

Mr Will Cobley  
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Deansleigh Road  
Bournemouth  
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Our Ref: APP/J0405/A/11/2152198/NWF  
Your Ref: 100380/WC

19 January 2012

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL BY O & H (Q6) Ltd  
AT LAND SOUTH OF NEWTON LEYS, DRAYTON ROAD, MK17 0EE  
APPLICATION REFERENCE: 10/01535/AOP**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Christine Thorby MRTPI IHBC, who held a public local inquiry which opened on 20 September 2011 into your client's appeal against a decision of Aylesbury Vale District Council (AVDC) to refuse outline planning permission for the construction of up to 350 dwellings, a dentist surgery, playing field, allotments, associated landscaping, access and infrastructure at land south of Newton Leys, Drayton Road, MK17 0EE in accordance with application number 10/01535/AOP, dated 21 July 2010.
2. On 20 May 2011, the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 to Schedule 6 to, the Town and Country Planning Act 1990. The reason for recovery was because the appeal involves proposals for residential development of over 150 units or on sites of over 5 hectares which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that planning permission be granted subject to conditions. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

### **Procedural Matters**

4. In reaching this position the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 and the Inspector's comments at IR5. The Secretary of State is content that the Environmental Statement complies with the above regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal.

### **Policy considerations**

5. In deciding the application, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
6. In this case, the development plan comprises the Regional Strategy for the South East, the South East Plan (SEP), published in 2009 and the Aylesbury Vale District Local Plan (AVDLP) published in 2004 as amended by direction in 2007. The Secretary of State considers that the development plan policies most relevant to the appeal are those set out by the Inspector at IR15 to 26.
7. Other material considerations which the Secretary of State has taken into account include: Planning Policy Statement (PPS) 1: *Delivering Sustainable Development*; PPS3: *Housing*; PPS7: *Sustainable Development in Rural Areas*; PPS9: *Biodiversity and Geological Conservation*; Planning Policy Guidance Note 13: *Transport*; Circular 11/95: *Use of Conditions in Planning Permission*; Circular 05/2005: *Planning Obligations*; the Community Infrastructure Levy (CIL) Regulations 2010 and 2011; and the *Planning for Growth* Written Ministerial Statement (23 March 2011). He has also taken account of: AVDC's Supplementary Planning Guidance on Affordable Housing and on Sport and Leisure; Buckinghamshire County Council's Guidance on Planning Obligations for Education Provision; and Milton Keynes Council's Supplementary Planning Document Social Infrastructure Planning Obligation.
8. The draft National Planning Policy Framework which was published for consultation on 25 July 2011 is a material consideration. However, as this is a consultation document and is subject to change, the Secretary of State has given it little weight.
9. The Secretary of State considers that the revocation of Regional Strategies has come a step closer following enactment of the Localism Act on 15 November 2011. However, until such time as the SEP is formally revoked by order, he has attributed limited weight to the proposed revocation in determining this appeal.
10. For the reasons given by the Inspector at IR30, the Secretary of State agrees with her that the policies in the Council's withdrawn proposed submission Core Strategy (CS) carry no weight.

## Main issues

11. The Secretary of State considers that the main issues in this case are:

- (i) whether the development is in line with planning for housing objectives in local, regional and national policies, reflecting the need and demand for housing and the spatial vision for the area. If so, whether any contribution to housing need would be outweighed by the harm caused by the following issues:
- (ii) the suitability of the site in terms of character and appearance of the countryside and environmental sustainability;
- (iii) whether the development would be sustainable in terms of primary education provision;
- (iv) any other matters including transport, agriculture, noise, development creep and local objection; and
- (v) the relationship of the proposal to the development plan.

Whether the development is in line with planning for housing objectives in local, regional and national policies, reflecting the need and demand for housing and the spatial vision for the area.

12. For the reasons given by the Inspector at IR134, the Secretary of State agrees that, at present, the SEP housing figure remains the only reliable evidence regarding need in this area. He has given very careful consideration to the Inspector's comments at IR135 – 140. Like the Inspector (IR136), he considers that the figures indicate that there is a 3.4 year supply of housing land for the district as a whole. Whilst he has taken account of the Council's view that the appeal site is within the "Rest of the District", for the reasons given by the Inspector (IR139), he shares her view that the disaggregated approach to the 5 year housing land supply and the oversupply in the "Rest of the District" carries little weight in this appeal, and would not limit the weight to be attached to the district wide shortfall (IR140).

13. The Secretary of State agrees with the Inspector's analysis of shortfall and supply within the South West Milton Keynes (SWMK) urban extension (IR141 – 145). For the reasons set out by the Inspector, he also agrees with her that the scheme would conflict with the aims of policies MKAV1 and MKAV2 to bring forward the urban extension by means of a Strategic Development Area (SDA) (IR146). However, having taken account of the Inspector's remarks, the Secretary of State shares her view that the wider housing objectives in policies SP1 and SP2 to meet the needs of the sub-region would be met, and the future provision of an SDA would not be undermined (IR147). In common with the Inspector, the Secretary of State considers that the provision of 35% of the proposed dwellings to be affordable units would assist in meeting the shortfall of affordable homes (IR148).

14. In conclusion, the Secretary of State concurs with the Inspector (IR149) that there is less than a 5 year housing land supply for Aylesbury Vale District and an acute shortfall within the SWMK urban extension and that, in these circumstances, paragraph 71 of PPS3 should apply and the appeal should be considered

favourably having regard to paragraph 69 (IR149). Like the Inspector, the Secretary of State considers that the proposal could achieve high quality housing and ensure an appropriate mix of accommodation (IR150). Furthermore, he agrees with her that, although there is conflict with the spatial vision in that the site would not come forward as part of the SDA, this would be outweighed by the lack of any policies that would allocate and bring forward housing within the SDA in the near future, and the provision of housing within an area of identified need in line with SEP housing objectives (IR150).

The suitability of the site in terms of character and appearance of the countryside and environmental sustainability.

15. The Secretary of State agrees with the Inspector's reasoning at IR151 – 160. In common with the Inspector, he considers that the site is subject to considerable urban influences and that the adjacent Newton Leys development to the north and west forms a clear urban edge to the appeal site, detracting from its appearance, whilst Drayton Road along the site's southern boundary and the substantial roundabout junction with the A4146 to the north-east impact negatively on the rural character and tranquillity of the site (IR153). The Secretary of State further agrees with the Inspector that the access road to the Newton Leys site is a large urban feature within the appeal site which further reduces its quality and character (IR154). The Secretary of State sees no reason to disagree with the Inspector's conclusion that the development would result in the loss of open land that currently has very little scenic value or visual relationship to the wider countryside and that it would accord with SEP policies CC6 and C4 and AVDLP policy GP.35 (IR158).
16. For the reasons given by the Inspector at IR159, the Secretary of State shares her view that conditions would ensure that the biodiversity of the site would be protected in line with the aims of PPS9.
17. Like the Inspector (IR160), the Secretary of State concludes that the proposal would accord with the aims of PPS3, PPS7 and PPS9 and that the site would be a suitable and environmentally sustainable location for housing development.

Whether the development would be sustainable in terms of primary education provision.

18. Having given careful consideration to the Inspector's analyses at IR161 – 163, the Secretary of State shares the Inspector's view that the appeal site would represent a sustainable location in respect of primary education provision and that the scheme would comply with SEP policy S3 and PPS1 in this regard (IR163).

Any other matters including transport, agriculture, noise, development creep and local objection.

19. The Secretary of State sees no reason to disagree with the Inspector's reasoning and conclusions on other matters (IR164 – 169).

### Conditions

20. The Secretary of State has considered the Schedule of Conditions, national policy as set out in circular 11/95 and the Inspectors comments at IR113 - 119. He is satisfied that the conditions reproduced at Annex A to this letter are reasonable and necessary and meet the tests of Circular 11/95.

### Obligation

21. The Secretary of State has considered the planning obligation, national policy as set out in Circular 05/2005, the CIL Regulations and the Inspector's remarks at IR6 - 7 and IR120 - 129. He sees no reason to disagree with the Inspector's view that the obligations referred to at IR120 - 128 meet local or national policies, the tests set out in Circular 5/2005 and regulation 122 of the CIL Regulations and that the appellant's unilateral undertaking carries material weight in meeting the demands of the development in these respects. Turning to the dentist's surgery and to public art, for the reasons given by the Inspector at IR130-131, the Secretary of State agrees with her that these provisions do not appear to comply with CIL regulations and would fail the tests of the Circular, and he attaches no weight to them. However, he agrees with the Inspector that it has not been demonstrated that harm would arise from this failure (IR132).

### Overall Conclusions

22. The Secretary of State agrees with the Inspector's overall conclusions (IR170 – 173). He has found that the site is subject to considerable urban influences and that it has very little scenic value or visual relationship to the wider countryside (paragraph 15 above). Whilst he has identified that the scheme conflicts with the spatial vision of the SEP, he has also found that there is less than a 5 year housing land supply in the District (paragraphs 12 -14). Overall, he agrees with the Inspector (IR173) that there would be significant benefits in providing up to 350 dwellings where there is a substantial and identified need and that this would outweigh any conflict with the spatial vision of the SEP.

23. In conclusion, the Secretary of State is satisfied that the development plan policies in favour of the appeal proposal outweigh those policies with which the scheme conflicts. As such, he concludes that the appeal proposal is in accordance with the development plan. He has not found any material considerations of sufficient weight to indicate that he should determine the appeal other than in accordance with the development plan.

### Formal Decision

24. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants outline planning permission for the construction of up to 350 dwellings, a dentist surgery, playing field, allotments, associated landscaping, access and infrastructure at land south of Newton Leys, Drayton Road, MK17 0EE in accordance with application number 10/01535/AOP, dated 21 July 2010, subject to the conditions set out in Annex A to this letter.

25. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
26. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.
27. This letter serves as the Secretary of State's statement under regulation 21(2) of the Town and Country (Environmental Impact Assessment) (England and Wales) Regulations 1999.

**Right to challenge the decision**

28. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.
29. A copy of this letter has been sent to Aylesbury Vale District Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

**Christine Symes**

Authorised by Secretary of State to sign in that behalf

**Schedule of conditions**

- 1) No development shall take place until there has been submitted to and approved in writing by the local planning authority a phasing plan and details of the appearance, landscaping, layout and scale, (hereinafter called "the reserved matters") The development shall be carried out as approved.
- 2) Application(s) for approval of the reserved matters in respect of each phase of the development shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters relating to that phase to be approved.
- 4) No development shall take place until there has been submitted to and approved in writing by the local planning authority details for the whole of that phase of the finished ground floor levels of all the approved buildings and the finished ground levels for all other areas of the site. The development of each phase shall be carried out in accordance with the approved details.
- 5) No development shall take place on a phase of development until there has been submitted to and approved in writing by the local planning authority samples of all the materials to be used for the external walls and roofs of the buildings forming any part of that phase of development. The development of each phase shall be carried out in accordance with the approved details.
- 6) No development shall take place on a phase of development until there has been submitted to and approved in writing by the local planning authority detailed plans and sections for the whole of that phase showing the proposed internal roads including gradients and the method of surface water disposal. No building within that phase shall be occupied until the section of road which provides access to it has been constructed (apart from final surfacing) in accordance with the approved details.
- 7) No development shall take place on a phase of development until there has been submitted to and approved in writing by the local planning authority a detailed waste audit scheme relating to that phase, including details of refuse storage and recycling facilities. The development of each phase shall be carried out in accordance with the approved details.
- 8) No development shall take place within the residential development area until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The work shall be carried out in accordance with the approved scheme.
- 9) No other part of the development shall commence until the off site highway works shown on drawing 23535/003/001, which includes capacity improvements to the Drayton Road/A4146 roundabout junction, have been laid out and constructed in accordance with details to be first approved in writing by the Local Planning Authority.

- 10) The development shall incorporate all recommendations for habitat creation set out in the ecological management plan dated July 2011. Details of location and size of habitats shall be submitted to and approved in writing by the Local Planning Authority as part of the landscaping and layout reserved matters submissions required by condition 1. The development shall be carried out in accordance with the approved details.
- 11) An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:
  - i) a survey of the extent, scale and nature of contamination;
  - ii) an assessment of the potential risks to:
    - human health,
    - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
    - adjoining land,
    - groundwaters and surface waters,
    - ecological systems,
    - archeological sites and ancient monuments;
  - iii) an appraisal of remedial options, and proposal of the preferred option(s).

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.



- 12) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 11, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 11, which is subject to the approval in writing of the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures.
- 13) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i) the parking of vehicles of site operatives and visitors
  - ii) loading and unloading of plant and materials
  - iii) storage of plant and materials used in constructing the development
  - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - v) wheel washing facilities
  - vi) measures to control the emission of dust and dirt during construction
  - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works
- 14) Before the development begins a scheme (including a timetable for implementation) to secure at least 10% of the energy supply of the development from decentralised and renewable or low carbon energy sources shall be submitted to and approved in writing by the Local Planning Authority as part of the reserved matters submissions required by condition 1. The approved scheme shall be implemented and retained as operational thereafter, unless otherwise agreed in writing by the Local Planning Authority.
- 15) No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version), and the results of the assessment provided to the Local Planning Authority. The works shall be carried out in accordance with the approved details
- 16) The development hereby approved shall be carried out in accordance with the following approved plans: 100380/BP/001A and 16849/100/01C but only in respect of those matters not reserved for later approval.



The Planning  
Inspectorate

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# **Report to the Secretary of State for Communities and Local Government**

**by Christine Thorby MRTPI, IHBC**

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

**Date: 31 October 2011**

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**Town and Country Planning Act 1990**

**Aylesbury Vale District Council**

**Appeal by**

**O & H (Q6) Ltd**

Inquiry held on 20 September 2011

Land south of Newton Leys, Drayton Road

File Ref(s): APP/J0405/A/2152198

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**File Ref: APP/J0405/A/2152198**

**Land south of Newton Leys, Drayton Road, MK17 0EE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by O & H (Q6) Ltd against the decision of Aylesbury Vale District Council.
- The application Ref 10/01535/AOP, dated 21 July 2010, was refused by notice dated 9 February 2011.
- The development proposed is the construction of up to 350 dwellings, a dentist surgery, playing field, allotments, associated landscaping, access and infrastructure.

**Summary of Recommendation: The appeal be allowed, and planning permission granted subject to conditions.**

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**PROCEDURAL MATTERS**

1. The Inquiry opened on 20 September 2011 and sat for 3 days. Accompanied and unaccompanied visits were made to the appeal site and surroundings on 22 September 2011. The Inquiry was closed in writing on 3 October 2011<sup>1</sup>.
2. The appeal relates to a planning application submitted in outline with access only to be determined at this stage. Landscape, layout, appearance and scale are all reserved matters. The plans forming the subject of the appeal are the Location Plan, Survey Plan, Indicative Block Masterplan and the Newton Leys, proposed Drayton Road access<sup>2</sup>. Where details are shown on the plans relating to landscape, layout, appearance and scale, these are for illustrative purposes only.
3. Aylesbury Vale District Council (AVDC) refused the application for three reasons which are set out in full in the Decision Notice<sup>3</sup>. The reasons for refusal can be summarised as follows:
  - i) The site lies within the countryside where the proposed development would be obtrusive. The detriment to the rural character and appearance of the area would not be outweighed by any potential benefit to housing supply for the district.
  - ii) The proposed development would fail to provide measures for the creation of habitats to enhance the ecological interest of the site.
  - iii) The proposed development would not form a sustainable community as it fails to demonstrate that provision has been made to mitigate its impact on existing recreation and leisure, education, health and transport facilities.
4. The Secretary of State for the Department of Communities and Local Government issued a direction on 20 May 2011 indicating that they shall determine the case. The reason for the direction is that the appeal involves proposals for residential development over 150 units or on a site of over 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

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<sup>1</sup> ID9

<sup>2</sup> CD1.1

<sup>3</sup> CD4.2

5. Before the Inquiry commenced, the appellant submitted an ecological management plan (CD17) showing the creation and management of habitats to enhance ecological interest at the site. AVDC accepted that, subject to the imposition of a condition, the submitted document would overcome their reason for refusal 2. At the Inquiry AVDC confirmed that they had withdrawn their objection and did not defend this reason for refusal. The application was accompanied by an Environmental Statement (ES). I am satisfied that the ES meets the requirements of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 and that it contains adequate information to understand the likely effects of the proposals on the environment.
6. A Unilateral Undertaking<sup>4</sup> (UU) was presented at the Inquiry. It relates to affordable housing, transport, education, leisure and sport, social infrastructure and policing services.
7. AVDC confirmed at the Inquiry that obligations by means of on site provision or contributions within the UU would mitigate the impact of the proposed development on existing recreation and leisure, health, transport facilities and, in part, education provision. AVDC did not present evidence at the Inquiry in defence of these elements of reason for refusal 3. The only outstanding matter from reason for refusal 3 is primary education provision, and this remains a matter in dispute between the parties.

#### **THE SITE AND ITS SURROUNDINGS**

8. The appeal site comprises two parcels of land; some 13.4 hectares on the main site and 1.9 hectares on a smaller parcel of land to the west. Both sites are currently used for arable farming and are located wholly within the administrative boundary of AVDC.
9. The main site is triangular in shape and slopes gently to the south and west, with a mature hedgerow along its western boundary and a band of mature trees and shrubs running along part of its northern boundary. It lies to the south west of Milton Keynes urban area and is bounded on two sides by the administrative district of Milton Keynes.
10. Along its north western boundary and within Milton Keynes district is the on-going development of Newton Leys which will provide 1,650 dwellings, employment, a school, community facilities and open space. To the south east is Drayton Road, a main road through the area beyond which lies Chadwell Farm, a railway line and open fields. The access route to the new development of Newton Leys runs from Drayton Road forking across the main appeal site to form two entry points into the new development. To the west is open countryside. The smaller parcel of land is undeveloped, surrounded by vegetation and cultivated fields.
11. The appeal site is located about 1.5 km to the south east of the village of Newton Longville and 1.5 km to the south west of Bletchley. The centre of Milton Keynes is approximately 8 km to the north.

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<sup>4</sup> ID4

12. The layout of the existing site and its surroundings is best seen on the location plan forming part of the application drawings<sup>5</sup> and on aerial photograph GC001 contained in Mr Coulson's appendices (CD 18.5).

### **PLANNING POLICY**

13. Relevant Government Guidance includes Planning Policy Statement (PPS)1 Delivering Sustainable Development; PPS3 Housing, PPS7 Sustainable Development in Rural Areas, PPS9 Biodiversity and Geological Conservation and Planning Policy Guidance Note 13 Transport.
14. The development plan comprises the South East Plan, Regional Spatial Strategy for the South East (SEP) (2009) and the Aylesbury Vale District Local Plan (AVDLP) (2004, as amended by saved direction 2007). The following is a summary of relevant policies either referred to in the Statements of Common Ground or in evidence at the Inquiry.

#### **South East Plan (CD5.1)**

15. The spatial principles for the south east seek among other things a co-ordinated policy approach to managing change in nine identified sub-regions and the focus of new development to be within the network of regional hubs<sup>6</sup>. This will include new development in 7 strategic development areas (SDA).
16. SP1 identifies Milton Keynes and Aylesbury Vale as a sub-region in the south east where the focus for growth and regeneration will be directed.
17. SP2 identifies Milton Keynes and Aylesbury town centre as regional hubs; paragraph 4.6 notes that the regional hub is where the various components of growth will need to be focused and co-ordinated to deliver a more sustainable form of development.
18. South West Milton Keynes is identified in para 4.13 of policy SP2 as one of the 7 SDAs. The reason for designation is that much of the wealth generation of the south east comes from the 'Golden Arc', an area taking in Oxford, Milton Keynes and Cambridge. This brings challenges for managing growth, including high housing demand.
19. H1 sets out a requirement for the delivery of some 26,900 dwellings within AVDC during the period 2006 – 2026 at an annual average of 1,345 dwellings per year. The footnote within the policy explains that the figures for AVDC include some 5,400 dwellings related to the expansion of Milton Keynes.
20. MKAV1 sets out the following approach to the Milton Keynes and Aylesbury Vale sub-region to meet the H1 requirement as follows:

#### Within AVDC

- 5,390 dwellings as an urban extension to the south-west of Milton Keynes (SWMK).

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<sup>5</sup> CD1.1

<sup>6</sup> SEP Spatial Strategy page 4 and map page 259

- 16,800 dwellings in and around the Aylesbury town centre, including urban expansions
- 4,700 in the rural area/rest of AVDC

Within Milton Keynes

- 34,160 dwellings in and around Milton Keynes urban Area
  - 4,800 dwellings as part of a development to the south east of Milton Keynes
  - 2,400 dwellings in and around the rural/rest of Milton Keynes
21. The supporting text at paragraph 23.8 indicates that the level of housing provision in MKAV1 will help to deliver the spatial vision for Milton Keynes and Aylesbury Vale.
  22. MKAV2 sets out the spatial framework for Milton Keynes Growth Area. It includes the 5,390 dwellings to be located in Aylesbury Vale District. It indicates that new development will be delivered through, among other things, two strategic development areas (SDA) as new sustainable urban extensions, integrated with the provision of new and enhanced public transport systems and interchanges. The policy indicates that one of the SDAs will be an urban extension to the south-west of Milton Keynes.
  23. MKAV3 sets out the spatial framework for Aylesbury Growth Area, noting that additional growth related to a sustainable urban extension to the south-west of Milton Keynes is identified in policy MKAV1. For the purposes of their figures AVDC describe the urban extension to the SWMK as North East Aylesbury Vale (NEAV). In the interests of clarity, the area is described throughout the report as SWMK.
  24. H3 seeks a regional target for affordable housing of 25% of new housing to be socially rented and 10% to be intermediate affordable housing. Paragraph 23.18 seeks an average proportion of 35% affordable housing for the MKAV2 and MKAV3 areas in line with the requirements of policy H3. H2 sets out considerations to be taken account of to manage the delivery of the regional housing provision. Diagram H1 on page 61 shows the site falling within the Milton Keynes and South Midlands sub-regional housing markets.
  25. CC1 seeks to achieve and maintain sustainable development in the region. CC6 promotes sustainable and distinct communities through the respecting or enhancing of the character and distinctiveness of settlements and landscapes and the creation of a high quality built environment. C4 seeks to protect and enhance the diversity and local distinctiveness of the regions landscape. S3 seeks the adequate provision of school facilities, including accessible locations. S6 promotes co-ordination between development and essential infrastructure.

**Aylesbury Vale District Local Plan (CD7)**

26. GP.2 seeks the provision of affordable housing. GP.35 relates to the design of new development which should respect and complement, among other things, the physical characteristic of the site and the surroundings, the natural qualities and features of the area and the effect on important public views and skylines.

GP.86, GP.87 and GP.88 relate to open space and recreation. GP.94 indicates that the Council will have regard to the need for the provision of community facilities arising from the proposal.

### **Other policy documents/statements**

27. On 23 March 2011 the Minister of State for Decentralisation, made a Written Ministerial Statement - "*Planning for Growth*" which sets out the Government's commitment to reforming the planning system so that it promotes sustainable growth and jobs.
28. The Draft National Planning Policy Framework, Consultation Draft published on 25 July 2011, intends to bring together various Planning Policy documents into a single consolidated Document.
29. AVDC Supplementary Planning Guidance (SPG) Affordable Housing, Sport and Leisure, Buckinghamshire County Council (BCC) Guidance on Planning Obligations for Education Provision and Milton Keynes Council Supplementary Planning Document Social Infrastructure Planning Obligation are also relevant<sup>7</sup>.
30. Reference is made in this report to the withdrawn proposed submission Core Strategy (CS). This document had been submitted for examination in 2010, but following the Secretary of State's initial revocation of the RSSs, AVDC sought to formally withdraw the CS. The Secretary of State issued a Direction on 5 October 2010 formally withdrawing the CS. The policies in this document therefore carry no weight.

### **PLANNING HISTORY**

31. Outline planning permission was granted in 2005 for allotments, landscaping, roads, footpaths, cycleways and associated infrastructure in conjunction with the development to the north at Newton Leys.
32. Reserved matters approval for a y-shaped access road through the site was granted planning permission in 2006. Construction commenced in 2007 and the road was completed the same year.

### **THE PROPOSALS**

33. The appeal proposals seek outline planning permission for construction of up to 350 dwellings (including 35% affordable housing) open space, and a dentist surgery on the main site, and allotments and a recreation area on the smaller site. The housing would be developed at an average density of 38 dwellings per hectare, up to three and a half storeys in height. Buildings would be set back from Drayton Road behind a band of planting. An illustrative layout is shown in the Design and Access Statement<sup>8</sup> and the Indicative Block Masterplan<sup>9</sup>. It is proposed to gain pedestrian and vehicular access to the appeal site from the existing roads and no new points of access are proposed.
34. The application was accompanied by detailed technical documentation including: an Environmental Statement addressing air quality, community social and land

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<sup>7</sup> CD12.1, CD12.2 AND ID6

<sup>8</sup> CD1.2

<sup>9</sup> CD1.1



use effects, cultural heritage, ground conditions, waste and water environment, landscape and visual effects, natural environment, noise and vibration, traffic and transport; non technical summary; planning support statement; design and access statement, transport assessment, travel plan and sustainability statement; flood risk assessment, utilities report and energy report. The documents accompanying the application are contained in CD1.

**OTHER AGREED FACTS/CLARIFICATION**

35. There are 2 Statements of Common Ground (SoCG), SoCG1<sup>10</sup> includes a description of the site and surroundings, site planning history, a description of the appeal proposal and relevant planning policies.
36. SoCG2<sup>11</sup> sets out an agreed position on the strategic housing requirement, the residual requirement and the level of affordable housing. The agreed figures are addressed in further sections of this report.
37. A letter of notification of the appeal was sent to interested parties on 16 May 2011 giving 6 weeks from the appeal start date (11 May 2011) to make representations to the Planning Inspectorate. A letter of notification of the date, time and venue of the Public Inquiry was sent to interested parties on 8 August 2011<sup>12</sup>.

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<sup>10</sup> CD16.1

<sup>11</sup> CD16.2

<sup>12</sup> ID1

## **THE CASE FOR O & H (Q6) LTD**

*The material points are:*

### **Housing targets and supply**

38. The South East Plan (SEP) H1 requires the provision of at least 26,900 dwellings in Aylesbury Vale District between 2006 and 2026. That provision is disaggregated in MKAV1, so that 16,800 dwellings are to be provided in and around Aylesbury town centre, 4,700 dwellings in the Rest of the District (RoD), and 5,390 dwellings as a Strategic Development Area (SDA) urban extension to south west Milton Keynes (SWMK).
39. AVDC has recently published data for the period March 2011 – March 2016 in their Housing Land Supply position statement<sup>13</sup> and the District Housing Trajectory position statement<sup>14</sup>.
40. The figures are agreed in the SoCG2<sup>15</sup> and demonstrate that there would be 3.15 years deliverable supply in and around Aylesbury town centre, 10.3 years in the RoD and no housing supply within SWMK. So far as the district overall is concerned, for the 5 year period of 1<sup>st</sup> April 2011 – 31<sup>st</sup> March 2016 there a supply of only 3.4 years.
41. It is apparent that on a district wide basis there is a significant shortfall in the 5 year housing supply. This is a material consideration to be taken into account in considering the merits of the appeal scheme and applying the advice in PPS3, paragraphs 71 and 69. This leads to a presumption in favour of the appeal scheme. It is appropriate also to bear in mind that in the Draft NPPF it is proposed<sup>16</sup> that there should be an additional 20% allowance, to boost the supply of housing.
42. AVDC makes the following points. Firstly, that the appeal site forms part of the RoD and is not part of the SWMK urban extension. Secondly, because it is within the RoD the disaggregated housing figures for this area should be used and these suggest an oversupply. Thirdly, the SEP targets for the whole district should not include the 5,390 if the urban extension to SWMK does not go ahead. The appellant's response is as follows:

*The appeal site as part of the RoD*

43. AVDC's suggestion that there is no shortage of housing that assists the current appeal, because the appeal site falls within the RoD area is mistaken. It is the appellant's case that the appeal site cannot be treated as forming part of the RoD area. Given that the appeal scheme would comprise an urban extension to Newton Leys/Bletchley and abuts the Milton Keynes administrative boundary, the site must be considered to lie within the SWMK part of Aylesbury Vale District where the figure of 5,390 dwellings is to be provided under the terms of the SEP. Furthermore, it is located within the AVDC's Area of Search for the SDA to provide the urban extension as recently as 18 months ago.

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<sup>13</sup> CD11.2

<sup>14</sup> CD11.3

<sup>15</sup> CD16.2

<sup>16</sup> para 109.

44. The appeal site should therefore be regarded as capable of contributing to the supply of housing for the purpose of the SWMK urban extension, in which 5,390 dwellings are required and towards which requirement no provision has been made at all.

*Why the appeal site should be considered as part of the SDA*

45. SEP MKAV2 refers to the need to plan for the urban extension in the form of an SDA. However, no site boundaries are set for the SDA within the SEP, and there is no designated SDA in place at present. The location of the SDA was assessed in the Strategic Development Area Document<sup>17</sup> as part of the evidence base for preparation of AVDC's withdrawn CS. Within this document an Area of Search is identified for the SDA establishing three areas (Sites A, B and C) for further evaluation. The appeal site is clearly shown to be included within Site C<sup>18</sup>.
46. In the same month<sup>19</sup> that it produced the Evidence Paper, AVDC produced its Strategic Housing Land Availability Assessment (SHLAA)<sup>20</sup>. AVDC considered the Site C within the SHLAA, as part of areas with potential to contribute to the housing figures to be provided in the SDA. Also, AVDC made clear in the SHLAA that no overall constraints to development had been identified in relation to sites A, B and C and therefore they could be regarded as suitable for development<sup>21</sup>. The criteria against which sites were assessed in the SHLAA, are set out in the SHLAA<sup>22</sup>. They included sustainability, acceptability in landscape terms, physical condition, potential impacts on setting of listed buildings, effect on conservation areas, and environmental conditions. It is clear that sites A, B and C, including the appeal site, were all seen as potential development sites with no overall constraints on development.
47. AVDC decided to allocate Site B, known as Salden Chase, as the SDA and incorporated this into the now abandoned CS. An application for planning permission for development at Salden Chase for 5,311 dwellings was received, but following the withdrawal of the submission CS in 2010, the planning application was withdrawn. Following the withdrawal of the Salden Chase planning application, AVDC accept in the SoCG that there is no land supply to meet the 5,390 target for the SWMK urban extension.
48. The appellant does not agree with AVDC's case that the SDA proposal promoted in the SEP could only be a single site, comprehensively master planned. It is accepted that in MKAV1 'an urban extension' is referred to, and the policies refer to 'an SDA'. Further, paragraph 23.12 refers to comprehensive master planning. However, this does not mean that all of the land forming the SDA needs to be a single, undivided site.
49. A reasonable interpretation of the guidance would allow the SDA to be brought forward as, for example, the appeal site and Salden Chase, despite the fact that the two are separated by other land. There is no reason why the two together

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<sup>17</sup> CD18.3 appendix 4, page ii

<sup>18</sup> Site C plan

<sup>19</sup> March 2009.

<sup>20</sup> CD18.3

<sup>21</sup> CD 10.1, paragraph 17, page 3, paragraph 7.11, page 28, paragraph 14.4, page 56.

<sup>22</sup> Page 23, table 6.1, page 23.

should not be regarded as comprising the SDA. The SEP refers to a Strategic Development Area, not a Strategic Development Site. The Appellant does not accept that this proposal would breach policy MKAV1 and MKAV2 on the grounds that it would not deliver all of the 5,390 dwellings on a single site. In fact, development of the appeal site would contribute towards the fulfilment of the SDA.

50. To require the 5,390 dwellings envisaged for SWMK to come forward as one site, comprehensively master planned, would be to ensure that they may not be delivered by the end of the SEP period of 2026. That is because, even if the process of securing planning permission and developing out a single site were to be started now, such a site could not deliver anything like 5390 units<sup>23</sup>. For example, if Salden Chase was to be resubmitted it is likely to take until 2013 for outline permission to be granted; 2014 for the submission of reserved matters applications; 2015 for the first dwellings to be constructed on site. Realistically at the end of 2026, at the very most, some 3,500 dwellings may be delivered leaving a considerable shortfall.
51. Development of the appeal site, by contrast, would bring forward some of the housing required for policy MKAV1 now. There is no other subsisting proposal for any housing development within the areas considered by the Council as potentially suitable for the SDA (areas A, B and C).

*The RoD supply and the disaggregated approach*

52. AVDC's view is that the site should be considered to form part of the RoD where for the period 2011 -2016 there is an oversupply of 10.3 years. They rely on appeal decisions, in particular the Winslow decision<sup>24</sup>. The Inspector dismissed the Winslow appeal taking the view that the shortage in supply of the district as a whole arises from the failures in the delivery of housing within Aylesbury town centre. The Inspector acknowledged that housing within the RoD is required to meet the local needs of the district's settlements and rural areas and that shortages within other policy areas of the district (such as the town centre and SWMK) should not be met within the RoD.
53. It is the appellant's view that the Winslow case contrasts with the appeal proposal as the position of the appeal site immediately abuts the administrative boundary with Milton Keynes and it forms part of the development area of Newton Leys. The proposed appeal housing would meet an SEP identified need for the sub-region. Winslow, on the other hand, lies some distance from Bletchley, there is no station and road access to Milton Keynes is poor. It would not be a sustainable site. For geographical and sustainable reasons, the Winslow site would not be appropriate to meet housing requirements for other parts of the district. By contrast, the appeal site is located adjacent to the Milton Keynes urban area, where it would be in an ideal location to serve the needs of Milton Keynes. The Winslow decision would not therefore set a precedent for consideration of the appeal proposals.

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<sup>23</sup> CD18.3 appendix JW5

<sup>24</sup> CD18.3 appendix 5

### *The SDA and district housing targets*

54. With regard to AVDC's view that if the 5,390 cannot be met in accordance with SEP policies, then the overall housing requirement for Aylesbury Vale of 26,890 dwellings is reduced by that amount. This is not the case. The SEP sets out a requirement for 5,390 housing units to be provided in SWMK because the need exists for that housing. If the housing cannot be provided within an SDA then the need would still exist. For that reason the SEP does not 'ring fence' the housing requirement referred to in MKAV1 and MKAV2, by specifying (as it does elsewhere<sup>25</sup>) that if the housing cannot be delivered within the SDA there is no need for alternative provision to be made. It is intended that if the housing does not come forward in an SDA in accordance with those policies, it is expected that it would be provided in an alternative way

### Affordable housing

55. The evidence of the Housing Needs Study Update (CD10.7) is that as at 2007 there was an unmet need for 5,422 dwellings<sup>26</sup>. Further affordable housing need was projected to arise thereafter, leading to the forecast<sup>27</sup> that over the 10 year period to 2016 there would be a shortfall in supply of new affordable housing of between 1,077 and 1,316 units per annum, taking account of the supply of affordable housing expected to come forward during that period.
56. The Housing Needs Study Update (CD 10.7) shows that there is a substantial need for affordable housing in the "Rural North" area, and not just in Aylesbury town<sup>28</sup>. Furthermore, insofar as the appeal site lies on the border with Milton Keynes District and the SDA housing is intended to assist in meeting the needs of Milton Keynes, it is relevant to examine the need for affordable housing in that District. The Milton Keynes SHMA report<sup>29</sup> shows that there is a very substantial need for affordable housing within Milton Keynes District stating that of the 16,832 homes that were said to be needed over five years from the assessment in 2009, some 4,500 should be affordable.<sup>30</sup>
57. The level of affordable housing need within the district is acute and likely to be exacerbated by the failure of the SDA development to come forward in the near future. The appeal proposal would assist in meeting these needs by providing 35% affordable units at the site.

### Housing land supply in Milton Keynes

58. Milton Keynes District has an emerging Core Strategy. The submission Core Strategy (Oct 2010) housing requirement figures are based on a locally derived housing requirement to replace that set out in the SEP. However, the figures would provide 318 dwellings per year less than required by the SEP.
59. Furthermore, The Executive Summary of Findings from the Milton Keynes Strategic Market Assessment update 2009<sup>31</sup> identifies a requirement for a net

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<sup>25</sup> CD18.3, page 27

<sup>26</sup> CD10.7 para 5.9.

<sup>27</sup> CD18.3 page 44.

<sup>28</sup> CD 10.7, page 55, table 5.7.

<sup>29</sup> CD18.3 JW 3 (divider 6).

<sup>30</sup> CD18.3 JW 3, figure 6, foot of page 3.7.

<sup>31</sup> CD18.3 appendix 6

additional 3,366 dwellings per year over the next 5 years. The 3,366 yearly requirement is 190% higher than current emerging submission Core Strategy proposed yearly figures and 160% higher than the SEP yearly requirement for Milton Keynes (plus the SWMK urban extension). Therefore, the evidence base suggests that the need for additional housing in Milton Keynes and the associated sub-region is overwhelmingly higher than current policy requirements.

60. For the period 2011 to 2016 Milton Keynes District identify a deliverable supply of 4.6 years against the SEP targets<sup>32</sup>. A shortfall in housing delivery is a material consideration in establishing a need for the release of the appeal site. The location of the site next to the Milton Keynes boundary can help deliver housing to meet the strategy and housing needs for the sub region.

#### The weight to be given to the SEP

61. In the decision of the High Court (CD13.11) it was held that the Secretary of State's intention to abolish RSSs can be a material consideration, but no guidance was given as to the weight to be afforded to that intention beyond saying that weight was a matter for the decision maker. The Court of Appeal's decision in the Cala Homes case makes clear<sup>33</sup> that the intention to abolish RSSs can at most be accorded limited weight, and that even such weight should be given only in unusual circumstances. No such circumstances arise here. Additionally, even if it might theoretically be possible to give some weight to the intention to abolish the RSSs, it is not practical to do so in this case because there are no housing figures that could be substituted for those of the South East Plan. The result is that full weight must be given to the South East Plan, and to its required provision for housing.

#### PPS3

62. In summary, using SEP targets, there is a shortfall in the 5 year supply of housing in the District of Aylesbury Vale as a whole and a particularly acute shortfall to the SWMK, where there is no housing supply at all. In those circumstances, paragraph 71 of PPS 3 should apply and this planning appeal should be considered favourably, having regard to the policies in PPS 3, including paragraph 69 as follows.
63. Paragraph 69 of PPS 3 sets out issues to which Local Planning Authorities should have regard when deciding planning applications. AVDC accepts that achievement of a mix of high quality housing can be met on the appeal site.
64. With reference to the suitability of a site for housing, including its environmental sustainability, AVDC argues that this objective is not met, as a result of the impact of the development on the character and appearance of the countryside and education provision. These matters are addressed below.
65. Paragraph 69 also refers to ensuring the development is in line with planning for housing objectives, reflecting the need and demand for housing in, and the spatial vision for, the area, and does not undermine other objectives. The appeal proposal satisfies this objective, because it would provide housing in an area where it is needed and where policy requires provision to be made.

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<sup>32</sup> CD18.3 page 60

<sup>33</sup> CD 13.13, para 33.

66. Given the deficit in the 5 year supply of housing, paragraph 71 of PPS 3 applies, and the application must be considered favourably. There is no good reason having regard to the remaining provisions of PPS 3, including paragraph 69, why planning permission should be refused.

### **Character and appearance**

67. The main appeal site is an arable field sited at the edge of a large urban area, fragmented into three parcels by the new access road. It is already subject to considerable urban influences, being bordered by the Newton Leys development, and the A4146 junction and Drayton Road. The site is crossed by the 'y' shaped access road to the Newton Leys site, which has cut verges, regularly spaced planting and column lighting. The access roads and sparse boundary planting give it a very strong relationship with the adjacent Newton Leys development. There are no landscaping features within the site and no trees or hedgerows or any other significant feature would be lost. The urban characteristics and divided plot compromise farming activity and make it of little value to the wider countryside.
68. The appeal site is part of the Newton Longville-Stoke Hammond Claylands Landscape Character Area (LCA 4.9)<sup>34</sup>. AVDC's Aylesbury Vale Character Assessment<sup>35</sup> indicates that the condition of LCA 4.9 was assessed as being moderate and that the sensitivity is low. Landscape sensitivity is defined as a measure of ability to accept change<sup>36</sup>. Furthermore, the development of new housing in the area was not excluded in the landscape guidelines for the area.
69. LCA 4.9 and the other landscape character areas within Aylesbury were considered in a further AVDC document 'Aylesbury Vale: Areas of Sensitive Landscape'<sup>37</sup>. The objective was to ensure that the district's most valuable landscapes were protected from development<sup>38</sup>. The study gave a sensitivity rating to all the Landscape Character Areas. Areas with a score of lower than four were eliminated at the first stage from consideration for protection from development. It is evident from plan E in the study<sup>39</sup> that LCA 4.9 scored two, one of the lowest scores in the district. Plan J shows that it is amongst the "least tranquil" areas of the district.
70. AVDC studies 'Aylesbury Vale Character Assessment' and 'Areas of Sensitive Landscape' indicate that the area in which the appeal site falls is of low sensitivity and is entirely appropriate for housing development. Further, it is in an area tested by AVDC for the SHLAA, and in relation to which they concluded there were no overall constraints on development.
71. The proximity of the Newton Leys development site is highly relevant. Mr Coulson's visual assessment and his Zone of Visual Influence studies<sup>40</sup> show that there are few locations in which the appeal development would be visible where the Newton Leys development is not already visible. Furthermore, the

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<sup>34</sup> CD10.2.

<sup>35</sup> CD10.2

<sup>36</sup> CD10.5 Guidelines for Landscape and Visual Impact Assessment

<sup>37</sup> CD 10.3.

<sup>38</sup> CD 10.3, paragraph 6.7, page 26.

<sup>39</sup> CD18.5 GC 011.

<sup>40</sup> CD18.5 GC 16 and 17,

- topography of the site and surrounding area, with the local ridgelines (including on the Drayton Road boundary of the appeal site) would limit visibility<sup>41</sup>.
72. The effect on landscape character initially would be very limited, small to negligible in relation to LCA 4.9 and the neighbouring Ouzel Valley LCA, and negligible in relation to Landscape Character Areas lying further away<sup>42</sup>. After 15 years, the proposed woodland belt on the southern and eastern fringes of the site would have grown up, and would screen not only the proposals but also existing views of the Newton Leys development.
73. So far as visual impact is concerned with the exception of views from the adjacent section of Drayton Road and a small section of Stoke Road, the proposals would result in only a small or small to negligible change in views from the surrounding countryside. The only views in which the development could be said to be a moderate change are those from the immediately adjacent roads from which the consented development at Newton Leys is also visible.
74. Mr Coulson's conclusions in the proof of evidence were different from those put forward in the Environmental Statement as the full extent of the permitted development at Newton Leys was not taken into account. There was also more accurate information about topography, woodland and other planting in the area available for the purposes of producing the proof<sup>43</sup>.
75. The site would be lit, but there is and would be other lighting in the vicinity, including that of Newton Leys and more distant settlements, lighting to roads, including the existing access road, and car headlights even on roads which are not themselves lit. Therefore, the development would not introduce lighting to a currently unlit area.
76. The new buildings would be integrated with the Newton Leys development and would complete the pattern of development as shown on the indicative block masterplan<sup>44</sup>. They would not encroach toward Newton Longville and the site would be constrained by the existing field boundaries. The taller buildings would be sited on the lower ground levels to minimise their effect. Existing boundary treatment would be retained and enhanced, with a substantial landscape and ecology area located on the highest part of the site. This would minimise the visual effect and provide a robust transitional edge between the rural landscape and the urban edge.
77. In summary the character and amenity of the countryside would not be significantly affected. The development would result in the loss of a small area of low grade agricultural land that currently has very little visual relationship to the wider countryside. It would ensure that the physical and natural environment of the south east is conserved, and respect the existing character in line with SEP policies CC1 and CC6, AVDLP policy GP.35 and the wider aim of PPS7 to protect the countryside.

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<sup>41</sup> See GC 007, 008 and 009.

<sup>42</sup> CD18.4 table 8.2 and paragraph 8.13, page 45.

<sup>43</sup> CD18.4 pages 40-41 and oral evidence.

<sup>44</sup> CD1.1



### **Education provision**

78. There is no issue between the parties in relation to secondary, grammar and special education, and the Appellant is prepared to pay the contributions requested by Buckinghamshire County Council (BCC). In relation to primary education, it is agreed that primary schools in the area have adequate capacity and BCC does not seek contributions. The children can attend Newton Longville school, just over 2 miles away, or High Ash, just over 3 miles away. The appeal site is within the catchment area of Newton Longville CE primary school, and lies on the boundary of the High Ash primary school catchment area.
79. There are places within Newton Longville but there is no safe walking route to the school. Although bus transport would have to be provided to take the children from the site to the school this is entirely normal in rural counties such as this, with some 1400 primary pupils receiving school bus transport in Buckinghamshire alone<sup>45</sup>. The children would be taking up empty places at Newton Longville School which is a sustainability gain as unused places are a wasted resource. So far as financial aspects are concerned, provision of school transport is covered by a Government grant, albeit that there are currently restrictions on the total grant paid.
80. In relation to environmental aspects, there would be a sustainability gain, as pupils from the appeal site would replace Milton Keynes pupils. The appeal site pupils would go to school by bus, whereas the Milton Keynes pupils are taken by car. From a social perspective, there would be no greater harm than exists already as the appeal site pupils would be in no worse a position than the Milton Keynes pupils, in that both would need to be taken by car by their parents to after school activities. Bus trips may, in any event, increase social interaction and independence. It may be ideal for all primary pupils to be able to walk to school. However, it would be wasteful in this case to build a new school when one was not needed, because the existing schools in the area already have capacity.

### **Other Matters**

81. Local residents raised concerns relating to other matters, including loss of agricultural land, transport, noise, ecology. However, the Council has considered all such matters, and raises no objection in relation to them. In relation to transport, the local junctions were considered in detail in the Transport Assessment and reports appended to the Environmental Statement, and there is the capacity to accept the traffic generated by the development. BCC were happy with the proposal subject to junction improvements with the A4146 and Drayton Road. Agricultural land is low grade and its function is compromised by the access road.
82. The ecological management plan will provide new habitats in compensation for the loss or damage to the appeal site and there is no evidence of harm to any significant flora or fauna. The area is already noisy subject to influences from Drayton Road and Newton Leys. There are very few nearby residents other than those residing in Newton Leys and there would be no noise intrusion. In a policy climate in which localism is of increasing importance, it is perhaps significant to

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<sup>45</sup> CD18.6 para 4.17, page 10.

note that not a single local resident came to the inquiry to voice objections to the scheme.

83. Overall the appeal scheme would provide much needed housing. There would be no harm to the character and appearance of the area education provision or any other matter. The site complies with the criteria set out in para 69 of PPS 3 and in accordance with para 71 should be favourably considered.

## **THE CASE FOR AYLESBURY VALE DISTRICT COUNCIL**

*The material points are:*

### **The spatial vision**

*The spatial policy framework*

84. SEP MKAV1 sets out levels for housing growth in Aylesbury Vale for the plan period 2006 – 2026 disaggregated into 16,800 dwellings in and around Aylesbury Town Centre, the rural areas forming the RoD taking 4,700 dwellings to meet local needs, and 5,390 to be provided to the SWMK as part of a major expansion of Milton Keynes.
85. The SEP spatial vision seeks the expansion of Milton Keynes to the south west by means of an SDA. However, the appeal site is within the RoD and does not form part of the SDA which is identified as a separate and specific allocation. It is not appropriate to rely on the SWMK urban extension to justify development in the RoD.

*The disaggregated approach*

86. There is a structured spatial approach to the provision of housing within Aylesbury Vale District. As stated, three distinct areas are set out in the SEP where the housing is intended to meet different needs; those for growth at Aylesbury Vale town centre, those for growth at Milton Keynes by way of an SDA and those for the local needs in the rest of Aylesbury Vale. Whilst the agreed supply for the period 2011 – 2016 is 3.4 years for the district as a whole, there is a projected supply of over 10.3 years for RoD. The needs in the RoD are being met and there is no reason why a shortfall in the supply of housing to meet separate spatial objectives should weigh in favour of providing housing for the rest of the district.
87. This approach has been supported in appeal decisions. In the Winslow case ref: APP/J0405/A/10/213746<sup>46</sup> the Inspector agreed that it was correct to follow the disaggregated approach. The Inspector concluded that whilst there is a pressing need elsewhere in the district, that is not the case in the RoD, and that tempers the significance of the scheme's contribution to the district wide 5 year supply. This decision followed an earlier appeal at the same site ref: APP/J0405/A/09/2115860<sup>47</sup> where the Inspector also agreed with the disaggregated approach for similar reasons.
88. Additionally, although there is no supply predicted for the next five years within the SWMK urban extension, this should not carry significant weight at this time

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<sup>46</sup> CD18.1 Appendix 3

<sup>47</sup> CD18.1 Appendix 3

as the SEP is only two years post adoption and only one quarter of the way through its duration. It is too early to approach the current application on the basis that the SDA has failed to come forward. Giving precedence to the meeting of housing supply figures in the SWMK would risk prejudicing the sustainable development aims of the SEP.

*The appeal site and the SDA*

89. The words of the SEP and the intention behind MKAV1 and MKAV2<sup>48</sup> require the 5,390 dwellings to be provided by way of a single SDA. Hence Salden Chase was promoted in the withdrawn CS as a single urban extension. This is important as the SDA is intended to address key social and infrastructure challenges<sup>49</sup>. The SEP principle is that large scale development of a critical mass is the way to achieve this. The notion that the SDA can be 'an urban extension' and comprise a number of smaller extensions would not meet the aims of the policy in terms of providing a sustainable SDA. The provision of 5,390 dwellings by way of a single SDA is part of the SEP spatial strategy.
90. The SEP is not simply about providing housing numbers. It requires the 5,390 dwellings to be provided in a particular way so far as SWMK is concerned. In that sense it ring fences them to an SDA – just as in the case of Hedge End SDA<sup>50</sup>.
91. Approval of the appeal scheme could encourage further small scale applications within the search area of the SDA, given the nature of land holdings in the area, many of which are close to the urban boundary. There are risks to allowing the supply of housing, which it is intended should be met through a comprehensively developed urban extension, to be met instead through development proposals such as the appeal scheme. The appeal scheme cannot provide the comprehensive development envisaged by the SEP and it cannot fully contribute to the infrastructure and social improvements sought by it. The infrastructure that smaller applications provide is confined to that which is needed or caused by the development itself. Therefore, by meeting housing numbers in a piece meal way, the critical mass of development sought by the SEP becomes fragmented, a sustainable urban extension cannot be achieved and the delivery of the SDA becomes undermined.
92. AVDC recognise that to meet SEP housing objectives development may have to take place on sites which currently form part of the countryside. In this respect, they have granted planning permission for large schemes where they accorded with the SEP spatial vision. These have been on sites where it was concluded that the limited extent of harm to the natural environment was outweighed by the potential benefits of the scheme in terms of sustainability. This is not the case with the appeal scheme.

*Future housing targets*

93. AVDC are intending to set their own targets following the Government's likely revocation of the SEP. AVDC have established a timetable and framework that

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<sup>48</sup> Para 23.12 of the SEP

<sup>49</sup> Para 23.2 of the SEP

<sup>50</sup> SEP p196; Woolf proof para 6.17

would be used to develop the Vale of Aylesbury Plan<sup>51</sup>. It is likely that options regarding the scale and distribution of housing development to meet local needs would emerge during the late spring and summer of 2012 with possible adoption at the end of 2013. AVDC acknowledge that the studies and evidence collected to support the new plan carry little weight at this stage of the process.

#### *Affordable housing*

94. There is a substantial need for affordable housing and the appellant's figures are accepted in this regard.

#### **Character and appearance**

95. In the AVDC Landscape Character Assessment<sup>52</sup> the appeal site is identified as part of the Newton Longville – Stoke Hammond Claylands. The overall condition of the landscape is considered to be moderate. While the site has not merited any special landscape designation, it is apparent that the field is farmed and has a rural quality and it is an important part of the rural land surrounding the urban area of Milton Keynes.
96. The northern boundary is located roughly along a ridge line which defines the edge of the Newton Leys development site (which is mostly located at a lower ground level than the appeal site). This results in a well contained and logical boundary to the edge of the built development, assisting integration of Newton Leys into the wider landscape. It is in a prominent position with clear views across the site from the surroundings, shown in Mr Coulson's appendices<sup>53</sup>.
97. There is an access road running across it but this is not an intrusive feature and limited views of the access are obtained in distant views, from where it appears agricultural in character. The Newton Leys development will have a wide planting buffer between the appeal site and the adjacent development, and this would form a strong boundary demarcating the urban part of Milton Keynes and the open countryside.
98. The site was looked at in the context of the planning brief for the Newton Leys development in 1995<sup>54</sup>. It referred to the appeal site and land beyond noting that 'urban development in this area would set an unacceptable precedent, representing an expansion of the city into a neighboring local authority without any strategic examination implication'.
99. The proposal on the main site would result in development on a green field site that is clearly visible in the landscape, outside the aforementioned strong boundary line. The illustrative material on page 21 of the Design and Access statement<sup>55</sup> accompanying the application shows the change in character with the proposed built form being clearly visible from a number of local viewpoints, including Drayton Road, Stoke Road and the public footpath. The impact would be amplified by the development being proposed as an extension to the Newton Leys development and it would be seen as a further extension to the urban area of Milton Keynes, encroaching into open countryside.

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<sup>51</sup> CD18.1 Appendix 4

<sup>52</sup> CD10.2

<sup>53</sup> CD18.5

<sup>54</sup> CD14.1

<sup>55</sup> CD1.2

100. The change in levels across the site is noticeable and would emphasise the prominence of the development which would be constructed on a north west facing slope. The impact at night would be from lights both within buildings and from the streetlights which would give an urban character to the site in close and distant views. The appellant's Environmental Statement<sup>56</sup> acknowledged that the landscape and visual impacts of the development would be permanent and adverse. Any proposed mitigation would not overcome its harmful impact.
101. Policy GP.35 of the AVDLP seeks to ensure that new development proposals respect and complement the physical characteristics of a site and its surroundings, the context of its setting and the effect on important public views and skylines. No adverse comments are put forward in relation to the smaller appeal site. However, the appeal proposals on the main site would harm the contribution the site makes to the character and appearance of the countryside and would be contrary to AVDLP policy GP.35. The site would not be suitable for development.
102. The appeal proposals do not accord with the spatial vision for the area, would result in substantial harm to the natural environment due to loss of open countryside and impact on the rural area and would not constitute an acceptable form of sustainable development.

*Conflict with PPS7*

103. The policy presumption is that housing development should not normally be permitted on this site. The appeal site is green field, agricultural land in the open countryside. It therefore merits the protection given to open countryside by PPS7, and hence (a) the policy of strict control over housing development applies to it; and (b) it is to be protected for the sake of its own intrinsic character and beauty; and (c) it is not to be developed in favour of brown field sites where such sites are available: see the key sustainable development principles listed in para 1 of PPS7, at (iv) and (v). In the case of (c) there are sites in urban Milton Keynes that are yet to come forward for housing.

**Education provision**

104. BCC and the appellant have reached substantial agreement on this matter so that the only issue remaining is the objection that all primary school age children (some 108 of them) would need to be bussed or driven to school. The need arises because the two nearest primary schools are not a convenient or safe walk from the appeal site, and one is further than the statutory 3 mile maximum walking distance<sup>57</sup>.
105. It is accepted that, in principle, the displacement of Milton Keynes based pupils from Newton Longville CE primary and High Ash primary may result in overall journey savings. However, the displacement of Milton Keynes children by appeal scheme children merely replaces one set of unsustainable journeys with another. Whatever the relative benefits of displacing Milton Keynes pupils from the two local primary schools, the fact remains that the appeal site does not provide any access to primary education other than by the motor vehicle.

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<sup>56</sup> CD1.3

<sup>57</sup> CD18.2

106. There would be adverse knock on effects for sustainability. The indirect consequences of relying on bus or car provision are that children would find it more difficult to attend after school clubs and activities because of the constraints imposed by the bus time table, and parents would in turn find it more difficult to balance work and childcare. One of the reasons for providing after school activities is to assist working parents. It is agreed that parents in Milton Keynes must have exercised a choice to send their children to schools local to the appeal site rather than send them to closer schools in Milton Keynes. However, they have exercised a choice, whereas no choice would be available to those living at the appeal site. BCC has not sought the provision of a school on the appeal site as there is no land available on the appeal site or nearby to provide one<sup>58</sup>.
107. BCC also objects on the basis that the need to bus children to the appeal scheme would place a financial burden on the County with increased transport costs of £118,000<sup>59</sup>. An increase in the number of children would be taken into account in the bid for Government's Grant funding but there would not be any additional money as a result of the bid, so that money may have to be diverted from other services which would be a clear sustainability drawback of the scheme.

### **Conclusion**

108. The harm to the character and appearance of the countryside and provision for education would make the site unsuitable and unsustainable for development. Furthermore it would not be in line with planning for housing objectives set out in the SEP spatial vision. While there is a shortfall in the 5 year housing supply for the district, the weight to be attached to this is reduced as the appeal site is within the RoD. The benefits to housing provision and the presumption in favour of the development in para 71 of PPS3 would be outweighed by the failure of the proposal to meet the tests for determining planning application set out in para 69.

### **WRITTEN REPRESENTATIONS**

109. Some 285 letters of objection were received by AVDC at the planning application stage<sup>60</sup> and 85 were received by the Planning Inspectorate<sup>61</sup> in response to the appeal.
110. Local Residents raised the following points at the planning application and appeal stage:
- The proposed development does not form part of the Aylesbury Vale District Plan.
  - It is speculative and highly questionable given the Secretary of State's letter to local authorities.
  - It will cause irrevocable loss of agricultural land.

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<sup>58</sup> CD18.2 para 5.3

<sup>59</sup> CD18.2 page 3

<sup>60</sup> CD2

<sup>61</sup> CD3

- Irrevocable loss of wildlife habitat especially of sensitive and red listed species.
  - Traffic generation will adversely impact on Newton Longville, Far Bletchley, Stoke Hammond, Mursley, Drayton Parslow, Stewkley and Whaddon.
  - Any development will have a devastating effect on Stoke Road and A421 which are already working beyond their capacity, especially to and from the west.
  - Severe environmental impacts, noise, visual intrusion, light.
  - There are undeveloped sites available in Milton Keynes of more than sufficient capacity to accommodate this development.
  - There is insufficient primary infrastructure serving the site in terms of transport, healthcare, drainage and water supply.
  - It sets an unacceptable precedent leading to development creep towards Newton Longville.
  - The appellant's case was not made available to the public to view before the expiry of the deadline to lodge comments to the Planning Inspectorate.
  - AVDC is able to demonstrate a 5 year housing supply.
  - Milton Keynes Hospital is already over stretched.
  - Premature as AVDC is consulting with communities to develop its vision for the future.
  - The scheme does not have the backing of the local community, planning should be determined at the local level.
  - Milton Keynes has submitted their LDF Core Strategy.
111. Milton Keynes Council raised the following objections in a letter dated 22 October 2010<sup>62</sup> at the planning application stage:
- Development within the open countryside with no policy context is premature.
  - The transport impact on the local network has not been demonstrated.
  - The application has failed to demonstrate that the development on the border of two authorities will be developed and come forward in an acceptable manner minimising impact on existing residential areas and facilities.
  - The scheme offers an inadequate Section 106 package to mitigate the potential impact on facilities and services provided by Milton Keynes Council.
  - It could potentially be constructed before the main development at Newton Leys progresses and there could be few on-site facilities for local residents.

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<sup>62</sup> CD2

- Lack of consultation with the local community.
112. Local Parish and Town Councils raised the following points in 2010, at the planning application stage<sup>63</sup>:
- The development would be contrary to the ADVLP strategic housing vision including policy RA3.
  - The development threatens the future coalescence of Newton Longville.
  - The area should be protected for the sake of its intrinsic beauty.
  - Loss of agricultural land.
  - Adverse impact on Newton Longville and surrounding villages from traffic.
  - Unacceptable precedent.
  - Play area and allotment not integrated with development.
  - Dense housing, no garages

## CONDITIONS

113. AVDC have prepared a list of suggested conditions which the appellant commented upon<sup>64</sup> (ID10). The conditions on the list and other relevant conditions were discussed at the Inquiry. Should the Secretary of State be minded to grant planning permission, the Schedule of Conditions appended to this Report at Annex A comprises a list of conditions to be attached. The conditions are re-worded in places to comply with Circular 11/95: The Use of Conditions in Planning Permissions, relevant policy documents and the Planning Inspectorate's model conditions. Where 'the site' is referred to this encompasses both the main site and the smaller site.
114. Conditions relating to the submission of timing and details of the reserved matters would comply with the provisions of the Circular (Conditions 1-3). No justification of why a 5 year time limit is appropriate instead of a 3 year one has been put forward and therefore the standard condition should be imposed. There are level changes on the site and details of building and ground levels would be necessary to ensure a satisfactory appearance and relationship between buildings (Condition 4).
115. Details of materials would be necessary in order to achieve a satisfactory appearance (Condition 5). Details of the internal roads and method of surface water disposal would be important to ensure adequate access within the site (Condition 6).
116. A waste audit scheme would be important to ensure a satisfactory refuse and recycling facilities and collection, and to ensure a satisfactory appearance (Condition 7). The site may be of archaeological interest and a condition requiring a programme of archaeological work and investigation would therefore

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<sup>63</sup> CD2

<sup>64</sup> ID10



be necessary (Condition 8). A condition requiring A4146/Drayton Road roundabout improvements<sup>65</sup> to be laid out and constructed before the development commences would be necessary to minimise danger to users of the highway (Condition 9).

117. A condition requiring accordance with the ecology management plan would safeguard biodiversity (Condition 10). The site has been used for agriculture and may contain contaminants. Decontamination conditions would be appropriate to protect the health of future occupiers, the water regime and wider environment (Conditions 11 and 12). A construction method statement would minimise danger and inconvenience to highway users and safeguard neighbours' living conditions (Condition 13). At least 10% of the energy supply of the development should be secured from decentralised and renewable or low carbon energy sources to comply with the aims of PPS1 for sustainable development (Condition 14). A condition relating to surface water drainage would be necessary to ensure sustainable drainage systems are used where possible (Condition 15).
118. Otherwise than as set out in this report and conditions, it is necessary that the development shall be carried out in accordance with the approved plans in respect of those matters not reserved for later approval for the avoidance of doubt and in the interests of proper planning (Condition 16).
119. The boundary treatment would be covered by layout and landscaping reserved matters condition. Access for the mobility impaired would be primarily addressed by building regulations. There is no justification for level 4 of the Code for Sustainable Homes and the achievement of level 3 would be covered by building regulations. No conditions are required on these matters. Conditions seeking an ecological construction method statement and an ecological clerk of works are unjustified and unnecessary. The ecological management plan and construction method condition would cover all the matters necessary to ensure that there would be no harmful effect to biodiversity.

## **OBLIGATIONS**

120. The planning obligation is in the form of a Unilateral Undertaking<sup>66</sup>. It relates to affordable housing, education, social infrastructure, sport and leisure, recreational facilities, policing services, public transport and a travel plan. The Unilateral Undertaking has been considered in the light of the statutory tests contained in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations and Circular 05/2005 Planning Obligations. BCC, AVDC and Milton Keynes District Supplementary Planning Guidance/Documents on planning obligations have also been taken into account.
121. *Affordable housing*: The provision of 35% of the units to be affordable housing with the 75:25 split between rental and shared ownership units would be ensured through the UU. This provision would be necessary to ensure a balanced and mixed community in accordance with local and national policy and the AVDC's Supplementary Planning Guidance for Affordable Housing<sup>67</sup>.

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<sup>65</sup> ID11

<sup>66</sup> ID4

<sup>67</sup> CD12.2

122. *Education*: Details of education demands and a method of calculating contributions are set out in the BCC Guidance on Planning Obligations for Education Provision<sup>68</sup>. BCC confirmed that there are insufficient places at Upper, Grammar and Special schools in the vicinity to meet the demands of the proposal. The amount to be paid is calculated per dwelling in accordance with BCC guidance. It would be used towards education provision serving the development. It would meet the aims of AVDC policy GP.94 seeking sustainable communities.
123. *Open space/Recreation land and facilities*. The recreational land and open space would be set out on the open space land scheme submitted with the reserved matters for landscaping and layout. The amount of land would accord with Natural England ANGSSt benchmarking standards. The facilities would include 2 LEAPs, an extension to the Newton Leys LEAP and allotments all required to meet the additional demands of the development.
124. *Sport and Leisure*. The contribution would be calculated in accordance with AVDC Supplementary Planning Guidance for Sport and Leisure<sup>69</sup> to be spent on local projects. There would be an additional demand arising from the proposed housing and therefore the contribution would be necessary.
125. *Library*. The library contribution is calculated in accordance with Milton Keynes Supplementary Planning Document Social Infrastructure Planning Obligation (MKSPD)<sup>70</sup> to maintain and enhance the library service including the consolidation and extension of the library at nearby Bletchley. The UU ensures that that the money would be spent in the vicinity of the development. The contribution would be paid to AVDC with a clause ensuring that the money is to be forwarded to Milton Keynes Council.
126. *Healthcare*: Milton Keynes Council indicate that there would be an additional demand placed on the Water Eaton Health Centre and a healthcare contribution would be necessary. At the Inquiry the appellant advised that the contribution was based on similar calculations to those carried out as part of the adjacent Newton Leys development where the site circumstances are similar. They advised that the calculations are in line with MKSPD, the section 106 agreement relating to that site<sup>71</sup>, and discussions with Milton Keynes Council. As such, they are considered to be fairly and reasonably related in scale and kind to the development. The contribution would be paid to AVDC with a clause ensuring that the money is to be forwarded to Milton Keynes Council.
127. *Transport*. The bus stop and shelter and travel information packs would be necessary to meet the requirements of the new residents and ensure that the scheme complies with PPG13 which seeks to promote sustainable means of transport.
128. *Policing contribution*. Thames Valley Police (TVP) have put forward evidence of existing facilities, additional demand created by the development, a reasonable basis for calculation and what the contribution would be spent on<sup>72</sup>. Although

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<sup>68</sup> CD19.2 appendix 1

<sup>69</sup> CD12.2

<sup>70</sup> ID6

<sup>71</sup> CD14.3

<sup>72</sup> CD18.1

there is no clause within the UU to pass the contribution to TVP, it must be assumed that AVDC would act reasonably and make the payment to TVP. The contribution would assist in meeting PPS1 aims for sustainable communities.

129. The above obligations meet local or national policies, the tests set out in Circular 05/2005 and regulation 122 of the Community Infrastructure Levy Regulations. The UU carries material weight in meeting the demands of the development in these respects.
130. *Dentist's surgery*. The surgery forms part of the planning application and the obligation relates to the provision of land, the identification of an operator and agreement of terms for construction and occupation. Whilst there may be an additional demand, it is not clear that the provision of the land and the other requirements are related in scale and kind to the development as there is no quantified evidence in this regard. Without this evidence, it would not appear to comply with CIL regulations and would fail the tests set out in the Circular.
131. *Public Art*. Public Art is referred to on MKSPD. Although it may be desirable there is no indication that it is necessary in order to make the scheme acceptable in planning terms. There are no identified projects and it is not possible to determine whether the £70,000 contribution would be directly related to the proposed development. It would not appear to comply with CIL regulations and would fail the tests set out in the Circular.
132. The above two parts of the planning obligation would fail the test set out in the Circular and the CIL Regulations. However, no harm has been demonstrated to arise from the failure of these obligations to meet the relevant tests.

## CONCLUSIONS

*The numbers in square brackets refer to earlier paragraphs in the report*

133. The main considerations on which my recommendation is based are derived from the Secretary of State's direction, AVDC's reason for refusal and other points raised by interested parties, summarised as follows:

- i. Whether the development is in line with planning for housing objectives in local, regional and national policies, reflecting the need and demand for housing and the spatial vision for the area. If so, whether any contribution to housing need would be outweighed by the harm caused by the following issues:
- ii. The suitability of the site in terms of character and appearance of the countryside and environmental sustainability.
- iii. Whether the development would be sustainable in terms of primary education provision.
- iv. Any other matters including transport, agriculture, noise, development creep and local objection.

**Issue 1: Whether the development is in line with planning for housing objectives in local regional and national policies, reflecting the need and demand for housing and the spatial vision for the area.**

134. The Secretary of State's intention to abolish regional strategies is a material consideration. However abolition has not yet occurred and, at present, the South East Plan (SEP) housing figure remains the only reliable evidence regarding need in this area. For these reasons, I give it full weight in this appeal.

135. *The 5 year supply*: SEP policy H1 sets out a requirement for the delivery of some 26,900 dwellings within Aylesbury Vale District during the period 2006 – 2026 at an annual average of 1,345 dwellings per year. Policy MKAV1 disaggregates this requirement into: 5,390 dwellings as an urban extension to the south-west of Milton Keynes (SWMK); 16,800 dwellings in and around the Aylesbury town centre; and 4,700 in the rural areas/rest of the district (RoD) over the 20 year life of the plan. [60,83]

136. The 5 year housing land supply for the period 2011 to 2016 has been assessed against SEP targets. Both the appellant and AVDC agree that for the SWMK urban extension there is a 0 year supply; in and around Aylesbury town centre there is a 3.15 year supply and within RoD there is a 10.3 year supply. The figures indicate that there is a 3.4 year supply for the district as whole. The assessment also indicates that for the previous 5 year period (2006 – 2011) the completions were equivalent to 746 dwellings per year. This shows that there is a less than 5 year supply of deliverable housing sites within Aylesbury Vale District and that AVDC are not meeting their annual SEP delivery targets. [37,38,39,40,83,85]

137. The district wide shortfall in the 5 year housing supply is a material consideration to be taken into account in considering the merits of the appeal scheme and applying the advice in PPS3, paragraph 71. This leads to a presumption in favour of the appeal scheme. Although the appellant refers to the draft National Planning Policy Framework and the intention for an additional

20% allowance in the 5 year supply, this document carries little weight at present, as it is only at the consultation stage. [40,107]

138. It is also relevant to look at Milton Keynes housing figures as the SWMK urban extension is intended to assist in meeting the needs of the wider Milton Keynes growth area. In this regard Milton Keynes' housing figures show that it has a modest shortfall in the 5 year supply when assessed against SEP targets. On this basis it would be unlikely to compensate for housing supply deficiencies within the SWMK urban extension within Aylesbury Vale. While the Milton Keynes emerging CS sets lower figures within the district than the SEP, it carries no weight, as it is yet to be examined and found to be sound. Additionally, there is no evidence that other sites are available within Milton Keynes District that could compensate or assist in meeting SEP requirements for the SWMK urban extension. [57,58,59]
139. AVDC's view is that the appeal site is within the RoD designation where there is an oversupply and housing at the appeal site should not be required to meet different spatial objectives. However, there are two reasons why this approach should not be applied in this case. Firstly, the precise areas for the SWMK/RoD are not set out in the SEP and they remain undefined. Although the withdrawn CS was bringing forward a site specific SDA with a clear demarcation of RoD, this document carries no weight. The current position is that, to meet SEP targets, the land to the south west of Milton Keynes within Aylesbury Vale would have to provide the SWMK urban extension in the form of an SDA, and RoD land would have to be developed to meet the needs of Milton Keynes growth area. Secondly, the appeal site lies on the boundary of the Milton Keynes urban area. There is no dispute that in this location the proposed housing would meet the needs of Milton Keynes Growth Area rather than the rural areas or the rest of the district.
140. In these circumstances, the disaggregated approach to the 5 year housing supply and the oversupply in the RoD carries little weight in this appeal and would not limit the weight to be attached to the district wide shortfall. This differs from the Winslow case, where the site was located some distance from either the SWMK urban extension or in and around Aylesbury town. The Winslow site would not have been in an appropriate location to meet the needs of other strategic areas. The circumstances and consideration of the Winslow case differ considerably from those of the appeal site and it has little relevance to this appeal. [51,52,85,86]
141. *Shortfall and supply within the SWMK extension:* Policy MKAV1 indicates that the SWMK urban extension to provide the target of 5,390 dwellings would come forward by means of a Strategic Development Area (SDA). MKAV2 indicates that this should be a single designation, the growth of which is planned to ensure that it meets the needs of the region. The precise area for the SDA is not specified within the SEP and there are no other policy documents allocating the SDA. Without a specific allocation, AVDC's position is that they are unable to identify or bring forward any land supply for the 5 year period 2011- 2016 to meet the SWMK targets. [47,48,49,88,89,90]
142. In some cases outside the Milton Keynes and Aylesbury Vale sub region, the SEP makes provision for the overall housing figure to be reduced if the SDA does not come forward. However, the SEP indicates that the SWMK SDA target

of 5,390 dwellings is not ring fenced to a particular site and there is no provision for the overall housing targets to be reduced. It differs from the Hedge End SDA referred to by AVDC which relates to more specific Growth Points as opposed to Growth Areas.

143. The policy target of 26,890 dwellings for the district would therefore be unaltered if the urban extension does not come forward. Moreover, the lack of an allocated SDA does not mean that the need is diminished. The SEP target for the SWMK remains for the plan period as 5,390 dwellings required to meet an identified housing need and this is a significant material consideration in this appeal. [53,59,65,89]
144. With regard to the possible future designation of the SDA, AVDC withdrew their CS in 2010 which sought to allocate an SDA at Salden Chase and the CS carries no weight. AVDC hope to set their own targets through their emerging Vale of Aylesbury Plan, but this document is at a very early stage, with a timetable of some two years (2013) before publication. A reliable evidence base has not been established for the emerging plan and the outcome in terms of providing housing within the SWMK urban extension is unknown. AVDCCLP pre-dates the SEP and offers no policy guidance on establishing the urban extension to SWMK. [30, 92]
145. The SEP is only two years post adoption and one quarter of the way through its duration and there is time for the SWMK urban extension to come forward within the lifetime of the plan. However, the appellant has demonstrated that even if an application were to come forward now for 5,390 dwellings it would be unlikely to deliver more than 3,500 by 2026. This, together with the absence of any policy documents which would allocate the SDA in the foreseeable future, is a significant material consideration for this appeal. [49, 50, 87]
146. *Spatial vision and wider policy objectives:* The appeal site was included in a wider area of search for the SDA for the withdrawn CS. However, as it is a small piece of land within the search area, it would not be considered to be part of a planned urban extension to SWMK. The proposed housing would not be part of the SDA and therefore not delivered in a planned way in accordance with the SEP MKAV1 spatial principles. Piecemeal development without a formal SDA allocation would not be likely to bring about necessary infrastructure provision to meet the challenges faced by the sub region, and housing pursued in this way would not achieve the spatial vision envisaged in the plan. It would therefore conflict with the aims of policies MKAV1 and MKAV2 to bring forward the urban extension by means of an SDA. [44,45,46,87,90]
147. However, in this matter, the individual site circumstances are particularly relevant. Firstly, the site is unusual in that it is partly bounded on two sides by Milton Keynes District, and immediately adjoins the urban area. It would be incorporated into the Newton Leys development abutting the site as it would use existing access points which continue into that development. It would not therefore set a precedent for other piecemeal development to follow. Secondly, the 350 dwellings would only be a small proportion of the total number required. There is no evidence that they would reduce the housing within the SDA to a level where the critical mass would not be sufficient to provide the necessary infrastructure. There is no reason why an effective and sustainable SDA would be prejudiced or could not be designated even if the appeal housing

were built. It is considered that the wider housing objectives in policies SP1 and SP2 to meet the needs, including the high housing demand, of the sub-region would be met and the future provision of an SDA would not be undermined. [48,49,87,90]

148. With regard to affordable housing, there is a significant, existing unmet need within Aylesbury Vale District and a substantial need has been demonstrated for affordable housing for the next 10 years. Housing figures for Milton Keynes show that there is a very substantial need for affordable housing within the district. The level of affordable housing need within the sub region is acute and likely to be exacerbated by the failure of the SDA development to come forward in the near future. The provision of 35% of the proposed dwellings to be affordable units would assist in meeting the shortfall. [54,55,56]
149. To conclude on the first issue; There is a less than 5 year housing land supply for Aylesbury Vale District and an acute shortfall within the SWMK urban extension. Paragraph 71 of PPS 3 should apply and this planning appeal should be considered favourably, having regard to paragraph 69. [93]
150. Paragraph 69 of PPS 3 sets out issues to which Local Planning Authorities should have regard when deciding planning applications. The proposal could achieve high quality housing and ensure an appropriate mix of accommodation. Although there is some conflict with the spatial vision in that the site would not come forward as part of the SDA, this would be outweighed by the lack of any policies that would allocate and bring forward housing within the SDA in the near future, and the provision of housing within an area of identified need in line with SEP housing objectives. The issues of suitability and sustainability including using land efficiently and effectively are addressed below. The weight to be attached to the housing provision is addressed in the final conclusion.

**Issue 2: the suitability of the site in terms of character and appearance of the countryside and environmental sustainability.**

151. The appeal site comprises two parcels of land; some 13.4 hectares on the main site and 1.9 hectares on a smaller parcel of land to the west. The built development including housing and a dental surgery would take place at the main site. Recreation areas and allotments are proposed at the smaller site.
152. The main site is a substantial field in agricultural use. It is roughly triangular in shape and clearly defined by mature trees and hedges. The Aylesbury Vale Landscape Character Assessment indicates that it falls within the wider landscape designation of Newton Longville-Stoke Hammond Claylands. The key characteristics of the area, which are seen at the appeal site, include a gently undulating landform and fields bounded with hedges and trees. A series of ridges cross the wider area with a ridgeline along the edge of Drayton Road sloping gently down across the site towards the north-west. [8,9,10,11,12]
153. While it is open and green, the site is subject to considerable urban influences. The adjacent Newton Leys development to the north and west is progressing well with fairly dense areas of housing adjacent to the appeal site. Even though new planting is proposed which may soften its impact over time, it forms a clear urban edge to the appeal site, detracting from its appearance. Additionally, Drayton Road along the southern boundary and the substantial roundabout

junction with the A4146 to the north-east impact negatively on the rural character and tranquillity of the site. [66,96]

154. The site is also crossed by a 'y' shaped access road to the Newton Leys site, which has cut verges, regularly spaced planting and lighting. It is a large urban feature within the site, breaking it up into three irregular pieces of land, further reducing its quality and character. Its location, wedged between the Newton Leys development and Drayton Road, makes it of little visual value to the wider countryside to the south and west of the site. AVDC's landscape character assessments recognise that urban influences detract from this area and consequently identify it as moderate in condition and of low sensitivity to change. [67,68,69,95,96]
155. The proposed development would undoubtedly alter the appearance and character of the site. While the openness and planted nature would be destroyed, the site makes little contribution to the wider area and its loss would not be harmful. The change to a completely urban character, including lighting, would not be particularly noticeable in long distance views as the proposed buildings would be seen together with Newton Leys development with little additional effect. In closer views from Drayton Road, housing would be clearly seen, but there are no proper footpaths along this road and drivers' views would eventually be obscured by new planting. Views from a public footpath between the appeal site and Newton Leys would be altered but this path appears to be hardly used and again new boundary planting would provide considerable screening. The higher land along Drayton Road would be developed with the lowest scale housing and the change in site levels would make little difference to the impact of the development in the area. [70,71,73,74,98,99]
156. The illustrative plans carry no weight, but they demonstrate that an appropriate form of housing could be provided which would successfully integrate with the Newton Leys development. It could complete the pattern of development as shown on the indicative block masterplan and form a robust and well defined boundary between the countryside and the urban area. [75]
157. The smaller site would remain open and green. It is mostly surrounded by fields and allotments. Appropriate landscaping and boundary treatment secured through the reserved matters would ensure that it would be assimilated without harm to the wider landscape. [75]
158. PPS7 seeks protection of the countryside indicating that it is the most valued landscapes that should be afforded the highest level of protection. PPS3 and PPS7 do not preclude housing within the countryside, but advocate strict control to ensure sustainable development. SEP policies CC6 and C4, and AVDCLP policy GP.35 seek to protect local character, including natural qualities and features of the countryside. In this case, the development would result in the loss of open land that currently has very little scenic value or visual relationship to the wider countryside. Although there would be change, there would be no harm to the character and appearance of the area or the wider countryside. The proposal would accord with local, regional and national policy in this respect. [76,100,101,102]
159. With regard to ecology; birds, common lizards, bats and common hedgerow species were among the flora and fauna seen at the site. Although some of the birds were on the UK BAP red list, the precise classification and perceived risk



have not been given and there is no evidence of harm to any of the species noted in the report. No bat roosts were found at the site. However, the main concern is from loss of habitat for foraging. To ensure that the biodiversity of the site is enhanced and to compensate for the loss of existing habitats, new habitats are proposed to be created at the site including woodland, grassland and a pond. An ecological management plan would be secured by condition to ensure that the habitats are identified and implemented so that the biodiversity of the site would be protected in line with the aims of PPS9 Biodiversity and Geological Conservation.[81]

160. The proposal would accord with the aims of PPS3, PPS7 and PPS9. It would therefore be a suitable and environmentally sustainable location for housing development.

**Issue 3. Whether the development would be sustainable in terms of primary education provision.**

161. The appeal site would be adjacent to Milton Keynes but there are no spare places within their schools to meet the primary school demand from the development. However, the appeal site would be within the catchment area of Newton Longville CE Primary School within Aylesbury Vale District where there would be sufficient places to meet the demand (around 108 children). Newton Longville is not within a safe or convenient walking distance from the site and therefore children would have to be bussed or driven to school. However, this would not be an unusual situation with some 1,400 primary school pupils currently being bussed to school within Buckinghamshire. [77,78,104]
162. Although it is preferable to be within walking distance of a school there is little evidence to show that there would be any significant social disadvantage to pupils who take the bus. After school clubs may be more difficult to attend but this is the case for many children, and parents would have to make other arrangements for their collection. Social interaction and independence in taking the bus may even be advantageous. In terms of sustainability, taking up unused places at the Newton Longville School would be positive aspect of the proposal, as unused places are a wasted resource. Moreover, at present the places are being taken up by pupils from Milton Keynes who have opted to go to Newton Longville School in preference to one in Milton Keynes. These pupils come by car and the collection of children by bus may result in overall journey savings. Bus transport promotes the use of sustainable travel to school and there is no evidence that it would be harmful in terms of the sustainability of the appeal site. [78,79,104,105]
163. Buckinghamshire County Council (BCC) would have to fund the bus and this would place an additional burden on the County. However, there would be government grants to the County which would compensate to some extent, the precise cost to BCC is unknown. There is no clear evidence that the increase in grant for the bus transport would impact on other services. The financial burden would, in any event, be outweighed by wider benefits in the taking up of unused places and overall journey savings. The education provision would be satisfactory and the appeal site would represent a sustainable location in this regard. The appeal scheme would comply with SEP policy S3 which promotes adequate provision of school facilities and PPS1 which seeks sustainable communities. [80,105,106]

**Issue 4, Other Matters – transport and traffic, agriculture, noise, development creep and local objection.**

164. *Transport.* Local residents have expressed concern about the effect of the proposal on transport. Numerous and comprehensive studies were produced by the appellant as part of the planning application examining the effect of the proposal on all nearby junctions, road networks and villages. In all cases, except at the junction of the A4146 and Drayton Road, no harmful effects were identified from traffic generated or junction capacity. BCC as local highway authority were satisfied with the scheme on this basis. There is no evidence from any other party to contradict the findings of the studies. Improvements to the A4146 and Drayton Road junction to improve safety would be required by condition and therefore there would be no harm to highway users arising from the proposal, nor any harm to the living conditions of local residents or the character of villages from traffic generation. [80]
165. *Agriculture.* The appeal site is not high grade agricultural land and has been broken up into three parcels of irregularly shaped land. No submissions have been put forward demonstrating that its loss would harm food production. It is of limited agricultural value and there is no apparent harm arising from its loss. [80]
166. *Noise.* Apart from occupiers of the new properties at Newton Leys there are very few surrounding residents who could be affected in any way. The site is already subject to noise from the substantial Newton Leys development, Drayton Road and the A4146. The noise from the proposal would be domestic in nature and it would not harm neighbour's living conditions. [81]
167. *Development creep.* The main appeal site would not come materially closer to Newton Longville than houses within the Newton Leys development. The built form would be located within a wedge of land between the adjacent development and the road. In this location it would not result in development creep towards any of the nearby villages. [75]
168. *Local objection:* Regard has been had to the level of local objection put forward in written representations. Although no interested parties attended the Inquiry, all the points put forward in their letters were addressed at the Inquiry or in written evidence by the witnesses, and are dealt with in this report. While the level of local objection is clear, it would not outweigh the benefits of the scheme in terms of housing provision. [81]
169. There is no evidence that consultation was not carried out correctly for the appeal or that any interested parties have been prejudiced by the timescale. [37]

**Overall conclusions**

170. There is a less than 5 year housing land supply in Aylesbury Vale District as a whole and little immediate prospect of housing coming forward within the SWMK urban extension to meet SEP housing targets. There is a substantial shortfall in the provision of affordable housing. In these circumstances paragraph 71 of

PPS3 is to be applied. This leads to a presumption in favour of the appeal scheme, subject to meeting the considerations of paragraph 69 of the document.

171. In terms of the considerations in paragraph 69, it has been shown that there would be no harm to the character and appearance of the area or to its biodiversity, and the appeal site is considered to be suitable and environmentally sustainable. Primary education provision would be acceptable and the site is in a sustainable location in this regard. The appeal scheme could provide high quality housing with a good mix of accommodation. It is an efficient and effective use of land. No harm has been identified arising from any other matter. All these considerations weigh in favour of the scheme.
172. The provision of housing outside the spatial vision set out in the SEP would conflict with policy. However, the weight to be attached to this would be limited by the failure of any policies to come forward to designate the SDA and the consequent likelihood that the SWMK target of 5,390 dwellings would not be reached by 2026. An additional consideration reducing the weight to be attached to any conflict with SEP policy, is that approval of the appeal scheme would not prejudice or undermine the future allocation of the SDA and the provision of a sustainable urban extension.
173. There would be significant benefits in providing up to 350 dwellings where there is a substantial and identified need. This would outweigh any conflict with the spatial vision of the SEP. For these reasons, the appeal scheme is considered to be acceptable.

#### **Recommendation**

174. I recommend that the appeal be allowed and planning permission be granted subject to conditions.

*Christine Thorby*

INSPECTOR

**ANNEX A**  
**Schedule of conditions**

- 1) No development shall take place until there has been submitted to and approved in writing by the local planning authority a phasing plan and details of the appearance, landscaping, layout and scale, (hereinafter called "the reserved matters") The development shall be carried out as approved.
- 2) Application(s) for approval of the reserved matters in respect of each phase of the development shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters relating to that phase to be approved.
- 4) No development shall take place until there has been submitted to and approved in writing by the local planning authority details for the whole of that phase of the finished ground floor levels of all the approved buildings and the finished ground levels for all other areas of the site. The development of each phase shall be carried out in accordance with the approved details.
- 5) No development shall take place on a phase of development until there has been submitted to and approved in writing by the local planning authority samples of all the materials to be used for the external walls and roofs of the buildings forming any part of that phase of development. The development of each phase shall be carried out in accordance with the approved details.
- 6) No development shall take place on a phase of development until there has been submitted to and approved in writing by the local planning authority detailed plans and sections for the whole of that phase showing the proposed internal roads including gradients and the method of surface water disposal. No building within that phase shall be occupied until the section of road which provides access to it has been constructed (apart from final surfacing) in accordance with the approved details.
- 7) No development shall take place on a phase of development until there has been submitted to and approved in writing by the local planning authority a detailed waste audit scheme relating to that phase, including details of refuse storage and recycling facilities. The development of each phase shall be carried out in accordance with the approved details.
- 8) No development shall take place within the residential development area until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The work shall be carried out in accordance with the approved scheme.
- 9) No other part of the development shall commence until the off site highway works shown on drawing 23535/003/001, which includes capacity improvements to the Drayton Road/A4146 roundabout junction, have been laid out and constructed in accordance with details to be first approved in writing by the Local Planning Authority.

- 10) The development shall incorporate all recommendations for habitat creation set out in the ecological management plan dated July 2011. Details of location and size of habitats shall be submitted to and approved in writing by the Local Planning Authority as part of the landscaping and layout reserved matters submissions required by condition 1. The development shall be carried out in accordance with the approved details.
- 11) An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:
- (i) a survey of the extent, scale and nature of contamination;
  - (ii) an assessment of the potential risks to:
    - human health,
    - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
    - adjoining land,
    - groundwaters and surface waters,
    - ecological systems,
    - archeological sites and ancient monuments;
  - (iii) an appraisal of remedial options, and proposal of the preferred option(s).

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

- 12) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 11, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 11, which is subject to the approval in writing of the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures.
- 13) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i) the parking of vehicles of site operatives and visitors
  - ii) loading and unloading of plant and materials
  - iii) storage of plant and materials used in constructing the development
  - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - v) wheel washing facilities
  - vi) measures to control the emission of dust and dirt during construction
  - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works
- 14) Before the development begins a scheme (including a timetable for implementation) to secure at least 10% of the energy supply of the development from decentralised and renewable or low carbon energy sources shall be submitted to and approved in writing by the Local Planning Authority as part of the reserved matters submissions required by condition 1. The approved scheme shall be implemented and retained as operational thereafter, unless otherwise agreed in writing by the Local Planning Authority.
- 15) No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in Annex F of PPS25 (or any subsequent version), and the results of the assessment provided to the local planning authority. The works shall be carried out in accordance with the approved details
- 16) The development hereby approved shall be carried out in accordance with the following approved plans: 100380/BP/001A and 16849/100/01C but only in respect of those matters not reserved for later approval.

**APPEARANCES**

FOR THE LOCAL PLANNING AUTHORITY:

Mr J Pereira of Counsel

He called

Mr J Cannell

Development Control Manager for Aylesbury Vale  
District Council

Mr S Chainani

School Place Planning Commissioning Partner for  
Buckinghamshire County Council

FOR THE APPELLANT:

Mr T Corner QC

He called

Mr G Coulson

Mr H Fielding

Mr J Woolf

Director of Terence O'Rourke  
Fielding education consultants  
Woolf Bond Planning

**CORE DOCUMENTS**

<b>Reference</b>	<b>Document Name</b>	<b>Publication Date</b>
<b>CD1</b>	<b>Application Documents</b>	
CD1.1	Application drawings	
CD1.2	Design and Access Statement	
CD1.3	Environmental Statement	
CD1.4	Planning statement/statement of community involvement/ sustainability statement/ travel plan/ utilities report	
<b>CD2</b>	<b>Consultation Responses</b>	
<b>CD3</b>	<b>Third Party Representations</b>	
<b>CD4</b>	<b>Committee Reports and Decision Notice</b>	
CD4.1	Delegated report	9 February 2011
CD4.2	Decision notice	9 February 2011
<b>CD5</b>	<b>Regional Strategy – South East</b>	
CD5.1	The South East Plan	May 2009
<b>CD6</b>	<b>Sub- Regional Studies</b>	
CD6.1	Milton Keynes South Midlands sub-regional study	March 2005
CD6.2	Buckinghamshire County Council Green Infrastructure Strategy (Executive summary and chapters 1 - 4)	April 2009
<b>CD7</b>	<b>Aylesbury Vale District Local Plan</b>	
CD7.1	Chapter 3 - Strategy	January 2004
CD7.2	Chapter 4 - General policies	January 2004
CD7.3	Chapter 10 - Rural areas	January 2004
CD7.4	Extract - Proposals map	January 2004
CD7.5	Letter from the Secretary of State concerning saved policies of AVDLP	September 2007
<b>CD8</b>	<b>Aylesbury Vale Local Development Framework</b>	
CD8.1	Proposed Submission Core Strategy	June 2009
<b>CD9</b>	<b>Withdrawal of AVDC Core Strategy</b>	
CD9.1	Appendix B of committee report – Future of the Core Strategy	8 September 2010
CD9.2	Minutes of council meeting	8 September 2010
CD9.3	Secretary of State letter	5 October 2010
<b>CD10</b>	<b>Core Strategy Evidence Base</b>	



CD10.1	Aylesbury Vale Strategic Housing Land Availability Assessment	March 2009
CD10.2	Aylesbury Vale Landscape Character Assessment	May 2008
CD10.3	Aylesbury Vale Areas of Sensitive Landscape	October 2008
CD10.4	Milton Keynes Landscape Character Assessment	2007
CD10.5	Guidelines for Landscape and Visual Impact Assessment	2002
CD10.6	Landscape Character Assessment: Guidance for England and Scotland	2002
CD10.7	Housing Needs Study Update Final Report 2007	2007
CD10.8	Housing Needs Study 2003 Executive Summary	2003
<b>CD11</b>	<b>Monitoring</b>	
CD11.1	AVDC Annual Monitoring Report	December 2010
CD11.2	Housing Land Supply (position at end of March 2011)	May 2011
CD11.3	District Housing Trajectory (position at end of March 2011)	May 2011
<b>CD12</b>	<b>AVDC Supplementary Planning Documents</b>	
CD12.1	Affordable Housing Supplementary Planning Document	November 2007
CD12.2	Sport and Leisure Facilities Supplementary Planning Guidance	August 2004
<b>CD13</b>	<b>Statements and Correspondence Relating to Planning for Growth and Localism</b>	
CD13.1	Letter to chief planning officers	27 May 2010
CD13.2	Speech by Grant Shapps	8 June 2010
CD13.3	Letter from Grant Shapps	2 July 2010
CD13.4	Letter to chief planning officers	6 July 2010
CD13.5	Government White Paper - "local growth"	October 2010
CD13.6	Government's Plan for Growth	23 March 2011
CD13.7	Planning for Growth	23 March 2011
CD13.8	Statement by Greg Clark	2 February 2011
CD13.9	Steve Quartermain letter	May 2011
CD13.10	National Planning Policy Framework consultation	July 2011
CD13.11	CALA high court decision	7 February 2011
CD13.12	DCLG Letter to Chief Planning Officers	31 March 2011
CD13.13	CALA Homes Court of Appeal decision	27 May 2011

<b>CD14</b>	<b>Newton Leys Documents</b>	
CD14.1	Newton Longville Brickworks planning brief	1995
CD14.2	Newton Leys Environmental Statement (extracts)	July 2002
CD14.3	Newton Leys Outline planning approval and S106 (MKC)	28 June 2005
CD14.4	Newton Leys Outline planning approval notice (AVDC)	21 September 2005
CD14.5	Newton Leys Outline planning officer's report (AVDC)	4 August 2005
CD14.6	Newton Leys reserved matters approval notice and drawings (AVDC) (access road)	21 December 2006
CD14.7	Newton Leys reserved matters (AVDC) (access road) officer's report	21 December 2006
<b>CD15</b>	<b>Vale of Aylesbury Plan</b>	
CD15.1	LPA update letter and Local Development Scheme	29 July 2011
<b>CD16</b>	<b>Statement of Common Ground</b>	
CD16.1	SOCG1	
CD16.2	SOCG2	
<b>CD17</b>	<b>Ecological management plan</b>	
<b>CD18</b>	<b>Proofs of evidence (POS) and appendices</b>	
CD18.1	Mr Cannell's POE and appendices	
CD18.2	Mr Chainani's POE and appendices	
CD18.3	Mr Woolf's POE summary and appendices	
CD18.4	Mr Coulson's POE, summary	
CD18.5	Mr Coulson's Appendices	
CD18.6	Mr Fielding's POE, summary and appendices	

## DOCUMENTS SUBMITTED AT THE INQUIRY

- ID1 Letters of notification  
ID2 Attendance lists  
AVDC documents  
ID3 Letter dated 2 February 2009 to AVDC regarding land to be included in SHLAA  
ID4 Unilateral Undertaking  
ID5 Summary of obligations  
ID5a Milton Keynes Supplementary Planning Document Social Infrastructure Planning Obligation  
  
ID6 Summary proof for Mr Chainani  
ID7 Summary proof for Mr Cannell  
ID8 Position statement on affordable housing  
  
ID9 Letter dated 3 October 2011 closing the Inquiry

- ID10 List of suggested conditions
- ID11 Junction improvement dwg 23525/003/001
  
- ID12 Appellant's closing statement
- ID13 ADC's closing statement

## **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

**These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).**

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

### **SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;**

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### **Challenges under Section 288 of the TCP Act**

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

### **SECTION 2: AWARDS OF COSTS**

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

### **SECTION 3: INSPECTION OF DOCUMENTS**

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.