
INQ 10	Photograph and Plan from the Princes Risborough Town Plan. These show the landscape capacity areas of the proposed Princes Risborough expansion area, along with the Mill Lane appeal site and the Molins appeal site, agreed by the main parties
INQ 11	Chilterns Conservation Board – Position statement on development affecting the setting of the Chilterns AONB (June 2011)
INQ 12	Concept plan relating to the Mill Lane appeal
INQ 13	Note on proposed green belt changes, submitted by Mr Green
INQ 14	Assessment of Heavens Above, Marlow Bottom in terms of release from the green belt, submitted by Mr Green
INQ 15	Information about how the Council calculated the off-site strategic open space contribution, submitted by Mr Green
INQ 16	Sport England specifications for outdoor sports pitches, submitted by Mr Green
INQ 17	Information about how the contribution towards replacement strategic open space was calculated, submitted by Mr Glover
INQ 18	Sustainable Travel Plans: Guidelines for Developers, submitted by Mr Green
INQ 19	Additional conditions regarding the ecology corridor and views, submitted by Mr Green
INQ 20	Buckinghamshire County Council's specifications for the construction of commercial vehicular access, submitted by Mr Green
INQ 21A INQ 21B	Planning Obligation by Unilateral Undertaking (counterpart documents)
INQ 22	Site visit itinerary
INQ 23A	Opening and closing submissions by Mr Green on behalf of the

INQ 23B	council, including relevant case law
INQ 24A	Opening and closing submissions by Mr Glover on behalf of
INQ 24B	the appellant, including relevant case law
INQ 25	Written application for costs submitted by Mr Green on behalf of the council

PLANS

A	Application plans (See CD 1.25-1.32)
B	Amended site layout (see CD 1.33)
C	Plans booklet

ANNEX THREE: CONDITIONS

1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

2) Application for approval of the reserved matters shall be made to the local planning authority not later than 2 years from the date of this permission.

3) The development hereby permitted shall take place before the expiration of 3 years from the date of this permission or 2 years from the date of approval of the last of the reserved matters, whichever is the later.

4) The development hereby permitted shall be carried out in accordance with the following approved plans: 3011-SK-002A and 3011-SK-006A.

5) The development hereby permitted shall comprise no more than 131 dwellings.

6) No site clearance, preparatory work or development shall take place until an Arboricultural Method Statement and Tree Protection Plan, which show the existing trees and hedgerows that are to be retained and how they will be protected during the course of construction, have been submitted to and approved in writing by the local planning authority. The details shall accord with BS 5837: *Trees in relation to design, demolition and construction – recommendations*. All approved tree and hedge protection measures shall be in place prior to the commencement of construction and shall be retained thereafter until construction has been completed.

7) Any tree or hedgerow shown to be retained under condition 6 that is removed, uprooted, destroyed or dies or becomes, in the opinion of the local planning authority, seriously damaged or defective during the course of construction or within 3 years of the completion of development, shall be replaced with another tree or hedgerow of the same size and species within the first planting season unless the local planning authority gives its written consent to any variation. Any replacement planting shall be retained or further replaced as necessary for 3 years after replacement.

8) No development shall take place until a Construction Management Plan (CMP) has been submitted to, and approved in writing by the local planning authority. The CMP shall provide for:

   i) Construction access from Crowbrook Road;
   ii) the parking of vehicles of site operatives and visitors;
   iii) loading and unloading of plant and materials;
   iv) storage of plant and materials used in constructing the development;
   v) wheel washing facilities;
   vi) measures to control the emission of dust and dirt during construction;
   vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
   viii) delivery and construction working hours;
   ix) the routes to be taken by construction traffic.

   The approved CMP shall be adhered to throughout the construction period for the development.

9) No external lighting shall be installed in the public open space, play area, or ecology areas without the prior written approval of the local planning authority.

10) No development shall take place until a detailed surface water drainage strategy for the site, based on sustainable drainage principles, has been submitted to and approved in writing by the local planning authority. The strategy shall be based on the principles in section 6.3 of the Revised Flood Risk Assessment by WSP dated 23 November 2016 and shall be carried out as approved.

11) No development shall take place until details of existing and proposed finished ground levels have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. The finished floor levels of the dwellings shall be set a minimum of 150mm above the approved finished ground levels.

12) No development shall take place until a scheme for the disposal of foul drainage has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

13) Before reserved matters are submitted and any development is undertaken, the applicant, their agents or successors in title shall:

    i) undertake an archaeological evaluation in the form of a geophysical survey and trial trenching in accordance with a written scheme of investigation that has first been submitted to and approved in writing by the local planning authority;

    ii) implement a programme for the preservation in situ of significant archaeological remains in accordance with a methodology that has first been submitted to and approved in writing by the local planning authority.

14) Where the archaeological evaluation in condition 13i) records archaeological remains that are not of sufficient significance to warrant preservation in situ but are worthy of recording, no development shall take place until the applicant, its agent or successors in title has carried out such recording in accordance with a scheme that has first been submitted to and approved in writing by the local planning authority.

15) No development shall take place until details of the provision and future management and maintenance of an ecology corridor to provide a link to the surface water detention basin along the southern boundary of the site have been submitted to and approved in writing by the local planning authority. The details shall include a timetable for implementation and shall be carried out as approved.

16) No development shall take place until full details of all roadways within the site have been submitted to and approved in writing by the local planning authority. The roadways shall be to an adoptable standard and details shall include provisions for drainage, surfacing and street lighting. No dwelling shall be occupied until the estate roads which provides access to it from Crowbrook Road have been laid out in accordance with the approved details.

17) No other development shall take place until the new access off Crowbrook Road has been provided to at least base course level in accordance with drawing no: 3011-SK-002A. The surface course shall be provided on completion of development or adoption of the access, whichever is the sooner.

18) No development shall take place until a scheme for the provision of a footway, cycleway and emergency access onto Mill Lane and a timetable for its provision, has been submitted to and approved in writing by the local planning authority. The scheme shall be carried out in accordance with the approved details and timetable, unless the local planning authority agree to any variation.

19) No dwelling shall be occupied until a full Travel Plan has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

(End of conditions 1-18)

Department for
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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.