

Appeal Decision

Inquiry held on 20-23 and 28-29 August 2024

Site visit made on 23 August 2024

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th September 2024

Appeal Ref: APP/J0405/W/24/3342894

Land north of Brandon Close, Aston Clinton, Buckinghamshire HP22 5XE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) (the Act) against a refusal to grant outline planning permission.
 - The appeal is made by Kler Group Limited against the decision of Buckinghamshire Council - North Area (Aylesbury).
 - The application Ref is 22/03943/AOP.
 - The development proposed is outline application for residential development for up to 93 dwellings with all matters reserved apart from access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Two amended plans¹ were submitted with the appeal. However, as was confirmed at the Inquiry, it is no longer the appellant's intention to pursue these plans. Thus, I shall consider the appeal based on the plans that were before the Council when it resolved to refuse planning permission.
3. The appeal proposal is for outline planning permission with all detailed matters except for access reserved for future approval. Whilst not formally part of the scheme, I have treated any details submitted with the appeal application relating to matters of appearance, landscaping, layout and scale as a guide to how the site might be developed.
4. The Council confirmed at the Inquiry that it no longer wishes to defend its second reason for refusing planning permission which related to a potential adverse impact upon Great Crested Newts. This is due to its consideration that a Grampian-type condition could be appropriately utilised to secure license details and associated mitigation/management measures prior to any development taking place. The Council has also confirmed that, in lieu of additional information/discussions that took place in advance of the Inquiry, its fourth refusal reason is no longer relied upon. This related to objections in the contexts of skylark survey/mitigation information, biodiversity net gain, and the protection/future management of an adjacent river corridor.

¹ Ref: 22-257-100B and 22-257-101C

5. A planning obligation pursuant to Section 106 of the Act (the legal agreement) is before me. This is dated 4 September 2024 and is signed by the appellant, relevant landowners, and the Council. The legal agreement contains various provisions related to affordable housing, open space, sport and leisure, education, public transport, healthcare, sustainable urban drainage, skylark plots, and the Chilterns Beechwoods Special Area of Conservation (the SAC). I shall return to the legal agreement later in this Decision. Its finalisation has enabled the Council to also withdraw its fifth reason for refusal. I shall formulate the Main Issues accordingly.

Main Issues

6. The main issues are:
- Whether or not the appeal site represents an appropriate location for housing, having regard to relevant provisions of the development plan;
 - The effect upon the character and appearance of the area, having regard to the scheme's landscape and visual effects; and
 - The effect upon the SAC.

Reasons

Whether or not the site represents an appropriate location for housing

7. The spatial strategy for growth, as set out at Policy S2 of the Vale of Aylesbury Local Plan (September 2021) (the VALP), indicates that a total of at least 28,600 new homes shall come forward across the plan period (2013-2033) with strategic settlements being the primary focus of growth and investment, supported by growth at other larger, medium and smaller villages.
8. Aston Clinton is defined within the VALP as a larger village, which are more sustainable villages that have at least reasonable access to facilities and services and public transport. At larger villages, Policy S2 sets out that housing growth of 2,408 dwellings shall come forward at a scale in keeping with local character. This figure is made up of a mixture of completions, commitments, and allocations, with 624 existing completions and commitments at Aston Clinton included.
9. The site is not allocated for development through either the VALP or the Aston Clinton Neighbourhood Plan (August 2018) (the ACNP) and sits wholly outside of, albeit adjacent to, the Settlement Boundary for Aston Clinton as defined in association with Policy H1 of the ACNP. The site thus falls to be considered countryside in local planning policy terms, where new development is not typically supported. Indeed, Policy S3 of the VALP is clear that development in the countryside should be avoided.
10. Policy D3 of the VALP sets out that, exceptionally, non-allocated larger scale development shall only be permitted where the Council's monitoring of housing delivery across the Aylesbury Vale area shows that allocated sites are not being delivered at the anticipated rate. The latest available monitoring information indicates that delivery is exceeding said rate. The policy also sets out a series of subsequent requirements, including that the

site in question is located entirely within any settlement boundary defined in a made neighbourhood plan.

11. Thus, even before coming on to assess the nature and extent of any adverse effects in character and appearance terms, clear conflict with the Council's spatial strategy for development arises from a proposal involving 93 new dwellings in the countryside beyond the defined edge of Aston Clinton. Moreover, having regard to relevant provisions of the development plan, the site does not represent an appropriate location for housing.
12. Nevertheless, the Council is currently unable to demonstrate a five-year supply of deliverable housing sites. Therefore, in the context of the presumption in favour of sustainable development, as set out at paragraph 11 of the Framework, the most important policies for determining this appeal are deemed out-of-date. I shall come on to consider the full implications of the housing land supply shortfall, as well as apportionments of weight to identified policy conflicts, in the Planning Balance.

Character and appearance

Current baseline

13. The site falls within the Southern Vale Landscape Character Area (SVLCA). The key characteristics of the SVLCA include limited topographical variation, fairly evenly dispersed parliamentary enclosure, and a predominance of large open arable fields combined with pockets of grazing land and smaller field parcels associated with settlements. As indicated in the Aylesbury Vale Landscape Character Assessment (2008), various intrusive elements, including transport corridors and sometimes prominent ribbon development, disrupt the continuity of the landscape and erode its condition. Overall, the SVLCA, whilst retaining of its distinctive characteristics, has moderate landscape sensitivity.
14. The appeal site and much of its immediate surroundings, which are not subject to any specific landscape designation or classified as a 'valued landscape' under the terms of the Framework, exhibit a landscape character that typically reflects the key characteristics of the SVLCA. For example, the main body of the site is comprised of four relatively flat adjoining grassed parcels typically defined by established perimeter hedgerows reflective of past parliamentary enclosure.
15. Although the site itself has inherent rural qualities, it is experienced in the context of existing developed influences. The southwest edge of the site is proximate to the built edge of Aston Clinton, beyond a somewhat slender landscaped fringe that incorporates elements of established hedgerow and more recent planting. I have considered arguments that the clear/defined nature of the settlement's current edge heightens the role played by the site in offering a clear transition to the countryside. However, more pertinently to my mind, the edge provides a residential context and serves to highlight that the site does not comprise a remote rural landscape. Of note, there are other sometimes-intrusive features within the site's localised setting. These include the A41 corridor and adjacent high-rising components of Arla Dairy development to the north.

16. Even so, a distinct recreational value prevails by virtue of the clear sense of rural openness that often prevails from various Public Rights of Way (PRoWs) that run either through, alongside, or in proximity to, the site where some sense of tranquillity is often apparent despite the background influence of the A41. It is also noteworthy that the ridgeline of the Chilterns National Landscape (the CNL), situated to the south of Aston Clinton, provides an eye-catching backdrop to southward views. The Quainton-Wing Hills, meanwhile, are visible on the skyline at distance to the north-west.
17. Value is also readily distinguishable in a functional sense, owing to the site comprising part of the rural field network that separates Aston Clinton from neighbouring Buckland. The gap between these settlements is already effectively bridged by ribbon development. However, this actual physical merging of the settlements occurs only at a specific and discreet point along New Road situated southeast from the site. Otherwise, areas of typically open and rural land comprise an appreciable, albeit sometimes narrow, green buffer between the two settlements.
18. The precise position/extent of the green buffer to which I refer is not defined within the development plan. For potential assistance in this respect, my attention has been drawn to a 2014 appeal decision² relating to a previous phase of development off Chapel Drive. The Inspector in that case sought to define the gap between settlements with reference to properties off roads situated south-east of New Road.
19. Circumstances have evolved since 2014, by virtue of new development on the ground and the formal designation of a settlement boundary for Buckland via the making of the Buckland Neighbourhood Plan (2022). I also acknowledge the publication, in late 2014, of a Buckland Conservation Area document that refers to fields acting as a buffer between settlements. Nevertheless, the previous appeal decision serves to highlight that the green buffer's narrowest sections tend to be situated south-eastward of the appeal site. The site, instead, occupies what can typically be observed as a relatively wide component of the green buffer. I shall come on to consider potential coalescence effects in due course.
20. A Zone of Theoretical Visibility (ZTV) plan³ is before me. This assists in illustrating the areas of highest potential visibility to include those within the boundaries of the site itself, locations adjacent to the site's southwestern edge, and the neighbouring field network to the north. The tree-lined embankment of the A41 curtails potential opportunities for longer-range views from the north, whilst visibility from locations within Buckland are well-screened by physical features that include a block of mature woodland (in-part associated with the Moat Farm Scheduled Ancient Monument) and a long-established treed hedge line that depicts the boundary between parishes. Various other established hedgerows play some role in filtering views of the site from local roads and the PRoW network.
21. Notwithstanding the considerable degree of visual containment that is applicable, various high-sensitivity receptors have access to views of or over the site. Such receptors include PRoW users and the occupiers of residential

² APP/J0405/A/13/2210864

³ Ref: 5961/ASPX/ZTV

properties that face the site and afford primary views along stretches of Chapel Drive and Brandon Close.

22. In summary, even though it comprises part of a readily distinguishable green buffer that prevails between the settlements of Aston Clinton and Buckland, I find the site, taken as a whole, to exhibit no more than medium landscape value and sensitivity. Further, whilst high-sensitivity visual receptors are at play, the site can be fairly described as well-contained in visual terms.

The proposal and its effects

23. The Indicative Masterplan⁴ (the IM) indicates that built development would be directed to the site's two central field parcels (Fields 2 and 3), with a single point of access off Brandon Close into Field 3. Public open space is preliminarily proposed to make up the remaining outer parcels (Fields 1 and 4), in conjunction with drainage infrastructure within Field 1. In addition, a Landscape Strategy Plan⁵ (LSP) illustratively depicts, amongst other features, a range of new native planting, a retained/enhanced landscaped edge to the site's northeastern boundary, various new internal footpath links, and the provision of a Locally Equipped Area of Play (LEAP) within Field 4, the southeastern-most field parcel.
24. Whilst Fields 2 and 3 would be lost to development, it is intended that existing hedgerows be retained, enhanced, and incorporated wherever feasible. Even though a stretch of new hedgerow would be arbitrarily created across Field 3 to the north-eastern edge of the site, the existing field pattern would remain largely intact. It is also noteworthy that a smaller-scale field pattern is identifiable to the Aston Clinton side of the green buffer. Thus, it has been satisfactorily demonstrated that a scheme genuinely respectful of the historic field pattern could be brought forward whilst actively utilising established planting to soften various outer edges of the proposed built development and to guard against the proposal being experienced as uncontrolled encroachment into the countryside.
25. Policy S3 of the VALP indicates that new development in the countryside should be especially avoided where it would compromise the character of the countryside between settlements, and result in a negative impact on the identities of neighbouring settlements or communities leading to their coalescence. Coalescence is defined in a footnote to the policy as the merging or perceived merging or coming together of separate settlements to form a single entity. Of relevance to Aston Clinton, the supporting text to the policy references a need for more specific protection in locations experiencing the strongest pressures for development including villages in proximity to Aylesbury.
26. The generous extent of the site dictates that, at Fields 2 and 3 where built development is proposed, the green buffer would reduce by approximately a third of its width. Whilst I recognise coalescence to be a process over time, the new built edge to Aston Clinton would remain setback from the intervening parish boundary and a relatively wide and distinct physical gap between the respective built edges of the settlements would remain.

⁴ Ref: 22-257-101B

⁵ Ref: 5961/ASP6/LSP C

27. I find the concept of co-visibility to be an important one. Moreover, the extent to which the settlements of Aston Clinton and Buckland could be seen in combination post-development compared to current circumstances sits central to identifying any perceived merging or coming together. There are currently few publicly accessible locations where the villages are visible in unison. This is even whilst acknowledging that the screening effects of established planting would naturally reduce to some degree during winter months when deciduous species would not be in leaf.
28. The proposal would, through advancing the edge of Aston Clinton north-eastwards, inevitably lead to some increase in the influence of built form from positions broadly akin to Viewpoint 1 as assessed through the Landscape and Visual Impact Assessment (November 2022) (the LVIA). This approximate location also offers glimpses of buildings that comprise the northernmost part of Buckland. However, experiences of Aston Clinton's settlement edge would not be fundamentally altered. Indeed, as it is only when considerably distanced from Aston Clinton that co-visibility is possible, any perceived coming together of the settlements promoted by the scheme would be at a very limited and inconsequential level. This is even though a sequence of views would be available to any footpath user. From a separate perspective, if ultimately viewable in any part from Viewpoint 6 on Model Row, Buckland, I am content that the proposed development would have a negligible visual effect.
29. Field 4 borders the parish boundary of Buckland and sits near to the defined Settlement Boundary of that settlement. Its current inherent openness and agricultural appearance assists, at least to some degree, in guarding against a perceived merging of the settlements, particularly for PRoW⁶ users as they move between settlements across a relatively short distance. It thus follows that any proposal involving the introduction of features that would materially dilute the rural qualities of Field 4 could lead to negative impacts upon individual settlement identity.
30. A LEAP in conjunction with a series of footpaths and pockets of new planting are identified within Field 4 upon the LSP, which are features that would hold the realistic potential to impart a damaging recreational/domestic character. However, the preliminarily envisaged native planting (which, once established, could assist in filtering views of built development) does not appear excessive so as to be anticipated to result in any pronounced loss of openness, and it was qualified at the Inquiry that new footpath links would be grass mown. Further, layout is not a matter before me for formal determination such that the LEAP could be relocated away from Field 4 to a less sensitive part of the wider site at detailed planning stage.
31. Turning to visual effects more generally, the proposal would inevitably fail to fully safeguard the rural character and openness of views available from a range of publicly accessible vantage points. Indeed, the LVIA identifies that, at Year 1 following implementation, there would be significant visual effects from PRoW vantage points within the site and from a location on Brandon Close akin to where the new access point is proposed.

⁶ ACL 4/3 and ACL 5/4

32. There are additional locations adjacent to the site's southwestern boundary (along Chapel Drive and Brandon Close as well as positions akin to Viewpoint 10) from where the proposed development would have a noticeable influence – at least initially – upon available outward views extending beyond the landscaped edge to the settlement. Moreover, receptor-sensitivity and the magnitude of change would, at Year 1, dictate some intermittent significant visual effects at locations proximate to the site's southwestern edge. Such findings similarly apply to southward views from positions akin to Viewpoint 2. This is notwithstanding the influence of the existing built edge of the village in southward views.
33. However, I see merit in the indicative landscape-led approach to developing the site as depicted upon the LSP. Indeed, it has been demonstrated that the site is of sufficient overall area to accommodate the housing proposed beside often-expansive swathes of open space capable of accommodating comprehensive landscaped edges to the developable area in addition to various other pockets of new native planting. I also note that a further layer of planting along the southwestern edges of Fields 2 and 3 could feasibly be secured at detailed planning stage. It is thus fair, in my view, to forecast that a considerable degree of mitigation capable of remedying most of the initial significant visual effects identifiable would be realistically achievable by Year 10. This is even though the proposed houses would be fairly anticipated to exceed the height of enhanced planted buffers.
34. Nevertheless, the provision of the new access would necessitate a sizeable punctuation of an established hedgerow as well as other planting removals in a specific part of the settlement's landscaped northeastern fringe. This would provide for the availability of direct and unfiltered views of housing development where currently an awareness of the undeveloped open countryside is apparent beyond intervening planting and green space. Whilst I am sufficiently satisfied that this maturing landscaped fringe in conjunction with new planting would satisfactorily assist in guarding against significant long term visual effects at other locations along the site's southwestern edge, such effects would inevitably endure for PRow users and residents in direct proximity to the position of the new access point. This is notwithstanding the setback nature of the proposed development and the wider residential setting that is applicable.
35. I have noted concerns raised in a design context owing to the reliance placed upon a single point of access and an alleged failure to maximise connectivity and permeability. However, it is fairly anticipated that the single point of vehicular access would be supplemented by multiple footway links capable of offering quick and convenient access from the site to the local highway/footway network. I also note that it is common ground between the appellant and the Council that the site has acceptable access to surrounding facilities and services.
36. Whilst the manner in which the IM illustrates a series of cul-de-sacs has also been raised as a concern, it must be noted that layout is one of a number of reserved matters not before me for determination. Any suggestion that a layout evolved from that preliminarily illustrated on the IM would necessarily lead to a reduction in robust landscaped edges has not been clearly substantiated. In this sense it is relevant that development of up to 93

dwelling is proposed, such that a full and comprehensive scheme of landscaping would not have to be sacrificed in order to accommodate a specific quantum of development. This is even though a noticeably reduced number of units would be unlikely to materialise at detailed planning stage.

37. For the avoidance of doubt, owing to the proximity of the site to the existing built edge of Aston Clinton, I am satisfied that the scheme would not appear artificially separated from the settlement or as a disconnected enclave. This is even should an extra layer of planting be introduced along the site's south-western edge.
38. I have noted concerns raised with respect to any future intention to introduce some selected two and a half storey elements. Whilst such concerns could be legitimate in view of heightened visibility, scale is not a detailed matter before me for formal determination at this point. Further, I am content that an on-site pond related to the management of drainage could be appropriately integrated, if not of an over-engineered design, to the northwestern side of the site without raising undue concerns in a character and appearance sense.
39. Some criticisms of the LVIA were raised at the Inquiry. However, I am content that its production was undertaken in satisfactory accordance with best practice. For example, notwithstanding an absence of development visibility in a small number of instances, the viewpoints selected were, to my mind, suitably representative of the subsequently produced ZTV. In addition, visualisations and wire frames, whilst potentially helpful illustrative tools, are not mandatory requirements.

Character and appearance conclusions

40. The proposal, which involves the loss of agricultural land and considerable development outside of Aston Clinton's defined limits, would inevitably compromise the character of the countryside in a location between settlements. However, in-part owing to a baseline of merely medium sensitivity, the influence of Aston Clinton's built edge, and the historic field pattern being adequately respected by the proposal, adverse landscape effects would be tempered.
41. Further, a material negative impact upon the identity of either Aston Clinton or Buckland could be avoided. Moreover, subject to the future implementation and maturation of a robust and comprehensive site-wide landscape strategy, as broadly reflected through the LSP, the proposal would not lead to coalescence as defined in the footnote to Policy S3 of the VALP. These findings are in-part dependent upon the careful treatment and sensitive ongoing management of Field 4.
42. Whilst I have identified significant long-term visual effects that could not realistically be mitigated against, such effects would be of a localised nature and must be considered in the context of a surrounding landscape that does not display out-of-the-ordinary scenic qualities. It is also noteworthy that, in-part owing to the distance of separation involved, the proposal would conserve the landscape and scenic beauty of the CNL.

43. In summary, the proposal would cause moderate harm to the character and appearance of the area in conflict with Policies S1, S2, S3, BE2, D3 and NE4 of the VALP, and Policies H1 and HQD1 of the ACNP in so far as these policies set out that development in the countryside should be avoided, that housing growth will be at a scale in keeping with the local character, and that development should minimise impact on visual amenity. For the avoidance of doubt, I am content that Policy BE2 contains provisions capable of being applied to this outline scheme.

The SAC

44. The site lies within a 12.6km designated Zone of Influence (ZoI) of the Ashridge Commons and Woods Site of Special Scientific Interest, which comprises a component of the SAC. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitat Regulations) require that, where a project is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), the competent authority must make an appropriate assessment of the project's implications in view of the relevant site's conservation objectives. For the purposes of this appeal, I am the competent authority.
45. The main qualifying features of the relevant component of the SAC are its extensive native beech forests on neutral to rich soils, its semi-natural dry grasslands and scrub on chalk, and its stag beetle population – a species of international importance. A threat to the integrity of the SAC is public access and recreational activities associated to additional development. The proposed development would lead to an increased population likely utilising the SAC for recreational purposes. Consequently, in the absence of mitigation, the proposal would cause harm to the integrity of the SAC.
46. The Chilterns Beechwoods SAC Mitigation Strategy (the MS) was approved via the Council's cabinet on 16 July 2024. The MS was produced in liaison with Natural England and identifies the need for qualifying development to provide mitigation by way of a payment towards a Strategic Access Management and Monitoring Strategy (SAMMS) and the separate provision of Suitable Alternative Natural Greenspace (SANG). The SAMMS is comprised of a range of projects costed across a long timeframe, resulting in a per new dwelling tariff that is operational and reflected within the legal agreement.
47. With respect to SANG, in accordance with the MS, either a bespoke SANG to mitigate the development proposed or a contribution towards a strategic SANG designed to mitigate multiple developments is required. The appellant is reliant upon contributing to a strategic SANG, namely the Kingsbrook SANG. Whilst no strategic SANGs have yet been established within the Council's administrative area, a reserved matters application for development incorporating the Kingsbrook SANG was submitted to and validated by the Council in June 2024.
48. The MS represents an overall strategy and does not confirm the locations of strategic SANGs. Even so, the Kingsbrook SANG is acknowledged within the MS as being under consideration and, if approved, would have the capacity to support 3,295 homes – including those proposed at the appeal site. Indeed, as a matter of principle, the Kingsbrook SANG could, in the future,

provide for the removal of a key constraint to housing delivery within the designated ZoI and exclude adverse effects from the scheme now under consideration upon the integrity of the SAC.

49. However, based on its current planning status, there is at present no clear definitive assurance that the Kingsbrook SANG shall be granted detailed consent and become operational. In this context, it is my understanding that, through the reserved matters consultation process, additional information has been requested by the Environment Agency (in the form of a revised Flood Risk Assessment under the guise of a formal objection), the Canal and Rivers Trust, and the Highway Authority. As such, reserved matters approval cannot be guaranteed. It is also relevant that the Kingsbrook SANG is not Council-led, which adds a further layer of complexity/uncertainty in terms of its delivery and associated timescales.
50. It has been suggested that a Grampian condition could be imposed should the appeal be successful requiring that no development takes place until full details of the Kingsbrook SANG (and an associated financial contribution for management and maintenance purposes) have been submitted to and approved by the Council. This, it is proposed, would sit alongside another condition attaining details of the legally binding document by which the SANG would be secured.
51. I have had regard to the Planning Practice Guidance in so far as it guides that Grampian conditions should not be used where there are no prospects at all of the action in question being performed within the time-limit imposed by the permission. There is, I acknowledge, a prospect that the Kingsbrook SANG could come to fruition, albeit in line with an unclear timeline at this stage, which would satisfy the 'no prospect' test referred to by the appellant.
52. However, the Habitat Regulations dictate that a competent authority may only agree to a plan or project having ascertained that it will not affect the integrity of the European Site. Taking a precautionary approach, I must be certain that the scheme would not affect the integrity of the SAC. This is a rigorous test. The proposed Grampian condition would ensure that the proposed development could not, in the absence of SANG mitigation, proceed without a breach of planning control. But this introduces a dependency upon active monitoring and possible enforcement actions in circumstances where an established and operational Kingsbrook SANG is not yet imminent.
53. Moreover, the proposed Grampian condition places reliance upon the Kingsbrook SANG – the establishment of which cannot yet be fairly considered guaranteed. It is therefore a proposed condition that, in the circumstances of this case, does not meet the test of reasonableness as sited at paragraph 56 of the Framework. In view of the unpredictability associated to the delivery of the Kingsbrook SANG, it is not a condition that ought to be imposed in the interests of either sound planning or protecting the integrity of a European site.
54. It has been brought to my attention that a Grampian condition was used by an Inspector⁷ in Dacorum Borough in May 2024 with reference to the same

⁷ Appeal Ref: APP/A1910/W/23/3333545

SAC and a private SANG not yet operational. However, in that case Natural England had approved the Management Plan for the private SANG in question and there was not any outstanding reserved matters application pending determination. Thus, that SANG was at a considerably more advanced stage when compared to the Kingsbrook SANG.

55. The test of certainty for the strategic SANG solution is not solely confined to whether or not reserved matters approval has been granted. Instead, a holistic judgement based on the individual case circumstances to hand is required. In this instance, there are a range of factors with respect to the Kingsbrook SANG, including the technical matters yet to be overcome through the planning process and those associated to an unclear delivery programme, that do not offer suitable certainty.
56. Whilst the SAMMS contribution represents proportionate mitigation that I am satisfied would be delivered in an expedient manner, no such robust assurances apply to the second arm of the MS, namely SANG, at this point. I thus cannot be certain that the proposal would not adversely affect the integrity of the SAC. This is consistent with the views⁸ of Natural England, the relevant statutory nature conservation body.
57. The proposal conflicts with Policy NE1 of the VALP, Policies EN1 and EN2 of the ACNP, and the Framework in so far as these policies set out that nationally protected SSSIs will be protected and that development likely to affect the SAC will be subject to assessment under the Habitat Regulations and will not be permitted unless any significant adverse effects can be fully mitigated.

Other Matters

58. I have noted objections/concerns raised by interested parties with respect to matters including: highway and pedestrian safety; the effect upon neighbouring living conditions; the accessibility and capacity of local services and facilities; and the effect upon wildlife. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to explore these matters in any detail here.

Legal Agreement

59. The legal agreement secures the on-site provision of affordable housing in accordance with the requirements of Policy H1 of the VALP, as well as contributions calculated by the Local Education Authority towards expanding primary and secondary education capacity at specific established or anticipated local establishments (albeit not Aston Clinton School). A contribution towards off-site sports and recreation facilities is obtained alongside on-site open space, play provision and associated maintenance provisions in compliance with Policies I1, I2 and I3 of the VALP and supporting guidance.
60. Further, contributions towards public transport/highway initiatives are secured in accordance with the requirements of the Local Highway Authority and Policies T1 and T4 of the VALP. A primary healthcare contribution to be directed towards an identified project to expand a local health centre is also

⁸ Email correspondence dated 11 July 2024

captured. A scheme to include the details of ongoing maintenance measures related to sustainable drainage systems is secured in broad accordance with Policy I4 of the VALP. In addition, following the completion of a series of breeding bird surveys, a commensurate contribution towards the provision and long-term maintenance of off-site skylark plots is obtained in compliance with the requirements of the Council's Ecology Officers and the provisions of Policy NE1 of the VALP. A costed SAMMS contribution, as referenced in my reasoning above, is also secured.

61. I am satisfied that the various contributions and provisions secured through the legal agreement, as listed in the preceding paragraphs, would be necessary to make the development potentially acceptable in planning terms, would be directly related to the development, and be fairly and reasonably related in scale and kind. I am satisfied too that the monitoring fees secured would be proportionate and reflect the actual costs of monitoring.
62. I note that the legal agreement seeks to secure, prior to the commencement of development, an as yet unspecified SANG contribution to be calculated in accordance with the MS or any successor document setting out the necessary calculation. Whilst this contribution holds the potential to meet the relevant tests for planning obligations, it shall be seen from my reasoning upon the third Main Issue above that, based on the evidence currently before me, I cannot be certain that the proposal would not adversely affect the integrity of the SAC. The inclusion of SANG-related provisions within the legal agreement does not alter this position.

Planning Balance

63. It is a matter of common ground that the Council is unable to identify a five-year supply of deliverable housing sites such that the most important policies for determining the proposal are deemed out of date.
64. Following discussion at the Inquiry upon disputed housing sites, the Council is of the position that a 3.86-year supply (a shortfall of 1,600 units) is currently identifiable when assessed against the adopted housing requirement, whilst the appellant instead suggests a 2.94-year supply is applicable (a shortfall of 2,900 units).
65. I have found clear conflict with the Council's spatial strategy for development. Indeed, contrary to Policies S2 and S3 of the VALP, the proposed dwellings would lead to housing growth in excess of that anticipated for Aston Clinton at odds with the adopted settlement hierarchy. Further, the site's location outside of Aston Clinton's designated Settlement Boundary necessitates conflict with Policy H1 of the ACNP. There is also conflict with various detailed provisions of Policy D3 of the VALP, most pertinently on the basis that this policy does not support unallocated development where the rate of delivery upon allocated sites is as anticipated.
66. Even so, the restrictions placed on housing development by the Council's housing delivery policies have prejudiced the ability to demonstrate a satisfactory supply of deliverable housing sites when measured against the VALP's up-to-date housing requirement. In the context of a significant

supply shortfall (which would be the case even should the Council's suggested supply figure be relied upon), I attach moderate weight to the identified conflicts with Policies S2, S3 and D3 of the VALP in so far as these policies illustrate a spatial strategy for growth. I also attach moderate weight to the identified conflict with Policy H1 of the ACNP on the basis that it too restricts housing delivery. This is notwithstanding the high number of recent completions and commitments attributed to Aston Clinton.

67. By virtue of the scheme's failure to fit with the intentions and strategic objectives of the VALP, there is also conflict with Policy S1 of the VALP. However, in view of this policy's broad/overarching nature and lack of consistency with the precise wording of paragraph 11 of the Framework, I attach limited weight to this conflict. This is without prejudice to my findings as expressed in the preceding paragraph.
68. In addition to the above identified conflict with the Council's spatial strategy, the proposal would lead to harm to the character and appearance of the area having regard to the scheme's landscape and visual effects. Indeed, the Framework sets out that the intrinsic character and beauty of the countryside should be recognised in decision-making. This aim is reflected in differing guises by the detailed provisions of various relevant development plan policies, namely Policies S2, S3, BE2, D3 and NE4 of the VALP, and Policies H1 and HQD1 of the ACNP. Whilst these policy conflicts are attractive of full weight in a character and appearance sense, I attribute moderate weight to the associated harm that I have identified.
69. Decisively, I have found that I cannot be certain that the proposal would not adversely affect the integrity of the SAC in conflict with Policy NE1 of the VALP, Policies EN1 and EN2 of the ACNP, and the Framework. Further, the application of the Framework's policies that protect habitat sites provides a clear reason for refusing planning permission. Accordingly, the presumption in favour of sustainable development is not engaged.
70. The proposal conflicts with the development plan when read as a whole. It would deliver a range of sometimes meaty benefits, including both market and affordable housing in the context of a significant housing land supply shortfall, significant biodiversity benefits, and moderate economic benefits associated with both the construction and occupation phases of development. However, even though substantial in weight, material considerations, which include the Framework, do not lead me to decision contrary to the development plan.

Conclusion

71. For the reasons given above, the appeal is dismissed.

Andrew Smith

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Killian Garvey	Counsel
He called:	
James Morton BA (Hons) MA LA CMLI	Associate, Aspect Landscape Planning Ltd
Neil Tiley Assoc RTPI BSc (Hons)	Senior Director, Pegasus Group
Suzanne Mansfield BSc (Hons) Ph.D. MCIEEM CMLI	Senior Ecology Director, FPCR Environment & Design Ltd
Michael Robson BA (Hons) DipTP MRTPI	Managing Director, Cerda Planning Ltd

FOR THE COUNCIL:

Michael Rhimes	Counsel, instructed by Rachel Steele, Planning Solicitor
He called:	
Jonathan Bellars BA Dip LA (Hons) Dip UD CMLI	Team Leader, Landscape Architecture and Urban Design
Louise Anderson BSc (Hons) MSc MRTPI	Principal Planning Policy Officer
Emma Foster BSc (Hons) MSc	Ecology Officer
Zenab Hearn MRTPI MRICS	Principal Planner

FOR ASTON CLINTON PARISH COUNCIL:

Piers Riley Smith and Elana Kaymer	Counsel
They called:	
Peter Radmall MA B.Phil CMLI	Consultant Landscape Planner

INTERESTED PARTIES

Carole Paternoster	Buckland Parish Council
Christine Moxham	Chair of Governors, Aston Clinton School
Catriona Todd	Local resident
Max Brennan	Local resident

INQUIRY DOCUMENTS TABLED DURING THE EVENT

ID1 – Red line location plan for appeal scheme APP/J0405/W/16/3147513

ID2 – Landscape Statement of Common Ground, Version 002

ID3 – Opening statement of the appellant

ID4 – Opening statement of the Council

ID5 – Opening statement of Aston Clinton Parish Council

ID6 – Transcript of statement made by Carole Paternoster, Buckland Parish Council

ID7 – Transcript of statement made by Catriona Todd, local resident

ID8 – Transcript of statement made by Christine Moxham, Chair of Governors, Aston Clinton School

ID9 – Transcript of statement made by Max Brennan, local resident

ID10 – Site Visit itinerary plan

ID11 – Final draft of the legal agreement and associated appendices (1-3)

ID12 – High Court judgement involving Westerleigh Group Limited, CO/5712/2014

ID13 – Plan 1 to the legal agreement

ID14 – Plan 2 to the legal agreement

ID15 – Screenshot related to Hampden Fields, disputed housing site

ID16 – Approval of details notice (Phase Implementation Plan) related to Land to the southwest of Milton Keynes, disputed housing site

ID17 – Delegated report associated to non-material amendment application related to Land to the southwest of Milton Keynes, disputed housing site

ID18 – Approval of details notice (Phasing Plan) related to Land to the southwest of Milton Keynes, disputed housing site

- ID19 – Note following independent viability review, related to Land at South Aylesbury, disputed housing site
- ID20 – Excel spreadsheet detailing latest housing land supply positions
- ID21 – Draft ecology conditions
- ID22 – High Court judgement, Bassetlaw District Council, CO/1830/2018
- ID23 – Revised agreed draft conditions
- ID24 – Closing statement of the Council
- ID25 – Court of appeal judgment involving Crystal Property (London) Ltd, C1/2015/0448
- ID26 – High Court judgement involving Bewley Homes PLC, AC-2023-LON-001993
- ID27 – Closing statement of Aston Clinton Parish Council
- ID28 – Closing statement of the appellant
- ID29 – Appellant’s response to Council and Rule 6 party closing submissions
- ID30 – Agreed draft Suitable Accessible Natural Greenspace conditions

DOCUMENT RECEIVED AFTER THE INQUIRY

- A – Completed legal agreement, dated 4 September 2024