



Appeal Decisions

Site visit made on 7 January 2025

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 February 2025

Appeal A Ref: APP/K0425/W/24/3344458

Land Between Fair Holme And Mendip, Hawks Hill, Bourne End SL8 5JQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Jon Furneaux, Palatine Homes against Buckinghamshire Council - West Area (Wycombe).
 - The application Ref is 21/07263/OUT.
 - The development proposed was described as 'construction of 3 x dwellings'.
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Appeal B Ref: APP/K0425/W/24/3344459

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 - The appeal is made by Mr Jon Furneaux, Palatine Homes against Buckinghamshire Council - West Area (Wycombe).
 - The application Ref is 21/07244/FUL.
 - The development proposed is 'change of use of existing unmanaged scrubland to create new public open space, public footpaths, landscaping and pedestrian access'
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Decisions

Appeal A Ref: APP/K0425/W/24/3344458

1. Appeal A is dismissed and outline planning permission for 'construction of 3 x dwellings' is refused.

Appeal B Ref: APP/K0425/W/24/3344459

2. Appeal B is allowed and planning permission is granted for 'change of use of existing unmanaged scrubland to create new public open space, public footpaths, landscaping and pedestrian access' at Land Between Fair Holme and Mendip, Hawks Hill, Bourne End SL85JQ in accordance with the terms of the application, Ref 21/07244/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

3. As set out in the banner headings above, there are two appeals before me. The appeals each concern different parts of a former orchard on Hawks Hill ('the Orchard Site'). A third parcel of the Orchard Site along the Hawks Hill frontage is not part of either appeal site, but the location plans indicate that it is in the same ownership, and the appellant refers to it as a 'Landscape Buffer'.
4. As part of the appeals, the appellant has submitted a Unilateral Undertaking under the provisions of section 106 of the Town and Country Planning Act 1990 (as amended) dated 21 August 2024 ('the UU'). The UU includes obligations intended to restrict occupation of

the dwellings proposed under Appeal A until the open space subject of Appeal B and the Landscape Buffer have been laid out in accordance with approved details.

5. I have considered each proposal on its individual merits and in light of the UU, but to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
6. Appeal A relates to an application seeking outline planning permission. Approval is sought for access and layout, while matters of appearance, landscaping and scale are reserved for future consideration. I have had regard to the plans submitted as part of the application. However, I have regarded details other than of the access and layout as illustrative.
7. The descriptions of development in the banner headings above are taken from the planning appeal forms. They differ slightly from the descriptions entered on the application forms but are consistent with the descriptions used in the Council's evidence and in the appellant's UU. As they are used by both main parties and accurately set out the developments proposed, I am satisfied that no injustice would be caused by basing my assessment on these descriptions.
8. In December 2024, the Government published a revised version of the National Planning Policy Framework ('the Framework') and the Housing Delivery Test: 2023 measurement ('the HDT'). The main parties were given the opportunity to comment on any implications for the appeals of these publications. I have determined the appeals having regard to their responses and in light of the Framework and HDT.
9. Included with the appellant's response was a Habitats Regulations Technical Note providing details that I had requested to inform assessment in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended) ('the Habitats Regulations'). The response also referred to an appeal decision concerning Land at Gomm Valley, High Wycombe¹ which had been issued since their final comments. The Council was invited to comment on the additional information and having regard to the subject matter and that there would be no change to the developments proposed, I am satisfied that no unlawful procedural unfairness would be caused by my having regard to this information. I have therefore taken it into account in determining the appeals.
10. Finally, the Council indicates that there is an open enforcement case in respect of site clearance and tree felling works at the Orchard Site. The appellant has not disputed that such works have occurred and indeed I observed stumps and logs which appear to suggest relatively recent tree works. It is not within my remit in the context of these appeals to determine whether or not any unauthorised works have occurred. Nevertheless, I have had regard to the arboricultural evidence submitted with the applications in considering the baseline position in respect of tree coverage.

Main Issues

11. Main issues in both Appeal A and Appeal B are:
 - i) whether or not the proposals would be acceptable having regard to effects on the Orchard Site including in respect of its designation as green space; and
 - ii) the effect of the proposals on biodiversity and habitat.
12. Additional main issues in respect of Appeal A only are:
 - iii) the effect of the proposal on the character and appearance of the area;
 - iv) the effect of the proposal on the setting of Hawks Hill House, a Grade II listed building; and
 - v) whether or not the proposal would provide for adequate canopy cover.

¹ Appeal ref APP/K0425/W/23/3332257

Reasons

Orchard Site and Green Space (Appeals A and B)

13. Policy DM12 of the Delivery and Site Allocations Plan 2013 ('the DSAP') outlines requirements for green spaces shown on the Policies Map which include the Orchard Site. In addition, Policy BE2 of the Wycombe District Local Plan 2019 ('the LP') allocates Hollands Farm which is adjacent to the Orchard Site for residential-led mixed use development. The boundary of the allocation does not include the Orchard Site, but Policy BE2 includes a requirement for development of the allocation to '*protect and enhance the biodiversity and green infrastructure value of the former orchard in accordance with Policy DM34, providing public access and ongoing management as part of the overall development. Buildings within this area will not be acceptable*'.

Appeal A

14. In proposing 3 dwellings, the Appeal A proposal would result in buildings within the area of the former orchard in direct conflict with Policy BE2 of the LP.
15. The appellant contends that this policy should be read alongside and in the context of Policy DM12 of the DSAP which allows development resulting in loss, fragmentation or reduction in size of green space in exceptional circumstances and where it can be demonstrated that the development within a green space is necessary.
16. In considering these matters, I note a Certificate of Lawfulness relating to use of land for the siting of three mobile homes² ('the Certificate Scheme') on part of the Orchard Site. From the details provided, this appears to have been granted acknowledging a deemed permission for caravans on specific parcels. The appellant's Biodiversity Metric Report indicates that the mobile homes were vacated by 1987, and I saw no clear sign of mobile homes nor any access at my visit. That said, the Council has not disputed the appellant's position that the deemed permission is not subject to any commencement or implementation condition and could be taken up at any time in the future.
17. However, even if I were to accept that the Certificate Scheme would support the principle of residential development contrary to the general approach in Policies BE2 of the LP and DM12 of the DSAP, the mobile homes would be modest structures of limited height in accordance with maximum dimensions specified on the Certificate. The Certificate Scheme also relates to a relatively tightly defined area around the mobile homes, access and parking. Given these factors and my observations, the Certificate Scheme would be a fairly discreet presence sitting within the Orchard Site green space.
18. In contrast, the illustrative material suggests dwellings that would each be of much greater height, bulk and overall scale than mobile homes. This is not determinative given that details of scale and appearance are not part of the development applied for, but while I acknowledge the potential for alternative designs to be brought forward as part of a reserved matters submission, any dwelling here would realistically be likely to be of greater height and markedly larger overall scale than the mobile homes. In any event, layout is not a reserved matter and indicates that the dwellings would have fairly large plots with generous private gardens as well as driveways. Cumulatively, the three plots together with the access would occupy an extensive area of the Appeal A site which the appellant has not disputed would be over twice the size of the land within the Certificate Scheme and irrespective of landscaping, would effectively transform this area from green space to a small residential estate.
19. I find as a result that the development would have a markedly greater physical presence and prominence and would result in a significantly greater reduction in the size of the green space than the Certificate Scheme.

² Application ref 21/07264/CLE

20. On that basis, the Certificate Scheme does not in itself represent an exceptional circumstance justifying the loss of green space that would be caused by the appeal proposal as required by Policy DM12 of the DSAP. Nor, and leaving aside the matter of whether mobile homes would comprise 'buildings' rather than facilitating a use of land, does the Certificate Scheme offer a convincing justification for the proposal now before me insofar as it involves buildings within the Orchard Site contrary to Policy BE2 of the LP.
21. The Council has not disputed the appellant's evidence highlighting a significant shortfall in provision for Self Build and Custom Housing ('SBCH') and suggesting that it is unable to demonstrate a 5 year supply of deliverable housing sites as required by the Framework. However, there is no compelling evidence before me demonstrating that development on the green space would be 'necessary', in the terms of Policy DM12 of the DSAP, in order to address the shortfalls. Moreover, implementing the Certificate Scheme which the appellant states would occur if a reasonable development alternative cannot be achieved would also provide residential use on the site with lesser impact on the green space, albeit not SBCH.
22. Although not directly part of the Appeal A development, provision of public open space on the Appeal B site and the Landscape Buffer as well as management of the space through a Landscape and Ecological Management Plan ('LEMP') would effectively be secured by the UU. In addition, the UU would secure a new footpath link through the Appeal B site between Hawks Hill and the Hollands Farm BE2 allocation.
23. I accept that these would in principle offer public benefits and note that the footpath link in particular is supported by the Strategic Access Officer. However, while the illustrative layout accompanying Policy BE2 of the LP shows a 'potential new footpath' through the Orchard Site, the Policy does not explicitly require this for development of the allocated site to be acceptable and the link is described as aspirational in an extract within the Strategic Access Officer's comments. Policy BE2 does include a requirement for footpath and cycle links to the village centre but the Council indicates that currently pending planning applications for the allocated site include such links in other locations and there is no other firm evidence before me to demonstrate that providing a footpath link through the Orchard Site would comprise essential infrastructure for the housing allocation to be delivered as the appellant asserts.
24. Furthermore, Policy BE2 seeks public access to the Orchard Site rather than provision of public open space and I have no firm reason to doubt the Council's comments that adequate public open space to meet requirements can be provided as part of the current planning applications on the allocated site. I acknowledge comments in the Wooburn and Bourne End Parish Council Neighbourhood Development Plan 2023 ('the NP') referring to a deficiency of public amenity open space and the Wycombe Open Spaces Framework Assessment suggesting a strategic and local open space deficiency in the parish. From the information before me however, it is not clear that any deficiency relates particularly to open space that is accessible to the public rather than providing other amenity such as visual or ecological. Nor can I be sure that loss of green space on the appeal site would not exacerbate any deficiency in open space of that typology.
25. In any event, I appreciate that the footpath link, public open space and management of the Orchard Site would not be delivered through implementation of the Certificate Scheme and may not be part of current planning applications for Hollands Farm. However, I have no cogent evidence demonstrating that these outcomes could not otherwise be reasonably delivered alongside the Hollands Farm allocation in the absence of the Appeal A development, particularly in the form proposed which I have identified would adversely affect green space.
26. Notwithstanding its current condition and quality, the Orchard Site is designated as green space within the development plan. Despite the area that would be retained, the effective loss of a significant part of the Orchard Site to residential development would not in my judgement be outweighed by the improvements to public access, biodiversity and the

character and quality of space on the remainder of the site so as to conserve or enhance the contribution made to the Green Infrastructure Network overall.

27. Having regard to all of the above and even in combination, the factors advanced by the appellant do not persuade me that the development within green space is necessary, nor that there are exceptional circumstances justifying the loss of green space.
28. Accordingly, I conclude that the Appeal A proposal would cause unacceptable harm to the Orchard Site and designated green space. It would conflict with Policy DM12 of the DSAP, as well as with Policy BE2 of the LP insofar as it states that buildings within the former orchard will not be acceptable. In addition, there would be conflict with Policy DM11 of the DSAP which includes a requirement for conservation and enhancement of the green infrastructure network.

Appeal B

29. In principle, the provision of public access and a footpath link on the Appeal B site would accord with Policy BE2 of the LP. Furthermore, Appeal B may not secure comprehensive management of the entire Orchard Site, but the exclusion of the Appeal A site area would not in itself cause unacceptable loss, fragmentation or reduction in size of the existing green space relative to the current situation so as to conflict with Policy DM12 of the DSAP.
30. Whether or not the Appeal B proposal is likely to come forward separately from the Appeal A development, such an outcome would not appear to me to be necessarily precluded by the UU or otherwise. In isolation, I see no reason that the Appeal B proposal would undermine the Orchard Site or green space designation and I accordingly conclude that Appeal B would comply with Policy BE2 of the LP and Policy DM12 of the DSAP.

Biodiversity and Habitat (Appeals A and B)

31. In addition to being designated as green space, the Council indicates that the Orchard Site is designated priority habitat. In this respect, the appellant's LEMP identifies the Orchard Site as a 'remnant traditional orchard' which comprises a habitat of principal importance under the provisions of the Natural Environment and Rural Communities Act 2006.
32. In proposing dwellings with associated access and private gardens, Appeal A would reduce the area of this habitat, even relative to the Certificate Scheme. There would also be losses of trees protected by Tree Preservation Order ('TPO'). However, while landscaping is a reserved matter in respect of Appeal A, there would be scope for new planting. Moreover, the submitted Biodiversity Metric Report shows that Appeal B would offer a significant increase in habitat units as well as an increase in hedgerow units, and that the two schemes taken together would provide a net gain of habitat and hedgerow units. Given that the UU would effectively require the Appeal B proposal to be delivered alongside the Appeal A development, I consider it reasonable to have regard to the overall figures for the schemes taken together.
33. Furthermore, the UU provides for management of the Appeal B site in accordance with an approved LEMP. The Council has not identified any specific concerns about the effectiveness of the measures identified in the LEMP to restore, enhance, or manage habitats alongside use of the site as public open space. Nor has it provided any firm evidence to suggest that there would be harm to protected species contrary to the appellant's assessments. The approved LEMP would apply whether the managing body is the appellant, Parish Council or a private management company and would be enforceable through the UU and planning conditions. From the evidence supplied, I have no firm reason to find that other wider priorities of the managing body would be likely to undermine the effectiveness of management and maintenance of the space.
34. For these reasons, I am satisfied that despite the reduction in area of priority habitat on the Appeal A site and the removal of trees, the Appeal B proposal and both proposals when

taken in combination would protect and indeed enhance biodiversity and habitat overall. In this respect, I find no conflict with Policies BE2 or DM34 of the LP or Policies DM11, DM13 or DM14 of the DSAP insofar as they include requirements broadly seeking to avoid harm to designated sites of nature conservation interest; to conserve, enhance or maximise biodiversity and the biodiversity value of the Orchard Site.

Character and Appearance (Appeal A Only)

35. Hawks Hill is a fairly narrow road which reduces to single-track in places. Development nearby typically comprises loose ribbons of large, detached dwellings of traditional styles which are set back from the road with gardens to their rear. Most plots are generous and boundaries are often vegetated, including mature hedgerows and trees along many of the frontages. These factors provide for an attractive verdant quality and semi-rural character to the area.
36. Despite tree works that may have taken place, the Orchard Site retains significant tree cover along with areas of grass or scrub. There is little visible sign of active management and the vegetation has a somewhat untidy appearance. Nevertheless, the general impression remains that of a woodland parcel and the current undeveloped condition and significant vegetation cover presents a green and well-vegetated edge to Hawks Hill and contributes notably to the verdant and semi-rural character of its surroundings.
37. As part of the Appeal A proposal, there would be removal of some vegetation along the frontage of the Orchard Site, including three trees, to accommodate visibility splays for the access. However, the Council has not disputed the appellant's assessment of these as Category C trees of low quality. Noting also the remaining depth of tree cover and provision for new planting secured through the UU, I find that the removal of vegetation here would in itself have a negligible effect on the rural character of Hawks Hill.
38. However, the proposal would essentially transform the Appeal A site part of the Orchard Site to a small housing estate. Despite the set back of the dwellings and the potential for landscaping and management of woodland, this change would be inherently urbanising.
39. Furthermore, the proposed layout indicates that Plots 1 and 2 would face Hawks Hill, taking access from a turning head and driveway to their front while Plot 3 would be set behind Plots 1 and 2, orientated to face towards the boundary with Mendip. The tandem arrangement of the dwellings and orientation of Plot 3 would contrast awkwardly with the predominantly linear and irregular arrangement of dwellings along Hawks Hill and the resulting layout would be unduly suburban.
40. Existing and new planting could provide some screening of the dwellings, but this is unlikely to be complete. The removal of trees to provide for the access from Hawks Hill would also afford clear views into the appeal site and along the driveways such that the presence of the dwellings in a tandem arrangement would be likely to be appreciable. The uncharacteristic development would also be apparent from the footpath link proposed within the Appeal B site area. In these views, the proposal would notably diminish the contribution that the site currently makes to the semi-rural character of the area.
41. The appellant suggests that the proposal would retain a greater number of trees than the Certificate Scheme. However, I am unclear from the submissions how the Certificate Scheme would give consent for removal of any protected trees on the site, including to provide visibility splays for the access which would be outside the Certificate Scheme land.
42. Even taking the appellant's arboricultural evidence at face value, it indicates that a significant number of the trees that would be removed under the Certificate Scheme are part of the G20 group which sits some way beyond the rear of the Appeal A site boundary. While this may affect the character of the wider Orchard Site, effects would be far less

noticeable from public vantage points including along Hawks Hill than the significant clearance within the area of the proposed plots for the dwellings.

43. As I have identified above, the Appeal A development would also have a markedly greater physical presence on the Orchard Site than the Certificate Scheme. The position of the dwellings closer to Hawks Hill than plots 2 and 3 of the Certificate Scheme would additionally be likely to increase potential for public appreciation of the extent of development and the perception of residential use on the site.
44. Taking these factors in combination, I find that the Appeal A development would cause greater detriment to the semi-rural character and appearance of the area than the Certificate Scheme. The effect would be localised, but I conclude that the proposal would cause unacceptable harm to the character and appearance of the area and it would conflict with Policy DM32 of the LP which includes requirements for development to protect and reinforce positive key characteristics of the receiving landscape and existing settlement patterns.

Listed Building (Appeal A Only)

45. Hawks Hill House which sits to the opposite side of Hawks Hill from the appeal site is a Grade II listed building. I am therefore mindful of Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the LBCA') which outlines a duty to have special regard to the desirability of preserving listed buildings and their setting.
46. The appellant's Planning Statement and Appeal Statement each include a single paragraph on heritage assets which recognise Hawks Hill House as a listed building. However, no assessment describing the significance of the listed building, including any contribution made by setting, nor details to show that the relevant historic environment record has been consulted which are requirements outlined in the Framework has been provided. Although the appellant asserts that the setting of the listed building would be preserved and enhanced, I find the cursory information presented to offer insufficient detail to understand the potential effect of the proposal on the significance of the listed building and properly substantiate this claim.
47. Insofar as it relates to the current appeal, I consider based on my observations that much of the significance of the listed building would derive from its inherent historic and architectural interest as a timber-framed house which the listing description dates to the 17th century, albeit with later extensions and alterations. It appears to significantly pre-date its existing closest neighbours and in the absence of details to show otherwise, is likely to have historically sat within open countryside. The Orchard Site retains a decidedly rural quality which illustrates a remnant of the listed building's historic countryside situation and which adds to the verdant and semi-rural character of the wider area along Hawks Hill. On that basis, I find that it contributes to the significance of Hawks Hill House as part of its setting. From the limited information before me, I am also unable to discount the possibility that Hawks Hill House may have historically had a functional or associative relationship with the Orchard Site which would further contribute to its significance as a listed building.
48. For the reasons set out above, the removal of vegetation along the frontage of the Orchard Site to provide visibility splays would in itself have a negligible effect on the rural character of Hawks Hill. However, the residential development would notably erode the rural character and appearance of the site, even in comparison to the Certificate Scheme. Irrespective of planting and management of landscaping, there would be likely to be clear views along the access enabling an appreciation of the presence of dwellings sitting opposite Hawks Hill House, including in views from Hawks Hill. In these views, the proposal would diminish the rural quality of the Orchard Site which contributes to the significance of Hawks Hill House as part of its setting.

49. The resulting harm to the significance of the listed building would be modest, but I am unable to determine that there would not be further harm through loss or detriment to any significance that the listed building may derive from a historic functional or associative relationship with the Orchard Site.
50. Setting is only one aspect that contributes to the significance of Hawks Hill House, and noting that the appeal site is only a part of that setting, I consider that the harm to the significance of the listed building would be less than substantial in the terms of the Framework. In accordance with the Framework, this harm should be weighed against the public benefits of the proposal and I return to this matter in my planning balance below.

Canopy Cover (Appeal A Only)

51. There is disagreement between the main parties as to the area of the appeal site and whether or not a requirement within Policy DM34 of the LP for future canopy cover of 25% of the site area would apply. From the evidence before me, I am unable to reach any firm conclusions on the site area. However, the appellant's justification for development relies in part on proposals within the Appeal B site area, and under the terms of the UU, the development could not be occupied without these proposals. On that basis and having regard to the marginal degree by which the appellant assesses the area of the Appeal A site area taken in isolation to be below the threshold specified in Policy DM34, I consider it reasonable to apply the requirement for 25% future canopy cover.
52. The proposal includes removal of a fairly large number of existing trees which are protected by TPO. However, many would be retained and while landscaping is a reserved matter, the illustrative details include new tree planting. The submitted evidence does not quantify what percentage canopy cover would be achieved, and in this respect the proposal would be contrary to guidance in the Canopy Cover Supplementary Planning Document 2020 ('the SPD') on the detail required to demonstrate how the canopy cover requirement would be met. Nevertheless, I see no reason having regard to the layout and generous size of the plots proposed that it would not be possible to deliver planting to achieve 25% canopy cover as part of reserved matters proposals while also meeting other requirements. The Council has provided no compelling evidence to the contrary.
53. While the Council argues that provision for canopy cover should be secured through a legal agreement, the appellant highlights an example of an application where the Council applied a planning condition to secure compliance. Irrespective of previous site clearance or tree felling works that may have occurred on the appeal site, neither Policy DM34 nor the Canopy Cover SPD specify a particular target or prerequisite for retained trees to contribute to the canopy cover requirement and I am unclear from the submitted evidence why a planning obligation would be necessary here. Instead, I am satisfied in this case that provision could appropriately be secured by a planning condition.
54. On that basis, I conclude that while the proposal would not adhere to guidance in the Canopy Cover SPD in respect of information which should be submitted in support of an application, it would make adequate provision for canopy cover on the site and I find no conflict with Policy DM34 of the LP.

Other Matters

55. Although the Appeal B proposal includes a footpath link and use of part of the Orchard Site as public open space, I am satisfied that this would not tangibly diminish the contribution that the Appeal B site makes to the semi-rural character and appearance of Hawks Hill and that the significance of Hawks Hill House as a listed building would be preserved.
56. In circumstances where a proposal is likely to have a significant effect on a European Site designated under the Habitats Regulations, there is a duty on the competent authority to consider implications for the conservation objectives of the Site within the framework of an

Appropriate Assessment. From the information before me, the Burnham Beeches Special Area of Conservation ('SAC') is vulnerable to recreational disturbance. The provision of dwellings as part of the Appeal A proposal could increase demand for recreation with a likely significant effect on the SAC.

57. The Council is satisfied that a Strategic Access Management and Monitoring ('SAMM') contribution within the UU would offer mitigation for recreational effects of the Appeal A proposal such that the integrity of the SAC would not be adversely affected and I have no firm reason to find differently. Had I found the Appeal A proposal to be otherwise acceptable, I would need to formally consider effects on the integrity of the SAC and the potential for mitigation within the framework of an Appropriate Assessment. However, as I am dismissing Appeal A for other reasons, I have not pursued this matter further as it could not be determinative. Given the nature of the Appeal B proposal, it would not increase demand for recreation and I have no information to indicate any other potential for a likely significant effect on the integrity of the SAC.
58. My attention has been drawn to appeal decisions concerning proposals for development on an orchard site on Heavens Lea³. Insofar as these relate to residential developments together with public open space and a pedestrian link on a site designated as green space, there are similarities with the current appeals. Nevertheless, the circumstances are not directly comparable including in respect of the existence of the Certificate Scheme and adjacent allocation under Policy BE2 of the LP at the appeal sites and I have determined these appeals having regard to their specific merits and the evidence before me.

Planning Obligation

59. The Council's putative reasons for refusal of both Appeal A and Appeal B raised concerns about a failure to secure certain matters in the absence of a sufficient legal agreement.
60. Following review of the UU, the Council considers that the requirement to provide Biodiversity Net Gain on both sites would be acceptable. I agree, and consider that biodiversity enhancements would be adequately secured.
61. For the reasons given above, I am also satisfied that appropriate canopy cover could be appropriately secured by planning condition. That this is not provided for within the UU does not therefore weigh against the proposals.
62. The UU identifies the Landscape Buffer with reference to a plan attached at its Appendix 4. This plan annotates the Landscape Buffer as 'land to be transferred to parish council but no public access', but I understand that there is no longer a current agreement for the land to be transferred to the parish council. Nevertheless, this does not affect the identification of the area as the Landscape Buffer which is subject to obligations set out in the fifth schedule of the UU. The inaccurate annotation is unfortunate, but does not harm the meaning or operation of the relevant obligations relating to the planting and future management and maintenance of this space such that these would be ineffective.
63. The UU would require provision, management and maintenance of the open space including footpath link through the Appeal B site. There is no provision for the footpath link to be provided as a public right of way but while this may be desirable, I have not been directed to any relevant requirement or guidance which would be breached and a suggested condition could require the link to be publicly accessible at all times. Furthermore, the Council has not explained why the suggested planning condition requiring off-site highway works including a new footpath and crossing would be ineffective or otherwise an unacceptable mechanism to secure the enhancement of a pedestrian link across Hawks Hill. Accordingly, the fact that the UU does not secure the footpath link

³ Appeal refs APP/K0425/W/21/3270736 and APP/K0425/W/23/3329455

through the site as a right of way or the enhancement of the pedestrian link across Hawks Hill does not weigh against the proposals.

64. The development proposed in Appeal A does not correspond directly with the Certificate Scheme layout. However, it seems to me that the provision of the residential plots together with the requirements in the UU for the provision and maintenance of the Landscape Buffer and the open space on the Appeal B site would effectively preclude reinstatement of the mobile homes subject of the Certificate Scheme. I therefore see no justification for the UU to specifically extinguish the Certificate Scheme use in order to make the developments acceptable in planning terms.
65. The third schedule of the UU includes an undertaking to provide the dwellings proposed in Appeal A as SBCH. The appellant seeks to include a 6 month period for plots to be disposed of before they may be released from the obligation, advising that a longer period would affect the implementation of permission against a background of Government priorities to deliver economic growth and raise living standards. However, and notwithstanding that the UU does not appear to actually include any specific requirements for the plots to be actively marketed, I share the Council's concerns that 6 months would be an unduly short period to adequately enable take up of plots, particularly since the UU refers to plots being disposed of within that time rather than just reserved or similar. This would significantly limit the value of the provision of the dwellings as SBCH which is part of the appellant's justification for the proposal. In accordance with the proviso set out in the UU, I consider that the marketing period before release of the obligation should therefore be 2 years.
66. From the information before me, I am satisfied that obligations referenced above relating to the landscape buffer, provision of open space including the footpath link, management of open space and provision of SBCH and the SAMM contribution would each satisfy the relevant tests specified within the Community Infrastructure Levy Regulations 2010 (as amended). I have therefore taken the obligations into account as material considerations.
67. Given all of the above, I find that the UU would address the sixth putative reason for refusal of Appeal A and the second putative reason for refusal of Appeal B. In this respect, I find no conflict with Policies BE2, DM34 or CP10 of the LP or Policies DM11, DM13, DM14 or DM19 of the DSAP insofar as they include requirements broadly seeking appropriate provision for infrastructure and the protection and enhancement of biodiversity and recreation.

Benefits of the Proposals

68. The Council advised in its appeal statement that it could demonstrate a 5.7 year housing land supply for the Wycombe area. However, the appellant indicates that this reflects the housing target in the LP. The age of the development plan means that strategic policies are now more than five years old and I have no details to suggest that these policies have been reviewed and found not to require updating. In accordance with the Framework, housing supply should therefore now be assessed against the number of homes identified as being needed through the application of the standard method which the appellant outlines would increase the housing requirement for Buckinghamshire by 48.6% from the figure that informed the LP. The Council has not disputed the appellant's contention that it would be unable to demonstrate the required 5 year supply of housing against this figure.
69. In any event, the Framework highlights the Government's objective to significantly boost the supply of homes and ministerial announcements have further emphasised the importance of delivering economic growth and raising living standards in the context of a housing crisis. Small and medium sized sites such as this can make an important contribution to meeting the housing requirement of an area, and the appellant advises that the dwellings proposed in Appeal A could be delivered relatively quickly.

70. The outline nature of the Appeal A proposal means that I am unable to draw any firm conclusions on the quality of the environment for future residents of the site, but in light of the above factors, the delivery of three dwellings would be an important public benefit of the Appeal A proposal attracting significant weight. That said, it would make only a very small contribution to the overall supply picture and while that does not diminish the weight that I give the contribution, the extent of the benefit would be limited. Furthermore, the proposals would effectively replace the Certificate Scheme which the appellant states would be implemented in the absence of a reasonable development alternative. Against this context, the benefit of providing dwellings that would result in greater harm than residential use under the Certificate Scheme would be further moderated.
71. The Framework outlines that planning policies should reflect the housing needs of different groups in the community, including people wishing to commission or build their own homes. The Self-build and Custom Housebuilding Act 2015 (as amended) further outlines a duty on local authorities to give enough suitable development permissions to meet the identified demand for SBCH. From the information before me, the Council has not met this duty, and I note the appellant's evidence suggesting over 500 people seeking SBCH plots in the Wycombe area. The UU provides that the dwellings proposed in Appeal A would be secured as SBCH. This would contribute to widening housing choice and in light of the apparent shortfall in supply and failure to comply with the duty to meet identified demand for SBCH, I afford significant weight to this as a public benefit of Appeal A. However, the extent of the contribution would again be limited.
72. The pedestrian links through the Appeal B site and across Hawks Hill could increase pedestrian permeability, linking residents of Hollands Farm to open space east of Hawks Hill and providing access for residents around Hawks Hill through to services and facilities in Bourne End. As I have found above however, it is unclear that the links could not reasonably be delivered alongside Hollands Farm in the absence of the Appeal A development. I give this factor moderate weight.
73. The Framework highlights the importance of access to a network of high quality open spaces. Public open space would be provided on the Appeal B site, but I have already noted the lack of firm details before me demonstrating that a strategic and local open space deficiency in the parish relates particularly to space that is accessible to the public. Nor do I have clear evidence indicating that public open space on the appeal site would be required to effectively mitigate recreational pressure from other development on the Burnham Beeches SAC. It is not therefore apparent that the proposal would meet a particular need, and I am also unable to determine that the loss of green space on the Appeal A site would not exacerbate any existing deficiency in provision of open space of that nature. For these reasons, the provision of public open space on the Appeal B site attracts no more than moderate weight as a public benefit of the proposals.
74. In isolation, Appeal A would result in a loss of biodiversity, but I give moderate weight to the cumulative Biodiversity Net Gain as a public benefit in favour of the proposals taken together. The potential for positive management and maintenance of the Orchard Site outside of the Appeal A site would also be a public benefit, but the weight that I give this factor is tempered by the reduction in green space overall.
75. There would be economic benefits associated with the construction process including opportunities for employment. Spending by future occupiers of the Appeal A site could also help to support local facilities and services and the local economy. However, the benefits would be likely to be very limited given the small scale of the proposals. The construction effects would further be temporary and I give the economic benefits moderate weight.
76. The outline nature of the application means that the extent to which the Appeal A development would contribute to sustainability objectives including the climate emergency is unclear, and accordingly this attracts limited weight in my decision.

Planning Balance

77. I have found that the Appeal B proposal taken in isolation would not undermine the Orchard Site or green space designation and nor would it cause unacceptable harm to biodiversity or habitats. The UU would also ensure appropriate provision for infrastructure and the protection and enhancement of biodiversity and recreation. It would not secure comprehensive management of the entire Orchard Site, but the Appeal B proposal would not in itself result in conflict with the development plan.
78. However, while I am satisfied that the Appeal A proposal could provide adequate canopy cover and that effects on biodiversity and habitats could be appropriately mitigated, it would conflict with Policy BE2 of the LP insofar as it sets out that buildings within the site will not be acceptable and would cause unacceptable harm to the Orchard Site as designated green space. Appeal A would also cause harm to the character and appearance of the area and to the significance of Hawks Hill House as a Grade II listed building.

Heritage Balance – Appeal A

79. The Framework advises that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification and that when considering the impact of development on the significance of designated heritage assets, great weight should be given to the asset's conservation.
80. The harm to Hawks Hill House would be less than substantial, but nevertheless attracts considerable importance and weight. In my judgement, the cumulative public benefits noted above would not be sufficient to outweigh the potential harm to the listed building taking into account the possibility of harm through loss or detriment to significance that it may derive from a historic functional or associative relationship with the Orchard Site which I have been unable to rule out. Accordingly, I am not persuaded that there is a clear and convincing justification for the harm that Appeal A could cause to the significance of this designated heritage asset.
81. The development would therefore be contrary to the LBCA and it would conflict with the aims of the Framework as it would fail to sustain the significance of the listed building and public benefits would not outweigh the harm. It would also be contrary to Policies CP11 and DM31 of the LP insofar as they seek conservation and enhancement of the historic environment and include a requirement for development likely to affect the significance of heritage assets to evidence a thorough understanding of context, significance and potential impacts on that significance through a proportionate heritage impact assessment.

Planning Balance – Appeal A

82. The Appeal A proposal would conflict with Policies CP11, DM11, DM12, DM31 and DM32 of the DSAP, as well as with Policy BE2 of the LP and I find that the proposal would conflict with the development plan when it is read as a whole.
83. In the absence of a five year supply of housing land, Paragraph 11 d) of the Framework would apply. In light of the above however, I find that policies in the Framework that protect designated heritage assets provide a strong reason for refusing the development proposed in Appeal A. On that basis alone, the presumption in favour of sustainable development at paragraph 11 d) does not indicate that permission should be granted.
84. Even if that were not the case, the proposal would be contrary to the Framework insofar as it seeks development that is sympathetic to local character, the conservation and enhancement of heritage assets and protection of Local Green Spaces. These matters taken together attract substantial weight.

85. I have noted a comment in support of the principle of the Appeal A development. I also acknowledge that technical matters such as highway access are not subject to objection from consultees, but that is not a positive factor in favour of the proposal.
86. Overall, I find that the adverse impacts of the Appeal A proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Further, material considerations would not justify a decision otherwise than in accordance with the development plan.

Conditions – Appeal B

87. In respect of Appeal B, I have considered suggested conditions against the tests set out in the Framework. I have made amendments where necessary to ensure compliance with these tests or for clarity, brevity or consistency. I have also avoided the use of pre-commencement conditions where this is not necessary for a condition to achieve its purpose.
88. In addition to a time limit condition (1), I have imposed a condition specifying the approved plans (2) for the avoidance of doubt and in the interest of certainty.
89. A condition relating to construction management (3) is necessary in the interests of highway safety and convenience and neighbouring living conditions, although I have removed requirements to submit detail that would be unnecessary or unduly onerous having regard to the nature of the development proposed. Conditions requiring ecological mitigation (4) and to require updated ecological surveys where development has not taken place within a specified period (5) are necessary to safeguard protected species and habitat. A condition requiring protection for trees (6) is necessary in the interests of biodiversity and the character and appearance of the area, although I have removed superfluous detail that would be a matter for assessment of any submitted scheme. These conditions each require matters to be approved before development commences as measures would need to be in place to address effects arising during construction. The appellant has agreed to these pre-commencement conditions.
90. Further details of the footpath link surfacing (7) which is not specified in detail in the LEMP are required in the interests of the character and appearance of the area and to ensure suitable access but this would not be necessary before any development commences. I have therefore amended the suggested condition to require details in advance of works to install the footpath. From my reading of the UU, the footpath and crossing on Hawks Hill would not be specifically required by the obligations given their position outside of the site boundary edged in red. A condition to require provision (8) is therefore necessary in the interests of highway and pedestrian safety noting that the proposal would bring pedestrians to the site edge with no existing onward connection along or across Hawks Hill.
91. Details of lighting (9) and boundary treatment (10) are necessary in the interests of biodiversity, neighbouring living conditions, crime prevention and the character and appearance of the area. However, I have amended suggested condition 10 to require details before use of the development as I see no reason such details would be necessary before any development commences.
92. The timing of new planting is part of the LEMP. However, replacement planting is not specifically addressed and a condition to secure this (11) is necessary in the interests of the character and appearance of the area. Although the UU includes an obligation for an updated Biodiversity Assessment, this is required on completion of the Open Space development and prior to occupation of any dwelling. Obligations in the UU relating to the setting up of a management company are also predicated on occupation of dwellings. Given that no dwellings would be provided under Appeal B, I consider a condition to require a Biodiversity Net Gain Audit Report and secure future management of the site and features (12) would therefore be necessary in the interests of on-site biodiversity and habitats.

93. 24 hour access to the footpath link (13) is necessary to provide public use but I have omitted details of management and maintenance of the footpath which would duplicate matters provided for under the first schedule of the UU.
94. Requirements in the UU for the provision and maintenance of the open space in accordance with the LEMP, open space plans and biodiversity assessment would effectively preclude reinstatement of the mobile homes subject of the Certificate Scheme on the Appeal B site. Any future material change of use requiring planning permission would also be at risk of enforcement action if such permission were not granted. A suggested condition purporting to terminate and extinguish permitted use of any part of the site for the siting of mobile homes as part of the Certificate Scheme and to restrict siting of mobile homes would therefore be unnecessary and unreasonable. Having regard to the nature of the Appeal B proposal, I also consider a condition to require details of surface water drainage would be unduly onerous and unnecessary. I have not therefore imposed these suggested conditions.

Conclusions

95. For the reasons given above, I find that the Appeal A proposal would conflict with the development plan when it is read as a whole, and material considerations do not indicate that a decision contrary to the development plan should be reached. I therefore conclude that Appeal A should be dismissed.
96. However, the Appeal B proposal when taken in isolation would comply with the development plan when it is read as a whole. Whether or not it is likely to come forward separately from the Appeal A development is not in itself a compelling reason to withhold permission and material considerations do not indicate that a decision contrary to the development plan should be reached. I therefore conclude that Appeal B should be allowed.

J Bowyer

INSPECTOR

APPEAL B - SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 5 years from the date of this decision.
- 2) Unless otherwise amended under the conditions below, the development hereby permitted shall be carried out in accordance with the details contained in the planning application hereby approved and the following approved plans: P44/200; P44/201; PRI23815 11 Sheet 1; PRI23815 11 Sheet 2; PRI23815 11 Sheet 3; and PRI23815 11 Sheet 4.
- 3) No development shall commence until a Construction Environmental Management Plan ('CEMP') has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include:
 - a. Details of the objectives, activities (mitigation/optimisation measures), and responsibilities for the implementation of those activities;
 - b. The broad plan of the work programme including working hours and delivery times;
 - c. Arrangements for implementation and for environmental monitoring;
 - d. Contact during normal working hours and emergency details outside working hours; and
 - e. Provision for reporting, public liaison, and prior notification of particular construction related activities.

The development shall be carried out in accordance with the approved CEMP at all times.

- 4) No development shall commence until a scheme for the mitigation of the impact of the development on ecology has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following measures:
- a. Immediately prior to commencement of works an internal check of all areas affected by the development shall be carried out by a suitably qualified person;
 - b. Any works to the areas affected by protected species shall be carried out at a time of year when that species are not resident;
 - c. Any works to vegetation that might be used by breeding birds shall be carried out outside the bird breeding season, i.e. outside March – September inclusive; and
 - d. Details of implementation timings.

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

- 5) If the development hereby permitted is not commenced within two years of the date of the original ecological survey, no development shall commence until a further ecological survey of the site to update the information on the species/habitats and the impact of development upon them has been carried out. The further survey report together with a proposed mitigation/compensation/enhancement strategy (as appropriate) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details including any agreed mitigation/compensation/enhancement measures.
- 6) No development shall commence and no site clearance works, machinery or equipment shall be brought onto the site until a scheme for the protection of retained trees and the working methods (i.e. an Arboricultural Method Statement and Tree Protection Plan in accordance with British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced)) has been submitted to and approved in writing by the Local Planning Authority. The scheme for the protection of the retained trees shall be carried out as approved.
- 7) The footpath links between Hawks Hill at the east of the site and Hollands Farm shall not be installed until a schedule and/or samples of the materials and finishes have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 8) No part of the development shall be brought into beneficial use until the off-site highway works comprising a new footpath and crossing within publicly maintained land as shown in principle on plan no P44/201 have been laid out and constructed in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.
- 9) No part of the development shall be brought into beneficial use until an external lighting scheme addressing the biodiversity, landscape, residential amenity and crime prevention implications of proposed external lighting has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a 'lighting design strategy for biodiversity' in accordance with the Bat Conservation Trust and Institute of Lighting Professionals Guidance Note 08/18 'Bats and artificial lighting in the UK' (or equivalent if replaced) and shall:
- a. identify those areas/features on site that are particularly sensitive for wildlife and that are likely to cause disturbance in or around their breeding sites and resting places or along important movement corridors;
 - b. show how and where external lighting will be installed (through the provision of lighting contour plans and technical specifications) and detail how timing of lighting will be controlled, so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places; and
 - c. ensure that lighting shall have a colour temperature of less than 3000 Kelvin.

Any external lighting shall be installed in accordance with the specifications and locations set out in the approved external lighting scheme before the development is brought into beneficial use, and shall be maintained thereafter in accordance with the approved scheme.

- 10) No part of the development shall be brought into beneficial use until details of all boundary treatment and any other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. Boundary treatment and any other means of enclosure shall be provided in accordance with the approved details before the development is brought into beneficial use, and shall be maintained thereafter in accordance with the approved scheme.
- 11) Any trees, plants or areas of turfing or seeding comprised in the approved details of landscaping which, within a period of 3 years from the completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species.
- 12) Within 6 months of the first beneficial use of the site, a post construction Biodiversity Net Gain Audit Report shall be submitted to and approved in writing by the Local Planning Authority. The Report shall be produced in line with the CIEEM Guidance document: Biodiversity Net Gain Report and Audit Templates (July 2021) (or equivalent if replaced), and the details set out in the Landscape and Ecological Management Plan: Public Open Space appended to the Unilateral Undertaking dated 21 August 2024 ('the LEMP') and shall include photos of the ecological enhancement features which have been installed in line with the LEMP.

Within 9 months of the approval of the Biodiversity Net Gain Audit Report, the Report shall be passed to a named management company, or other organisation responsible for management as appropriate, along with the LEMP and the following shall be submitted to and approved in writing by the Local Planning Authority:

- a. Evidence that the management organisation has received and agreed with the LEMP and the details of the Biodiversity Net Gain Audit Report; and
 - b. Contact details of the person/s who will be responsible for its implementation.
- 13) The footpath links between Hawks Hill at the east of the site and the Hollands Farm site shall be publicly accessible 24 hours per day.

End of Schedule