

30 January 2012

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Our Ref: (A) APP/J0405/A/10/2143343
(B) APP/J0405/A/11/2154252
(C) APP/P0240/A/10/2143323
(D) APP/P0240/A/11/2154254

Your Ref: NDA/C9714

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEALS BY PAUL NEWMAN NEW HOMES - LAND AT VALLEY FARM,
LEIGHTON ROAD, SOULBURY, BUCKINGHAMSHIRE, LU7 0JJ:**

- A. Application Ref: 10/00500/AOP**
- B. Application Ref: 11/00426/APP**
- C. Application Ref: CB/10/00859/FULL (withdrawn)**
- D. Application Ref: CB/11/00750/FULL**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, J Stuart Nixon, BSc(Hons) DipTE CEng MICE MRTPI MCIHT, who held a public local inquiry between 4 and 19 July 2011, and closed in writing on 21 October 2011, into your client's appeals:

Appeal A: against the decision of Aylesbury Vale District Council (AVDC) to refuse outline planning permission for mixed use development including Residential (C3) - 900 dwellings, Employment (B1), Commercial (A1, A2, A3, A4, A5) Primary School, Health Centre (D1), Leisure and Community (D2) Land Uses and associated Roads, Drainage, Car Parking, Servicing, Footpaths, Cycleways, Public Open Space/Informal Open Space and landscaping at land at Valley Farm, Leighton Road, Soulbury, Buckinghamshire, LU7 0JJ, in accordance with planning application ref 10/00500/AOP dated 12 March 2010.

Appeal B: against the decision of AVDC to refuse full planning permission for a Primary access off Leighton Road/ Soulbury Road. This application relates solely to an access arrangement revision to the application 10/00500/AOP for mixed use development in accordance with planning application ref 11/00426/APP dated 24 February 2011.

Appeal C: against the decision of Central Bedfordshire Council (CBC) to refuse planning permission for a revised scheme for the formation of a secondary vehicular access on land off Derwent Road to serve the development proposed within Aylesbury Vale District under the outline planning application described at Appeal A, in accordance with planning application ref CB/10/00859/FULL dated 12 March 2010. This application was withdrawn before the close of the inquiry

(IR2), and superseded by Appeal D. The Secretary of State has therefore not considered it.

Appeal D: against the decision of CBC to refuse planning permission for a revised scheme for the formation of a secondary vehicular access on land off Derwent Road to serve the development proposed within Aylesbury Vale District under the outline planning application described at Appeal A, in accordance with planning application ref CB/11/00750/FULL dated 24 February 2011.

2. In pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, Appeals A and C were recovered for the Secretary of State's determination on 6 January 2011 and Appeals B and D were recovered on 13 June 2011.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that Appeals A, B and D be dismissed. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and recommendations. 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 his decisions, the Secretary of State has taken into account the Environmental Statements (ESs) which were submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 in respect of these appeals. A first ES was submitted with the applications resulting in Appeals A and C. An updated ES was submitted in June 2011 which considered the applications leading to Appeals B and D.

5. Like the Inspector (IR4), the Secretary of State is content that the ESs comply with the above regulations and that sufficient information has been provided for him to assess the environmental impact of the appeal proposals.

Matters arising after the close of the inquiry

6. Before the close of the inquiry, the Inspector invited all parties to submit comments in writing to the Planning Inspectorate on the draft National Planning Policy Framework (NPPF), once published. Therefore, following the publication of the draft on 25 July 2011, submissions were submitted on behalf of the Appellants (dated September 2011) and from AVDC (dated 24 August 2011); and these have been carefully considered by the Secretary of State. However, as explained in paragraph 12 below, the Secretary of State has given little weight to the contents of the draft NPPF and does not consider that this correspondence raises any new issues which would affect his decision or require him to refer back to parties prior to reaching his decision.

7. The Secretary of State also received correspondence submitted on behalf of the Appellants (dated 7 October 2011) and CBC (dated 7 November 2011) concerning the status of the draft Luton and South Bedfordshire Joint Core Strategy (JCS). As these provided publicly available factual information (see paragraph 13 below),

which he has taken into account, he has not considered it necessary to make any further reference back to parties on the matter.

8. Copies of the correspondence referred to in paragraphs 6 and 7 above are not attached to this letter but may be obtained on request to the address at the foot of the first page of this letter.

Policy considerations

9. In deciding these appeals, 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.

10. In this case, the development plan (DP) for Appeals A and B comprises the South East Plan 2009 (SEP), and the saved policies contained in the Buckinghamshire Structure Plan and the Aylesbury Vale District Local Plan 2006 (LP). In the case of Appeal D, the DP comprises the East of England Plan 2008 (EEP), the Bedfordshire Structure Plan 2011 and the saved policies of the South Bedfordshire Local Plan Review. The Secretary of State considers that the development plan policies most relevant to the appeal are those referred to by the Inspector at IR447 and IR 476.

11. The Secretary of State considers that the revocation of the Regional Strategies has come a step closer following the enactment of the Localism Act on 15 November 2011. However, until such time as the SEP and the EEP are formally revoked by Order, he has attributed limited weight to their proposed revocation in determining these appeals.

12. 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*; Planning Policy Guidance (PPG) 13: *Transport*, Circular 11/1995: *Use of Conditions in Planning Permission*; Circular 05/2005: *Planning Obligations*; and *the Community Infrastructure Levy (CIL) Regulations 2010 and 2011*. He has also taken account of the Written Ministerial Statement (WMS) of the Rt Hon Greg Clark MP, on *Planning for Growth*, dated 23 March 2011. Furthermore, he has had regard to the draft NPPF as a material consideration but, as this is a draft document and is therefore subject to change, he has given it little weight.

13. The Secretary of State has also had regard to the JCS. As explained in the correspondence referred to in paragraph 7 above, this had been submitted for examination at the time of the appeal inquiry but has since been withdrawn. However, CBC has subsequently resolved that the submitted JCS and associated evidence base be endorsed as guidance for development management purposes while undertaking a new plan-making programme building on the work undertaken to date on the JCS. Thus, while not affording it the weight which he would have afforded to a submitted core strategy, the Secretary of State still affords it limited weight as a material consideration.

Main issues

14. The Secretary of State considers that, in addition to with the relevant DP policies, the main issues in relation to these appeals are those listed by the Inspector at IR8. He also agrees with the Inspector (IR559) that the three appeals are inextricably linked so that Appeals B and D should follow the outcome of the main appeal. Therefore, like the Inspector, he has considered Appeals B and D only in the context of their contribution to Appeal A.

Accordance with the development plan

15. For the reasons given at IR442 and IR560, the Secretary of State agrees with the Inspector that, as the appeal proposal is not allocated in the DP for housing and related mixed use development, the scheme would not be in accordance with it. The Secretary of State has therefore gone on to consider whether there are any other material considerations to outweigh the conflict with the DP.

The character and appearance of the area

16. For the reasons given at IR446, the Secretary of State agrees with the Inspector that the fact that the appeal site has not been designated as being of special landscape quality should not be seen as relegating its landscape contribution to something substandard. He further agrees with the Inspector at IR471 that, for the reasons given at IR447-471, the appeal scheme would have a harmful effect on the character and appearance of this area of open countryside and, as a consequence, he also agrees with the Inspector (IR472) that it would conflict with Government policy for the countryside in PPS1 and PPS7 as well as with the landscape sustainable policies in the SEP and the LP. Accordingly, the Secretary of State agrees with the Inspector's conclusion at IR560 that these reasons represent a very strong reason for resisting this proposal.

Housing Land Supply

17. The Secretary of State agrees with the Inspector (IR474) that, as there is not a district-wide 5-year supply of available and deliverable housing land, PPS3 states that the appeal scheme should be considered favourably. However, the Secretary of State also agrees with the Inspector (IR475) that PPS3 goes on to identify criteria to be applied in determining the suitability of any particular site, even where there is a shortfall against the 5-year supply. Having regard to that, the Secretary of State agrees with the Inspector's conclusion at IR482 that, for the reasons given at IR476-482, weight should be given to the AVDC spatial vision (IR480) based on a disaggregated approach to the delivery of sustainable development having regard to the substantial sustainability credentials of Aylesbury and Milton Keynes (IR481) and the amount of available and deliverable sites identified in the Rest of District (RoD) area (IR479).

18. The Secretary of State has also had regard to the Inspector's consideration of the implications of the appeal scheme for CBC and the JCS (IR484-506). However, given that the JCS has now been withdrawn (see paragraph 7 above), the Secretary of State gives less weight to its proposals than the Inspector did and, given the increased uncertainty, has considered it appropriate to consider the Appeal A scheme on its own merits in the context of the AVDC policies and the physical

context of the site. He has therefore given no weight to the Inspector's conclusion at IR506 that to allow Appeal A could prejudice the delivery of the comprehensive and locally supported package to the east of Leighton Linlade.

Traffic and transport

19. As explained in paragraph 14 above, the Secretary of State considers the three appeals before him are inextricably linked so that Appeals B and D should follow the outcome of the main appeal. Furthermore, as explained in paragraph 13 above and given the withdrawal of the JCS, he has considered it appropriate to consider the Appeal A scheme on its own merits in the context of the AVDC policies and the physical context of the site. He has therefore given no weight to the Inspector's consideration of traffic and transport matters at IR507-530 as being a factor either in favour of, or against, the appeal scheme.

Sustainability

20. For the reasons given at IR542-549, the Secretary of State agrees with the Inspector's conclusions at IR550 that, although sustainable improvements introduced at a late stage offer some beneficial features, they are not sufficient to counteract the imbalance of on-site employment opportunities and the appeal scheme's serious lack of environmental sustainability as considered in paragraph 16 above.

Other material considerations

21. For the reasons given at IR531-539, the Secretary of State agrees with the Inspector that there is no fundamental objection to the appeal scheme on the basis of a threat to the wetland Local Wildlife Site. He also agrees that sewerage and potable water supply no longer constitute sustainable objections (IR540-541); that education concerns should carry little, if any, weight in the final balance (IR551-552); and that the adequacy of the arrangements for the provision of local facilities represents only a small negative factor to be weighed in the balance (IR553-555).

Conditions and unilateral obligation

22. The Secretary of State agrees with the Inspector's reasoning and conclusions on conditions relating to Appeals A, B and D, as set out at IR438. He is satisfied that the conditions recommended by the Inspector at Annexes A, B and C to the IR are reasonable and necessary and meet the tests of Circular 11/95. However, he does not consider that these overcome his reasons for refusing the appeals.

23. The Secretary of State has also considered the s106 unilateral undertaking (IR439) and notes the Inspector's conclusion at IR440 that there is nothing in it that is inappropriate in terms of Circular 05/2005 and the CIL Regulations or which is likely to lead to legal or implementation complications. However, for the reasons set out above, he does not consider that the provisions it contains are sufficient to overcome his concerns with the appeal proposals as identified in this decision letter.

Overall Conclusions

24. The Secretary of State concludes that Appeal A is not in accordance with the development plan or with national policy with regard to environmental and economic

sustainability. He therefore concludes that, although the Appeal A scheme gains some limited support from other matters, those material considerations are not of sufficient weight to determine the appeal other than in accordance with the development plan. He also concludes that, as the proposals forming Appeals B and D are inextricably linked with Appeal A, they should follow the outcome of that appeal.

Formal Decision

25. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your client's appeals and refuses your client's applications for planning permission for:

Appeal A: against the decision of Aylesbury Vale District Council (AVDC) to refuse outline planning permission for mixed use development including Residential (C3) - 900 dwellings, Employment (B1), Commercial (A1, A2, A3, A4, A5) Primary School, Health Centre (D1), Leisure and Community (D2) Land Uses and associated Roads, Drainage, Car Parking, Servicing, Footpaths, Cycleways, Public Open Space/Informal Open Space and landscaping at land at Valley Farm, Leighton Road, Soulbury, Buckinghamshire, LU7 0JJ, in accordance with planning application ref 10/00500/AOP dated 12 March 2010.

Appeal B: against the decision of AVDC to refuse full planning permission for a Primary access off Leighton Road/ Soulbury Road. This application relates solely to an access arrangement revision to the application 10/00500/AOP for mixed use development in accordance with planning application ref 11/00426/APP dated 24 February 2011.

Appeal D: against the decision of CBC to refuse planning permission for a revised scheme for the formation of a secondary vehicular access on land off Derwent Road to serve the development proposed within Aylesbury Vale District under the outline planning application described at Appeal A, in accordance with planning application ref CB/11/00750/FULL dated 24 February 2011 (Appeal C having been withdrawn).

Right to challenge the decision

26. 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.

27. Copies of this letter have been sent to AVDC, CBC and the Rule 6 parties. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

JEAN NOWAK

Authorised by Secretary of State to sign in that behalf



Report to the Secretary of State for Communities and Local Government

by J Stuart Nixon BSc(Hons) DipTE CEng MICE MRTPI MCIHT

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

Date: 21 October 2011

TOWN & COUNTRY PLANNING ACT 1990 SECTION 78

Appeals by

PAUL NEWMAN NEW HOMES

Against the Decisions of

AYLESBURY VALE DISTRICT COUNCIL AND CENTRAL BEDFORDSHIRE
COUNCIL

Inquiry held on 4-8, 11-15, 18-19 July 2011

Urban extension and junctions at Valley Farm, Leighton Road, Soulbury, Buckinghamshire, LU7 0JJ

File Refs: APP/J0405/A/10/2143343
APP/J0405/A/11/2154252
APP/P0240/A/10/2143323
APP/P0240/A/11/2154254

APPEAL A

File Ref: APP/J0405/A/10/2143343

Land at Valley Farm, Leighton Road, Soulbury, Buckinghamshire, LU7 0JJ.

- 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 Paul Newman New Homes against the decision of Aylesbury Vale District Council.
- The application Ref 10/00500/AOP, dated 12 March 2010, was refused by the Council by notice dated 4 August 2010.
- Outline application for mixed use development including Residential (C3) - 900 dwellings, Employment (B1), Commercial (A EA2,A3,A4,A5) Primary School, Health Centre (DI), Leisure and Community (D2), Land Use and associated Roads, Drainage, Car Parking, Servicing, Footpaths, Cycleways, Public Open Space/Informal Open Space and landscaping.

Summary of Recommendation: That the appeal be dismissed.

APPEAL B

File Ref: APP/J0405/A/11/2154252

Land at Valley Farm, Leighton Road, Soulbury, Buckinghamshire, LU7 0JJ.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Paul Newman New Homes against the decision of Aylesbury Vale District Council.
- The application Ref 11/00426/APP, dated 24 February 2011, was refused by the Council by notice dated 1 June 2011.
- Application for full planning permission for a Primary access off Leighton Road/Soulbury Road. This application relates solely to an access arrangement revision to the application 10/00500/AOP for mixed use development including Residential (C3) - 900 dwellings, Employment (B1), Commercial (AI,A2,A3,A4,A5) Primary School, Health Centre (DI), Leisure and Community (D2), Land Use and associated Roads, Drainage, Car Parking, Servicing, Footpaths, Cycleways, Public Open Space/Informal Open Space and landscaping.

Summary of Recommendation: That the appeal be dismissed.

APPEAL C

File Ref: APP/P0240/A/10/2143323

Land at Valley Farm, Leighton Road, Soulbury, Buckinghamshire, LU7 0JJ.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Paul Newman New Homes against the decision of Central Bedfordshire Council.
- The application Ref CB/10/00859/FULL, dated 12 March 2010, was refused by the Council by notice dated 24 June 2010.
- Revised scheme for the formation of a secondary vehicular access on land off Derwent Road to serve development proposed within Aylesbury Vale District under an outline planning application for Mixed Use Development including Residential (C3), some 900 dwellings, Employment (B1) Commercial (AI, A2, A3, A4, A5), Primary school, Health centre (D1), Leisure and Community (D2) Land uses and associated roads, Drainage, Car parking, Servicing, Footpaths, Cycleways, Public Open Space/Informal Open Space and Landscaping (revised application CB/10/00859/FULL)

Summary of Recommendation: That no further action be taken in respect of

this appeal, which was withdrawn during the inquiry.

APPEAL D

File Ref: APP/P0240/A/11/2154254

Land at Valley Farm, Leighton Road, Soulbury, Buckinghamshire, LU7 OJJ.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Paul Newman New Homes against the decision of Central Bedfordshire Council.
- The application Ref CB/11/00750/FULL, dated 24 February 2011, was refused by the Council by notice dated 26 May 2011.
- Revised scheme for the formation of a secondary vehicular access on land off Derwent Road to serve development proposed within Aylesbury Vale District under an outline planning application for Mixed Use Development including Residential (C3), some 900 dwellings, Employment (B1) Commercial (A1, A2, A3, A4, A5), Primary school, Health centre (D1), Leisure and Community (D2) Land uses and associated roads, Drainage, Car parking, Servicing, Footpaths, Cycleways, Public Open Space/Informal Open Space and Landscaping (revised application CB/10/00859/FULL)

Summary of Recommendation: That the appeal be dismissed.

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Abbreviations used in the Report

AAL	Area of Attractive Landscape
ASL	Area of Sensitive landscape
AVDC	Aylesbury Vale District Council
AWE	Arnold White Estates
BAP	Biodiversity Action Plan
BCC	Buckinghamshire County Council
By-pass	Stoke Hammond and Linslade By-pass A4146
CBC	Central Bedfordshire Council
CIL	Community Infrastructure Levy
CWS	County Wildlife Site
DAS	Design and Access Statement
DL	Decision letter
DLP	Aylesbury Vale District Local Plan
DP	Development Plan
EEP	East of England Plan
ELL	East of Leighton Linslade
ELR	Eastern link road
ES	Environmental Statement
GLVIA	Guidelines for Landscape and Visual Impact Assessment
GOP	Grassland Offset Project
HLS	Housing Land Supply
JCS	Luton and Southern Bedfordshire Joint Core Strategy
LDD	Local Development Document
LL/B	Leighton Linslade/ Leighton Buzzard (the Town)
LUC	Land Use Consultants
LWS	Local Wildlife Site (see also CWS)
NPPF	National Planning Policy Framework

PIM	Pre Inquiry Meeting
PNNH	Paul Newman New Homes
PPG	Planning Policy Guidance
PPS	Planning Policy Statement
RFC	Ration of Flow to Capacity
RSS	Regional Spatial Strategy
SEA	Strategic Environmental Assessment
SEEDA	South East Economic Development Agency
SEP	South East Plan
SHLAA	Strategic housing land availability assessment
SRS	Sub Regional Strategy
SSSA	Site specific strategic allocation
SSSI	Site of Special Scientific Interest
SuDS	Sustainable urban drainage system
WDH	Willis Dawson Holdings
WLL	West of Leighton Linlade

INTRODUCTION

Procedural Matters

1. The Secretary of State for Communities and Local Government (SoS) has directed, by letter dated 6 January 2011 that he shall determine Appeal A. The reason for this is that Appeal A involves development of over 150 units 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 to create high quality, sustainable, mixed and inclusive communities. Appeal C was also recovered for determination of the SoS on 6 January 2011 as one most efficiently and effectively decided with Appeal A. Thereafter, the remaining two appeals (Appeals B and D) pertaining to improved access to the main sites and a secondary access respectively, were recovered by letters dated 13 June 2011 as ones most efficiently and effectively decided with Appeal A.
2. Before the close of the inquiry, Appeal C Ref. No: APP/P0240/A/10/2143323, for the formation of a secondary access on land off Derwent Road to serve development proposed within Aylesbury Vale District, under an outline planning application for Mixed Use Development, including Residential (C3) - some 900 dwellings, employment (B1), commercial (A1, A2, A3, A4, A5), Primary school, Health Centre (D1), leisure and community (D2) land uses and associated roads, drainage, car parking, servicing, footpaths, cycleways, Public Open Space/Informal Open Space and landscaping (revised application CB/10/00859/FULL) was withdrawn ^(Document 10) as its content was effectively superseded by the latter application and Appeal D Ref. No: APP/P0240/A/11/2154254, which became live on 15 July 2011 at the end of the consultation period.
3. The inquiry sat for a total of 10-days, with accompanied site inspections being carried out on 19 and 20 July 2011 to an agreed itinerary ^(Document 11). These inspections covered viewpoints referred to in evidence and as set out in verified photographs, views from the Soulbury Conservation Area and views across the site from the rear gardens of properties in Central Bedfordshire at the invitation of the occupiers. In addition, at the request of the parties unaccompanied site visits took place to experience traffic conditions, outside the holiday period and when all the schools are open.
4. The applications and subsequent Appeals A and C were accompanied by an Environmental Statement (ES) ^(Document CD1.7 1.18 and 21.2) in accordance with the provisions of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, together with a non-technical summary ^(Document 1.3) and planning supporting statements. An updated ES was submitted in June 2011 ^(Documents CD21.2 – 21.11), which considered the additional two applications and subsequent Appeals B and D. Although some of the reasons for refusal may be seen as indicators that the ES is inadequate, detailed consideration shows the content of the ES to be adequate and it is merely the interpretation of facts that lead to the reasons for refusal.

5. A signed s.106 Unilateral Undertaking (**Document 8**) was presented to the inquiry on the final day, a draft having been fully discussed the previous day.

The Reasons for Refusal

6. The three remaining appeal applications A, B and D were refused on the following dates and for the following reasons, which are set out in full as follows;

APPEAL A

Appeal Ref: APP/J0405/A/10/2143343

Outline application for mixed use development including Residential (C3) - 900 dwellings, Employment (B1), Commercial (A EA2,A3,A4,A5) Primary School, Health Centre (DI), Leisure and Community (D2), Land Use and associated Roads, Drainage, Car Parking, Servicing, Footpaths, Cycleways, Public Open Space/Informal Open Space and landscaping. Application No.: 10/00500/AOP, dated 12 March 2010, was refused by Aylesbury Vale District Council (AVDC) on 4 August 2010 for the following reasons:

1. The proposals, by virtue of their scale and siting beyond the built-up limits of a settlement would involve an intrusive development into the open countryside, to the detriment of the character and appearance of the countryside and the adjacent landscape designation area, contrary to Development Plan Policy GP35 of the Aylesbury Vale District Local Plan, and national planning policy in PPS1, PPS3 and PPS7.
2. The Local Planning Authority has had regard to the information provided in support of the application in respect of the deliverability of housing land and the advice contained in PPS3, but considers that there is no shortfall in the availability of a District wide 5-year supply of housing land that would lead to the favourable consideration of the proposed development.
3. The proposals conflict with advice in PPS9 in that they fail to provide adequate mitigation measures to deal with any adverse biodiversity impacts arising from the development.
4. The proposals fail to make adequate provision for the educational needs of residents of the proposed development contrary to the objectives for delivering sustainable development set out in PPS1.
5. There is inadequate infrastructure capacity in the water supply network, the foul sewerage system and the capacity of the sewage treatment works, as a result of which the proposals are in conflict with advice in PPS25.
6. As far as can be determined from the submitted information, forward visibility on the westbound approach to the primary site access junction will be substandard. The proposed development would therefore be detrimental to highway safety. The development is

contrary to PPG 13 and the aims of Buckinghamshire's Local Transport Plan.

7. Insufficient information has been submitted with the planning application to enable the highways, traffic, and transportation implications of the proposed development to be fully assessed. From the information submitted, it is considered that the additional traffic likely to be generated by the proposal would adversely affect the safety and flow of users of the existing distributor road network, contrary to PPG13 and the aims of Buckinghamshire's Local Transport Plan.
 8. The location of the site and the proposed mitigation measures are such that it has only limited access by non-car modes of travel. The absence of adequate infrastructure and the site's remoteness from major built-up areas is such that it is likely to be reliant on the use of the private car contrary to local and national transport policy. The development is contrary to PPG13 and Buckinghamshire's Local Transport Plan.
 9. On the information available, the Local Planning Authority is not satisfied that the proposed development can be satisfactorily accommodated in the local infrastructure capabilities of Leighton – Linslade without causing harm to the environment and services of local residents.
7. Following the Inspector encouraging further discussions on some of the reasons for refusal that looked as if they might be addressed by condition or agreement, AVDC did not pursue reasons for refusal 3 to 9 at appeal or present dedicated evidence at the inquiry. Position statements were submitted by AVDC on these matters ^(Documents A7-A10). However, as all of these were raised by Rule 6 or third parties, they are addressed in this Report in a manner commensurate with the weight and detail of the objections.

APPEAL B

Appeal Ref: APP/J0405/A/11/2154252

Application for full planning permission for a Primary access off Leighton Road/Soulbury Road. This application relates solely to an access arrangement revision to the application 10/00500/AOP for mixed use development including Residential (C3) - 900 dwellings, Employment (B1), Commercial (A1,A2,A3,A4,A5) Primary School, Health Centre (DI), Leisure and Community (D2), Land Use and associated Roads, Drainage, Car Parking, Servicing, Footpaths, Cycleways, Public Open Space/Informal Open Space and landscaping. Application No.: 11/00426/APP, dated 24 February 2011, was refused by Aylesbury Vale District Council (AVDC) on 1 June 2011 for the following reason:

1. The proposed access by reason of its scale and siting in isolation would result in a visually intrusive feature that would be harmful to

the natural environment and have an adverse impact on the open countryside and rural character of the area in which the site is located contrary to Policies CC1, CC6 and C4 of the South East Plan and Policies GP35 and RA2 of the Aylesbury Vale District Local Plan and to the guidance contained in PPS7.

APPEAL D

Appeal Ref: APP/P0240/A/10/2154254

Revised scheme for the formation of a secondary vehicular access on land off Derwent Road to serve development proposed within Aylesbury Vale District under an outline planning application for Mixed Use Development including Residential (C3), some 900 dwellings, Employment (B1) Commercial (A1, A2, A3, A4, A5), Primary school, Health centre (D1), Leisure and Community (D2) Land uses and associated roads, Drainage, Car parking, Servicing, Footpaths, Cycleways, Public Open Space/Informal Open Space and Landscaping (revised application CB/10/00859/FULL). Application No.: CB/11/00750/FULL, dated 24 February 2011, was refused by Central Bedfordshire Council (CBC) on 26 May 2011 for the following reason:

1. The proposal fails to demonstrate that it would make adequate provision for the increase in traffic that would be generated by the urban extension development at Valley Farm, Leighton Road, Soulbury and is likely to lead to an increase in traffic congestion at a number of junctions within the Leighton-Linslade urban area. The proposal is, therefore, contrary to national guidance in Planning Policy Guidance 13 (Transport) and Policy T8 of the East of England Plan.

Main Issues

8. The main issues remaining at the opening of the inquiry were;
 - The effect of the proposed development on the character, appearance and landscape of the valley area. (AVDC: APP/J0405/A/10/2143343 Reason for Refusal 1 and APP/J0405/A/11/2154252 Reason for Refusal 1)
 - Whether the proposal would undermine either Council's strategic approach to residential development and, if so, the weight that should be afforded this. (AVDC: APP/J0405/A/10/2143343 Reason for Refusal 2)
 - The effect of the proposed development on the safety and free flow of traffic on roads surrounding the appeal site and in the Town Centre. (CBC: APP/P0240/A/11/2154254 Reason for Refusal 1)
9. In addition to these main issues, a number of other material considerations generated by AVDC's and CBC's original reasons for refusal were aired at the inquiry. Many of these were overcome, as far as the local planning authorities were concerned, by appropriately worded conditions ^(Documents 5-7) or the s.106 Unilateral Undertaking ^(Document 8) proffered by the Appellants. These are addressed insofar as they are raised by Rule 6, third parties or remain relevant for other reasons.

The Appeal Site and Surroundings

10. The appeal site is located just to the east of the administrative boundary between Aylesbury Vale and Central Bedfordshire in the combined Town of Leighton-Linslade/Leighton Buzzard (LL/B – the Town), and generally referred to in the evidence as Leighton-Linslade. It is situated some 2.4 km west of the Town Centre and some 10km south of Milton Keynes and immediately to the east of the recently completed ⁽²⁰⁰⁷⁾ Stoke Hammond and Linslade By-pass (A4146) (The By-pass), from which the site is extremely prominent. Landscape works have taken place with the intention of screening the road from external views.
11. The site encompasses some 45 ha of land and is divided into two parcels, with the major element being south of Leighton Road C256 (formerly the B4032), with a much smaller area to the north. All is in agricultural use, with the southern tranche being pasture land characterised by enclosed fields with hedgerows and trees. Valley Farm just south of the C256 comprises two bungalows, with farm buildings with an access leading southwards to other farm buildings. The predominant landscape feature is of open valley side, which decreases in height generally from north to south and from east to west towards the By-pass. The northern area of the site rises to the north and is open pasture. This land abuts the Brickhills Area of Attractive Landscape.
12. More detailed site descriptions can be found in the Design and Access Statement ^(Document CD1.5), Statements of Common Ground ^(Documents 3 and 4) (SoCG) and the landscape evidence ^(Documents A4, WD4 and PN5).

Planning Policy

13. Relevant National Planning Policy is contained in the following;
 - Planning Policy Statement 1 *"Delivering Sustainable Development"* (PPS1)
 - Planning Policy Guidance Note 2 *"Green Belts"* (PPG2)
 - Planning Policy Statement 3 *"Housing"* (PPS3)
 - Planning Policy Statement 4 *"Planning for Sustainable Economic Growth"* (PPS4)
 - Planning Policy Statement 5 *"Planning for the historic environment"* (PPS5)
 - Planning Policy Statement 7 *"Sustainable Development in Rural Areas"* (PPS7)
 - Planning Policy Statement 9 *"Biodiversity and geological conservation"* (PPS9)
 - Planning Policy Statement 10 *"Planning for Sustainable Waste Management"* (PPS10)
 - Planning Policy Statement 12 *"Local Development Frameworks"* (PPS12)
 - Planning Policy Guidance Note 13 *"Transport"* (PPG13)

- Planning Policy Guidance Note 17 "*Planning for Open Space, Sport and Recreation*" (PPG17)
- Planning Policy Statement 22 "*Renewable Energy*" (PPS22)
- Planning Policy Statement 23 "*Planning and Pollution Control*" (PPS23)
- Planning Policy Statement 25 "*Development and Flood Risk*" (PPS25)

together, where relevant, with the associated practice guides.

14. The development plan (DP) differs for the two local planning authorities, but both refer to the extant Milton Keynes and South Midlands Sub Regional Strategy 2005 (SRS). In addition, for AVDC the DP includes The South East Plan 2009 (SEP), which subsumes the relevant sections of the SRS, and the saved policies from the Buckinghamshire Structure Plan and Aylesbury Vale District Local Plan (DLP). A number of policies are referred to in evidence, but these mainly revolve around the key issues of landscape and housing strategy, with additional ones evincing policy on sustainability and infrastructure.
15. In the case of Central Bedfordshire Council, in addition to the SRS, the DP includes East of England Plan 2008 (EEP), the Bedfordshire Structure Plan 2011 and the saved policies of South Bedfordshire Local Plan Review. In addition, The Luton and South Bedfordshire Joint Core Strategy (JCS) has been submitted to the SoS for examination, currently programmed for early 2012.

Planning History

16. This is set out in the Statements of Common Ground ^(Documents 3 and 4) and essentially only relates to the current proposals.

The Proposed Development

17. The proposals are listed in the SoCG and the DAS ^(Document CD1.5) details the design rationale and provides a Masterplan for the anticipated layout. The proposals for each appeal are described in the preceding section covering the Councils' reasons for refusal.

Other Agreed Facts

18. As indicated, since the PIM, productive discussions have been undertaken by the main parties. The outcome of these has been to reduce the original points of objection from 14 to three. It has been agreed between the parties that the other 11 reasons for refusal could be satisfactorily addressed by condition or a s.106 Unilateral Undertaking ^(Document 8). Having said this, there is a number of third party objections pertaining to these matters and, thus, the position statements of the main parties are included in their evidence and the third party concerns covered in the conclusion. In general draft conditions are agreed ^(Documents 5, 6 and 7), with one exception, that pertaining to open space provision. These are looked at in more detail just prior to the Inspector's conclusions.

THE CASE FOR AYLESBURY VALE BOROUGH COUNCIL

The material points are:

Introduction

19. These submissions on behalf of Aylesbury Vale District Council (AVDC) should also be read and understood in the light of the detailed written and oral evidence given on behalf of AVDC by its expert witnesses. The focus of these submissions is the main appeal. AVDC's position in relation to the access appeal (Appeal B) is that, even though there is now no technical objection to the proposal, the outcome of the access appeal ought to follow that of the main appeal.
20. Following a brief overview, and some comments on the approach to the policies in the SEP (Document CD5.2), the Council's case addresses landscape and visual impact, before dealing with the issue of housing land supply (HLS) and then other material considerations.

Overview

21. The proposed development is contrary to the development plan (DP). As the Appellants rather eloquently put the point: there are "*large chunks of the development plan we are not in conformity with*".
22. It is not simply that the site is not allocated for housing in the Aylesbury Vale District Local Plan (DLP) (Document CD7), or that the proposed development gives rise to conflict with policies aimed at protecting the character and appearance of the countryside. The degree of inconsistency with the DP is much more fundamental than that, because large housing development in this location is entirely at odds with the spatial strategy set out in the SEP. It does nothing to meet Aylesbury District's housing and sustainable development needs as identified in the SEP, and the Appellants' heavy reliance on the district wide shortfall in supply to meet some of those needs not only lacks substance, it is simply misconceived when the SEP is properly construed.
23. The SEP's spatial strategy for the distribution of new housing development in this part of the South East is based on a recent and thorough examination of the sustainability and environmental implications of that strategy, in the light of up-to-date policy principles and an extensive evidence base. The possibility of making provision for meeting the needs of neighbouring authorities in this broad location was considered as part of that process, but was clearly rejected so far as CBC is concerned.
24. In short, the Appellants' need case is built on sand. The justification advanced for causing significant harm to the character and appearance of this part of the District and, thereby, infringing one of the key sustainable development priorities in the SEP is not, therefore, made out.

The approach to the policies in the SEP

25. It is common ground that little weight should attach to the SoS's intended revocation of Regional Spatial Strategies (RSSs), having regard to the matters discussed by Sullivan LJ in R (Cala Homes) v. SSCLG (No. 2) [2011] EWCA Civ 639 (*Document A5, Appendix 1*). To do so would require the decision-maker to prejudge Parliament's acceptance of the proposed abolition, and the outcome of the Strategic Environmental Assessment (SEA) process. It is accepted, therefore, that substantial weight should be accorded to the policies in the relevant RSS in this case, namely the SEP, including those policies dealing with the disaggregation of housing land supply. These policies are dealt with in detail further below.
26. As it is possible that matters will have moved on by the time the SoS comes to determine this appeal, the following points need to be stressed. First, if greater weight is given to the intended revocation of the SEP that must apply to the document as a whole. It is not properly open to attach significant weight to the district wide housing figure, but not to its spatial disaggregation. In essence the two are inextricably linked, and stand or fall together.
27. Secondly, revocation of individual RSSs would not be automatic on the coming into force of the Localism Bill. Clearly, Clause 94(3) of the Localism Bill provides for their revocation, but the mechanism for the commencement of Clause 94 is provided by Clause 214(2), which provides that Clause 94(3) will only come into force on such a day as the SoS may by order appoint.
28. Moreover, as Sullivan LJ stated in Cala (No. 2) (paragraph 32): *"... it could not lawfully be assumed that revocation of any individual regional strategy is bound to occur regardless of the outcome of the process of environmental assessment, because to make such an assumption would be contrary to the requirement of the SEA Directive and the SEA Regulations: that a decision to revoke may not be made until the process has been completed."* In this regard, the Government has decided to carry out an environmental assessment of the revocation of each RSS, and the revocation of any individual RSS will only occur after the assessment process has been completed.
29. Thus, if significant weight were given to the intended revocation of the SEP in this case, it could only strengthen the case for dismissal of the appeal. This is a case where a large scale housing-led urban extension involving a substantial departure from the DP and, at least, significant adverse landscape and visual impacts is said by the Appellants to be justified on the basis of a shortfall in the 5-year housing land supply, as against the long-term housing targets set by the SEP to 2026.
30. It is, therefore, akin to the situation envisaged by Sullivan LJ of Cala (No.2) (paragraph 33), where any weight given to intended revocation might tip the balance in favour of refusal: *"... Even now there might be finely balanced cases where the very slight prospect of a very substantial policy change might just tip the balance in favour of granting or refusing planning permission. Mr Mould gave the hypothetical example of a large-scale residential proposal (which he referred to as a "new town", but the point would equally apply to a proposed extension of an existing settlement), which is proposed to be developed over*

the next 15-20 years, to which there are very strong site-specific objections, and where the sole justification for granting planning permission is the need to meet the requirement for residential development over the next 20-years in the regional strategy. In such a case it would not be irrational for the decision maker to give some weight to the prospect, however uncertain, that the regional policy justification for granting permission for such a long-term proposal may cease to exist within the short term. In such a case, to give even very little weight to the prospect of a change in policy might be to give that factor "significant" weight, significant in the sense that it might tip the balance in favour of refusing permission."

Landscape and visual impact

Policy context

31. The following general points can be noted about the policy context. First, at all levels of policy it is made clear that the achievement of the requisite levels of housing development is not seen as something that should come at the expense of the principles of sustainability. Secondly, up to date Government policy in PPS7^{(paragraph 1(vi))} makes plain that all development in rural areas should be sensitive to the character of the countryside and local distinctiveness, and that new build in the open countryside, outside areas allocated for development in DPs, should be strictly controlled ^{(PPS7, paragraph 9(ii))}. Thirdly, the SEP does not endorse the notion that meeting its housing targets requires development in the rural areas that would erode the inherent character and distinctiveness of the rural landscapes. Any such development would be contrary to the policy principles set out in the SEP.
32. In addition, the following policy points are not in dispute. If a development gives rise to significant harm in terms of landscape/visual impact, that will give rise to a conflict with policy as described by the Inspector in the second Winslow Appeal Decision (DL) ^(Document A12, DL19), because such a development: *"... would conflict with the underlying objectives of SEP Policies C4 and CC6. The former seeks to ensure that all development respects and enhances local landscape character and the latter says that, at a minimum, development should respect the character and distinctiveness of the landscape. These are not out-dated aspirations. They broadly reflect the key principles set out in Planning Policy Statement 7 ..., which [such a development would] be at odds with. These seek to ensure the effective protection and enhancement of the environment, and to make sure that all development in rural areas is sensitive to the character of the countryside and local distinctiveness, among other things."*
33. Next, conserving and enhancing the physical and natural environment of the South East is a sustainable development priority ^(SEP Policy CC1). In addition, sustainable development includes protecting and enhancing the natural and historic environment, quality and character of the countryside and existing communities ^(PPS1 paragraph 5). In this policy context, 'character' is about more than simply appearance. It involves everything that makes a place distinctive, and gives it its particular sense of place. It includes land use, historical patterns of settlement, and field patterns. The interaction between all these

factors creates the character of the landscape. Finally, Government policy includes an overall aim of protecting the countryside for the sake of its intrinsic character and beauty (now reflected in PPS4). Thus the countryside is to be protected generally, and not just to the extent it can be seen from public viewpoints.

34. The Appellants seek to rely on the absence of any local landscape designation for the site, but that point does not take them very far. It is accepted that the reason why PPS7 states that local landscape designation needs particular justification is that the protection from inappropriate development, afforded to the countryside through general policy, ought to be enough.
35. The Winslow DL provides a good illustration of that protection in action. Unlike the appeal site, the area of countryside in which the Winslow site is to be found was never even a candidate area for local landscape designation. Nevertheless, that did not mean that the site does not play an important role in landscape terms, or that adverse landscape impact was not enough to justify the refusal of planning permission for the development of that site.
36. In fact, the area in which the appeal site is located *was* a candidate Area of Sensitive Landscape (ASL), and is one of the top 30% most sensitive landscape areas in this large rural district. That was found to be the case notwithstanding the construction of the By-pass, and the loss of tranquillity associated with it. As the Appellants acknowledge, the factors other than tranquillity must, therefore, have weighed heavily in its favour as a candidate ASL.

The nature and character of the site and surroundings

37. It follows from the examination of policy summarised above that it is necessary and important in this case to identify what it is that is characteristic and distinctive about the settlement of LL/B and the local landscape, and the role of the appeal site. It is necessary and important to do so, because policy calls upon the decision-maker to preserve and, if possible, enhance those features in order to ensure that development is sustainable.
38. In this context, the following should be emphasised. First, the appeal site is countryside. It is a farm (a single planning unit), and as far as we can tell it has always been in agricultural use. There are no physical features, which suggest it is anything other than countryside, or to make it different in character or appearance from the fields either side. As the site visit will have confirmed, the notion that this 45 Ha of grazing land is 'urban fringe' is frankly risible.
39. Secondly, the use of the red wash on the Council's viewpoints to identify the appeal site in itself demonstrates an important truth. Without the wash, the site is indistinguishable from the rest of the countryside in this valley. Thirdly, far from the site's valuable countryside role being reduced as a result of its location next to an urban area, it is positively enhanced. It is accepted that countryside close to urban areas has a particular value to those living there, particularly if it is accessible to them. That is reflected in the SoS's policy in PPS7 (paragraph 26). Although the Appellants acknowledge that this policy guidance is plainly of relevance here, it is not addressed in their evidence.

40. Next, the appeal site provides ready access to the countryside for local residents. While acknowledging that the level of use of a footpath is relevant to assessing impact, the evidence fails to address this. That failing is significant, for the footpath is evidently well-used and highly valued by the many local residents who live nearby. The letters of objection submitted by local people attest to this, and it will come as no surprise given that the footpath provides the most obvious means of accessing the countryside for the many residents in this part of LL/B. From the footpath, there are clear and attractive views across the valley and countryside. As is accepted, people who choose to walk here are likely to do so, *inter alia*, because of those views.
41. From the footpath, the By-pass is visible, but it is agreed not to be a dominant visual feature. It has no more impact on the fields of the appeal site than it has on the fields on the other side of the By-pass. The simple reality is that the site provides an attractive walk in the countryside. As time goes by, the impact of the By-pass will diminish yet further as the planting associated with it matures and achieves its intended purpose. If this development proceeded, however, the footpath would offer only a walk through a residential estate.
42. Fifthly, but of crucial importance, is the topography of the site. This is one of its most important distinguishing features, and the crest of the ridge, together with the hedge along the crest, helps to provide a sharp definition to the western edge of LL/B. While some limited views of the roofs of houses along Derwent Road can be seen from the By-pass and from viewpoints along the Leighton Road and related footpaths to the west, the ridgeline effectively contains LL/B in views from the west. Thus the eastern edge of the appeal site provides a clear defensible boundary, where the urban area of LL/B ends and the rural character and countryside of Buckinghamshire begins. It is a well-established, distinctive and valuable characteristic feature of this settlement.
43. Finally, the Appellants' case rests heavily on the assertion as to the "*profound*" effect that the By-pass is said to have had on the character of the landscape. It is made clear that this is a crucial part of their case. That reliance is misplaced, and the effect has been significantly exaggerated. AVDC anticipates that the point will have been apparent from the site visit, but on the basis of the material before the inquiry the following points should be emphasised.
44. It is instructive that, despite all of the viewpoints, photomontages and other illustrative material available, the Appellants choose to illustrate this 'crucial' point by reference only to an aerial photo. When asked which receptor level views, other than those taken next to the By-pass itself, show the By-pass as a prominent or dominant feature in the landscape, the Appellants are unable to point to a single one.
45. Ultimately, the Appellants found themselves reduced to relying on the maturing planting associated with the By-pass as the only visual manifestation of its presence in the wider landscape. If the suggestion is seriously made that this planting would itself wreak a substantial adverse change in the landscape, and no such suggestion was made in the ES or written evidence, it is simply not credible. As acknowledged, fields separated by substantial tree and hedge belts are already a characteristic feature of this landscape. Indeed, it would be

very odd indeed if the planting intended to mitigate the impact and help the By-pass to be absorbed into the landscape were found to give rise to a harmful impact itself.

46. Importantly, the Appellants' case fails to assess the impact of the By-pass in a way consistent with its assessment of the impact of the development, i.e. taking account of the mitigating effect of planting over time. As a matter of basic environmental assessment practice, it is necessary to assess the future 'baseline', i.e. what would happen at the future assessment year(s) without the development, so as to compare it fairly with the future position with the development. The planting associated with the By-pass is in place, but is quite new.
47. As is agreed, in the future 'baseline' scenario (i.e. the position at Year 5 and Year 15 without the development), the planting would have grown and become more effective in obscuring the By-pass, thereby limiting its landscape impact. That assessment has not been undertaken, either in the ES or in evidence. It is important, because assessing the impact of the By-pass on landscape character only in the current position, i.e. with immature mitigatory planting, necessarily exaggerates its long term effect. To then rely on that long term planting as mitigating the impact of the appeal scheme – which is said to be justified by the *present* impact of the By-pass – is inconsistent and wrong as a matter of principle.
48. In the end, the "*profound*" impact that the Appellants claim that the By-pass has had on landscape character seems to come down to its effect on tranquillity and in this regard several points need to be made. First, AVDC has always acknowledged that the By-pass reduces the tranquillity of the site. That much is obvious. However, it does not make the site any less part of the countryside in landscape, visual or functional terms, and the effect is no different here than it is on the far side of the road or anywhere else, where the road passes through the Buckinghamshire countryside.
49. Secondly, the Appellants must take the view that the impact of the By-pass (in terms of tranquillity) on the ability to enjoy the site for countryside recreational purposes is limited, for it proposes its Country Park on that part of the appeal site closest to the By-pass. If that facility is thought likely to offer a pleasant rural recreational experience, the same must necessarily remain the case for the site as a whole in its present state. Next, for those travelling on the By-pass, the noise impact would be immaterial. For them, the area including the site would appear as attractive a piece of countryside as any other they drive through, when driving along the By-pass.
50. Fourthly, for those on the footpaths to the west, and in Soulbury, the noise impact of the By-pass will be minimal. In the current position, the By-pass makes no significant impact on the landscape in views from the west, whether in terms of visual impact or loss of tranquillity. As the planting matures over time, the impact will reduce yet further.

The Jacobs and Land Use Consultants (LUC) Assessments

51. The Appellants make no criticism of the Jacobs Landscape Character Assessments (Documents CD10.2 and CD10.3), which advises that the guidelines for this area of landscape should be to "*conserve and reinforce*". The proposed development of this prominent site, which is entirely characteristic of the Mursley-Soulbury Claylands character area, would be in stark breach of those guidelines.
52. The Council's evidence provides a coherent and persuasive explanation of the relationship between the Jacobs and LUC assessments, the former at a broad scale and the other more focussed on a smaller area. The LUC study was informed by the Jacobs study, and it reaches the entirely reasonable conclusion that the more specific study area deserves a higher sensitivity grading. The Council's evidence on this point is not disturbed in any way by the questions put in cross-examination. In fact, the Appellants accept the principle underlying the Council's analysis, namely that within a broad character area, with a particular overall sensitivity rating, a more detailed assessment will find some areas with a higher level of sensitivity, and some with a lower level.
53. The Appellants' criticisms of the LUC work are neither well-founded, nor fair, nor balanced. The point can be illustrated by the attempt to criticise LUC for using the Topic Paper 6 approach. It is asserted that this is a wholly unsuitable document and, thus, the methodology unsound. When pointed out that, elsewhere, the Appellants' detailed critique of the LUC work has not only failed to make this point, but has positively endorsed this as being "... *widely accepted to be the most appropriate methodology*", it is acknowledged that there is "*a tension*" between the planning and landscape assessment evidence. In fact the two are wholly at odds, and it is fair to draw the conclusion that the Appellants' landscape assessment has been too eager to find reasons to denigrate the LUC work, because the implications of it were not liked. As a result, their landscape case is overstated.
54. It can also be illustrated by the evidence suggesting that, although LUC made explicit that they had taken account of tranquillity in their assessment, this is to be disbelieved, because they do not produce the tranquillity map. That is a surprising assertion, for it appears to involve the accusation that a professional firm of consultants dishonestly claim to have considered something in circumstances, where they had not. There is no proper basis on which such a serious allegation can be made, and it should not be.

The impact of the proposed development

55. A view will need to be formed as to the extent and significance of the likely landscape and visual impact of the proposed development. In carrying out that task there is the benefit of three expert witness appraisals, and a quantity of visual material. However, there are a number of important matters to bear in mind when assessing the extent to which that material properly captures the entirety of the impact. Unfortunately, very little effort was made by the Appellants to engage AVDC in agreeing the scope of the assessment, and that has led to a number of significant shortcomings.

56. The first of these is that the challenges of building such a large development on such a steep slope are considerable. While AVDC has never sought to suggest that those challenges are incapable of being overcome, it is evident that they would require a significant amount of re-profiling and terracing of the ground. So far it would appear that no proper assessment has been carried out to identify the extent of re-profiling that would be needed. In the absence of any such assessment, the visual effects of the terracing and multiple level changes/ retaining walls etc. cannot adequately be ascertained. We now know that the photomontages are not based on 'development case' contours, and so they provide no real assistance in this regard.
57. This problem also affects the sections, which are produced to illustrate the screening effect of the proposed trees (Document CD 1.15, Plan EDP7). As is accepted, these sections do not show the re-profiled contours, and they do not show the trees at the height assumed for the purposes of the photomontage. Instead, the trees are shown some 3m or so higher – convenient for the purposes of asserting a screening effect, but not realistic. Furthermore, it is the Council's position that the actual effectiveness of the trees in obscuring views would depend on whether the visual receptor's line of vision towards a particular building is in line with a tree. When looking between the trees, the effect would not occur.
58. Thus, there is considerable uncertainty as to whether the trees proposed to be planted could be relied upon to provide even the degree of screening shown in the photomontages. There would need to be a balance struck between providing an effective screen, and ensuring that the trees are kept to a size and shape that would not impinge upon the amenity of those living on the site. If the trees were to be kept to a species and scale that does not result in them being too close to the frontage of the proposed buildings, they cannot be quite the substantial specimens assumed for the purpose of the photomontages.
59. Instead, species would need to be selected that have a narrower canopy, and would, thus, be less effective in screening the development. It is another example of the failure adequately to assess the practical implications of developing on such a steep slope, and how that might manifest itself in terms of visual impact.
60. The Appellants seek to retrieve the situation by reference to illustrations in the DAS, but that is a misconceived exercise. Unlike the Willis Dawson Holdings (WDH) sections, the illustrations in the DAS do not purport to be scaleable. They are illustrative impressions, and as such are simply not capable of providing an answer to this point.
61. Next, there has been no assessment of the effect of night-time lighting from the site. The Appellants now accept that this should have been done, but seeks to downplay the significance of the effect. They are wrong to do so, though one can understand why they seek to try. At present the site is entirely unlit at night, just as with the countryside on the opposite side of the By-pass. Anyone viewing the site at night, whether from the By-pass itself, from Soulbury, or from Derwent Road/Leighton Road, would understand it to be a dark rural environment. The Appellants' exclusive focus on the experience of the driver on the By-pass is too narrow, for the darkness of the

site is also appreciated at night from the other locations the Council has identified.

62. It is accepted that the light and movement of vehicles could have a significant effect on landscape character, as could the light associated with houses and other buildings. In this case, those impacts would be particularly significant, because of the effect of the slope and the multiple level changes, and the intention to place large windows and glazing on the facades that face west. This would maximise the impact of lighting during the hours of darkness, and it is agreed that the coming and goings of vehicles during the winter months would be at their greatest during the hours of darkness around rush hour: a time when the number of people out and about and able to experience the impact would also be at its greatest.
63. The assessments of impact set out in the ES and the Appellants' evidence, other than the reporting of those assessments carried out by AVDC, make no allowance for night-time impact, because it is not included in their assessment.
64. AVDC's additional viewpoints demonstrate that the Appellants' assessment in the ES does not adequately identify and address the full extent of the impact. That point is to some degree conceded by the Appellants in evidence, where they say that the ES should have included views from the By-pass adjacent to the western appeal site boundary as a representative receptor. Having identified that deficiency, however, no additional viewpoint was adduced to represent such a receptor. AVDC includes views from the By-pass in an attempt to remedy that deficiency. The Appellants' criticism of AVDC's additional viewpoints as being 'unbalanced' misses the point. They are intended to supplement those in the ES, which are inadequate, not to replace them.
65. The Appellants' assessment also ignores the many residential receptors along the site's eastern boundary, which would undoubtedly experience the landscape and visual impacts associated with the development. The view-shed analysis, AVDC's photographs, and the site visit provide a clear understanding of the number of these receptors and the extent to which they would perceive the changes that would be wrought upon the landscape by the proposal. The Appellants seek to deflect criticism of this omission by suggesting that viewpoints from private property are not material. That is misconceived.
66. The Appellants' suggest that the Guidelines for Landscape and Visual Impact Assessment (GLVIA) ^(Document CD16.1) ^(7.30) advise that such an assessment is not required. That is wrong. Paragraph 7.30 actually only states that public views are generally considered to be of greater value than views from private property. Importantly, the guidance goes on to explain that the cumulative effects on a number of residents may be considered to give rise to an effect on the community – a point made by reference to the former PPG1.
67. This is actually no more than a statement of the obvious, and an application of the general principle that the condition of our surroundings has a direct impact on the quality of life, and the conservation and improvement of the natural environment brings social and economic benefit for local communities ^(PPS1 paragraph 18). The GLVIA guidance continues: "*It is therefore important to assess*

all effects on public views and those from the curtilage of adjacent or nearby owners or occupiers within the same locality." (emphasis added). That advice is not properly capable of being read as advising against assessing the impact on residential receptors.

68. It is notable that the Appellants' experienced landscape Consultant did not seek to suggest that impacts on residential receptors need not be assessed – or could be set to one side as immaterial or unimportant – when providing advice to the Appellants. In their Landscape Briefing Note ^(Document A28) a number of references are made to the impacts on residential receptors, explaining that: *"The visual impacts of development at Valley Farm will be most strongly felt by users of the Linslade bypass and by residents of the adjacent residential development along Derwent Road and adjacent cul-de-sacs."* (paragraph 3.1(i)). At paragraph 3.1(vii) it goes on to refer to: *"... the importance which will be attached to the protection of the visual amenity of existing residents (though it is recognised that this is not a 'right' in planning terms)".*
69. Unfortunately, that clear acknowledgment of the relevance and significance of the impacts on residential receptors in this case does not translate into any assessment in the ES, or in the Appellants' evidence, all of which are surprisingly silent on the point.
70. In this case the number of residents affected would be considerable. To seek to dismiss this as a concern about loss of a private view is to misunderstand the nature of the point. Put simply, if one ignores such a large number of highly sensitive receptors, which would *"most strongly"* experience the impact, one materially understates the magnitude of the adverse landscape and visual impact, and the extent to which it would be experienced.
71. The GLVIA classifies residential receptors such as these as being of high sensitivity ^(Document CD1.15, Annex EDP2, paragraph A2.34). Although not assessed in the ES, it is obvious from the close proximity of the receptors to the proposed development that the magnitude of the impact would be very substantial. Planting might help to filter views, but no more than that. It would do nothing to reduce the extent to which the character of the landscape would be perceived as having changed from rural to urban. As AVDC points out, the Appellants' failure to select a viewpoint from a residential receptor, such as properties on Malvern and Cotswold Drives backing onto the north eastern corner of the site, or in the village of Soulbury, serves to limit the possibility of scores higher than 'medium' figuring in the assessment.
72. There are differences between the experts as to the sensitivity of certain areas. That is perhaps unsurprising, but those differences cannot be shut out from consideration on the basis that AVDC and WDH do not take issue with the overall methodology. Landscape impact assessment is not a science, and the methodology adopted by the Appellants is not to be applied as a rigid set of rules. It is entirely legitimate to accept the overall methodological approach, but to take issue with matters of detail involving subjective judgment on the degree of sensitivity to be ascribed to individual receptors on the facts of a particular case.

73. In general, AVDC is content to leave consideration of the differences having regard to what is seen on the site visit, and the evidence adduced by the experts in support of their own views. There is one aspect of this matter, however, where additional comment is justified. The upper fields area of the appeal site is where most of the built development is proposed. It includes the largest proposed buildings, and the steepest and most exposed parts of the slope. There is disagreement as to the sensitivity of this crucial area, and on this point it is the Appellants who are in the minority. Although there is also disagreement over the magnitude of change, that matters less. If the Appellants' lower score for magnitude is combined with the majority view on sensitivity, which has the benefit of according with common-sense, the significance of the impact would be majorly adverse. That would be a fair reflection of how it would likely be perceived.
74. It is acknowledged that the impact of the proposal would mainly be experienced from the west, whereas the impact of LL/B, as it currently exists, is mainly from the east. It is also common ground that the reason for the impact of LL/B being contained to views from the east is topography and the appeal development would remove that existing containment. As such, it would constitute a permanent change to the existing characteristics of the settlement.
75. This was a point addressed by the landscape Consultant in the initial written advice to the Appellant. The Landscape Briefing Note ^(2.3) says: *"That said, those receptors that will experience views of the development, should it come forward, will experience very substantial change to their view as a result largely of the westerly aspect of the site, tilted away from the existing urban area. Furthermore, the significance of the change to the views is increased by the fact that views of the present urban edge are largely contained behind existing skyline vegetation; the town of Leighton Buzzard has not yet extended onto the west-facing slopes of Valley Farm. Were it to do so, the western edges of the town, on the site, would become a prominent element in views from the Linslade by-pass and from the few residential receptors in the wider agricultural landscape."*
76. That significant impact in views from the west needs to be considered alongside the fact that, because of its location in the valley and the planting associated with it, the By-pass is not apparent as a feature in the landscape from those views, save where one is immediately alongside it. From the west, as said, all that can be seen at present is attractive, characteristic rolling countryside. That would change significantly, and permanently, if these appeals were allowed. It would constitute a substantial adverse impact on landscape character and appearance, and would conflict with up to date DP and national policy, including key principles of sustainable development.
77. As appears also to be common ground, it is necessary to consider carefully the impact of the development on views obtained towards the site from the Soulbury Conservation Area (CA). AVDC has provided a note ^(Document A18) to deal with this issue, which we commend to the SoS. In short, it makes the following key points. First, the CA Appraisal notes that on leaving the village, fine landscape views are obtained across the Ouzel Valley to the north, from Willow and Wellmead Farms, also from High Road to the south, from Manor

Farm and The Boot Public House and finally from Stewkely Road and from Liscombe Park.

78. As AVDC's viewpoints (Document A5, photos 17-21 and 23) demonstrate, at present the appeal site forms a significant element of the fine landscape views obtained from within the CA. The impact of the proposed development on these views would be significant, and would harm the views identified in the CA Appraisal. AVDC has not sought to identify harm to views from the CA as a freestanding reason for refusal, nor does it need to: it is simply a component of the overall landscape/visual impact harm on which the first reason for refusal is based.
79. Furthermore, the effect of the proposed development would be to breach a clear, logical and defensible boundary to the urban area of LL/B. It is agreed that the current boundary allows the existing containment of impact to be maintained, and that the ridgeline and hedgerow is already a logical and robust boundary, which also reflects the administrative boundary.
80. The By-pass does not provide a preferable boundary, not only because of the obvious beneficial features of the existing one, but also because developing to the By-pass would create a unique part of LL/B, prominent in views to the west and, anomalously, administered by a different authority. It would also create obvious pressures and incentives for other landowners to develop further, both to the south and the northwest of the site.
81. The decision maker will also need to focus hard on the proposed development to the north of Soulbury Road, and ask whether the boundaries of that part of the site provide a logical boundary to the north-western edge of LL/B? The Appellants accept that this is "*not a logical boundary*" and is "*less robust*". That evidence is unsurprising, and is echoed in the views expressed by CABE (Document PN2, App. 6), whose endorsement of the case for development of housing on the appeal site was subject to the very significant caveat "*with the exception of the site to the north of Leighton Road*", which they are not convinced by.
82. The proposed boundary of the development north of Soulbury Road is a purely arbitrary line, based on land ownership. In fact, it transpires that the northern parcel of land is the only part of the site in the Appellants' freehold ownership, and that would seem to be the only possible reason why it is proposed for development. Even if the main site were developed, this additional outpost of built development in the open countryside would represent an anomaly, and once permitted it would be hard to contain the spread of the urban area further to the north-west.
83. For these reasons, AVDC concludes that the proposed development would involve an intrusive development into the open countryside, causing substantial harm to landscape character and in terms of visual impact, contrary to local, regional and national planning policy. AVDC's first reason for refusal is thus sound and fully justified and should be upheld.

Housing land supply

The nature of the issue

84. As noted previously, it is acknowledged that the proposed development involves a departure from the DLP. In addition to the inconsistency with the DP, the substantial, harmful impact in terms of landscape and visual amenity also gives rise to a departure from the DP (both the DLP and the SEP). The presumption in s.38(6) of the Planning and Compulsory Purchase Act 2004 is, therefore, in favour of dismissal of the appeal, unless material considerations indicate otherwise.
85. The key 'other material consideration' relied upon by the Appellants is the absence of a district wide 5-year housing land supply in Aylesbury Vale. This is, and has always been, "*an underpinning basis for the application the subject of this appeal and the earlier application(s) on the site*" (emphasis added). As is demonstrated by AVDC, and the concessions made by the Appellants in cross-examination, that "*underpinning*" is patently unsound.
86. It is to be noted that the Appellants expressly disavowed reliance on any shortage of 5-year housing land supply in Central Bedfordshire, and was not arguing that numerically the Appellants' proposals would meet any numeric deficit from the EEP. Thus the Appellants' case effectively stands or falls on the extent to which it would meet the needs identified for Aylesbury District in the SEP.

Policy on approach to housing land supply

87. The following basic points of agreement should be noted about the policy context specifically for housing land supply. Fundamentally, it is clear that 'favourable consideration' in PPS3⁽⁷¹⁾ does not mean the same thing as granting planning permission. It is necessary to test the proposed development against the considerations in PPS3⁽⁶⁹⁾, which include whether a site is suitable for housing, including its environmental sustainability, and ensuring the development reflects the spatial vision for the area. On this basis, there is a need to assess whether what is proposed is in line with the spatial vision for the area, which is set by the DP, and in this context, the DP needs to be read and understood as a whole.
88. Next, PPS3 does not seek to do away with the application of the statutory test in s.38(6). Any shortage of housing land supply falls into the category of other material considerations. It is a material consideration, but the weight that attracts must reflect the particular circumstances of each case, including the relevant RSS context. Thus, as PPS3 advises, the identification of the housing requirement to be met is a matter for the RSS, and it is, therefore, to the SEP one must look for the relevant target. In the light of the significance of this issue for the Appellants' case, and the somewhat confused approach their evidence adopted, it is necessary to address the spatial vision in the SEP in some detail.
89. The spatial strategy for the South East in the SEP is based on six spatial planning principles, the second of which is focussing new development on the

network of "regional hubs", according to their role and function (SEP p. 17 and Policy SP2). Aylesbury is one of those regional hubs, as is Milton Keynes.

90. Only a limited amount of new housing development was considered appropriate in the District beyond that associated with the sustainable growth of those two hubs. The SEP (4.23) recognises that extensive parts of the region are largely undeveloped and offer a high landscape value and agricultural resource, punctuated by small towns and villages that contribute to the particular character of the region and which provide essential homes, jobs and services for the local population. In balancing the need to "*protect the countryside and retain the charm and heritage of the region's enviable patchwork of smaller settlements whilst making sure that socially inclusive communities are maintained and developed*" it was felt appropriate to plan for some new development outside the regional hubs "*to support rural communities and services*". That is reflected in SEP Policy H2vi, which explains that the housing in rural areas is "*to ensure the long-term sustainability of rural communities*", and the more detailed policies addressed below.
91. The Appellants' case focuses on SEP Policy H1, which identifies the district-wide total and annual average for Aylesbury Vale, but fails adequately to consider it in context. As acknowledged, the footnote to page 54 and footnote 2 at the end of Policy H1 make clear that the policy needs to be read together with the MKAV policies that follow, and that the total for the district constitutes the sum of the three discrete elements identified in those policies.
92. SEP Policy MKAV1 identifies the three spatially distinct elements, which together make up the district-wide total, and states in terms that the provision of that total is to come "*from the following sources*". In this regard, the supporting text at paragraph 23.8 is important. It states that: "*The levels and distribution of housing provision in Policy MKAV1 will help deliver the spatial vision for Milton Keynes and Aylesbury Vale set out in Policies MKAV2 and MKAV3 below. ...*" (emphasis added).
93. Two points flow inexorably from this. First, the distribution of housing provision identified in Policy MKAV1 is an important part of delivering the spatial vision set by the most up-to-date part of the DP. Secondly, the spatial vision for Aylesbury Vale is set out in Policy MKAV3. The Appellants accept both of those points. Crucially, Policy MKAV3 takes the point further, because it provides a separate and different annual average rate of provision for the "rural area/rest of Aylesbury Vale", commonly referred to as "Rest of District" (RoD).
94. Following an examination of those provisions in the SEP, the Appellants accept the following points. First, when considering the available HLS to meet the needs identified in the SEP, it is necessary to have regard to the spatial distribution and the reasons for it. Secondly, if there is surplus in the supply in the RoD, the local need identified in the SEP is being met and this reflects the fact that the different components of the total are serving different needs and are not interchangeable.
95. Thirdly, the 5-year target for the RoD (based on an annual average of 235) is 1175 homes, and there is more than enough deliverable housing available in

the RoD to meet those needs for the next 5-years. In fact, the current supply position reflects the historical pattern. Going back as far as 1991/1992 there has only been one year when the delivery of new homes in the RoD has dipped (slightly) below 235, and housing land supply in the RoD has consistently exceeded the planned spatial proportion. In the second Winslow appeal decision ^(Document A12) the Inspector concluded that there was no evidence that that site was required to enable the overall total for the SEP plan period to be met, and no evidence is relied on at this appeal to demonstrate any materially different position here.

96. Next, having regard to the evidence in the SHLAA ^(Document CD 10.1), there is no difficulty in finding sufficient deliverable and developable sites in the RoD. There is potential for 9,200 in the RoD and, therefore, scope for making allocations based on sustainability considerations.
97. Thus, it does not follow that the appeal site is needed, even if there is a need to bring forward further units over the period to 2026 i.e. the "residual requirement" referred to by the Appellants and previously relied upon by the Appellant at the Winslow appeal. The up to date figures ^(Document A15) for housing land supply in Aylesbury Vale show that the district-wide figure is 3.4 years, and the RoD figure is 10.3 years. The Appellants' criticisms of these figures are either without substance and/or make little, if any, difference to the overall position.
98. The Appellants attempt to place some reliance on the possibility, contemplated in the SRS ^(Document CD6) and the SEP Proposed Changes ^(Document CD 5.1), of seeking to provide for some of the growth of LL/B in Aylesbury Vale. However, no weight can attach to that possibility, for several agreed reasons. First, the growth contemplated at LL/B is a sub-set of that allocated to Luton/Dunstable/Houghton Regis ^(Document CD6). This represents an entirely different focus for growth, with separate total figures, and separate from growth for Aylesbury Vale.
99. Secondly, the purpose of contemplating growth at LL/B was to cater for the needs of LL/B and Luton/Dunstable/Houghton Regis, not the needs of Aylesbury Vale. It had nothing to do with growth at Aylesbury, or supporting rural communities and services in Aylesbury Vale. The same was true of the changes contemplated to the draft SEP ^(Document CD 5.1). What was being contemplated was something separate from, and additional to, the 26,890 dwellings in Aylesbury Vale to make up the three elements addressed above, and to meet a different spatial objective.
100. The concessions set out above are of considerable significance in this case, and in the light of them it is unsurprising and indeed inevitable that the Appellants also concede the following consequential points. Development at this site would do nothing to address the shortfall in provision to meet the need for growth at Aylesbury itself. Neither is there any evidence that the proposed development would do anything to support Aylesbury Vale's rural communities and services. Thus, development of this site, as proposed, would not meet any of the needs identified as underlying the three elements, which make up the housing allocation for Aylesbury Vale in the SEP.

101. Indeed, the Appellants are explicit in their acknowledgment that the benefits of the development, such as they are, would be for the residents of LL/B. In those circumstances, it would be unreasonable to attach any significant weight to the purely numerical contribution, which the proposed housing would make to the district-wide total identified in the SEP. The needs that this development seeks to meet are simply nothing to do with Aylesbury Vale, and AVDC's housing supply figures provide no material support whatsoever for permitting the development of this prominent and attractive part of the countryside.
102. The Appellants have no satisfactory answer to that point. They do seek to suggest that, because, so far at least, delivery of the SEP housing targets has in parts proved difficult, it is appropriate to abandon the spatial strategy the SEP contains and effectively start from scratch by reference to the cross-cutting policies. That is a hopeless argument.
103. The Appellants positively assert that the objectives underlying the SEP spatial strategy are sound and reflect sustainable development principles. That is correct, but it completely undermines their argument, because it is the application of those principles to the circumstances of this area, informed by SEA and a process of rigorous scrutiny, that has led to the spatial vision and strategy set out in the SEP. If the principles underlying the spatial vision and strategy are sound and up to date, that adds more weight to the strategy and spatial vision, not less.
104. As is confirmed in response to a question from the Inspector, the evidence that fed into the preparation of the SEP, including the disaggregated approach, represents the best information currently available. The target for the number of houses to be provided is inextricably linked to their spatial distribution. Decisions were made as to how much development was appropriate in specific areas, having regard to sustainability, environmental impact and infrastructure requirements (amongst other things). The total for the district is the sum of those individual elements. It has no derivation independent of those spatial decisions. If the spatial distribution is to be rejected, the total numbers can no longer be relied upon.
105. The SEP is a long-term strategic policy document. It was adopted in 2009, only 2-years ago, and puts in place a spatial vision for the period to 2026. Soon after adoption, the housing market crashed and delivery has slowed. Thus, there is a period when meeting the target rates of growth for the town of Aylesbury is not possible. That is not for lack of planning permissions around Aylesbury, and, as explained, there is no shortage of applications for more housing around Aylesbury ^(Document A1), where there are currently three 'live' applications for housing development (one has been appealed for non-determination), which between them propose 6,980 dwellings. It is simply a result of the downturn in the economic cycle, which would be expected over such a long plan period.
106. On the other hand, the Appellants assert that this slowdown in rates of delivery is as a result of developers paying too much for sites, rather than a lack of a market because of the shortage of mortgage finance. There is absolutely no evidence before this inquiry to support that generalised

assertion. The Appellants' approach to that change in economic circumstances and its effect on delivery at Aylesbury in the short-term is to suggest abandoning the spatial vision altogether, after only the first 2-years of the Plan period and, instead, to allow an effective free for all on greenfield sites in the RoD, because it is easier (and more profitable) to build there. It is hard to think of a less sensible and sustainable approach to the delivery of strategic housing growth.

107. The fact that the desired spatial distribution identified in the DLP and the SEP (the latter being more restrictive of the proportion of development in the RoD than the former) has not been achieved in the past demands a more, rather than a less, rigorous approach to spatial distribution in development control decisions. It would be illogical to rely upon past failure to achieve sustainable development patterns as a reason to allow yet further departure from those objectives now.

Post SEP Housing provision target

108. If the SoS decides that less weight should attach to the housing target in the SEP, there is no alternative means available to this inquiry by which the same or a similar target can be identified to which any significant weight should attach. There has never been an 'Option 1' figure for Aylesbury, and so in a post-SEP world there would be no such figure to return to.
109. AVDC is undertaking a programme of work in order to put in place its own target, including options for the spatial distribution of housing growth in the emerging Vale of Aylesbury Plan. As explained, this is consistent with the need for AVDC to have regard to the Government's proposed approach to localism and the need for local planning authorities to take charge of identifying and delivering the housing they need. No alternative target figure has yet emerged, but there is plainly scope for a range of possibilities (Document A1). It cannot be assumed that the target will be the same as the SEP, but there is no basis for believing that the long-standing approach to the spatial distribution of new housing growth in the district, based on sustainable development principles (as reflected in the DLP and the SEP), will undergo fundamental change.
110. AVDC has provided initial figures for demographic-led *demand* (as distinct from a target figure) in the District (Document A1), indicating a need for 4,700 dwellings in the district as a whole to 2026. That figure does not take account of any ambitions for growth, which will be considered through the plan-making process. However, when set alongside the number of deliverable homes in the District for the period over the next 5-years (5,201), it lends weight to AVDC's point that it should be allowed to review its ambitions for growth in a properly considered manner through the plan-making process, and that there is no need to allow development on unsustainable sites for reasons relating to HLS.
111. This inquiry does not provide the SoS with anything like sufficient material to support a housing target, which is separated from the SEP's disaggregated spatial strategy. In that context, the following points are accepted. Crucially, targets for housing provision are not arrived at by the application of a simple mathematical formula. There are judgments and choices involved. PPS3⁽³³⁾

identifies the factors to be taken into account, and need/demand is but one of a list of factors.

112. The list includes sustainability and environmental appraisal, and one cannot have a housing target figure without sustainability appraisal and SEA of its implications and effects. This would need to include the implications and effects of spatial distribution. Those assessments were carried out for the SEP, but none are in existence for any alternative spatial approach. The list also includes the infrastructure requirements associated with a particular figure and its distribution, and the same points apply. Relevant factors would also include matters such as ambitions for growth and the views of the local community, both of which are proper forward planning considerations.
113. The target set by the SEP reflects choices on those matters made by the regional planning body at regional level, whereas the Government's intention is that those assessments and judgments are in future to be made by local planning authorities through the plan-making process. The Government has acknowledged that the overall ambitions for housing growth may change (Document CD20.9) and the relevant ambitions will, in future, be those of local planning authorities, reflecting local people's aspirations and decisions. There is no question of there being a simple obligation to plan to meet all demand identified. Without a consideration of those factors, this inquiry is not in any position to suggest what the new target is likely to be.
114. The matters identified above are not to be assessed simply for form's sake. They are intended to be, and must be, central to the planning judgments that fall to be made as to how much development it would be appropriate to plan for in an authority's area, and where it should take place. Unless and until those matters have been assessed, it would be entirely inappropriate to treat any demand figure as representing the likely appropriate target for new housing in a particular area.
115. The Appellants seek to place reliance on the SHMA (Document CD11.5), but they acknowledge that it does not itself seek to make policy choices about how much housing to plan for, or where that housing should go. The SHMA did not undergo any form of SEA or sustainability appraisal, was not subject to the same sort of rigorous plan-making process as the SEP (which it pre-dated), and is not part of the DP. In short, it does not take matters much further.
116. However, there is one additional note of caution about the SHMA, which must be entered here. In answering questions from the Inspector, the Appellants sought to rely on what the SHMA had to say about demand (as opposed to need). It is important to have regard to what the SHMA had to say about demand in the context of the time at which it was prepared and published. The document was commissioned in 2007 and published in July 2008, using 2004 data. It took no account of the housing crash, which occurred soon after its publication, and the severe shortage of mortgage finance which went with it. There has been no subsequent appraisal.
117. The only other point relied on by the Appellants is the advent of the South East Midlands LEP, though in response to questions in cross-examination they agreed that it did not take matters much further.

118. The conclusion that ought to be reached in respect of this issue is simple. The evidence before the inquiry does not provide a sound basis for predicting what the new housing target for Aylesbury Vale is likely to be, because it does not consider a number of significant matters that will be relevant to the ultimate identification of that target. For the reasons set out above, only, limited, if any, weight can attach to the issue of AVDC's HLS in this case.

Other material considerations

AVDC's decisions on other sites

119. Before turning to make some brief comments on each of the two decisions referred to by the Appellants, it is worth making some general points. First, both Buckingham and Haddenham are settlements within the RoD. It is common ground that, whether one looks at the DLP (Document CD7.3) or the settlement hierarchy in the abandoned draft Vale of Aylesbury Core Strategy, both settlements had been identified as appropriate locations for housing development to meet needs in the RoD. Indeed, Buckingham was identified as the only second tier settlement in the district in the draft Core Strategy, and was to accommodate an additional 1,200 dwellings.
120. Secondly, it is agreed that both settlements need to accommodate additional housing to support their communities and services, boosting their relative sustainability. Thirdly, growth in those settlements would meet the needs in the RoD identified in the SEP, and, thus, to contribute to the RoD total and, as a result, the district-wide total.
121. Finally, AVDC's decision to grant permission for development on these sites was taken into account by the Winslow Inspector, because identical points were made by the Appellant in that case. That Inspector was not persuaded that AVDC's approach had been in any way inconsistent. As the Appellants agree that they are not introducing anything new here, beyond what had been considered by the Inspector in that case, AVDC is entitled to expect consistency in approach on this matter.
122. In addition to the general points set out above, the Buckingham site is clearly distinguishable from the appeal site. Unlike the appeal site, AVDC considered the site at Buckingham to be suitable for housing development. Moreover, the decision was taken at a time when the draft Aylesbury Vale Core Strategy was well-advanced, and supported substantial housing development on greenfield sites at Buckingham (Document A19). As such, the issue of housing supply was not advanced by AVDC's Officers as a factor that ought to determine the decision on that application.
123. Again, the Thame Road, Haddenham site is clearly distinguishable, and there is no inconsistency in approach. This site is adjacent to an employment site, and would have been developed for employment uses if not for housing. In other words, there is no objection to the development of the site. Unlike the appeal site, there is considered to be no conflict with the criteria in PPS3₍₆₉₎ and the development is not considered to be harmful in landscape terms.

124. The approach taken to HLS post SEP reinstatement is identical to that taken in this inquiry, and in the Winslow appeals.

Affordable Housing and other benefits

125. While AVDC acknowledges that the provision of affordable housing and other benefits are, in principle, positive aspects of the appeal proposal, they do not provide any basis for outweighing the substantial conflict with the DP and significant harm that would result from the proposed development.

Sustainability

126. As said previously, a development that fails to conserve and enhance the physical and natural environment of the South East is in conflict with one of the sustainable development priorities established by the DP (SEP Policy CC1 ii). As advised by PPS1_(4 and 5), such a development is not sustainable, particularly where the harm to the natural environment is not justified by need.
127. A development, which is plainly contrary to the up-to-date DP, is inherently unlikely to be a sustainable development. As PPS1₍₈₎ advises: *"This plan-led system, and the certainty and predictability it aims to provide, is central to planning and plays the key role in integrating sustainable development objectives. Where the development plan contains relevant policies, applications for planning permission should be determined in line with the plan, unless material considerations indicate otherwise"*.
128. In *this* case the development runs directly contrary to the spatial strategy in the DP, and, as PPS1_{(13(iii))} explains, a spatial planning approach should be at the heart of planning for sustainable development. Furthermore, the wider sustainability credentials of the appeal development are overstated by the Appellants.
129. There is some employment development proposed on site, but it is relatively modest by comparison to the quantum of housing. The Appellants now seem to accept that they have gone too far with the claim that this modest amount of employment development was in some way 'vital' to Aylesbury Vale's prosperity and economic growth. Indeed, they accept that they are not relying on any specific evidence of its importance. While AVDC maintains no objection to what is proposed on transportation grounds, the reality, accepted by the Appellants, would appear to be that the balance of housing and employment-generating uses proposed would add further to the established preponderance of out-commuting from LL/B.
130. In addition, the residents of the appeal development would need to travel considerable distances to reach the schools, other facilities and services provided by AVDC for those living within its administrative area. This must necessarily serve to diminish the sustainability advantages associated with proximity to LL/B (PPS1 paragraph 5), and the general need to ensure development provides good access to key services.
131. Therefore the proposed development is not properly to be regarded as 'sustainable development', and would not benefit from any presumption in favour of allowing such development.

Position of AVDC on other matters

132. With regard to ecology, AVDC's original position ^(8 April 2009) was that more compensation land would be required, because of the ecological interest of the grassland. It was considered that the retention and enhancement of fields F5, F6, F7 and F10 would be sufficient to mitigate for development on the rest of the site.
133. In an attempt to resolve the objections to the development proposals, Biodiversity Offsetting or Conservation Credits have been suggested as a mechanism to assess the value of the most botanically diverse parts of the site and propose suitable mitigation. Whereas the scheme put forward by the developer in negotiation does not fully apply the principles of Biodiversity Offsetting, which is intended to apply to the footprint of entire developments, it does provide a mechanism for the compensation of priority habitats and/or local sites as currently defined by PPS9. Moreover, it is consistent with the principles of PPS9, according to which AVDC is required to judge the current proposals.
134. It should be noted that there is a slight discrepancy between the amount of land the developer assesses as requiring offsetting. AVDC believes that there are 14.5 ha of land that is equivalent to Local Wildlife Site (LWS) status and, thus, requires compensating. Of this 14.5 ha, 4.5 ha most closely resembles MG5 grassland — a habitat of principal importance. The Appellants' assessment is that 12 ha of land requires compensating, 3.5ha of which is judged to be a habitat of principal importance. AVDC is willing to accept that the outstanding 2.5 ha (1 ha of which is judged to be MG5 grassland) can be compensated by habitat creation on site e.g. in the proposed Country Park on the westerly part of the site.
135. Thus, subject to a number of caveats, AVDC accepts this proposed compromise scheme. Moreover, the habitat compensation proposals can be secured by conditions that include requirements for an Ecological Construction Method Statement (ECMS), an Ecological Management Plan (EMP) and the appointment of an Ecological Clerk of Works (ECW). The details are now agreed ^(Document A7) and, accordingly, the Council accepts that its reason for refusal 3 is capable of being dealt with by the imposition of the conditions that have been agreed.
136. It is also the view of the Council that reason for refusal 9, which cites difficulties with the local infrastructure capabilities of LL/B, is capable of being dealt with by means of a s.106 Undertaking, with AVDC and Buckinghamshire County Council (BCC) as appropriate. As such, AVDC has discussed and, with the exception of open space, negotiated terms of suitable obligations with the Appellants ^(Document A8). These matters cover Affordable Housing, Crime and Community Safety, Education/Adult Learning and Transport. It is believed this Undertaking satisfies the requirements of Regulation 122 of the Community Infrastructure Regulations (CIL).
137. Meetings were held on the 7 October and 22 November 2010 between URS/Scott Wilson and BCC Transport to discuss reason for refusal numbers 6, 7 and 8 within the decision notice issued by AVDC on 4 August 2010, relating to the site

access and highway safety; the adverse affect on the safety and flow of users of the existing distributor road network; and the limited access to and from the site by non car modes of travel.

138. To address these reasons for refusal, a further detailed planning application, reference 11/00426/APP, was submitted. Whereas this application was refused for landscape and countryside reasons, the technical details are acceptable and Reason 6 is now overcome. Moreover, the other highways, traffic, and transportation implications of the proposed development have been fully assessed and are now considered to satisfactorily, thereby addressing Reason 7. Finally, subject to the provision of the proposed walking, cycling and public transport strategy and the Community Travel Plan, BCC Highways agrees that the proposed strategy and Travel Plan would support access by sustainable modes of travel. Thus, subject to a number of commitments this permits reason for refusal number 8 to be overcome (Document A10).
139. Moving onto drainage matters and AVDC's reason for refusal number 5, meetings were held on the 9 March 2011 between URS/Scott Wilson and Anglian Water and on the 11 May 2011 between URS/Scott Wilson, Anglian Water and AVDC. Following these meetings, and subject to a condition, a statement of agreement on water supply, foul sewers and wastewater treatment has been prepared by AVDC (Document A9). Thus, reason for refusal number 5 within the AVDC Decision Notice may be overcome
140. Finally, it is necessary to comment on AVDC's position in relation to the appeal against the Council's decision to refuse planning permission for the formation of an access from Leighton Road, Soulbury. This was a later application Ref. No: 11/00426/APP and Appeal B Ref. No. APP/J0405/A/11/2154252 (the access appeal) for the following reason:
- The proposed access by reason of its scale and siting in isolation would result in a visually intrusive feature that would be harmful to the natural environment and have an adverse impact on the open countryside and rural character of the area in which the site is located contrary to policies CC1, CC6, and CC4, of the South East Plan and GP35 and RA2 of the Aylesbury Vale District Local Plan and to the guidance contained in PPS7.
141. The development that is the subject of the access appeal proposes revised access arrangements to those that currently form part of the scheme for mixed use development (Appeal A Ref. No: APP/J0405/A/10/2143343 - the main appeal) and which forms the substantive proposal for consideration. The two appeals have now been linked, and have been considered together at the inquiry.
142. As noted above, AVDC's decision in relation to the access appeal relates solely to the harm to the natural environment and the adverse impact on the open countryside and rural character of the area that would result if the development were permitted in isolation. The proposed access arrangements are considered acceptable from a highway's perspective, subject to the imposition of conditions.

143. The Council's position in relation to this matter was explained in an informative note ^(Document A11) forming part of the decision notice which reads:

Notwithstanding these objections the Local Planning Authority recognises that the proposal is an amendment to the arrangements proposed to serve the mixed development that was the subject of application 10/00500/AOP and which is the subject of an appeal. It is understood that as a consequence of this decision a further appeal will be lodged to be co joined with that substantive appeal. In the event that the substantive appeal is allowed the Local Planning Authority recognises that the overall benefits of the scheme would be seen to outweigh the harm to the natural environment and that in these circumstances it would be appropriate from a highway perspective to substitute these access arrangements for those originally proposed.

144. The Council's evidence relating to the landscape impact of the substantive development, which is the subject of the main appeal has been tabled at the inquiry, and the Council does not intend to submit further written evidence specifically in relation to the impact of the access appeal. The Council's position is that if the SoS allows the main appeal (Appeal A), he should do so only on the basis of the revised access arrangements proposed in the access appeal (Appeal B), and impose a condition or conditions to that effect. An appropriate form of wording has been agreed with the Appellants ^(Document 5).

The s.106 Unilateral Undertaking (UU)

145. There is one outstanding concern relating to the adequacy of the provisions in the s.106 UU, and this pertains to open space. AVDC's concerns are set out in the two notes ^(Documents A17 and A24) it provided to the inquiry, and are not repeated here. If the SoS were otherwise inclined to allow the appeal, AVDC invites him to issue a 'minded to grant' letter, subject to the Appellants entering into a revised s.106 Obligation addressing these points.

CBC's Transportation objection

146. Finally, AVDC has followed CBC's transportation evidence with interest. CBC's submissions address these matters in detail, and it is quite plain that its reason for refusal is well-founded.

Overall Conclusion

147. The appeal site is not suitable for housing development, and the proposed development is contrary to relevant DP and national policy. It would give rise to substantial harm to interests of acknowledged importance, and there are no material considerations of sufficient weight to outweigh the resulting presumption in favour of the dismissal of the appeal. AVDC, therefore, respectfully invites the Inspector to recommend to the SoS that the appeals be dismissed.

THE CASE FOR CENTRAL BEDFORDSHIRE COUNCIL

The material points are:

Preliminary

148. Central Bedfordshire Council (CBC) appears at the inquiry in a dual capacity. It is both a 'third party' objector, in the context of the appeals against AVDC's refusal to grant permission for the substantive scheme (Appeal A) at Valley Farm, and, also, the relevant local planning authority, as regards the proposal to provide a secondary access on Derwent Road (Appeal D) in respect of that substantive scheme.
149. These submissions deal first with the substantive proposals of Paul Newman New Homes Ltd (the Appellants) to bring forward the Valley Farm site for 900 dwellings, employment, community and associated development. Thereafter, they turn to issues arising from the proposed secondary access.

The Substantive Scheme

150. In speaking to the substantive scheme, CBC does not look to address at any length the various issues dealt with by AVDC. Rather, CBC focuses on those matters that form part of its discrete case. To that end, its submissions consider the Luton and Southern Bedfordshire Joint Core Strategy (JCS), and the question of HLS. However, before doing so it is worth pausing to consider briefly the context in which the appeals fall to be determined.
151. It is a fundamental tenet of planning law that the direction of development is governed, at least in the first instance, by policy contained in the relevant DP, because the development system is plan led. In the present case, the Appellants' proposals do not find support in the DP.
152. Relevant regional policy is to be found in the South East Plan (SEP), described by the Appellants as the current strategic document. This does not identify the appeal site as suitable for residential development at the present time; indeed, it expressly rejects this proposition. The SEP_(23.10) says "*...in the longer term it is possible that some of the growth of Leighton-Linslade or associated facilities may need to be accommodated in Aylesbury Vale district, but no allowance is made at this stage in the housing figures for Aylesbury Vale...*" (emphasis added). Further, there is a clear and unequivocal spatial vision set out in SEP Policy MKAV3, with which the Appellants accept the proposals do not comply.
153. The Appellants' position is no better at the local tier. Adopted local policy is found in the Aylesbury Vale District Local Plan (DLP); the proposed development of the appeal site would be contrary to policies contained in that Plan also, as indeed is again accepted.
154. It is, therefore, in circumstances where the Appellants acknowledge that the appeal proposals are in conflict both with the spatial vision as set out in strategic policy (SEP), and also with detailed policy at the local level (DLP), that the appeal proposals fall to be considered.

155. Notwithstanding this unpromising position, the Appellants seek to argue that there should nevertheless be a presumption in favour of the proposed development, in the light of the Government's stated desire for growth. Others, in particular AVDC, address with greater eloquence and detail the manifest deficiencies in the Appellants' approach. However, before turning to the detail of its case as presented to the inquiry, CBC makes the preliminary submission that this – frankly surprising – contention on the part of the Appellants suggests a cavalier attitude to development. More seriously, it suggests a lack of appreciation as to the statutory basis on which the appeals fall to be determined, and the significance of non-compliance with adopted policy in the DP.

Joint Core Strategy

156. Pursuant to the Milton Keynes and SRS, which informed both the SEP and the East of England Plan (EEP), CBC has sought to identify suitable land for residential development in the vicinity of LL/B. Having undertaken a thorough assessment of the merits of the various alternatives, the Council has selected sites to the north east and east of the settlement (ELL) in preference to that promoted by the Appellant, located to the west (WLL). These 'eastern sites' for some 2,500 dwellings are now being promoted by CBC as part of the JCS, submitted for examination in March 2011.
157. The position as regards the JCS is by no means ideal. The decision of the Executive Committee of Luton Borough Council on 11 July 2011 to withdraw from the Joint Committee has undoubtedly complicated the position as regards the JCS. However, the inquiry should be aware that it is not within the gift of Luton (or indeed CBC), to determine the future of the JCS. That emerging policy document is the property of the Joint Committee, and it is the meeting of that committee on 29 July 2011 that should clarify the future of the JCS, although the structure of the Joint Committee is such that equal numbers of each Council sit on the Committee and the Chair does not have a casting vote.
158. The Council will provide a Note updating both the SoS and other parties as to the outcome of those meetings by 3 August 2011. However, given the current uncertainty as to how matters may proceed, these submissions address the two scenarios, which the inquiry can usefully consider, namely:
- (i) The Joint Committee proceeds with the JCS as planned; and
 - (ii) The JCS is abandoned.

Proceed as Planned

159. In the event that, notwithstanding the unpromising noises made by Luton's executive on 11 July 2011, the Joint Committee proceeds with the promotion of the JCS, then it is submitted that the inquiry, and indeed the SoS, can, and should, attach significant weight to that policy document.
160. It is apparent from the documents provided in respect of the Stokes Road appeal (Document CB3, Appendix 9), that in June 2010 the SoS was content to attach material weight to the emerging JCS, notwithstanding the early stage of development the document had reached at that date. Matters have now

progressed significantly since the Stokes Road determination, with the JCS having now been submitted for examination, and with the Inspector having approved a timetable, which envisages its adoption in May 2012. By reason of these procedural advances, if nothing else, the SoS should attach substantial weight to this emerging policy document, and certainly more than when determining the Stokes Road appeal: a point conceded by the Appellants.

161. CBC notes the allegations made by the Appellants regarding the soundness of the JCS. However, the purpose of the current inquiry is to determine the Appellants' s.78 appeal. It is in no sense a core strategy hearing. As such, CBC does not look to refute the various aspersions cast. Rather, CBC considers it sufficient to note that the Inspector charged with examining the JCS held an exploratory meeting at which both the Appellants' Planning Consultant and Mr Village QC as well as other disaffected parties all cast stones at the JCS. They did their best to persuade the Inspector that it was irretrievably flawed, such that it must be rejected/withdrawn. Having heard all the criticism levelled at the strategy, the Inspector nevertheless chose to continue with examination of it as the Councils (CBC and Luton BC) suggested – with hearings due to commence in January 2012.
162. The Inspector's comments are there in the correspondence for all to read (Document CBC3, Appendix 10), and it serves no purpose to quote extracts from it. However, CBC is of the view that the tone of that letter is positive, and evinces a confidence that the Joint Committee can allay his concerns and see the JCS through to a successful adoption.
163. The reality of the situation is that the Joint Committee is in the process of promoting emerging policy, which is progressing steadily towards adoption. That policy, in accordance with the direction given in the SRS has reviewed the Green Belt in the vicinity of LL/B and has identified the 'eastern sites' as being the appropriate area in which to extend the settlement. Pursuant to this emerging policy, Officers have devoted a great deal of effort to bringing forward a draft Masterplan to guide this process. The 2,500 dwellings stated to be brought forward in this area will, aside from meeting housing needs, deliver substantial infrastructure benefits. These include the Eastern Link Road (ELR), which CBC is satisfied will significantly improve traffic conditions in LL/B.
164. In the event that the appeal proposals were consented, they would prejudice this 'eastern' housing extension – and all its associated benefits. More fundamentally, the appeal proposals would frustrate delivery of the aims and ambitions of the JCS. It is for this reason that CBC contends that the appeal proposals should be rejected on the ground of prematurity.
165. In the course of the inquiry the Appellants said that, in the absence of detailed viability evidence, it was not open to the inquiry (or to the SoS) to conclude that the appeal proposals may prejudice development elsewhere. Such contention is rejected by CBC. Were the SoS to grant permission for the appeal proposals, the adverse implications for the JCS, and its carefully planned approach to development at LL/B are self-evident. The appeal proposals are premature, and should be dismissed.

JCS abandoned

166. In the event that the Joint Committee is disbanded and the JCS abandoned, then necessarily that would impact on the present appeals. In such a scenario it would be unclear how precisely CBC proceed, although the Council has confirmed that it will look to make use of all the work on the Strategy that has been carried out to date, and to bring this forward in some form.
167. Thus, it is contended that in this scenario the JCS should not be disregarded. Having regard to the extensive work, which Officers have poured into the Strategy over a period of years it would be irrational to dismiss its identification of land ELL as being the appropriate location for the extension of the settlement. This is perhaps particularly the case, given the substantial efforts directed at bringing forward the draft Masterplan and the support evidenced by the Town Council for the proposed direction of development.
168. Notwithstanding its diminished status, it would be inappropriate to dismiss emerging policy as contained in the JCS as being entirely without relevance. The document, and the direction of development which it identifies, should attract some weight.

Housing Supply

169. The Appellants' case as regards HLS has proved somewhat difficult to tie down. Initially, they sought to justify their proposals with reference to what it said was a shortage in the 5-year supply within Aylesbury Vale. However, having secured little change from AVDC, it now appears that the Appellants are attempting to seek an alternative target in the form of CBC's housing numbers. It is in this context that CBC was pressed, in the early days of the inquiry, for greater detail regarding its 5-year HLS.
170. Happily, the position now appears to have been clarified insofar as the Appellants confirmed that CBC's housing numbers are "*not relevant because [the Appellants are] not relying on a 5-year shortage in Central Bedfordshire*", and that in making their case they do "*not seek to use the numeric situation in Central Bedfordshire*". It was on this basis that CBC elected not to challenge the detail of their criticism regarding the Council's housing land supply.
171. That provision of housing land within Central Bedfordshire does not form a material *element* of the Appellants' case is, of course, self-evident from the fact that there is only a single reference to it in their evidence. Even this is an assertion in a rebuttal proof, wholly unsubstantiated by evidence or analysis. Such can be contrasted to the extensive examination conducted in relation to AVDC's housing land supply.
172. CBC acknowledges that in the course of cross-examination by the third parties, the Appellants sought to change their stance and to suggest that CBC's housing numbers may be "*important*" to consider, and that they "*must have a bearing*". However, those are not the responses given in answer to questions put by CBC, and do not represent a credible position. Whatever contortions the Appellants attempt in order to seek to rely on the housing situation in

Central Bedfordshire, they are forced back to the admission that their HLS case is "*solidly based in Aylesbury Vale*".

173. Given the Appellants' concession regarding the lack of relevance of CBC's HLS, there is no need to speak to it in any detail in these submissions. The only points, which the Council makes in passing, having regard to the detailed trajectory CBC provided (Document CB5), are first, if one includes the dwellings projected as urban extensions ELL and Houghton Regis, there is a 5-year supply, as the trajectory illustrates.
174. The Appellants, however, seek to rely on the planning statement submitted by Arnold White Estates (AWE), pursuant to the planning application and statement made in relation to land north east of LL/B. This identifies CBC as having a 3.5 – 3.7 year housing land supply. Crucially, it should be noted that such assertion is made expressly on the basis that the proposed extensions ELL and Houghton Regis are disregarded. If, as CBC contends one should, have regard to the housing delivered by those urban extensions, the trajectory demonstrates in excess of a 5-year supply.
175. Secondly, even if one disregards the proposed extension ELL, there is, in any event, a considerable amount of development coming forward at that settlement, again as illustrated in CBC's detailed trajectory.

Concluding Remarks

176. The Council strongly endorses the position of AVDC at this inquiry in rejecting the appeals relating to the substantive scheme. In particular, CBC echoes AVDC's concerns regarding the detriment, which the proposals would have in terms of harm to landscape character.
177. In addition, however, CBC contends that the proposals should be rejected because they would be 'premature', having regard to the emerging JCS, and its intention to direct substantial development ELL, rather than to the WLL. Further, CBC notes that the Appellants expressly disavow any intention to strengthen their 'housing need' case in Aylesbury Vale, by relying on an alleged shortage of HLS land supply in Central Bedfordshire.

Secondary Access – Highways Implications

178. The traffic and highways issues, which fall to be considered in the context of the 'second appeal', are narrow. CBC takes no point on highway safety in relation to the revised application, so that its concerns relate solely to the impact the proposed development would have on traffic conditions in central LL/B, and in particular on conditions within the 'East-West Corridor' ('the Corridor').
179. Having regard to the Inspector's qualifications, these submissions do not analyse in detail the technical data submitted to the inquiry on behalf the Appellant. Rather, they instead seek to summarise the Council's concerns.
180. The existing conditions in central LL/B are somewhat sensitive. It is only following the implementation of a traffic improvement scheme that the traffic in the Corridor has recently begun to flow at any acceptable rate. In addition,

due to certain constraints – notably the railway line, the Canal and the River Ouzel – it is acknowledged by the Appellants that traffic heading to the Town Centre from the appeal site must necessarily flow along the Corridor.

181. It is in this context that the impact of the appeal proposals falls to be considered. By way of summarising its case, CBC makes the following observations regarding the work undertaken by the Appellants' Consultants. First, they have modelled traffic impact within the Corridor by means of various software packages, but primarily 'ARCADY V6'. An accepted limitation of this approach is that it does not allow for the modelling of junctions in sequence, but instead views each junction in isolation – for practical purposes stacking queuing traffic 'vertically' as opposed to 'horizontally'.
182. In the present case, this approach has the consequence of rendering the modelling inaccurate, because it does not have regard to the impact that traffic queuing back from one junction within the Corridor, would have upon its neighbouring junction(s). The Appellants concede that this flaw in the program renders the modelling "*less efficient*". In fact, the truth is that it renders such modelling wholly unreliable, given the acute degree to which the various junctions within the Corridor interact with one another.
183. Secondly, the modelling the Appellants have undertaken has not been validated. It appears that reliance was placed on video-monitoring and observations undertaken by third party consultants. Two points flow from this. The modelled ARCADY data has not, in any comprehensible way, been adjusted to reflect the 'existing situation' observed. Indeed, there does not appear to have been any adjustment made to reflect it whatsoever.
184. Moreover, the work undertaken by the Appellants' consultants is deficient. In the context of the 'Vimy Road Junction', it is conceded that the relevant video footage had not been viewed, nor had any discussions taken place with the relevant persons employed and on whose observations they purported to rely. The video-footage seen by CBC simply does not show what the Appellants had assumed/been told that it did. In circumstances where the footage had not been seen or the relevant witnesses spoken to regarding its tabulation, it is unclear on what basis the Appellants can sensibly argue that they had adjusted the ARCADY data to reflect it.
185. Having regard to these considerations, it is simply not credible for the Appellants to continue to maintain that the modelling had been validated/adjusted so as to reflect the existing traffic conditions within the Corridor.
186. Next, the Appellants concede that, with reference to the pedestrian counts, modelling undertaken did not reflect pedestrian movements in the vicinity of relevant junctions. By way of example, in the case of the junction of Bridge Street/ West Street, a single movement of some 8-seconds has been allowed in each minute during the peak period.
187. Such an approach does not have regard to the fact that some movements would last far longer than 8-seconds. For example, the movement would extend in circumstances, where a second pedestrian set foot on the crossing before the first pedestrian had left it. Nor does it recognise that the volume of movements is not evenly spread throughout the peak period, but instead rises

significantly during the 'mid 30 minute period' of that peak hour. The Appellants emphasise the degree to which traffic flow through the Corridor is affected by pedestrian movements. That the modelling does not allow sufficiently for the impact of such movements must necessarily reduce the weight to which one can attach to the work the Appellants have undertaken.

188. As the Appellants confirm in answer to questions put by the Inspector, they had not made allowance for 'committed future developments' at LL/B, when modelling future traffic conditions. They had instead confined themselves to making an allowance for underlying growth. Not only was no adequate explanation provided for this approach, but the Appellants did not point to any adjustment to their modelling, which might have compensated for this omission.
189. Having regard to the matters set out above, it is submitted that the traffic modelling on which the Appellants seek to rely is simply not fit for purpose. The baseline data that underpins that modelling is manifestly unreliable. Quite simply, it is not reflective of existing traffic conditions – a point illustrated not only by CBC's on-site monitoring, but also by the video-footage commissioned by the Appellants' team, but which they had failed to view.
190. It is widely acknowledged that the Corridor is a particularly sensitive location in terms of traffic congestion. The Appellants' proposals envisage the erection of some 900 dwellings WLL, and traffic generated by that development, which seeks to access the Town Centre must necessarily pass along that Corridor. In addition, there are also likely to be problems in the vicinity of the Bunkers Lane/Wing Road, close to the signal controlled railway over bridge. In these circumstances, it is incumbent on the Appellants' team to satisfy the decision-maker that the proposals would not adversely impact the fragile traffic conditions existing in the Town Centre. This, they manifestly fail to do, and on that basis the appeal against the decision of CBC to refuse planning permission for the secondary access should be dismissed.

Concluding Remarks

191. The Appellants' proposals, while no doubt commendable in certain respects, are demonstrably flawed in others. Having regard to the matters addressed in these submissions, and also with a view to what is said by AVDC, CBC respectfully asks that the Inspector recommend to the SoS that the appeals be dismissed.

THE CASE FOR ARNOLD WHITE ESTATES LTD (AWE) (Rule 6 Party)

The material points are:

192. The Appellants' case as it unfolded at the inquiry seems to have departed from the Statement of Case and the submitted planning evidence. The definition of 'red herring' is 'something that draws attention away from the central issue' and this the Appellants seek to do.

AWE Background

193. AWE has very significant development interests, as landowner and promoter, of land around LL/B and Aylesbury and has been actively promoting strategic development in these locations for a number of years. AWE, therefore, has a direct and material interest in the proposed development, which is the subject of these planning appeals.
194. AWE has been working alongside the Luton and Southern Central Bedfordshire Joint Committee (Joint Committee) and its Joint Technical Unit (JTU) in respect of an urban extension including some 2,500 dwellings and other related development on land to the East of Leighton Linlade (ELL). This land is now identified as a 'Site Specific Strategic Allocation' (SSSA) in Policies CS1 and CS16 in the JCS. In June 2011, AWE submitted a planning application for Chamberlains Barn Neighbourhood for 950 of the 2,500 dwellings, and other development.
195. AWE is also promoting an urban extension at Aylesbury and in 2010 submitted a planning application for development including up to 1,380 dwellings at 'Quarrendon Fields', on the northern edge of Aylesbury. An appeal against non-determination was lodged in June 2011.
196. The appeal development, if permitted, may harm the legitimate development proposals on the ELL, including delivery of the Eastern Link Road (ELR). It may also have adverse impact on AWE's proposed, sustainable urban extension at Aylesbury.

The Development Plan (DP)

197. Section 38(6) provides that planning decisions must be made in accordance with the DP unless other material considerations indicate otherwise. The DP for the purposes of these appeals comprises the South East Plan 2009 (SEP) ^(Document CD5.2), the Aylesbury Vale District Local Plan 2004 (DLP) ^(Document CD7), the East of England Plan 2008 (EEP) ^(Document CD13.1) and South Bedfordshire Local Plan Review 2004 ^(Document CD14.1).
198. While the Government sought to revoke the Regional Strategies (RSSs) in mid 2010, and may yet do so through the Localism Act, which may be enacted later in 2011, the Cala Homes legal challenge has clarified that RSSs remain part of the DP until so revoked. The RSSs have superseded the Beds and Bucks Structure Plans and the Milton Keynes and South Midlands Sub Regional Strategy 2005 (SRS) ^(Document CD6) has effectively been subsumed in the more recent RSSs.

199. The Appellants agree that the appeal proposals are not in accordance with the DP and there are no other relevant material considerations, which would justify permission being granted.
200. The advanced stage of the JCS (Document CD15) makes this a material consideration and the appeal proposals are not in accordance with this emerging policy either. While the appeal site is mainly within AVDC's administrative area, it is on the edge of LL/B. The Appellants' central case is that the appeal proposals are justified by a HLS deficit in Aylesbury Vale, which is returned to below. PPS12(4.29 – 4.45) requires that Local Development Documents (LDDs) must involve public consultation in their evolution. The JCS has included significant public consultation and involvement, and the proper consideration of alternative sites, including the appeal site, which was not allocated in the submitted version. The JCS makes adequate strategic provision for the development needs of LL/B by way of land ELL (Policies CS1 and CS16).
201. A leading component of the Government's planning reforms is the focus on 'localism'. Leighton Linlade Town Council produced The Big Plan (2007), which set out the improvements that the community wishes to see over the following 20-years. These include a development strategy, identifies the ELR and a 'big wheel' of open space. Development WLL is not included in the Big Plan and there is substantial local opposition to the appeal proposals. Much more than that against land ELL according to the MP. The Big Plan was updated in 2011 by The Big Plan II (Document CD22), which says under the heading 'New Roads and Major Upgrades' (page 26): *Secure approval for a new Eastern link road to extend to the southern by-pass relieving traffic from the eastern development to the town centre, by providing an alternative north-south route.*

The Appellants' Case

202. The Appellants accept that the appeal proposals are not in accordance with the DP. As noted, s.38(6) then says that such development may, none-the-less, be considered favourably if other material considerations indicate otherwise. The Appellants' case as originally presented in their Statement of Case and evidence is almost entirely based on the 'material consideration' of the HLS in Aylesbury Vale, where the Appellants allege a shortfall in the district wide 5-year supply. A range is agreed between Appellants and AVDC that there is currently between 2.7 and 3.4 years supply district wide.
203. The Appellants accept that the appeal site would make no contribution to Aylesbury Town's needs, and it would be difficult to see how it could, being 15km away, located in the Rest of the District (RoD). However, they have made substantial efforts to demonstrate that disaggregation of the HLS figures between Aylesbury Town and the RoD is inappropriate for HLS calculation. It is claimed that, as AVDC's Reason for Refusal 2 refers to district supply, disaggregation is not applicable. However, it is a well established principle that the SoS is able to go beyond the wording of the reasons and consider all material factors. This is accepted by the Appellants. Furthermore there is nothing in PPS3 (54 or 71) to suggest that HLS is always based on a district wide position. PPS3 (53) says that LPAs have to take account of "the housing provision set out in the RSS".

204. SEP Policy MKAV1 clearly disaggregates the housing requirement, such that the RoD has a requirement for 4,700 dwellings between 2006-2026. The Winslow appeal decision of 20 June 2011 ^(Document A12) also accepts that it is right to disaggregate supply, that there is currently some 9.5 years supply for the RoD and continuing supply for the Plan period up to 2026 "*is unlikely to be problematic*". The 9.5 year supply for RoD is not disputed by the Appellants. Thus, on this basis PPS3⁽⁵⁴⁾ is satisfied, such that paragraph 71 does not apply.
205. With reference to the housing figures in Policy MKAV1, the Appellants confirm that the 900 dwellings on the appeal site would be additional to the RoD figure, but regard this extra number as falling within the flexibility offered by the Policy. However, this would represent an additional 19% on the Policy MKAV1 figure, which is surely stretching flexibility too far.
206. Publication of the 'National Planning Policy Framework' (NPPF) is expected very soon, but some details were leaked in Planning on 15 July 2011. Without seeing the final version in full it is difficult to assess any implications for this appeal. However a 'headline' requirement has been reported: *The existing Planning Policy Statement 3 (PPS3) on housing says that local planning authorities should "identify and maintain a rolling 5-year supply of deliverable land for housing". But a leaked version of the draft NPPF, seen by Planning, goes further than this and would require councils to include an additional allowance of at least 20% in their local plan. An allowance of 20% would roughly mean that a 5-year supply would become six, and if this were to be applied to the RoD figures then the acknowledged 9.5 years supply would clearly exceed the leaked NPPF figure.*
207. The position on HLS for the adjoining District, Central Bedfordshire, was raised in *passing* and at a late stage by the Appellants. They claim that it is only done to demonstrate that if there is a problem with HLS in AVDC then CBC is unable to assist.
208. The Inspector suggested that the appeal site is not located to, nor is intended to, serve the local needs of the rural communities of AVDC, that it would not serve the *needs* of Aylesbury town, so is in effect an addition to the SEP housing provision. This was taken on board by the Appellants, who effectively changed their case. It was then presented that LL/B could be extended to the west, somehow bringing forward the SEP review, and that the appeal site is the only suitable location for such an urban extension. This is an entirely new basis for the Appellants' case, which is not mentioned in their Statement of Case or evidence.
209. The *population* of LL/B was recorded as being 32,417 in the 2001 census, and in 2010 estimated to be 37,000. The ELL urban extension of 2,500 dwellings, based on the average household size for Central Bedfordshire of 2.47 people, would add up to 6,175 to the population, or 17%. This would seem to be a challenge for the transport system, employment and services to accommodate. The ELL extension has been designed in the JTU Masterplan, based on Policy CS16 in the submitted JCS, as an integrated addition to the Town at a scale which the JCS has clearly judged to be acceptable. To add a further 900 dwellings/2,223 people or another 6% in addition to the JCS numbers would

be a further large, but unplanned, burden on LL/B's infrastructure and services.

210. The Appellants accept that the SEP ^(23.10) rules out the expansion of LL/B into AVDC, and that EEP Policy H1 makes the total housing provision of SRS Policy 2b for Luton, Dunstable, Houghton Regis and Leighton Linlade growth area (26,300 dwellings) within Bedfordshire. Thus, there is no provision in either RSS for the expansion of LL/B on land to the WLL and, it is accepted that to do so would be contrary to both the SEP and EEP.
211. So, despite much attention being given by the Appellants at the inquiry, though not in their Statement of Case or in evidence, to the ELL planned extension and the evolution of the JCS, in the end this has all turned out to be a 'red herring'. The Appellants seem to have eventually returned to their original case that the appeal should be decided on the basis of HLS in AVDC.
212. Lastly on the HLS point, the important consideration of PPS3₍₆₉₎ needs emphasis. PPS3₍₇₁₎ says, first, that if there is a shortfall in the 5-year HLS then it does not follow that planning permission should be granted; secondly, should the SoS reach the conclusion that only a district wide assessment is appropriate, then the consideration of PPS3₍₆₉₎ arises. The Appellants do not help their case on this point, because they misquote PPS3₍₆₉₎ throughout their proof by leaving out the critical test: "Ensuring the proposed 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 wider policy objectives e.g. addressing housing market renewal issues." (emphasis added)
213. Perhaps at the time that the Appellants' evidence was written the importance of these words was not fully appreciated. Their later Rebuttal, after seeing the evidence from the other parties, asserts that the appeal proposals are "*wholly consistent with the spatial vision*".
214. When the 'spatial vision' point became apparent in cross examination, the Appellants developed their own definition of the 'spatial vision' and seek to show that a WLL extension is "*wholly consistent*" with it. Their definition seems to be 'development at any sustainable location' and they seek to demonstrate that the appeal site, being an urban extension to LL/B is a sustainable location. In cross examination, however, they could not point to any specific part of the DP in support of this definition.
215. It is fairly obvious why. This definition is far too loose to be the actual 'spatial vision'. For example, although LL/B is clearly a sizeable town with many facilities, any urban extension around its periphery would meet this definition. This would also apply to any urban extension on the periphery of any large town. In any event, for testing the sustainability of the appeal site, rather than LL/B generally, the serious concerns of the landscape and transportation objections, the distance to Aylesbury and lack of adequate public transport links, distance to schools etc undermine the claim of sustainability.
216. The actual spatial vision as defined by the DP (SEP Policy MKAV3 headed "spatial framework") is somewhat different. In summary, it is to concentrate development in AVDC at the Town of Aylesbury, plus a much smaller amount

"to meet the local needs of its settlements and rural areas" (plus an extension to Milton Keynes). The appeal site falls into none of these categories. Despite the Appellants finding it 'intriguing' or 'curious', it is a fact that LL/B is not mentioned as a sustainable location for development in the AVDC 'Review of Rural Settlement Hierarchy' (2009), even though towns within and adjacent to AVDC are included.

217. Thus, although the Appellants may consider that its development is "wholly consistent" with the spatial strategy test of PPS3⁽⁶⁹⁾, this turns out to mean a self defined 'spatial strategy', not one defined in the DP or any other planning document.

AWE Concerns

218. Although there are clear grounds for dismissing the appeal, it is important to emphasise the concern of AWE and Willis Dawson Holdings (WDH) should the appeal be allowed, despite this concern being described as 'paranoia' by the Appellants. They say that the appeal site is an addition to, rather than a replacement for ELL. If this were so then the exaggerated stance taken by the Appellants on many occasions to denigrate the ELL planned urban extension ('Green Belt sites') and the opportunity to criticise the long and proper evolution of the JCS would surely not have been necessary. Even the suggestion that land ownership may be a problem comes to nothing.
219. The Green Belt issue is, in any event, another 'red herring'. Policy 2(a) of the SRS clearly envisages that urban extensions to LL/B are likely to take place within areas which are currently Green Belt, and PPG2^(2.7) acknowledges that alterations to Green Belt boundaries may be acceptable where "*alterations to the structure plan have been approved*". The modern equivalent to the structure plan in this area is the approved SRS. Development in the Green Belt has, therefore, already been sanctioned by the SRS in the circumstances described in PPG2. Furthermore, despite protestation by the Appellants, it is surely an administrative boundary anomaly that in Bedfordshire the extent of the Green Belt extends much further northwards than in Buckinghamshire.
220. Three of the purposes of the Green Belt evinced by PPG2 are to '*check the sprawl of urban areas*', '*safeguard the countryside from encroachment*' and '*preserve the setting of historic towns*'. If LL/B is exerting pressure for growth, then it would be logical, save for administrative boundaries, for the Green Belt to wrap around the whole town, not around part of it. If land ELL is released, and the JCS is proposing this after looking at all options and taking account of the Green Belt issue, and "*compensatory Green Belt extensions*" are sought (SRS Policy 2a), where better than on the western side of the town? Of course, as this is set out as a task in SRS for a review of the RSS, it is no longer possible with their demise, but in planning and commonsense terms it is justified.
221. It is difficult to see how the SoS could allow the appeal on the basis that the ELL site is a proper urban extension to LL/B. Not least, because, unlike the 'plan led' approach of the JCS, there has been no SEA or proper public consultation. Whatever the outcome of the JCS, by any test (The formal test is set out in 'The Planning System General Principles' 2005 paragraphs 17 – 19) this appeal seems premature. The

Appellants will have ample opportunity to make the case for a WLL urban extension, rather than the planned ELL extension, at the forthcoming JCS Hearing.

222. That there seems to be recent difficulty (as yet 'unfinished business' as Luton Full Council did not consider the matter as expected on 19 July 2011) with the JCS, is seized upon by the Appellants (even though it seems to be a 'red herring') and adds to AWE's concern. If this appeal were allowed there can be no certainty that the quantum and location of ELL would remain in a future Core Strategy. The Appellants say that they regard the appeal site as additional not a part-replacement for ELL, but clearly this judgement is not theirs to make.
223. The emerging JCS Policy CS1 identifies three new sustainable urban extensions, including 'East of Leighton Linlade'. Policy CS16 sets out how this is planned and will be delivered. There is no provision for an urban expansion WLL, although this was considered at the Issues and Options stage (2007), but not identified in the Preferred Options Stage (2009). Despite the current, but as yet unfinalised problems with the JCS, it is noteworthy that none of the Inspector's concerns about the JCS directly affect the ELL SSSA.
224. On the contrary, this proposal is capable of early delivery, without substantial public funding, unlike the North of Luton and Dunstable SSSAs. The planning applications submitted by AWE are in accordance with the provisions of the emerging JCS and the JTU Masterplan, as they apply to the relevant part of ELL, and provide for all matters required in the JCS policies. The JTU Masterplan and the submission of the planning applications demonstrate that the delivery of the ELL urban extension is, therefore, at an advanced stage.
225. The ELL proposal has been carefully planned through the JCS process and in detail through a collaborative Masterplan ^(Document AW1, Appendix 3). It offers significant benefits to the Town, not least the provision of the ELR, which the evidence delivered by WDH demonstrates would result in an improvement to traffic flows of up to a 66%. An employment area of 16.9 ha is included, which it is anticipated will create 1,600 – 2,400 new jobs.
226. ELL proposals could be put in jeopardy if the appeal were allowed, even if CBC did not later seek to reduce its housing numbers. The unchallenged evidence, based on AWE's experience with the current large urban extension at Southern LL/B, is that the local market is for 200 new dwellings per annum. On that basis ELL could be delivered within 12-years starting in 2012, and the ELR would be delivered in stages (linking the various radial routes) up to full completion of ELL.
227. The Appellants claim that ELL would not commence for 5-years, but this seems to be their assumption with no apparent basis in fact. When pressed in cross examination they say that the appeal site of 900 dwellings could commence in 2012 at 80 dwellings pa, rising to 150 pa in 2013 and continuing at that level to completion, which indicates a period of 2012 to 2018. If it were the case that both ELL and the appeal site were seeking to build and sell housing in the same time period, then clearly, on any commonsense view, a longer development period would ensue, because of market take-up. This could

affect the viability of both ELL and the appeal site, but could clearly mean a much longer period for ELL to deliver the ELR because 'trigger points' would relate to the rate of development.

228. This also raises the point of the relative contribution of the appeal site to LL/B's infrastructure. The Appellants' Unilateral Undertaking offers a very small amount to CBC, some £543 per dwelling for 3 items: community travel, traffic management and public amenity. CBC has adopted a SPD for Planning Contributions (2009) (Document WDH10) that lists 10 distinct items for which contributions are sought. Even on the basis that a contribution is being offered by the Appellants for education to Bucks CC, and the difficulties of the children from the appeal site travelling to distant Bucks CC schools was highlighted at the inquiry, the contribution being offered to LL/B infrastructure is very small.
229. This contrasts with the likely contributions that will be agreed as part of the ELL s.106, which have yet to be calculated, but are reckoned to be measured in several £000's per dwelling. For the ELR alone to be fully funded by the ELL developers will cost £M's. The new justification by the Appellants, that the appeal site is an urban extension to LL/B, is not matched by proper contributions in money or kind to LL/B's infrastructure.
230. A similar AWE concern relates to Aylesbury. If the Appellants are right that the 900 dwellings are part of an Aylesbury Vale District wide supply, then that number could be deducted from the quantum of urban extensions being planned for Aylesbury. AWE are promoting a sustainable urban extension to Aylesbury (within walking distance of the railway station), which includes 1,380 dwellings and that could be threatened if this appeal were to be allowed.

Conclusion

231. These appeals should be dismissed, because the proposals are contrary to the DP. Moreover, there is no case on HLS grounds: the Aylesbury Vale RoD, in which the site is located, has an abundant supply of housing land and the proposals fail the test of being in line with the spatial vision. If permitted, the proposals could jeopardise delivery of the ELL planned urban extension, which brings significant benefits to the Town including the ELR, and the Aylesbury sustainable urban extension. The progress of the JCS and the Green Belt issue are 'red herrings'. It is clear that the proper process to examine the WLL urban extension proposal, in contrast to the planned ELL extension, should not to be done in a piecemeal and one sided fashion through this appeal.

THE CASE FOR WILLIS DAWSON HOLDINGS (WDH) (Rule 6 party)

The material points are:

Introduction

232. As a Rule 6 party our main concern throughout this inquiry is to establish the basis of the case being made for the unplanned release of an additional 900 houses on land, which, although it abuts the western edge of LL/B, is actually administered by AVDC. In other words, is the housing needed to meet LL/B needs or AVDC needs? The Appellants' evidence relates wholly to the policy situation in AVDC and, indeed, they confirm in cross examination that this is their case.
233. Notwithstanding, at the same time they continually make reference to the sustainability credentials, by reference to proximity to LL/B and its facilities. Moreover there was a 'late appearance' of the 5-year HLS situation in Central Bedfordshire and the problems relating to the CBC's JCS. These points are returned to below. However, the Appellants are taken at their word, commencing with a review of the evidence presented by the Appellants in relation to AVDC. Fundamentally, the DP for this area has to be the starting point for any decision maker.

Development Plan for AVDC

234. Having said this, even determining the documents that actually comprise the DP is not an easy task in these times of change and litigation. Consequently, it is necessary first to say a word about these changes. The Inspector indicated that, by the time the SoS issues a decision, the Localism Bill may already be on the statute books as it is intended to be enacted in early November 2011.
235. As the actual removal of RSSs would appear to await an SEA, and the expectation is that the SEAs may take some time to prepare individually, the RSSs (and SRSs) may subsist for some months yet. The weight to be attached to these documents may be reduced in this 'purgatorial state' as per 6 July 2010 letter from Stephen Quatermain. AVDC has already indicated that it does not intend to implement the RSS growth numbers in full and, having abandoned its initial attempts, is seemingly awaiting the enactment of the Localism Bill before starting work on a replacement Core Strategy.
236. Thus, in the meantime, and for the medium term, it appears that within AVDC the DP will comprise the 'saved' policies of the 2006 DLP and the SEP 2009 which, on the Buckinghamshire side of the border, supersedes the SRS.
237. The Appellants admit that the appeal proposal is not in accordance with any DP policies, as the site is in the countryside i.e. not brownfield and not allocated for development. The release of the site would be contrary to a number of policies in the DLP (Policies GP35 and RA14) and to Policy C4 of the SEP. More importantly still, it is specifically referred to in the SEP^(23.10) as not being identified for development to meet the needs of LL/B. This is unlike the Newton Longeville area in the north, which was to have been identified for Milton Keynes expansion.

238. The Appellants, nonetheless, take the view that there are other material considerations that need to be taken into account – specifically the 5-year HLS position and the sustainability credentials of the appeal site, but in the context of its relationship to LL/B. Neither of these points stands up to detailed scrutiny.

PPS3 Criteria

239. The 5-year HLS position is invariably an important consideration in determining any planning application, but it is important to ensure that the release of any additional land outwith the Forward Planning Process complies with the advice set out in PPS3. This is completely explicit and derives first from PPS3⁽⁷¹⁾, which states that planning applications should be considered “*favourably*”. It should then be cross referenced to PPS3⁽⁶⁹⁾, which requires development to comply with six criteria. In their original evidence the Appellants did not bother to consider the six criteria, although they did subsequently, after considering the evidence from the two Councils and the two Rule 6 Parties, address it in a Rebuttal Proof. Four of the criteria can be accommodated on the appeal site, but there are two specific requirements, namely landscape and environmental sustainability and spatial vision, where the scheme is notably deficient.

Landscape and environmental sustainability

240. Looking first at the third criterion of PPS3⁽⁶⁹⁾, involving “*environmental sustainability*”, although this expression is not defined within the PPS, it is clear that it refers to site specific characteristics such as visual or ecological impact of the proposed development. In this case all the objectors are agreed that the landscape impact of the proposals would be significant; indeed this is the major reason why the site was not considered for development during the Forward Planning Process. This point is referred to again below.
241. A substantial *amount* of evidence in respect of the landscape impact of a housing scheme on the appeal site is submitted both by us and AVDC, both opposed to the development, as well as by the Appellants. The Appellants claim that any harm to the landscape is deemed to be acceptable, primarily because of the recent construction of the By-pass, which loops around the site to the west. They go so far as to indicate that if the new road was not in place then they would not be arguing for development to the west of the existing ridgeline, within which the Town of LL/B is largely contained (to the east). However, in their opinion the road creates the opportunity to establish a new boundary to the Town in the form of a new road.
242. Two questions arise from this assertion. First, what impact does the new road have on the countryside WLL and secondly, does it provide a stronger boundary for development than the existing, ridge which is located well above the road?
243. On the first of these questions, there was much debate about the impact of the road. It depends upon whether or not you believe the road has an urbanizing effect, justifying its use as a new boundary for the Town; or whether, as the objectors claim, it is merely a road within a rural area, which in due course will

be absorbed into the landscape, especially with the planting schemes associated with it. On the second question, even allowing for the road the ridge represents a prominent topographical feature that contains the Town, which essentially comprises the two linked settlements of Leighton-Linslade and Leighton Buzzard (LL/B) at a crossing point on the River Ousel.

244. In this context, the most obvious point to make about the appeal proposals is that the built development would occupy the high point of the ridge within the site and that the open space proposed would be accommodated on the lower parts of the site, alongside the By-pass. This fact alone brings with it problems, since the development itself would be on the skyline, when viewed from the west. The new buildings, which are shown on the DAS, are up to 3-storeys high, lie 10–27.5 metres above the road on the most steeply sloping parts of the site. Moreover, the buildings extend beyond an obvious ridge line, which currently contains the settlement of LL/B and any new development would spill over the ridge and be highly visible for any road and footpath users approaching the Town from the west. Additionally, the new development would slope away from the Town and be visible to a significant number of local residents.
245. In visual terms the form of the development, which follows the contours, is relatively high density and being up to 3-storeys in height would ‘cascade’ down the slope. The effect of this on the relatively steep gradient within the site means that its elevated position would make it visible, particularly early on, before planting alongside the By-pass softens views from the road.
246. There was considerable debate about whether or not the ‘hard’ effect of a cascade of buildings over the ridgeline could be softened further by the introduction of avenue trees along the access road. However, the practical difficulties of introducing forest scale trees of at least 12–15 metres in height in order to break up the roofscape of 2½ and 3-storey development, would be significant.
247. Indeed the introduction of such trees would give rise to major problems in terms of the living environment for occupants, without providing any real screening benefits even in the medium to long term. Such problems not only involve loss of outlook, loss of light, difficulties of access for larger vehicles, but also include reduction in solar gain and potential route protection zone problems, not to mention the need for cut and fill, on this relatively steeply sloping site. Indeed, the degree to which the addition of internal landscaping within the residential development poses problems is a reflection of its elevation and gradient above the surrounding countryside.
248. There was also much discussion about the effect of development on the landscape character and in particular the findings of the two Jacobs Reports (Documents CD10.2 and CD10.3). The studies undertaken by Jacobs on behalf of AVDC formed part of the evidence base for its now abandoned Core Strategy and are interesting insofar as they assess the potential landscape capacity of the Mursley/Soulbury Claylands Landscape Character Area. Actually, they inform very little about the likely landscape impact of development on the appeal site, which is hardly surprising as they were intended as much larger scale

exercises covering the AVDC administrative area. They were not intended as site specific assessments of individual development options.

249. For the reasons set out below, a more site specific exercise was carried out by LUC (Document PN2, Appendix 9) as part of the evidence base for the JCS. The conclusions of this Study are that any development on the appeal site would be so damaging in landscape terms that it represented a "knock out blow" to its further consideration. These conclusions have been reinforced by the individual landscape studies undertaken by WDH and AVDC.
250. Such assessments take into account the new road adjoining the site but, unlike the Appellants neither considers that the road represents anywhere near sufficient justification for spilling over the ridgeline in landscape terms. Ultimately this is a matter for individual judgement, but WDH take the view that this clear visual objection to the release of the site means that the appeal proposals should not be allowed, even where there is a 5-year HLS supply deficit, because it is not "environmentally sustainable" i.e. there are strong landscape objections to its development.
251. It is perfectly true that the area concerned has no specific landscape designation giving it additional protection, but the way in which the Town is currently contained to the east of the ridge, providing it with an important landscape setting, combined with the appeal site's steeply sloping, west facing gradient and the relatively dense form of development proposed, all suggest that this is a site that should benefit not only from the general countryside protection policies in the DLP and the SEP, but also from the protection of the countryside in its own right as set out in PPS7. In landscape terms there are far less intrusive sites that could be considered to make good any land supply deficit, including those sites at Aylesbury mentioned by AVDC.

Spatial Vision

252. The second area of debate at the inquiry relates to the failure of the proposals to comply with the spatial vision for the area, which is the last (and frequently ignored) criterion set out in PPS3₍₆₉₎. There was some debate about the nature of the spatial vision for this area, but the evidence on this point seems crystal clear. The overall distribution of housing within SEP Policy MKAV1 demonstrates the focus at first Aylesbury Town and then secondly as an urban extension to Milton Keynes at Newton Longville. This Spatial Vision represents an enhanced version of the DLP strategy, which predates the SEP that also seeks to focus housing development at Aylesbury and then at a group of second tier towns, but not at LL/B.
253. It follows that the spatial vision for the area focussing development at Aylesbury and then at second tier towns has been in existence for a considerable period of time. It may change in the future, but we need to see this in the emerging Core Strategy, which will come forward after the RSSs are abolished. Today, it is clear that the release of the appeal site would be contrary to the spatial vision of the area.
254. The Appellants apparently accept that this area of land does not comply with the overall spatial vision and strategy for the area and they acknowledge that

outside the main growth points – Aylesbury and the edge of Milton Keynes – there is easily a 5-year supply of land in the Rural Areas (RoD). Their evidence suggests that in the RoD there is a need for further release of land post 2017, but this assertion is not justified, when account is taken of the continued likely delivery of small sites, which will take the overall completions within the RoD to a figure well in excess of the housing numbers contained in SEP Policy MKAV1.

255. This Policy within the approved DP for the Region sets out a clear spatial vision for the area for as long as the RSS remains statutorily part of the DP. The Appellants' response to this is twofold. First, they suggest that previously AVDC accepted the residential land supply deficit across the whole of its administrative area and decided to release individual sites in Buckingham and other settlements, which it deemed to be sustainable.
256. However, these sites have now been included in the land supply for the RoD and demonstrate beyond peradventure that there are sufficient sites in the RoD to enable residential development to come forward and probably meet the housing requirements in the SEP for the period all the way to 2026 (and possibly beyond). LL/B has never been identified as a suitable location for accommodating AVDC housing needs and, as noted above, it was not so identified in the SEP, which specifically indicates that it should not be released for development except after a review of the RSS.
257. The Appellants' second point is to suggest that adhering to the spatial vision will prevent the Council from meeting its housing requirements and, therefore, greater flexibility needs to be introduced i.e. the spatial vision set out in Policy MKAV1 needs to be ignored. Such an approach is not only misguided, but also disingenuous to the extent that it requires very heavy reliance on the overall housing numbers contained in Policy MKAV1 to sustain their 5-year land supply argument, but to ignore totally the other aspects of Policy MKAV1, since they do not 'suit their book'.
258. Equally important, it should be borne in mind that it is still perfectly possible for the 5-year land supply issue to be addressed within AVDC, while adhering to the overall spatial vision. In support of this view, there are a significant number of dwellings that are already the subject of applications/ appeals at Aylesbury. These are referred to in AVDC's evidence. If the SoS thinks that the 5-year land supply issues are significant and need to be resolved in the short term, then these sites could be released along with others.
259. Taken overall, the Appellants' stance on the spatial vision is illogical and unconvincing. The SoS has already made it clear that 5-year land supply assessments cannot, and should not, be used to override individual site specific objections or the adopted spatial vision for an area, unless there are very strong grounds for doing so. The site WLL does not fall into that category, for the simple reason that the landscape constraints are highly significant and the spatial vision does not anticipate meeting AVDC needs at LL/B.
260. Therefore, when looked at purely in the context of AVDC policies and housing requirements there are absolutely no grounds for releasing the appeal site.

The so called 'compelling justification' for the release of the appeal site based on the district wide 5-year HLS supply deficit simply does not exist when the advice in PPS3 is looked at properly.

Central Bedfordshire Council Issues

Milton Keynes South Midlands Sub Regional Strategy (SRS)

261. Although most parties to this appeal are clear when dealing with AVDC issues, WDH remain concerned that the Appellants rely on the proximity to LL/B as a subsidiary part of their case. In this context, WDH make particular reference to the SRS, which is still an extant document within the South Bedfordshire Growth Area. Paragraph 89 of the SRS makes it absolutely clear that: *"The housing figures in Policy 2(b) relate only to the Luton/ Dunstable/ Houghton Regis and Leighton-Linslade Growth Areas (including any areas within North Hertfordshire identified for growth associated with Luton/Dunstable/Houghton Regis and within Aylesbury Vale associated with Leighton-Linslade)."* (emphasis added)
262. Policy 2(b) itself makes specific reference to the fact that the housing numbers contained within it (26,300 dwellings), together with the annual average build rates for each of the 5-year periods may include land around Leighton-Linslade, but in AVDC area and that these count against the South Bedfordshire growth area housing numbers. This reinforces the point in Paragraph 89 and states that: *"The rates to 2011 reflect likely implementation constraints, and include any housing arising from the Luton/Dunstable/ Houghton Regis/Leighton-Linslade Growth Areas provided in North Hertfordshire or Aylesbury Vale".* (emphasis added)
263. These two, clear statements suggest strongly that any development for LL/B, which extends across the border (on to the appeal site) will need to be deducted from the overall housing numbers for the South Central Bedfordshire Growth Area, presumably on the basis that the site would be meeting Central Bedfordshire as opposed to AVDC needs. In this context it is highly relevant to draw attention to the JCS process, which sought to assess the suitability of the appeal site for development around LL/B as part of the JCS process.
264. The Appellants take issue with some of the conclusions drawn from the studies associated with the JCS, but these matters can and should be resolved through the JCS process in due course. The fact of the matter is that the appeal site was considered, but not selected as part of the Forward Planning Process, since the visual impact of the site was deemed to be unacceptable in terms of meeting LL/B housing needs. The Study justifying this was the LUC Study, which is explored at some length in the evidence.
265. It follows that, even if the site emerges outwith the Forward Planning Process, then the overall housing numbers could easily be construed as counting against the totals contained with Policy 2(b) of the SRS. Indeed, it would be unusual if CBC did not claim them for this purpose, since it is fully entitled to do so under the Policies within the SRS. It follows from this that there is a distinct possibility, maybe even a probability, the construction of 900 dwellings WLL could result in a reduction in the amount of development on the opposite

side of the Town. This would still maintain the proposed distribution of 2,500 dwellings at LL/B, with the majority of housing being at Luton/Dunstable.

266. The consequences of this occurring would be highly significant for the ELL proposal, which brings with it not only a range of housing, employment, green infrastructure and social infrastructure benefits, but also the construction of a new ELR. When completed, this ELR will bring substantial release to the traffic congestion in the Town Centre during peak hours.

Sites around Leighton-Linslade

267. As part of the question of the appeal site's sustainability credentials, the Appellants lay great stress on its proximity to LL/B Town Centre, particularly the railway station (to which we will return). However, they fail to mention that the most sustainable locations for development around LL/B have already been identified as being the north-eastern quadrant of the Town, as set out in the submitted JCS. They also make reference to the HLS position within CBC and indicate that in their opinion there is not a 5-year supply of land. While this matter is disputed by CBC, it is noticeable that in producing its housing trajectory CBC assumes that the ELL submitted allocations come forward within the course of the next 2 to 3-years as part of the Plan-led process.
268. WDH agree that this is the most logical and obvious way forward, as opposed to the release of rejected housing sites through the appeal system. Any proposals, which merely substitute the 900 dwellings proposed WLL with a reduced number ELL make no net improvements. Moreover, they arguably reduce the value of the Plan-led system, which has already identified the most sustainable locations at LL/B and make no impact whatsoever on the HLS position within the JCS area.

Prejudice to Joint Core Strategy

269. The release of land WLL would undoubtedly disturb the processing of the JCS. Given the importance that the SoS still attaches to proceeding with Core Strategies and the benefits of using a Plan-led system, all of which are spelt out in the Chief Planner's letter of 6 July 2010, then it will be highly regrettable for this situation to occur, not only for WDH and AWE, but also for LL/B residents and for CBC generally. It is a much more appropriate arrangement to allow the Forward Planning Process to identify sites, rather than for rejected sites to come forward through the appeal route.
270. Thus, we do not accept the blandishments of the Appellants that they do not see their scheme as competing with the ELL sites, since there is inevitability they will do so. The fact that they, along with others, have chosen to try to delay the JCS process for as long as possible tends to add weight to our concerns, regarding prejudice to the JCS.
271. In this context considerable debate took place about progress in respect of the JCS, where Luton Borough Council and CBC have something of an 'on/off' relationship. Obviously CBC would much prefer the JCS to proceed and it is still not certain that Luton can or will terminate the process. However, even if it was able to do this at some stage in the future, this need not delay

consideration of the planning applications ELL. One of these is already submitted by AWE and another is due to be submitted by WDH in the very near future. All necessary legal documentation is in place for WDH's part of the ELL allocation, which allows early delivery of the scheme and ensures delivery of the ELR and the improvement to the existing A505 junction. Both applications can be taken forward as the Planning Authority's Preferred Option for development at LL/B and as part of the Town's contribution towards meeting future housing needs through to 2026.

272. Given the overall land supply position we fully expect these applications to be carried forward either in parallel with, or ahead of, the JCS depending upon what happens to this latter document in the next 6-months. The ELL proposal has relatively few objectors compared to the other two urban extensions, North of Luton and Dunstable, and is of no significance to Luton Borough Council. It also has the support of the LL/B Town Council and we anticipate that the application can be dealt with relatively quickly, even if the JCS is delayed. The reason for this is that the Masterplan document for the site has already been discussed in detail with the Officers and is known to elected Members of CBC. Both applications have been subject to pre-application consultations and the technical issues associated with the development have all been ironed out.
273. It follows from this that any proposals WLL will undoubtedly prejudice the delivery of a major mixed use scheme ELL, with all the benefits that come with this latter scheme. The reason is that no-one, least of all the Appellants, can guarantee that the release of the appeal site would not give rise to a review of the overall housing numbers within ELL as part of the emerging JCS. Crucially, assuming that the dwelling numbers remain the same, then the SRS is clear on this point i.e. the numbers count against the CBC totals for LL/B.
274. It is possible that LL/B could have an increased allocation of 3,400 dwellings, but the much greater likelihood is that because this will disturb the balance with Luton/Dunstable, WLL will be deducted from the existing 2,500 dwellings, leaving only 1,600 dwellings elsewhere. Hence our very strong view is that the release of the appeal site would be prejudicial to the JCS process.
275. In addition to these major cross border issues, there are also the related problems on which WDH present evidence i.e. the potential loss of employment growth benefits associated with the ELL proposals, but which are much less significant in the appeal proposals and congestion in the Town Centre.

Employment Benefits

276. On the first point the Appellants lay great emphasis on the statements by central Government regarding growth, not only by reason of housing within the local economy, but also in relation to employment aspects. They quote extensively from the Growth Statement associated with the 2011 Budget and, also, make great play of the South East Midlands LEP objectives.
277. In reality, however, the benefits from the appeal site would be slight, because the employment proposals are considered, optimistically in our opinion, to

generate 478 jobs from a 5,000 sq.m. office park and a Local Centre. During cross examination the Appellants were forced to concede that this proposal would not even provide new jobs equivalent to the newly economic active persons within the residential part of the development. This would clearly contravene the emerging JCS proposals, which seek greater self containment for LL/B.

278. By contrast, the ELL proposals would generate between 1,600 and 2,400 jobs, with the new Neighbourhood Centre jobs in addition to this. As such, it would be capable of being self-contained, albeit that many new residents are likely to have jobs already. Nonetheless, it would create the opportunity to live and work locally. The same would clearly not apply in relation to the appeal site, which the Appellants admit would simply add to outward commuting. Their only response to this is that, as the site lies near the Town Centre and close to the railway station, new residents on the appeal site could travel by public transport to London and Milton Keynes. The difficulty with Milton Keynes is, of course, that employment is not centrally focussed within the New Town and travelling by train may not be convenient.
279. Most importantly, however, it is clear that the alleged economic benefits associated with the appeal development are peripheral to say the least and should not weigh positively in the balance when determining this appeal.

Town Centre Traffic Congestion

280. In respect of forecast congestion, the Appellants rely on their proximity to the By-pass and very minor adjustments to junctions within the East-West corridor in the Town Centre (the Corridor). In fairness, they hardly claim to be undertaking any real improvements to the peak hour congestion within the Town Centre, though further improvements to junctions such as Bunkers Lane/Wing Road are now proposed. Their traffic modelling approach is based on that submitted with the original application some years ago, using ARCADY V6, and does not make use of the latest up-to-date micro-simulation modelling used by other Applicants, including WDH or even the latest version of Arcady. ARCADY V7, which was released early in 2011.
281. Despite the fact that there are now at least three micro-simulation models for LL/B – a VISSIM Model prepared by AMEY for the Town Centre, a Paramics Model prepared by SMA for the AWE application, and a VISSIM Model prepared by WSP for the WDH application – the Appellants have not thought it *necessary* to undertake the more expensive modelling of this type. The result is that the development would bring with it no real improvement in congestion, unlike the ELL proposal.
282. In addition to being arguably out of date, the modelling fails to take account of other commitments within the area such as the ELL allocation, which is now in the submitted JCS for CBC. This is a serious omission, but, in view of the Appellants' ambivalent position in relation to the JCS and to the allocation, it is perhaps not surprising.
283. The location of the appeal site on the administrative boundary of AVDC has meant that proper highway negotiations with the adjoining Highway Authority

(CBC) have been delayed and the Appellants have, not surprisingly, been unable to satisfy that Authority of the impact of the proposed development on the Town Centre. The mere fact that the development brings with it few improvements is testament and justification for refusing planning permission. The potentially adverse effect on the promotion of the ELL scheme through the JCS, which will have a positive impact on Town Centre congestion, is a further reason for resisting consent WLL.

Conclusions

284. WDH do not interfere in applications submitted by other house builders without good reason. In this case, WDH believe strongly that the impact of granting planning permission on the appeal site would substantially prejudice the JCS to such an extent that it will undermine the selected allocation at ELL for the reasons outlined above. Equally important, however, is the fact that, even ignoring these issues on the CBC side of the border, there are very strong site specific and policy grounds for refusing planning permission based on the 'view' from the AVDC side of the border.
285. The Appellants' original comment in their Supporting Planning Statement that there is a "*compelling justification*" for the release of the appeal site is based on nothing more than a 5-year HLS assessment, with little other analysis of the situation. A proper assessment following the advice contained in PPS3 should have made it clear to the Appellants that 5-year HLS situations cannot be used to argue in favour of the release of land, unless there are proper answers to potential constraints affecting the site i.e. landscape, and proper consideration given to the spatial vision for the area. In failing to undertake this analytical assessment the Appellants cannot even claim the support of PPS3.
286. Accordingly, the Secretary of State is requested to dismiss these appeals for these two reasons.

THE CASE FOR PAUL NEWMAN NEW HOMES (The Appellants)

The material points are;

Introduction

287. The Appellants bring forward an urban extension to the west of LL/B (WLL) of some 900 high quality houses, with a Primary School, shops, small offices, Health Centre (D1), Leisure and Community Use (D2) and Country Park. Paul Newman Homes are experienced, high quality builders and what would be built would be an extremely attractive place to live, and be viewed as such from the exterior.
288. The appeal site has easy access to the strategic route of the new western Bypass and close proximity to the extensive range of facilities of the LL/B Town Centre, including a train station, with quick access to Milton Keynes and Central London. There can be no reasonable doubt, but that the proposed houses and their substantial affordable housing element would be highly attractive to their respective markets. It follows there would be substantial contribution to addressing the National, Regional, and two Councils' shortfall of housing. It appears that there is nothing of a similar scale coming forward locally in a reasonable time to address that urgency.
289. It is an inevitable feature that a proposal of this scale, providing an urban extension, will be controversial, as far as existing residents, who live on previous green field sites, are concerned. The inquiry has been assiduous to give every opportunity for their case to be heard. It is also inevitable that a similar level of objection can be anticipated on the larger Green Belt sites to the ELL. However, the eternal conundrum is present – the some 2,000 plus residents of the new scheme would find no basis for objection.

The Strategic Approach

290. The purpose of the abolition of the RSSs is to speed up housing provision, in circumstances of abject failure to deliver. The DCLG Press Release of 7 February 2011 says: "*The Coalition Government made a firm pledge to sweep away these controversial strategies that have proved that top down targets do not build homes. All they have produced is the lowest peacetime house building rates since 1924 and fuelled resentment in the planning process that has slowed everything down*". The approach of both AVDC and CBC is, in effect, to continue that failure.
291. Government, through Rt. Hon Greg Clark MP. Minister for Decentralisation in a statement of 23 March 2011 has made the position quite clear. "*The Government's top priority in reforming the planning system is to promote sustainable economic growth and jobs. Government's clear expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy*". Given this patently sustainable location, the shortage of housing dictates that planning consent should be given. The appeal scheme is unequivocally sustainably located on the edge of a Town of 39,000 (2009 figure) residents, with a comprehensive range of facilities.

292. It must be fundamental common sense to build the houses that are needed in a place where its residents could support a town and its infrastructure ^(Document CB3, Appendix 3 CS Site Assessment Matrix page 6), and in turn where a Town would provide the services they need.

Policy

293. In the area of AVDC, the policies that apply are those in the SEP addressing the location and number of houses to be provided, and the saved elements of the DLP. The SEP MKAV Policies 1 and 3 ^(Document CD5.2), identify the numbers required and disaggregates them into Aylesbury, Milton Keynes and the Rest of the District (RoD). In the event that the SEP figures are set aside, the SHMA figures remain an adequate surrogate, until new planning policy emerges.
294. There is also some recognition of the reality of the locational issues in SEP ^(23.10), which advises that: *"Also, in the longer term it is possible that some of the growth of Leighton-Linslade or associated facilities may need to be accommodated in Aylesbury Vale District but no allowance is made at this stage in the housing figures for Aylesbury Vale pending future review of the South East Plan."* As the situation stands, it is most unlikely there will be a review of the SEP and the practical position is that allowance for this growth is needed now. The district wide numbers cast on the production and supply mean that there is an agreed failure in the 5-year HLS according PPS3⁽⁷¹⁾ and AVDC's second reason for refusal that specifically refers to the district wide figure.
295. It is the spatial vision to produce that order of housing in the DLP. That vision includes the approach set in the context of SEP Policy MKAV3, which seeks to ensure proportionality of provision in the context of the settlements (*"... to meet the local needs of its settlements and rural areas"*) alongside which any houses are to be put. The Town of LL/B is at a much higher level of scale and sustainability than all the other identified settlements in every relevant comparator. Once that is grasped, all the decisions, including the Winslow 2 appeal decision ^(Document A12), are reconcilable. The latter went some way to finding a housing shortfall, but it was not pressing in RoD (i.e. the settlements) and, in the site specific exercise of balance, the disadvantages did not outweigh the advantages.
296. The failure of supply in AVDC occurs in two out of the three sources of Policy MKAV1. The SHMA^(page 242 – summary box) found *"...the area of least strong demand is in fact that part of Aylesbury Vale designated for major growth."* That means the demand in AVDC is greater in the area where planned delivery for growth is not identified, namely in the area the appeal site is located. It should not be forgotten that the SRS Policy 2(b) housing rates include housing arising in LL/B and Aylesbury Vale. If housing is to be delivered to meet this Policy it will have to be outside Aylesbury i.e. RoD. There is no prospect of increasing the numbers for Aylesbury or Milton Keynes and this shortfall is exactly what the Government is trying to overcome through abandoning the RSSs. The Government wants to get on with building.
297. The appeal site is not allocated for development in a planning policy document. However, given the agreed position of a substantial shortfall in the 5-year HLS

(3.4 years supply with 2.9 at 2017 (AVDC), and a range from 2.5 to 2.7 to 2.9, it is a reasonable vision, by way of other material considerations, to find that the large Town of LL/B is the right place to service the shortfall.

298. It would provide housing choice to the WLL, where the neighbouring CBC appears wedded to building in the Green Belt to the ELL. It would be a poor strategic approach to compromise that advantage by unthinking restriction to administrative boundaries. AVDC and CBC appear incapable of grasping a cross border approach, which is so logical and it has to be the SoS's overarching commonsensical spatial vision, which must prevail.
299. There is reinforcement of that logic, when the CBC housing figures are properly examined. The 5-year supply calculation shows a shortfall going forward (Document CB5). Moreover, WDH agree and use this fact in promoting their site (Document WD1, paragraph 5.17). The position appears to be exacerbated by a recent shortfall in delivery at Southern LL/B as the result of pylon issues.
300. In that scenario, whichever side of the border is examined, there is a failure to deliver the needed houses. It is, thus, quite clear that AVDC cannot rely on its neighbouring authority to meet the unmet housing need. That authority, too, is failing.
301. By way of overview, the appeal site is, in any event, a potential contributor to the overall growth sought by Government. That impetus is of course supported by the Rt Hon Greg Clark MP Minister for Decentralisation 23 March 2011 advice to: *"deal promptly and favourably with applications that comply with up-to-date plans and national planning policies; and wherever possible to approve applications where plans are absent, out of date, silent or indeterminate"* (emphasis added). The attempts to produce Core Strategies in both Council areas have failed conspicuously. The Government does not want unwarranted delays caused by lack of plans, or even interpretation of moribund plans such as the SEP.
302. It is submitted that it would be wholly appropriate for the SoS to follow his 'presumption' approach, whatever was the HLS, given there are no other issues that prevail on which to base another approach. Significant weight is invited to be attached to the need to secure economic growth and employment. Moreover, here it is set alongside the added, compelling dimension of lack of 5-year supply. In combination, the drive to deliver houses and employment, which in turn would be an economic regenerator, is very compelling.
303. In the area of AVDC, the SEP is coming to an end, albeit it remains of limited weight at this stage in the Parliamentary process. The AVDC Core Strategy has been abandoned and the DLP is not up to date, and, in any event, gives no steer as to numbers. Across the border in CBC, the JCS is compromised. There are profound issues as to soundness, not least the admitted selection on 30 June 2008 of preferred Green Belt sites, without proper consideration of the (non-Green Belt) appeal site, and also the failure to undergo a full Green Belt Review as required by the SRS/EEP. These are not matters for this inquiry to adjudicate upon, other than to conclude that the appeal scheme is not standing in the way of any process across the border.

304. Added to this, it cannot possibly be appropriate to continue the JCS in circumstances where Luton is not a participator, having begun the process of withdrawal. CBC cannot continue alone, but must start again to promote its own DPD. That will require a new process of preparation, consultation and promulgation, and, not least, the preparation of a sound evidence base. It is a significant way forward in the medium term, and certainly not short term. Again the Council is without DP direction of any weight and arguments of prematurity are exactly what Government seeks to avoid (PPS3₍₇₂₎).

The Arnold White Estates (AWE) and the Willis Dawson Holdings (WDH) sites.

305. It is not part of the Appellants' case to say the appeal scheme needs to be read as an alternative to the ELL Green Belt sites. It is the Appellants' case that they provide, in the supply on the WLL, a complement to what may be delivered elsewhere in LL/B. Moreover, to justify the appeal scheme in AVDC they do not depend on the failure of the 5-year housing supply in CBC, argued for by these ELL sites. However, in AWE's opening submissions, the proponents of those sites claim *inter alia* that there is a potential compromise of profitability and prejudice of the JCS process as their sites are allocated. That requires assessment of, not adjudication upon, their status and their schemes. Put bluntly, their appearance at the inquiry is simple, old fashioned commercial self interest.
306. Neither ELL site is allocated. They are no more than submitted, preferred options in a deeply flawed attempt at an emerging JCS, which does not look as if it will run its full course for a number of reasons. The fact planning applications are submitted carries no weight. Planning permissions are what are needed. As such, they are no different from the Appellants and the appeal site. The Rule 6 parties now propose to bring forward schemes on an *ad hoc* basis, unjustified by formal policy. It is to be noted that AWE consider it appropriate to bring forward their scheme without WDH, and declare that they are able to deliver it on its own. That does not give any support to the notion of a comprehensive ELL solution.
307. Then, of course, they are sites within the Green Belt. If they are to go forward through a DPD process, then exceptional circumstances will have to be shown. As above, that would require a rationalisation through a full Green Belt review. If they are to go forward on an *ad hoc* basis, through planning application, and perhaps appeal as it now appears, the hurdle is extremely high. They have to show very special circumstances combining to clearly outweigh the harm of inappropriateness and other harm.
308. It is not for this inquiry to examine or adjudicate on what the very special circumstances may or may not be, but it cannot be said that these sites are easily appropriate in any way. The Stoke Road/Bloors appeal (Document CB3, Appendix 9) was rejected on Green Belt grounds. The emerging JCS and, in that case, the housing shortfall did not carry sufficient weight against that issue.
309. Despite the opening submissions, there has been no evidence whatsoever from the Rule 6 parties that planning permission for the appeal scheme would make either unviable, or even less profitable. It is appreciated that both companies

want to maximise their commercial position and see the Appellants and their scheme, as well as perhaps each others, as trimming it. That is not a proper basis for objection to the appeal scheme.

310. Also, they bring no evidence of certainty of delivery. Neither could give details of arrangements that could give confidence that landowners are signed up. CBC was asked to produce independent evidence expressing confidence of that delivery and none has appeared. There is no confidence that the necessary joint element of the development to build and fully fund the ELR is agreed to be funded or delivered. Several thousands of pounds may be attached to each property by way of a s.106 contribution, but not it seems as yet.
311. As above, there is no necessity to adjudicate on the Green Belt sites. It is unclear why their representatives attended other than through commercial expediency, which they have not been able to justify through evidence.

Landscape

312. The SoS will want to satisfy himself that, in circumstances where it is necessary to find housing land, on the exercise of balance, this is an appropriate place to build, given that any substantial site will probably have to be greenfield.
313. The appeal site has no statutory protection or designation. The suggestion by AWE that it should be Green Belt as a replacement for their Green Belt site, which they want to develop for housing is simply bizarre and irrational. As well as the lack of statutory designation, there is no lesser formal or informal planning designation, which renders it worthy of special protection. It is reasonable to assume that this is not the result of oversight, but of analysis over time, indicating no case for special protection. Thereafter, it is a matter of judgement whether the development for an urgent need is appropriate.
314. The appeal site is confined by the By-pass to the west, which is a clear delineation and would frame the urban area. As Mr Palmer, speaking for residents of Bideford Green, said at the evening session: "*The By-pass frames the green area*". The urbanising effect and noise from the road have changed the character of the area fundamentally. Movement along the By-pass emphasises how significant a feature is the engineering alongside the generally perceived and occasional physical awareness always of the Town to the east. The Jacobs Assessments ^(Document PN6, Appendix 3), commissioned by AVDC to appraise their entire area, concluded that the Mursley Soulbury Claylands (MSC) are of "*moderate sensitivity*" and placed the appeal site in a third tier of four in terms of landscape sensitivity. The advice is that the appeal site is much less tranquil than the rest of the MSC and is one of the least tranquil rural areas in Aylesbury Vale.
315. In contrast, LUC concluded the appeal site to be in an area of 'grade one sensitivity'. They were commissioned to assess the site WLL after the 30 June 2008: a key date, when the JCS was irrationally ^(Document CD15.6) set on a course of promoting Green Belt sites ELL as the preferred options. In a freedom of information response, it is confirmed that "*no documentary systematic*

discussion of the merits of the E/W LL issue" had occurred until after 30 June 2008.

316. Thus, LUC's 'grade one sensitivity' term is a description without provenance and self erected. It takes no account of tranquillity or mitigation. It has no inherent comparator, which a district wide assessment such as Jacobs achieves. It is not to be relied upon (Document PN2, Appendix 9). AVDC's evidence fails in the same vein, in assessing the 'Upper Fields' as having High Sensitivity. That area cannot be so described as, according to the principles of description (Document CD1.15, paragraph A2.19), it would have to be of nationally or regionally recognised landscape. Accordingly, the Appellants are right to describe it as 'medium'.
317. The Appellants have analysed the landscape professionally according to the proper approach. They have been consistent from their first preliminary and pre-ES report. AVDC is out on a limb compared to the Appellants and WDH. Where the Appellants and WDH differ, is in the range of judgement. The Zone of Visual Influence is broadly agreed (7 out of 8 viewpoints are within 350m of the site boundary) and the issue is the impact of the appeal scheme on the views. There is no policy invoking a private right to a view, so the few private views are not necessary broad planning issues. It is self evident that close views from adjoining existing houses would change substantially. It is inevitable when there is an urban extension and that is the price that has to be paid. All these are matters for site inspection.
318. Nor can it be seriously suggested that fine tuning on reserved matters is incapable of delivering a suitable landscape scheme as was suggested by WDH expressing their views on such as the efficacy of the London Plane. That was not an approach argued for even by AVDC. The slope of the site would be used to advantage with the predominant construction taking place along the contours and design and landscape can work together to present a high quality development, as has been articulated in the DAS. There would be free access to the 'green lung' of the open space on site to those who live beyond the appeal site.
319. In the northern part of the site, the land is in a natural bowl form, which again could accommodate development in harmony with the land form. The proposal must address the objective of creating a 'gateway' entry to LL/B as people move east and west along Leighton/Soulbury Road. It is appropriate with that goal to put development either side of the road, so it could create harmony and continuity north and south, at the reserved matters stage. More generally the good internal design and layout would mean that the presentation would be responsible externally.
320. The Appellants commissioned photomontage work predicated on appropriate tree heights. None criticise the methodology, and the presentation can be relied on as a useful guide to the appearance up to 15-years hence. AVDC's 'red wash' is simply too crude to be useful. Thus, it is submitted that there is shown to be harmonious incorporation of the development into the landscape.
321. No point is taken by AVDC as to any compromise of the Conservation Area (CA) at Soulbury. Issue is taken on the views, but not as a component of the

CA. Although AVDC makes a case for harm to the views from Soulbury generally, including private views, at no point has AVLP Policy GP53 formed part of the Council's case. Soulbury Parish Council (or any Parish Council) declares no objection. It must, therefore, be concluded that although both parties agree that Soulbury would experience visual change, neither considers that that change would be so significant as to trigger an offence to Policy GP53. This conclusion is corroborated by the findings of the ES (Viewpoint 3) (Document CD1.15), which concludes that from one of the most revealing views of the site in Soulbury the scheme would not generate a 'significant' change by year 15 – a conclusion with which WDH concurs.

322. It is AVDC's case that the only other relevant policies are DLP Policies RA2 and GP40. It is self-evident that the appeal proposals would not result in or even threaten coalescence with the nearest settlement (Soulbury) and thus, breach Policy RA2. Policy GP40 deals with the protection of Black Poplars and existing hedgerows. The BS5837 tree survey for the scheme (Document CD21.11, paragraph 2.2) provides a summary of the species on the site, from which it is clear, a fact agreed by AVDC, that there are no Black Poplars present.
323. There are no onsite TPO's. Similarly, the Ecological Technical Appendix (Document CD1.11, page 39) confirms that while 17% of the on-site hedgerows would be lost, 1,200 metres of new hedgerow would be replanted, resulting in a net overall increase in the hedgerow resource on site of 8%.
324. There must have been internal consultation and feedback within the 6-month period between the submission of the application and its determination. This would have allowed the opportunity to raise issues with the Appellants. During that period, despite the scrutiny of the ES, no formal Regulation 19 request, or indeed informal request, was made for the submission of further material, such as a night-time lighting assessment or cut and fill evaluation – matters about which the Council now contends are contentious issues. They are shortly dismissed.
325. The night regime is set by the substantial roundabout illumination on the By-pass. The SoS can reliably treat the photomontages as indicating the worse case before the levelling by cut and fill.
326. In summary, the appeal site is not valuable protected landscape, but is a working farm in the landscape. Any new housing of substantial scale is forced to go there or in places similar. This site is farmland, with the substantial Town of LL/B to the east, By-pass planting to the south and the By-pass itself to the west. The By-pass is a major influence on the tone of the site and the By-pass planting will effect a screen of much of the appeal site from the west. Although, of course, the planting is intended to screen the By-pass, it has the converse benefit. The noise and bustle of the By-pass are urban presences, changing the character of the appeal site for ever. If a greenfield site has to be taken, this is appropriate with no landscape issue of substance against it. CABE summarised it succinctly – despite their reservations north of Leighton Road, they found "*much to admire in the proposals for West Linlade. In our view a convincing case has been made for housing development in this location...*" (Document PN2, Appendix 4).

Highways.

327. There is agreement now about the efficacy of the primary and secondary accesses as to their technical design and performance to cater for the estimated traffic generation from the scheme. There is also agreement that there is no highway safety issue in any location at the site or further away. Neither Buckinghamshire County Council (BCC) nor the Highways Agency raises any issue. There is easy access to the By-pass from Leighton Road, where traffic has not materially increased since the opening of the By-pass; a feature common with other by-pass schemes ^(Document PN23). Moreover, the rail station is towards the western, appeal site, side of the Town, with access from Soulbury Road or Derwent Road via Bunkers Lane and Wing Road.
328. The only remaining issue is raised by CBC. This pertains to the implications for Town Centre junctions from any additional traffic generated by the appeal proposals. That issue must be seen in the context of existing conditions in the Town. It is a Town built either side of railway and canal corridors on north/south axes. The centre of the Town is, of course, the centre of commercial and retail attraction, to which it is desirable in policy terms to attract people.
329. There is inevitably 'busyness', with people resorting to shop, work etc and that is healthy. Many people come by car and can cause some peak hour congestion as a fact of life. It is the inevitable characteristic that movement is, thus, to an extent constrained for a short peak. Nevertheless, substantial works have been undertaken recently to improve the position and it has been recognised as a "*massive improvement to the town*" ^(Document CB1, App F). "*Congestion has now fallen below previous levels. Rush hour is still busy, as in any town of this size, but traffic now flows smoothly rather than becoming gridlocked on a daily basis as it had done for many years before*".
330. According to the Town Council, a journey that could take up to 30-minutes, now has an average time of 4-minutes. That order of improvement is corroborated by the joint surveys undertaken by the Appellants and CBC during the inquiry at the Inspector's request. Thus, the basis for analysis of the additional traffic is that the underlying conditions appear to have been improved.
331. The Appellants have gone through the proper methodology in their Transport Assessment. Counts were taken in appropriate months on single days at the relevant locations by independent enumerators. An ARCADY V6 programme was used to assess the junctions and empirical conclusion reached and set out in the evidence. Stirling Maynard ^(Document NW14, Appendix F), the independent consultants instructed by CBC, conclude that it is very likely that satisfactory designs could be brought forward for all three subject roundabouts. In the circumstances, it is submitted micro-simulation was not necessary given the Southern Linslade scheme, almost twice the size, was not required to go into that level of detail.
332. The conclusion is that there is no significant increase in traffic congestion and no significant detriment to the current regime. As such, it is supported by the CBC apparent stance on the Bloors Stoke Road application, where there did not

appear to be any basis of concern for the Town Centre junctions expressed to that Inspector, sufficient to require adjudication. If this was wrong, and there are implications for increases in the ratio of flow to capacity (RFC), it is likely to mean, in the worse case, a peak spread over a longer period.

333. The Appellants have applied the worse case, making no allowance for modal shift away from the car. For example, substantial cycle way provision is proposed to the station and to the Town generally, funded through the s.106. LL/B is a Cycling Demonstration Town, where the cycling culture is encouraged. There is bus enhancement not least from the proposed dedicated service from the site to the Town Centre, increasing up to every 20-minutes, when the development is complete.
334. Nevertheless the evidence of WDH saying that traffic with their works and PNNH development, presumably with its works, would achieve a regime that is better than currently experienced. They advise that their ELR will achieve a 33% reduction in delay across the network, and 66% deduction in the Town Centre Corridor. If the development WLL was accounted, it would still be below existing congestion. If that is right, the Rule 6 highway case falls. If they build, they create capacity, which would also accommodate development WLL. If they don't build, the Appellants' case is that they are creating sufficient capacity. Either way, there is no point of legitimate concern.
335. In conclusion on highways, there is no issue that stands against the proposal. None challenges the predicted traffic generation or the technical efficacy of the accesses. None seriously suggests that the Travel Plan, the highway works and the bus provision backed up by s.106 Obligations, are not effective to encourage modal switch for new and existing residents. None can say that busyness on the Town Centre network is undesirable, as it indicates Town Centre health. The evidence is that the historical congestion has been substantially improved by Town Centre works. The Appellants have done what was asked of them, namely to assess the junctions. None suggested micro-simulation at the time. None now suggests unsafe conditions would be created.
336. The Appellants' conclusion is that with minor highway works to three junctions, the traffic generation of the proposal could be comfortably assimilated. If PNNH are wrong, the worse case is an increase in the short peak within the peak. It would not be an issue of substance in all of the peak hour or in the non-peak hours. Thus, there is no substantial basis for refusal on highway or traffic generation grounds.

Ecology

337. The Appellants have gone through due process of commissioning Ecological Consultants to produce a fully scoped ES, covering all ecological matters. The responsible supervising authorities Natural England ^(Document PN10, Appendix 1) and AVDC have been satisfied, so that the SoS can be assured there is no issue that could not be addressed by conditions etc.. That should be the end of it, but representatives of the Friends of the Earth (FoE) and others have arrogated to themselves the role of ecological supervisors without

appointment. They have put in a number of papers, none of which carries weight, against the approbation from the responsible authorities.

338. There are three elements of apparent issue. First, the Valley Farm Fen amounting to 0.5 ha at the west end of the site, which is a designated Local Wildlife Site (LWS); secondly, the MG5 and CG3 grassland restricted to five fields covering about 3.5ha.; and bats, as the only species over which time has been spent at the inquiry.

The Fen

339. Investigations by the Appellants and Wildlife Trust conclude that, subject to the detailed design and implementation of the drainage strategy, the LWS would not be significantly affected by the proposals (Document PN10, Appendices 12 and 13). The conditioned Environmental Management Plan would ensure measures to maintain the efficacy of the ecological interest and function of the Fen. This would coincide with the SuDS mechanism to ensure that storm water could permeate to the Fen in a way that is appropriate. All the responsible parties are agreed as to this approach and that the Fen would remain.

Grasslands

340. The direct loss would be some 2.7ha of the grassland, which has weak affinity to MG5/CG3 National Vegetation Classification communities. There would be enhancement of the retained grassland and significant gain would be delivered through the Grassland Offset Project (GOP) (Document PN10, Appendix 6). The GOP would offset the 2.7/3.5 ha, with an area of restored and/or recreated habitat of between 11.4 and 17.2 ha, secured by condition. Again Natural England and AVDC take no issue with the solution.
341. This is in a context of a reality that there is nothing to stop farming practices, whether they are enhancement/control (fertilisation/weedkilling etc.) or alteration (ploughing/harrowing) of the area locally and more generally in a way which may compromise the Fen regime/LWS or any other part of the appeal site.

Bats

342. The combination of the Council Directive 92/43/EEC 21 May 1992, and The Conservation of Habitats Regulations SI 2010 No 490 Regulation 41, etc ensure bats are not to be disturbed in their habitats as a general proposition.
343. It is incumbent on a proposed developer to assess the bat population prior to grant of planning permission, so that the implications of any bat presence can be assimilated and appropriate courses taken by the decision maker. That has been done. The ES and the subsequent work on behalf of the Appellants are clear that there would be no compromise of any bat habitat in buildings. The Consultants advise that as well as that comfort at this stage, it would be prudent to continue to monitor during the construction phase and, in the event of a change in roosting that required addressing, it would be so addressed.
344. As for the one identified tree bat roost, in T68, of a non-breeding single pipistrelle, a common and widespread species, the advice is that a derogation

licence would be required and appropriate, applying the Regulation 53 tests of, in effect, need, no alternative, and favourable conservation. There would be minimal consequence. As for any other tree, which would be at risk from the development and according to the dynamic roosting pattern of bats, reveals issues that are not identified or identifiable now, they would have to be addressed in the same way.

345. Albeit a smokescreen of concern was raised by FoE over the lighting implications, based on the habits of horseshoe bats in the West of England and Wales, it is not a significant matter of concern for the species found foraging on the appeal site and its environs. The most recent communication from FoE (Document 3/1) appears, unsurprisingly, not to repeat the suggestion that kestrels can catch bats under motorway street lights.
346. Again, NE and AVDC are satisfied as to how the bat issues are addressed. Throughout, the Appellants have been assiduous to use best practice in their assessment, using highly qualified professionals who have analysed the circumstances very thoroughly. The ES and inquiry evidence from them covers all relevant aspects. There is no issue and those raised by FoE etc. leave no point of substance. Thus, the ecological regime would be respected and enhanced and would not be an obstacle to development.

Agreed Responses to Grounds of Refusal.

347. There are six other AVDC grounds of refusal in APPEAL A: Ref. No: APP/J0405/A/10/2143343 that have not been covered so far. These are 4: education; 5: drainage and water; 6: primary access; 7: traffic; 8: access to non car modes of travel; and 9: local infrastructure. These have all been discussed with AVDC and the appropriate authorities and been addressed. They are now agreed through a series of appropriate measures set in conditions or planning obligations.
348. The water supply and drainage issues have been addressed by the SoCG agreed with Anglian Water and a note prepared by AVDC (Document A9).
349. Highway safety, sustainability and the transport assessment has been overcome (Document A10) through a revised primary access application, now Appeal B Ref. No: APP/J0405/A/11/2154252.
350. Local infrastructure is addressed by an AVDC Statement (Document A8), which confirms that this is covered acceptably by the s.106 Unilateral Undertaking.
351. In determining and refusing the application for the revised primary access, now Appeal B Ref. No: APP/J0405/A/11/2154252 there is a ground of refusal on landscape impact. An AVDC Position Statement (Document A11) declares that, notwithstanding the refusal, the AVDC recognises that the proposal is an amendment to the arrangements proposed to serve the mixed use development that was the subject of application 10/00500/AOP, and which is the subject of appeal (Appeal B). AVDC acknowledges that, as a consequence of this decision, a further appeal has been co-joined with the substantive appeal – Appeal A. In the event that the substantive appeal is allowed, AVDC recognises that the overall benefits of the scheme would seem to outweigh the harm to the natural environment and that in these circumstances it would be

appropriate from a highway perspective to substitute these revised access arrangements for those originally proposed.

352. For the avoidance of doubt, Appeal C Ref. No: APP/P0240/A/10/2143323 is withdrawn ^(Document 10) in circumstances where a follow up application for a secondary access was refused by CBC and appealed Appeal D Ref. No: APP/P0240/A/11/2154254 is now before the SoS formally and CBC takes no point other than declared issues on the effects of the traffic generated on Town Centre junctions

Conditions and S106

353. Conditions and the s.106 Unilateral Undertaking, were covered in detail at the inquiry and there is a large measure of agreement, particularly in the objective of the conditions.
354. However, the background to the Unilateral Undertaking should be understood by the SoS. It is not because the Appellants are cavalier or recalcitrant about achieving signed agreements with the responsible authorities, but because they have had great logistical difficulty in even achieving meetings with the relevant departments to understand their needs or demands. In consequence they have had to do their best to provide Undertakings to the authorities, which cover the issues as they see them. Where they have exercised judgement as to what is appropriate by way of offer, they have been guided by what is reasonable.
355. Where there is issue, such as the split of affordable rental and shared ownership within the 35% affordable housing, the Council's favoured provider Guinness Midsummer say 25%/75% affordable/shared can be funded ^(Document PN27), AVDC say the reverse and a split of 50/50 promoted in the UU is eminently sensible ^(Document A24). The issue over education was believed to be only over special needs, and now there is no claim before the inquiry from BCC suggesting that Special Needs contribution is appropriate or even demanded. The reason it is not offered is explained in the Appellants' education consultant's note ^(Document D9).

Conclusion

356. The starting point of these applications is the failure nationally and locally to provide the housing, which is needed. The direction of travel of Government policy is to drive housing provision above 1924 levels. In this area, a new substantial site has to be found and to achieve this, a greenfield site is necessary. This greenfield development area, the appeal site, has no specific protection and is set in the landscape between a substantial Town and its Bypass. The proposal can meet sustainability criteria due to its proximity to the LL/B facilities and its ability to contribute substantially to meeting its own demands for such as education, employment, schooling, and recreation. There is no substantial traffic issue.
357. As such, it is a site that is remarkable for the few issues arising from a scheme of this scale. The Inspector is invited to recommend to the SoS that the positives are overwhelming in the balance.

THIRD PARTY SUBMISSIONS

Orally to the inquiry

358. **Andrew Selous MP** for South West Bedfordshire says that LL/B is the largest town in his constituency and the proposed development of Valley Farm is probably the most significant local issue. Concern started as early as June 2008 and since then there has been uncertainty, possibly amounting to blight. The new Coalition Government has taken the decision to abolish the regional planning tier, a tier which discriminates against local Councillors and people. The local decision here is to refuse planning permission for the proposed development. That decision should not be reversed relying on a top down approach supported by the RSSs, which a law in process through Parliament will remove in just 4-months. Local plans for homes should be supported and local views should not be bossed around by national or regional policies.
359. While not speaking on technical issues, the Councils are supported in their defence of the refusals. In particular, Derwent Road is busy, narrow, subject to on-street parking and potentially dangerous. The appeal site is regarded as a 'green lung' and is used for and appreciated for frequent walking and other leisure pursuits. Locally CBC is aware of the need to build houses and is not being negligent in this regard. A large number are proposed in the locality, predominantly to the east and south of the town. Yes this area is also seen as a 'green lung', but the 'correct' choice has been made locally, where there is nothing like the level of concern as for the proposed development to the west of the Town.
360. **South Beds. Friends of the Earth** (Victoria Harvey/Phillip Irving) are clear that the land should be protected from development at all costs. It includes locally important habitats including lowland fens, lowland meadow and hedgerows, and is, in part, a County Wildlife Site (CWS). Proposals would contravene natural biodiversity objectives for such habitats. A detailed analysis is submitted in the Ecological Assessment ^(Document 3/1), and it is concluded that the habitat is of sufficient nature conservation interest for it to be considered for designation as an SSSI.
361. Valley Farm acts as an important link in a circle of green infrastructure that surrounds LL/B and extends outwards to link up with additional areas to the north and south of the town providing both valuable wildlife corridors and existing or potential public open space and access routes. The loss of much of Valley Farm would create a major break in this circle of green infrastructure with the urban area of LL/B effectively intruding into green ring around the town, with the resulting fragmentation of habitats and harm to biodiversity. There are also detailed reports submitted concluding that inadequate information has been submitted in respect of protected species and the European Directive ^(Document CD18.5).
362. FoE have well founded concerns over the survey work undertaken in the ES in respect of European Protected Species, namely bats. As a consequence, there is a very real risk that the significant likely effects of the proposed development have been underestimated and the mitigation proposed would be inadequate. No full consideration appears to have been given to the

requirements of the Habitat Regulations 2010 as regards the criteria for derogation from the system of strict protection afforded to bats and there is further risk that, without considering these, a breach of regulations may occur were these appeals be granted. Concern is also expressed about the effect on bats of lighting within the appeal scheme.

363. In connection with habitat protection, Valley Farm contains a range of nationally and locally important Biodiversity Action Plan (BAP) habitats, including lowland fen, lowland meadow, wet woodland and hedgerows. The Valley Farm Fen is identified as a CWS and, as noted, could be considered of sufficient nature conservation interest for SSSI status. Some of the grassland at the Farm is also likely to be of sufficient interest to be considered to be at least of CWS value. The appeal development would lead to the direct loss of areas of species rich lowland meadow, which is in direct opposition to one of the targets in the UK BAP for this habitat. There appears to be no information on the hydrological impacts of the development of Valley Farm Fen CWS and there are no apparent mitigation measures to protect it from possible changes in the water table as a result of it.
364. Turning to travel matters, there are also concerns about the very poor standards of community travel, which do not accord with CBC's standards. The Travel Plan is weak and therefore, the development would be high carbon and not a sustainable development. It would be in conflict with PPS1 and its supplement on Climate Change. Having regard to LL/B status as an exemplar for sustainable transport, this development should be aiming for a modal shift of 20% as has been secured on other nearby sites. There is no figure included. The upshot is that without a robust regime of non-car travel and with the By-pass close at hand the default position would be the car.
365. (Heather Lewis) for the **Berkshire, Buckinghamshire and Oxon Wildlife Trust (BBOWT)** objects to the proposals as insufficient ecological compensation measures are proposed to achieve the no net loss to biodiversity required by PPS9. There would be insufficient mitigation against loss of protected habitats and species. In particular, the development would result in considerable degradation or loss of Valley Farm Fen CWS – a site of County importance. Here there are fears for the eco-hydrological conditions as a consequence of development on the higher land, which currently drains into the Fen. It concludes that a SuDS system would not guarantee that the eco-hydrogeology of the Fen would not be adversely affected. Crucially, the baseline of existing conditions needs to be established in order to design the safeguarding requirements. So far this has not been undertaken using the latest research. The requirements for the eco-hydrology of the Fen would need to be an integral part of the Ecological Management Plan and must ensure current conditions are maintained throughout both construction and post construction phases of the proposed development.
366. The proposal also fails to consider the impacts on surrounding non-statutory designated wildlife sites – Kings and Bakers Woods and Heaths, Liscombe Park. The proposals would result in loss of bird habitats contrary to PPS9 and SEP policies. Further hydrological assessments are required to calculate the risks to wildlife habitats. The proposals would result in loss to the network of high biodiversity open spaces surrounding LL/B.

367. **The Greensand Trust** (Mr Ballam) notes that while the appeal site does not have a primary landscape designation, it is contiguous with the Brickhills AAL in AVDC and the Old Linslade/Linslade Wood AAL within Central Bedfordshire. The development would fundamentally change the landscape character of an essentially green valley and instead create an urbanised view to the east of the By-pass. By-pass planting is not an effective mitigation to this urbanising influence of a rural corridor.
368. The number of proposed dwellings is excessive for the nature of this site on sloping land and the Trust is critical of the green infrastructure proposals within the indicative layout. Particular mention is made of accessible green space and access routes, and the provisions for horse riders, and linkages to facilities within LL/B. The proposals do not meet the criteria for a 'country park' as set out in PPG17, but merely proposes a combination of amenity green space and accessible natural green space of only middle order significance. A much stronger green corridor is required right through the site.
369. There is also concern over the impact of the development upon the ecology of the CWS. The location of the sports pitches on the lower flat land to the south of the site, contiguous with the Valley Fen is not conducive to wildlife transit to the wider environment. The Country Park is too small to deliver all the ecological elements being claimed. There would also be a loss of ridge and furrow features within the site.
370. The Trust concludes that its belief is that the size of built development in as large a site as this could still deliver higher levels of green space and access objectives. Moreover, its level of extension down the steeper slopes would seriously impact on the existing green valley that provides a key link between the areas of Green Belt and otherwise designated land areas surrounding it.
371. **Mr T Daly** (resident) says that PNNH have still kept going despite massive local objection. The appeal site is high quality, open and sensitive landscape, which should be respected, enhanced and protected. This scheme would breach a sensible boundary and disturb the tranquillity and the landscape quality. There would be the further loss of fields, footpath enjoyment, some ridge and furrow and views from outside in such as Linscombe Park after the By-pass. The access points are inadequate and there will be additional congestion around the site and in the Town Centre. The bus journey would still take 25-minutes as opposed to 5-minutes by car. The qualifications for sustainability are questionable and this project would attach itself to LL/B as a parasite, merely because it is built alongside the Town. Newman Homes are in debt and they should not be allowed to overwhelm local people and local decisions.
372. **Mr Keith Jennings** (resident) says that his expertise is not technical or professional, but as a resident of LL/B for 33-years. He comments on a few key issues raised at this inquiry. These are first, landscape and he endorses the AVDC approach. Crucially, the experience in the valley is one of classic English countryside, which is part of a continuum alongside the By-pass. In addition to the designated footpaths, there has been no formal restriction over the remainder of the site. As such, it has been of greater benefit to the local people, offering access to the wider areas of Aylesbury Vale. The proposed

buildings would stick out like the proverbial sore thumb, a substantial blot on the landscape. The 3-storey housing, some on the skyline, would add significantly to the intrusion. Adopting the By-pass as the boundary would be urban and not a natural boundary as suggested by the Appellants.

373. Although the two access points are consequential on the main site development, their proposed locations, structures and implications demonstrate some of the fundamental problems with the entire scheme. The primary traffic signal junction with Leighton Road would constitute an additional hazard, and there would be longer queues, especially at peak times. The same applies, perhaps more so, to the Derwent Road secondary junction. This offers no improvements for existing residents and users, and the very fact the Appellants are looking to improve the interface between the new residents and existing users acknowledge the likely problems. This access would seriously aggravate the problems that already exist for local people and those passing through.
374. As for general traffic conditions, all the dwellings to the west of LL/B only have access to the Town Centre via Soulbury Road. On this Road, in addition to the flood plain, there are three main structural or natural features to cross, namely the River Ouzel, the Grand Union Canal and the rail line. These form pinch points to traffic flow and LL/B has grown significantly over the last 30-40 years. The appeal proposals offer no improvement and would make everyone's access across Town that much worse.
375. Finally, the eastern side of Town needs further development to support new infrastructure. There are serious issues of sustainability, given the Town's physical constraints and the appeal scheme does nothing to address these.
376. **Mr John Petrie** has lived in the area for almost 40-years and supports the submissions by Mr Jennings. On a different tack, he contends that no developer has, so far, ever provided the amount of facilities or to the timescale agreed at the planning application stage. Once again, the views of residents are being ignored and this is likely to happen again here. The Appellants' financial stability must be questionable as they are primarily reliant on Irish Bankers and Auditors. As such, are PNNH sufficiently financially stable to undertake this project and provide the facilities indicated at this early stage?
377. **Mr Martin Probert** (resident) says that there are many feeder roads onto Soulbury Road, plus it gives access to three schools. 30mph is not acceptable on Soulbury Road, where speeding and overtaking are a constant problem. The increased traffic – some 6090 vehicles today as opposed to the 5434 promised by 2019 – leads to noise, air and light pollution. The proposed development would add 1000 additional vehicles each day and we are given plenty of reasons why the highway authority cannot do anything: mainly cost. There is need for a comprehensive survey if the increased traffic and safety problems are not to get out of hand.
378. Mr Gelder (Director of **Voluntary and Community Action**) objects to the appeal proposal on the grounds that it fails to adequately provide for community facilities and to meet the social infrastructure needs of the new residents. As such, it fails to meet policy at all levels and this was recognised

in the AVDC's reasons for refusal, which highlight general infrastructure, education, sewerage, water and transport. In addition, we add open space, recreation, policing, health, sustainability, design, employment and the timing and provision of a local centre. Although some of these are referred to in the s.106, guarantees, funding, responsibility and future management leave much to be desired. All these matters must be covered in the Community Development Plan, along with adequate resources to oversee the actions.

379. Mr Clive Palmer represents 1142 households within the **Residents of Bideford Green and Southcott Management Company Ltd**. The Southcott Management Co. act as Managing Agents for the residents of the adjacent residential development in Linslade. They submit that the proposed development would be contrary to the structure plans of AVDC and CBC. The site is too small to warrant the substantial infrastructure necessary to meet Government guidelines of self-sufficiency and thus, there is an inevitability that new residents would use LL/B facilities. Here the doctor's surgeries are under great pressure and difficulties in education are foreseen, compounded by the site being in one authority and the nearest schools being in another. In addition, foul and surface water drainage are inadequate and no connection to private systems would be permitted.
380. As for the proposed accesses, the entrance and access from the development onto Derwent Road would cause hazards to the pedestrians and motorists as it would be situated on a section of road incorporating a bend that makes views of approaching traffic difficult to see clearly. This access would be close to Greenleas School, with inherent dangers. The so-called 'gated access' would be available to all road users. Derwent Road is the only vehicular exit for several hundred houses on the Bideford Green Estate complex and there are already problems at the junction of Bideford Green and Derwent Road, which is very close to the Soulbury Road junction.
381. Further afield, the C256 (B4032) is already overcapacity and the appeal scheme would generate 1500+ vehicles per day, with extreme use during the rush hour period. Considerable amounts of money have already been spent on traffic calming measures in the Town Centre and the large levels of traffic generated by this scheme would negate and reverse the progress made. The planned employment sites are on the ELL, where the JCS proposes to build 2,500 new dwellings. Despite the attempts to improve cycle provision and create a periodic bus service, the transport sustainability of the scheme is also questioned. Trains to London are inadequate. Although next to the built area, it would encourage car use to Milton Keynes etc as the By-pass is so close.
382. There would also be an adverse effect on wildlife. AVDC has set precedents for rejection elsewhere on sensitive sites, where large developments have been proposed. Moreover, the loss of the appeal site as amenity space for existing residents is opposed.
383. In summary, the site is not as the Appellants claim "*a highly sustainable site*". It is quite the reverse. It is not as required by PPS1 a development that would protect and enhance the natural and historic environment, the quality and character of the countryside and existing communities. If we are to believe

what is being said by Government about moving decision making to the local level, these appeals must be dismissed.

384. **Tracey Wood** (Resident) was a mainstay of the Bloor campaign and in this case supports everyone else's objections. The area is rural. LL/B is rural. Building 900 houses is not the way to maintain the rural feel. There are sewerage problems and these would be exacerbated by the 900 houses proposed. The shortcomings of transporting sewage by tanker are greatly detrimental to our homes.
385. **Mr Colin Lawrence** (Resident and local school teacher) says that the overwhelming response of LL/B is rage and dismay at the intentions and attitudes of the builders. AVDC and CBC have both rejected this development. It makes a mockery of our system if builders can bully their way in regardless of local democratic decisions and views. The C256 is not built to cope with the additional traffic and massive safety and congestion issues would follow. The schools and other local facilities would not cope and the public transport system would be further overloaded. It is already difficult to find jobs in the Town and this would add to that difficulty. Our families deserve the wildlife and countryside we would never get back. This is the wrong development, in the wrong place and is passionately objected to by local residents. It would irreversibly ruin our Town.
386. **Heather Fox** (Resident and Chair of Friends of Linsdale Woods) is not aware that a full assessment has been done of the significant impact on Linsdale Woods, part of which is a County Wildlife Site. The Woods fall to be considered against two important policy guidelines for CBC, namely Green Belt and Area of Great Landscape Value. The Woods support many species of birds, including owls and sparrow hawks. An informal survey has recorded five species of bats. As a protected species, it is illegal to disturb them in any way, even light pollution. Increased traffic and the reduced security of habitat caused by so many people living close by would have a disastrous effect on the biodiversity of the area. Finally, it is worrying that too little attention is being paid to the cumulative effects on our environment. It is conservation of the bio-diversity that is needed, not a vast development in the wrong place.
387. Mr TH Adburgham, Area Representative South Beds and Luton **Campaign to Protect Rural England (CPRE)**, objects strongly on grounds of unacceptable adverse impact on landscape of considerable attraction and value. The appeal scheme would involve significant unsustainable impacts on LL/B. The proposals are contrary to PPS7 in terms of local valued landscapes. PPS7 makes clear that local, subjective, landscape value designations should be replaced by the more formal process of Landscape Character Assessment and that conducted in the Valley Farm area placed high values on both the character of the landscape and its sensitivity to change. This site conflicts with PPS3₍₆₉₎ as it is not environmentally sustainable and we endorse the concerns about night-time light pollution.
388. This project offers no new road infrastructure facilities for the Town and the bus service proposed would be unlikely to attract people from the private car. HLS should not just be deliverable, but sites should also be suitable and sustainable, which this is not, and hence conflicts with PPS3. CPRE strongly

supports the concept of compensatory Green Belt covering the appeal site to off-set the necessary reductions in the South Bedfordshire Green Belt to accommodate the proposed development ELL.

389. **Mr N Bond** (Resident for over 30-years) says that LL/B has already experienced significant growth and that this scheme would add to congestion in the Town and danger on Derwent Road near to the Greenleas Lower School and Willows Pre-school. Even after two or three years there are already queues along Leighton Road to the new By-pass roundabout. The appeal site location would mean that the green hillside on the approach to the Town would be lost and the development would stand out like a sore thumb. This development is not wanted by CBC, AVDC or the LL/B Town Council. It is not wanted by local people and the SoS is kindly requested to listen to local people and dismiss these appeals.
390. **Cllr David Hopkin** is Ward Councillor and Governor for Greenleas Lower School. He says that the proposal would have a profound effect on residents of his ward and this has generated numerous objections in addition to those registered by AVDC, CBC and LL/B Town Council. The Appellants submit that their project would reflect "*local needs*" and in examining those needs both the EEP and SEP and the JCS concluded that the preferred area was land ELL. More specifically, concerns about traffic problems, child safety and congestion feature strongly. In addition, parking at the rail station, Doctors and other infrastructure are all in very short supply. Next there is the inadequacy of the water supply and sewerage regimes and infrastructure generally. Complications about managing education in two separate authorities would also be a worry. Cllr Hopkin also supports the concerns about the threat to the biodiversity of the area.
391. In summary, the location and size of the proposed development would unquestionably place additional pressure on the inadequate local infrastructure and be detrimental to the local community. Residents have expressed their democratic rights and responded with a resounding 'NO'. In the light of the forthcoming Localism Bill, the views of the local authorities and people should be respected.
392. Mr H Maughan (Transport Officer) on behalf of the **Leighton Buzzard Society** strongly objects to this 'unwarranted intrusion' into an area of sensitive landscape, which should be safeguarded by an environmental policy. The appeal scheme would constitute overdevelopment, causing adverse environmental impact. Crucially, the additional pressure on the transport links from traffic generated by the new development that has and continues to be built causes congestion and public transport overload. Moreover, there are no local jobs and this proposal would merely add to the number of out-workers.
393. As it stands, open space is there now, with a Leisure Centre nearby. The proposed local centre would be inadequate and the proposals for a Health Centre in Linslade, where it is most needed, have failed to materialise. A primary school would have pupils with nowhere to go locally and objection is raised to the access to Derwent Road, being nearly opposite the Greenleas School entrance. In general, transport is badly served by existing services, with congested trains and there are no other commercial facilities in the area.

394. **Cllr P Snelling** has been Councillor for the Southcott Ward since 1979 and endorses what is said by others. He adds that he is particularly concerned about schooling, saying that children already come into the Bedfordshire area from Aylesbury Vale. He goes on to say that, even though the appeal site is not designated Green Belt, this is purely because of policy. Application was made for the boundary to be changed, but this was turned down. Housing provision is essential, and needed urgently. However, the appeal scheme does not solve infrastructure problems, but adds to them. For similar reasons, the recent Bloor Homes decision is a precedent for dismissing this appeal.
395. **Mr Christopher Green** is concerned about where he and his family and friends will be buried in the future. There is considerable pressure on the existing cemeteries, which has led to a shortage.
396. **Jennifer Neville** lives in Derwent Road facing the roundabout. She feels that the appeal proposals would create more traffic and disturbance, with cars stopping outside her property.
397. **Mr Christopher Warby** has lived in Soulbury Road since 1971. Since the By-pass there has been an increase in traffic and this has had negative effect on property values on the main road.
398. **Jacqui Orchard** owns a bungalow backing onto the Valley Farm site. In the past residents have had to fight for the By-pass to be where it is and now they have to fight to retain their views across the open countryside. The planting of trees at the back of homes to screen the development is not a solution.
399. **Gill Jones** lives on Cheviot Close and is concerned about health problems from traffic using Soulbury Road. Fumes and noise already preclude sitting outside and the new development would result in a possible reduction in house values by 20%. The appeal scheme would dramatically affect residents' lives and the rot needs to be stopped now.
400. **Sue Bond** asks why people do not walk, but always seem to drive. As a result, the building now proposed would lead to very bad congestion.

Written Representations

401. **SEEDA** note that there is no planning policy context for development at this site at the local level. Thus, it considers that a strategic development site of this scale should be most appropriately dealt with through the LDF process. The **Highways Agency** raises no objections to the proposals.
402. **Natural England** does not object to the proposals, subject to the imposition of conditions, which would require the early establishment of the green infrastructure within the development to minimise any increase in recreational pressure on Kings and Bakers Wood and Heath's SSSI, and to ensure that hydrological changes caused by the development do not adversely affect Nares Gladley Marsh SSSI.
403. In addition, Valley Farm Fen CWS lies within the appeal site and comprises 0.52 hectares of fen/wetland habitat and associated marginal vegetation, identified as being of conservation importance at a County level. Conservation and enhancement, through a SUDS approach, is required to maintain this

sensitive area to accord with Policy CS12(1.d). PPS9 advice must be followed in respect of protected species, including bats and breeding birds.

404. It is recommended that biodiversity enhancements are undertaken in accordance with the Environmental Statement, and that an Ecological Management Plan is secured through a condition, and also an Ecological Construction Method Statement. Mitigation measures to protect the integrity of the landscape are welcomed. The Green Infrastructure proposals are supported, as is public access to good quality green space, play provision and the natural environment.
405. **Sport England** considers that the standards for outdoor sport locally derived by CBC would be the most appropriate for application to this development for this proposal, which would be an urban extension to LL/B. Outdoor sports facilities should also include multi-use games areas, tennis/netball/basketball courts and bowling greens.
406. There is concern over the size of the proposed community playing field for football. Consideration should be given to whether some of the proposed outdoor sports facilities should be provided on existing or proposed school sites, in order to ensure that a strategic approach is taken. Financial contribution towards a dual use facility may be appropriate in respect of some sports.
407. Objection is raised to the indicative siting and layout of the outdoor sports facilities in relation to the proposed leisure centre, and the residential areas they are to serve, and indeed the proposed primary school. The need for appropriate parking associated with the pavilion/changing rooms is a concern. With regard to the indoor sports facilities, the strategic needs should be addressed to ascertain the best means of providing the facilities – on site or offsite. No provision appears to be made for the needs of youths. Phasing of provision of leisure facilities will be an important consideration.
408. **Commission for Architecture and the Built Environment (CABE)** recognises that the proposal is at variance with DP policies. Even so, it finds much to admire in the proposals, and the design quality of the proposed development makes a convincing case for housing in this location, with the exception of the site to the north of Leighton Road. The scheme demonstrates a strong response to the topography, with well considered strategies for movement, access, landscape design, sustainability and the location of the local centre. The phasing strategy would benefit from further thought. The location of the proposed leisure centre should be closer to either the playing fields or the district centre.
409. CABE is less convinced by the proposal for development to the north of Leighton Road. Movement and access proposals are generally supported, as is the approach to landscape design. The indicative architectural approach requires further thought, with high standards of design required at any reserved matters stage. The proposals contained in the Sustainability Statement are supported in general.
410. **BCC Archaeology** advises that the development would affect heritage assets of historic interest, and potentially those of archaeological interest. It points

out that the effect of a proposal on a heritage asset is a material planning consideration (PPS5). Landscape assets of historic interest have been mapped by BCC and are present across the whole site. Historic meadows are considered of high sensitivity, so it would be desirable to retain the meadowland within appropriately managed green space. Parliamentary enclosure and 'sinuous' field patterns are of medium/high sensitivity and would be lost to the proposed development. Medieval ridge and furrow should be retained, where reasonably practical.

411. The incorporation of historic hedgerows, ridge and furrow earthworks and meadowland into the new development could be acceptable in terms of Policy HE7 of PPS5. There is a possible archaeological site on a knoll to the south of Valley Farm, which should be investigated before any development is permitted. It is recommended that an appropriately worded condition be imposed.
412. **BCC Education** states that the development would generate the need for a 315 place primary school with a 39 place nursery. When combined with other major development sites such as at Buckingham, Salden Chase and Aylesbury, there are projected to be sufficient pupils to justify a new secondary school. Contributions may need to be sought, related to both land and building costs in preparation for the anticipated demand from the appeal development and then pooled with other planned development in the area. Fears about a shortfall in permanent places at special schools across the County have now been overcome. A financial contribution is required, through a s.106 Obligation, towards secondary education provision, in addition to the need for the primary school and nursery.
413. **BCC Adult and Family Wellbeing** wishes to see more details of the proposals, in particular to ensure that the Health Centre and the Leisure and Community facility incorporate the needs of Adult Social Care. It would also like to see the development include specific accommodation for older people in the form of extra care, dementia and nursing.
414. **Buckingham and River Ouzel Internal Drainage Board** advises that the advice of the Environment Agency be sought in accordance with PPS25.
415. **Thames Valley Police** advises that development of this scale would have a major impact upon the services provided by the Police and its operational infrastructure. Thames Valley Police would require a significant financial contribution towards the capital costs of new infrastructure and staff set up costs. Because of the location of the site adjacent to LL/B (which is Bedfordshire Police's Operational Area), there will be cross-border issues to be addressed in establishing policing requirements. The financial contribution should be sought through a s.106 Agreement.
416. **Leighton Buzzard Ramblers** oppose further development of the western flank of LL/B, with its resultant loss to the community of an attractive landscape in an increasingly pressurised countryside. While rights of way would not be affected directly, there would be harm to the general walking environment and its pleasures.

417. **NHS Bedfordshire** is working with CBC and LL/B Town Council to provide health facilities in the most appropriate areas. LL/B is one of the strategic locations to site a new all encompassing facility. The land on the application site would be a possible location for a health care facility, but only one of the options. There is no objection to the proposal, but the preferred location for a Health Centre has still to be determined.
418. **CBC Countryside Section** says that the proposed open space, country parks, woodland planting and informal spaces appear to be sufficient for a development of this size, although the Masterplan locates these areas where there are considerable constraints, rather than where there has been assessment of need/deficiencies. Development of this size would place additional pressure on the existing green infrastructure around LL/B. More detail on the Country Park proposal is required to make it credible. Advice is given on access routes and rights of way. Concerns over increased demand for access to existing countryside sites such as Linslade Wood, Stockgrove Park and Tiddenfoot Waterside Park, and a suite of s.106 contributions to remedy local deficiencies in the quantity or quality of open space and countryside recreational provision would be required.
419. **Voluntary and Community Action South Bedfordshire** objects on the grounds that the application fails to adequately provide for the social infrastructure needs of new residents and, therefore, fails to meet the objectives set out in the SRS. There is a lack of clarity in the submission on the definition and meaning of social and community infrastructure, and more information should be sought. Clarification is needed on the obligations being offered. Any new community centre/meeting place should be available prior to the occupation of the first dwelling.
420. **Soulbury Parish Council** registers its strongest objection to what is proposed. The proposal does not conform in any way to the DLP from which no deviation should be allowed in the light of the assurances given when the By-pass was constructed. The number of houses proposed would generate some 2000 extra vehicles onto local roads with a totally inadequate and dangerous access into the site from Derwent Road. There is no evidence of an intention to enhance public transport to discourage car use — only a suggestion of periphery roads.
421. The Council questions the provision of a Country Park. The Council is very familiar with the problems involved in financing the local Stockgrove Country Park, which is also administered by two Authorities. The site is close to the By-pass, which since its construction has experienced flooding despite the balancing lakes. Development of this site would only add to the flooding risks. The Council questions the assertion that the development would achieve the stated reduction in CO₂ emissions. Finally, the references to 'infrastructure' are vague with terms like 'provision', but give no firm evidence of intent to provide the infrastructure necessary to support such a large development.
422. **Great Brickhill Parish Council** objects to the application because the plans extend into an area of outstanding countryside. They also extend the current LL/B Town Plan and would further increase road traffic users and would be contrary to AVDC existing development control plans. **Stewkley Parish**

Council objects to the proposals, as they would inevitably add to the traffic passing through the village of Stewkley.

423. **Wing Parish Council** also objects to the development, because it feels that its size would be inappropriate for the area, considering the other large scale developments that are happening/have happened within LL/B. The Parish Council does not believe that the current infrastructure of the Town could support such another large scale development and, in particular, it would exacerbate the existing problems. It also considers that the development would have an adverse effect on the lives of Wing residents, with an increase in traffic along various routes through an already busy village, possible extra burdens on schools and so on.
424. **Leighton Linlade Town Council** objects to the proposals on the following grounds. First, although not formal Green Belt, the openness of the site and the current accessibility play an important role as a green buffer around LL/B. Secondly, it would constitute an inappropriate urban extension, when compared to the existing size and market town nature of the Parish and the Luton and South Bedfordshire Joint Committee has rejected this area as a Growth Area. Next, the proposed development would place further unreasonable demands on an already overburdened existing infrastructure and the revised plan does not make adequate allowances for this. Fourthly, the Town Council's current policy, as restated in Minute No. 39(f) 24 September 2007, is that the land WLL should be excluded from any future development.
425. **Cycling England** refers to a report on Leighton Linlade Cycling Town, stressing the importance of new development proposals designing provision for cycling in from the outset. It is concluded that the overall design principle of the development is not centred on the promotion of public transport, walking or cycling, but is centred on providing a convenient car use. Cycling England makes further detailed comments, stressing the need for funding contributions for footpath and cycle path improvements and provision towards a replacement footbridge over the railway line at the station.
426. **Leighton Buzzard Cycles** (formerly the Leighton/Linslade Cycling Forum) neither supports nor opposes the principle of the development, but makes detailed comments on the importance of supporting sustainable travel. The basic assumptions of the Transport Assessment submitted with the application are challenged. A through route across the site is opposed as a potential rat-run/shortcut. As for the Derwent Road access, this should only be for buses, cycles, service and emergency vehicles. Even then, the junction and road design need significant alterations. A 20mph speed limit in the development should be introduced and cycle routes to the station should be examined. There is also a need for greater provision for cycle parking. S.106 contributions should be paid to CBC not AVDC, as the infrastructure of the Town would be affected, a town awarded Cycling Town status.
427. Over 500 individual letters of representation have been received. The main grounds of objection contained in these can be summarised as follows.
428. As to the principle of the development, it is contrary to relevant DP policies. In particular, the proposals are contrary to SRS Policy CS5, and emerging JCS

and the overarching EEP. Proposals are contrary to PPS7, as the land should be respected, enhanced and protected as valued open countryside, preventing urban sprawl and discouraging development. Site has been graded as Grade I by the Luton and South Bedfordshire Joint Committee, which is defined as one with "*significant constraints such that it is not considered appropriate for development to take place*". Further, it would set a dangerous precedent for other urban edge developments and any change in designation must be subjected to full public scrutiny. It would also be contrary to the "ring of green" around LL/B.

429. In landscape terms, the appeal site was deemed inappropriate for development as in December 2008, when it was highlighted as being a Sensitive Grade I area for tranquillity and distinctive landscape value. Proposals pay no regard to local opinion seeking to save the countryside. Land is of scenic and natural value, with beautiful wildlife, and should be protected for future generations.
430. There would be a loss of opportunities for walking attractive public footpaths and it would destroy the balanced views currently enjoyed on both sides of the valley with its natural biodiversity. Development would be extremely prominent and an eyesore when viewed from the west and from the By-pass, and from the east on Derwent Road and properties in that area. Finally, it would totally ruin views from Liscombe Park.
431. The loss of land, trees, hedgerows and wildlife, the constituents that make the site a whole and complete nature environment, would be destroyed. There are also, major environmental, biological and ecological objections to the proposed development. There is particular concern over impact on protected species, and the implications for the statutory legislation.
432. Looking at traffic and travel, there are already excessive traffic levels on Leighton Road, and the development would significantly increase these levels. No consideration has been given to overloading the route along Soulbury Road, leading to station and the Town Centre. This is now classified as a C class road, and already carries traffic to capacity. More locally, there is strong objection to the secondary vehicular access to Derwent Road, where there would be a danger from traffic for Greenleas School children. There would also be disruption from construction traffic during the construction period. Further afield, there would be additional impact for residents of Wing, with extra traffic, noise and pollution. Turning to other transport modes, there is a lack of adequate public transport, including rail capacity.
433. All the additional new housing development in and around the Town is choking the market town, with increasing pollution. It is important to retain this undeveloped site as a buffer zone between Soulbury and the Town against increasing By-pass pollution. Increase in traffic noise levels would lead to the loss of residential amenity.
434. Next, the development would clearly not be self-sufficient. There is a lack of infrastructure and services in the Town to accommodate the development. No consideration has been given to the cost to the Town's residents of providing infrastructure for new residents. The appeal scheme would generate all the revenue for AVDC and BCC, whereas all the costs and problems would fall to

Bedfordshire authorities. Essentially it would be 'parasitic' to the rest of the Town. Put briefly, it would destroy the character and atmosphere of the market town, where there is already high unemployment.

435. On site specific deficiencies, the sewage treatment works needs expansion and temporary transport of raw sewage by road would then be emptied into an open sewer inlet causing the environment to be polluted. There is also concern over inadequate water pressure in the water supply network. As for schools, the age groups would not co-ordinate across the County boundary. Greenleas Lower School on Derwent Road is at capacity, and the middle schools in the Town are oversubscribed.
436. The proposals themselves have insufficient critical mass to enable and sustain new infrastructure. There are also concerns over the excessive density of development proposed and the proposed design and style of the dwellings.
437. Last, the proposal was wholeheartedly rejected by the community before, and same applies again. The Appellants have taken no notice of local opinion in submitting basically the same proposal. The appeal site has been rejected for development four times by the Joint Technical Unit and in the face of this, approval now would jeopardise the proposals to the east of the Town.

CONDITIONS

438. In the event planning permission is granted, the respective Councils and the Appellant agreed conditions (Documents 5, 6 and 7). These and any alterations were discussed at the inquiry. In a number of conditions changes have been made to the wording to make them true 'condition precedents'. The conditions accord with the six tests in Circular 11/95; that they are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. Comments and reasons are below on the resulting conditions, which are as set out in Annexes A, B and C to this Report and are recommended in the event that the SoS allows the appeals;

APPEAL A

Ref. No: **APP/J0405/A/10/2143343**

- *Condition 1*; the application is for outline planning permission;
- *Condition 2*; in order to ensure a satisfactory standard of development and for the avoidance of doubt. To ensure the proper planning of the area there is a need to state the drawings on which any permission is based;
- *Conditions 3 and 4*; to prevent the accumulation of planning permissions: to enable the Council to review the suitability of the development in the light of altered circumstances and to comply with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004. The usual period of 3-years would not allow the necessary details and permissions to be gathered together and so a 5-year timescale is requested for submission of details etc. While the difficulties are appreciated, one key driver for this scheme is the ability to deliver at an early stage to address current shortfalls in the district wide supply figures. A 5-year timescale may be seen as running counter to this and needs to be looked at alongside the arguments against other development proposals. A 3-year timescale is favoured, to deliver urgency and to enable a review in the light of progress of other proposals;
- *Condition 5*; to ensure a satisfactory form of development, and to accord with the advice in PPS1 and PPS3;
- *Condition 6*; for the avoidance of doubt and to ensure a satisfactory form of development, and to accord with Policy GP35 of the DLP and advice contained in PPS1;
- *Condition 7*; to ensure that the details and appearance of the development are acceptable to the Local Planning Authority, and to accord with Policies GP8 and GP35 of the DLP;
- *Condition 8*; to ensure a satisfactory appearance of the development, and to accord with Policy GP35 of the DLP;
- *Condition 9*; in order to minimise danger, obstruction and inconvenience to users of the highway and of the development and to accord with advice contained in PPG13;

- *Condition 10*; to prevent the risk of flooding, to improve and protect water quality, ensure the future maintenance of surface and foul water drainage systems and to accord with the advice contained in PPS1 and PPS25;
- *Condition 11*; to ensure that development is adequately provided with waste and recycling facilities and to accord with the advice contained in PPS10;
- *Condition 12*; to ensure the development is accessible and inclusive to all and to comply with Policies S1 and S5 of the South East Plan. Although this is covered to some degree by other legislation, the need to phase introduction make a condition sensible and pragmatic;
- *Condition 13*; in order to ensure that damage does not occur to the trees during building operations and to accord with Policies GP38, GP39 and GP40 of the DLP;
- *Condition 14*; to ensure that sites of archaeological interests are identified and the desirability of their retention taken into account in the layout and landscaping of the development, and to accord with the advice in PPS5;
- *Condition 15*; to ensure a satisfactory appearance of the development. In the interests of the visual amenities of the locality and to accord with Policies GP38 and GP39 of the DLP;
- *Condition 16*; to ensure that the potential of the contamination of the site is properly investigated, the risks to the planned end user group(s) quantified, and its implications for the development approved fully taken into account and to accord with the advice in PPS23;
- *Condition 17*; the provision of car parking spaces needs to be on a phase-by-phase basis to ensure that at any time the correct parking is made available;
- *Condition 18*; to ensure that the potential contamination of the site is properly dealt with and the risks to their planned end user group(s) minimised and to accord with the advice in PPS23;
- *Condition 19*, in order to ensure that the development is adequately drained and to accord with advice contained in PPS25;
- *Condition 20*; in order to minimise danger, obstruction and inconvenience to users of the highway and of the development and to accord with the advice contained in PPG13;
- *Conditions 21, 22, 23, 24 and 25*; to address the impact of the development on biodiversity and to accord with Policy NRM5 of the SEP and to the overall objectives of PPS9;
- *Condition 26*; To minimise the danger and inconvenience to highways users, in the interests of residents living near the site, and to accord with Policy GP8 of the DLP and the advice in PPG13 and PPS23;
- *Condition 27*; the inclusion or not of an open space condition remained a bone of contention. The Appellants wish to see a condition requiring the

provision, whereas the AVDC believes ^(Document A22) that such a condition would not meet the Circular 11/95 tests if the open space is to be public open space. AVDC firmly believes that this provision should be covered in a s.106 Agreement and ask that, if the SoS is minded to grant permission he invites the Appellants and AVDC to draw up an Agreement. The Appellants have submitted a response ^(Document PN29) to this contending that, in the circumstances, whereby it proved difficult to gain the agreement of AVDC in the timescale available, a condition which would also provide the mechanism for any supplementary obligation to be made under s.106 at the reserved matters stage. A draft condition is included, though there is sympathy with AVDC's stance, where long term ownership or default provisions are required. Thus, although a form of words is included for the SoS's consideration, the s.106 route is considered far more appropriate. However, the SoS may take a more relaxed view of requiring the submission of a s.106 Undertaking by way of a condition. If so, this condition is required to meet the public open space requirements of the Council's SPG on Sport and Leisure Facilities and the Council's Good Practice Guide. Some amendments have been made to the Appellants' suggested draft condition to reflect Circular 11/95 and AVDC's concerns;

- *Condition 28*; to ensure that the development addresses sustainability requirements and to accord with Policy NRM11 of the SEP and to comply with the advice in PPS3 and PPS22;
- *Condition 29*; to ensure a satisfactory form of development and to accord with the advice in PPG13;
- *Condition 30*; in the interests of road safety and traffic movement;
- *Condition 31*; to provide facilities to support travel by non-motorised means; and
- *Condition 32*; in the interests of road safety and traffic movement.

APPEAL B

Ref. No: **APP/J0405/A/11/2154252**

- *Condition 1*; this condition is required by Section 91 of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004. As the main Appeal A is subject to a start date as late as 5-years, this condition should reflect that timescale. A 3-year permission would be inconsistent. ;
- *Condition 2*; in order to minimise danger, obstruction and inconvenience to users of the highway and of the development;
- *Condition 3*; to minimise the danger and inconvenience to highways users, in the interests of residents living near the site, and to accord with Policy GP8 of the DLP and the advice in PPG13 and PPS23;

- *Condition 4*; in order to ensure that damage does not occur to the trees during building operations and to accord with Policies GP38, GP39 and GP40 of the DLP; and
- *Condition 5*; to ensure a satisfactory form of development and to accord with the advice in PPG13;

APPEAL D

Ref. No: **APP/P0405/A/11/2154254**

- *Condition 1*; to comply with Section 91 of the Town Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004;
- *Condition 2*; in the interests of road safety and traffic movement;
- *Condition 3*; to provide facilities to support travel by non-motorised means;
- *Condition 4*; in the interests of road safety and traffic movement and to support travel by non-motorised means;
- *Condition 5*; to ensure that off-street parking for parents/carers of children attending Greenleas Lower School is provided to compensate for the loss of existing on-street parking outside the school when parking restrictions are introduced along Derwent Road;
- *Condition 6*; in the interests of road safety and traffic movement;
- *Condition 7*; to comply with Section 197 of the Town and Country Planning Act 1990, as amended, and to secure the planting of replacement hedgerows;
- *Condition 8*; to minimise the danger and inconvenience to highways users, in the interests of residents living near the site, and in accordance with advice contained in PPG13 and PPS23; and
- *Condition 9*; in order to ensure a satisfactory standard of development and for the avoidance of doubt and to ensure the proper planning of the area there is a need to state the drawings on which any permission is based.

S.106 UNILATERAL UNDERTAKING

439. A signed Deed of Unilateral Undertaking ^(Document 8) dated 20 July 2011 was presented and it provides for the following:

- Affordable dwellings will be provided at a ratio of 50/50 between affordable dwellings for rent (158 units) and shared ownership affordable dwellings (157 units). This split is not agreed by AVDC or The Guinness Housing Trust. AVDC wanted the split to be 75/25 and The Guinness Trust 25/75. To make progress the Appellants opted for the 50/50 split. There is no compelling reason to move one way or the other and the 50/50 split seems a sensible and pragmatic compromise.
- Operational programming obligations to ensure sensible phasing and delivery.
- The provision of a primary education establishment and upper/grammar school education provision paid on a unit basis, dependant on the size of the dwelling paid with reference to triggers in the development.
- To appoint and fund a Travel Plan Co-ordinator for AVDC for a period of 5-years to co-ordinate the delivery of the Community Travel Plan. Also to pay and annual monitoring fee of £1,000, again for a period of 5-years.
- To appoint and fund a Travel Plan Co-ordinator for CBC for a period of 5-years to co-ordinate the delivery of the Community Travel Plan. Also to pay and annual monitoring fee of £1,000, again for a period of 5-years. In addition, contributions up to £184,000 shall be paid by instalment into a Community Travel Plan Fund.
- To contribute to CBC monies up to a maximum of £280,000 for traffic management and public transport improvement.
- A public amenity contribution of £46,250 to CBC for enhancements to Linslade Wood, Tiddenfoot Waterside Park and Rushmere Park to accommodate short term additional demands.
- In the context of sustainable transport, to procure the delivery of a phased bus service from the appeal site to Leighton Buzzard Station and the Town Centre and to maintain the funding of that service until the occupation of the 900th dwelling.
- To submit for approval by AVDC a Community Development Plan that would provide an interim and full community facility.

440. AVDC has made comments on this s.106 ^(Document A24) and inclusion of some of these would have improved the document. Even so, the s.106 has been signed and it is what it is. Nothing there is inappropriate or likely to lead to legal or implementation complications. The parties are content that all aspects of the Undertaking and its compliance or otherwise would accord with the principles of the CIL Regulations.

CONCLUSIONS

441. Having regard to the main issues and other material considerations identified, the conclusions are as follows. Numbers in brackets [] refer to preceding paragraph numbers in this Report. [8-9,20]

Development Plan (DP)

442. At the time of writing this Report, the statutory DP for the substantive area of the appeal site (all land excluding the secondary access off Derwent Road) comprises the South East Plan (SEP) and the saved policies contained in the Buckinghamshire Structure Plan and the Aylesbury Vale District Local Plan 2006(DLP). The appeal proposal is not allocated in the DP for housing and related mixed use development and, thus, the project is not supported by any policies. It cannot, therefore, benefit from the presumption in favour delivered by s.38(6) of the Planning and Compulsory Purchase Act 2004. Accordingly, it is necessary to examine the other material considerations to see if there would be a balance of advantage in allowing the appeal development to proceed. [14-15, 21, 84, 154, 197-198, 234-237 and 297]
443. Although all the mixed use development falls within AVDC, the evidence suggests clear implications for CBC, where the DP references are primarily to the East of England Plan (EEP). In addition, passing reference is made to policies in the Bedfordshire Structure Plan 2011 and the South Bedfordshire Local Plan Review. Finally, there is a draft Luton and South Bedfordshire Joint Core Strategy (JCS), which advances housing sites on the easterly side of Leighton-Linslade (ELL), relevant to the consideration of these appeals. The JCS has been submitted to the SoS for examination, currently programmed for January 2012. [14-18, 156-157, 197-198 and 304]
444. In both districts, reference is also made to the Milton Keynes and South Midlands Sub-regional Strategy (2005) (SRS), which remains extant, but in Aylesbury Vale, is largely, if not entirely, subsumed within the later SEP. [14, 198]

Main issues

Character and Appearance of the area

445. Currently, the appeal site is all in agricultural use and comprises two distinct parcels of land. That to the south of Leighton Road is the agricultural unit of Valley Farm, and that to the north is still agricultural, but in separate ownership. Although not designated as of special landscape quality it appears wholly rural from all public and private vantage points. It therefore falls to be considered against the guidance in PPS7 that seeks to protect the countryside for the sake of its intrinsic character and beauty, the diversity of its landscapes, heritage and wildlife, the wealth of its natural resources and so it may be enjoyed by all. [11-13, 31-35, 38, 182, 251 and 313]
446. Merely because it has not been specifically designated as a 'special' landscape area, this should not be seen as relegating its landscape contribution to something substandard. Put another way, where landscape is not recognised by a national notation such as AONB, PPS7 does not encourage the

introduction of further local landscape designations, but, wherever possible, seeks reliance on the national countryside designation to "*ensure the effective protection and enhancement of the environment, and to make sure that all development in rural areas is sensitive to the character and local distinctiveness,.....*". PPS1 covers the need to deliver sustainable development. Finally, as AVDC aver, the countryside should be protected for its own sake and not simply because it can be seen from public and/or private vantage points. [13-14, 31-35, and 337]

447. In terms of local policies, SEP Policies CC1, CC6 and C4 and DLP Policy GP35 are relevant. SEP Policy CC1 covers sustainable development, including the conservation and enhancement of the natural environment; Policy CC6 identifies a local vision to respect and, where appropriate, enhance the character and distinctiveness of settlements and landscape; and Policy C4 seeks positive and high quality management of the landscape and countryside. DLP Policy GP35 advocates respect for and complements to key features, including the physical characteristics of the site and surroundings; the context of the setting; the natural qualities and features of the area; and the effect on important public views and skylines. [14, 32]
448. In a nutshell, the policy framework against which to judge the landscape attributes of these proposals is one which looks to safeguard and, if possible, enhance the open countryside and the contribution this makes to the landscape. It is noticeable that the Appellants do not refer to DP policies in the context of this issue, other than counter references to DLP Policies RA2 and GP40, which they correctly conclude have no relevance to this case. [293-304, 322-323]
449. With regard to this issue, three landscape assessments of relevance to this case have been undertaken in recent years and these reach somewhat different conclusions. However, as they were addressing entirely different questions, this is hardly surprising and, thus, their findings are not necessarily mutually exclusive. The two appraisals by Jacobs look at the wider area and adopt a comparative approach, which, the Appellants point out judges the appeal site to be of moderate sensitivity and in only the third tier of four in terms of landscape sensitivity. On the other hand, AVDC claims the site was of grade 1 sensitivity and a candidate for designation as an Area of Sensitive Landscape, placing the appeal site in the top 30% most sensitive landscapes in Aylesbury Vale. [36, 51-54, 248, 314, 316 and 387]
450. The more site specific assessment completed by LUC looked at the localised area as a candidate housing site for inclusion as an expansion site for Leighton Linlade/Buzzard (the Town or LL/B). In the main, it was rejected as a possible housing extension to LL/B for landscape reasons and the detrimental impact it would cause the landscape. As AVDC says, it is not inconsistent to find some smaller areas of land to be more sensitive than others within a wider appraisal or that different experts reach different conclusions when appraising smaller tracts of land. [52, 72, 240, 248-249, 264, 315-316 and 387]
451. The principal public views of the appeal site are from the Stoke Hammond and Linlade By-pass (the By-pass), along which there is a current daily 2-way flow of some 20,000 vehicles. There are also key public vantage points from

Leighton Road, a public footpath crossing and running alongside the appeal site. Further, more distant views can be obtained when walking eastwards, downhill from Soulbury Village, as well as fleeting glimpses from the road passing through the Village, much of which lies within the Soulbury Conservation Area. There are also views from Liscombe Park, which is an event centre, and the footpath running south east from the Park toward and over the By-pass. [3, 38-43, 74 and 430]

452. Private views are mainly derived from dwellings and their gardens on Cotswold Drive, Malvern Drive and Derwent Road to the east of the site, which are located just over the district border in Central Bedfordshire. Finally, there are some houses and gardens in Soulbury Village with more distant views. The impact on these vantage points is looked at in turn. [3, 65-71 and 244]
453. The length of By-pass alongside the appeal site was opened in 2007 and a landscape planting scheme was carried out shortly thereafter, with the intent of screening the road from external vantage points. At present, and for some time to come, this planting will not screen the appeal site from views from the By-pass and even later, over some sections, it would only achieve limited cover. Thus, if the appeal development was commenced in the timescale of a planning permission issued today and built out over some 8-10-years it would represent a profound intrusion in the rural views from the By-pass for most, if not all of this period. Moreover, in winter, after trees have shed their leaves, this would be far worse and trespass for much longer. [3, 10, 43-49 and 241]
454. Crucially, it would constitute the only substantial development that would cascade down the valley side between the start of the By-pass near Milton Keynes to its end, south of LL/B. Invariably, what limited village development there is currently clings close to the ridge lines to the east and west, with the lower slopes exhibiting an undeveloped rural aspect and it is these smaller towns and villages that contribute to the character of the area. It would also add to the ridge line development towards the south-easterly extremity of the appeal site. The adverse visual effects would be exacerbated as the vast majority of the built development is proposed on the upper slopes, with the lower tracts of land, where screening from the By-pass planting should be effective most quickly, left open for various amenity functions. [3, 43-49, 90, 241 and 244-245]
455. The night-time presentation would be even more profound, with street lights, vehicle headlights and domestic lighting all contributing to an urban perspective in an otherwise dark outlook from the By-pass. A design criterion of the scheme elucidated in the DAS^(7.3.3) anticipates utilising large windows and glazing to maximise natural daylight and solar gain. [17, 61-63, 244 and 387]
456. This conclusion is reached despite the highway lighting on the By-pass around the nearby junction with Leighton Road and the fact drivers will be 'contained' within their vehicles. The introduction of a major visual, urban influence beyond the confines of the By-pass would be a significant detractor and, of course, the current darkness is appreciated from vantage points other than roads. As for the suggestion that AVDC should have asked for further information on night-time impact by way of a Regulation 19 request, this

carries little weight. There appears to be no factual disagreement, merely one of interpretive difference. [61-63, 244, 324-325 and 387]

457. One of the Appellants' suggestions is that the By-pass could replace the ridge as the development boundary to the Town. In physical terms this could be so, but with the present boundary so clearly delineated by the ridge line, there is no need for change. Moreover, to adopt this new boundary would herald the loss of the important open valley feature and create a precedent for further development advances that would be increasingly difficult to resist. [42, 74, 79-81, 241-243 and 372]
458. Moving onto views from the Leighton Road route, many of the same criticisms as for the By-pass could be levelled here. There is no doubt that planting as part of the appeal proposal could mitigate the harshness of urban encroachment in time, but this neglects to weigh the contribution the undeveloped nature of the site currently makes to this key entrance to the Town, which has assumed greater importance since the opening of the By-pass. In addition, the proposed changes to the vertical alignment of the Leighton Road carriageway to improve forward visibility would heighten the impact of the built development. [82, 319, 326 and 408-409]
459. As for the contention that built development is needed north and south of Leighton Road to create a balanced entrance to the Town, this is not well founded and disregards the benefits of the low transitional entrance to LL/B currently available. This position is consistent with CABE's, who lodges criticism of the views of the proposed development from Leighton Road, focusing on that part of the appeal site to the north: a part of that balanced entrance. [82, 319, 326 and 408-409]
460. Incidentally, CABE's positive views of the development to the south of Leighton Road appear predominantly to relate to the eventual built environment. It has not examined, or weighed in the balance, the value of the undeveloped status of the appeal site to public and private vantage points. [81, 326 and 408-409]
461. For those using the public footpath crossing the appeal site, their experience would clearly be devalued by the proposed development. The route could be integrated to some extent, but the present rural feel would be lost. Importantly, it would remove true rural openness for the existing residents of LL/B looking and walking across to the far side of the By-pass, though the lower areas of open land would be retained in the form of a Country Park, between the By-pass and the hard edge of the proposed development. Views from certain parts of Liscombe Park would be diminished to some degree. [12, 41-42, 430]
462. The views from the footpaths winding down from Soulbury would also be affected, but at a greater distance and with summer foliage these are fairly well softened. Once again, the winter prospect would be far worse. It is notable that no landscape or Conservation Area objection was levelled by the Soulbury Parish Council in its written representation and it did not appear at the inquiry to supplement its original comments. In similar vein, the worsening of glimpsed views from the road through the Village constitutes a very small factor, but does not materially compromise the Conservation Area

designation: a point not claimed specifically in AVDC's reasons for refusal, where no reference is made to DLP Policy GP53. [77-78, 321 and 420-421]

463. Turning next on this issue to the private vantage points, harm to those within Soulbury again attract less weight, as a consequence of the separation and intervening land and planting. [65-71 and 321]
464. On the other hand, those living in the dwellings on the Central Bedfordshire side of the border would face a much more pronounced change. In the first place, there are a significant number of dwellings affected. Although some of these have only limited aspect from ground floor windows, most appear to make great use of the views over the open landscape when relaxing in the garden. As such, the introduction of built development a matter of 30-40 metres, or even less, from their garden boundary and the possibility of intervening planting for screening and privacy purposes would herald a significant level of visual enclosure and, thereby, represent an inordinate and unfortunate change to their outlook. [65-71, 244, 398 and 430]
465. Now, of course, no-one has an inalienable right to an unobstructed view and the Courts have judged that the weight afforded the interruption to one is a matter of fact and degree. Moreover, the loss of or change to a private view invariably carries less weight than the same effect on a public viewpoint. However, in this case, as the residents of 30+ properties would be adversely affected, this cumulative intrusion increases the weight accorded this objection appreciably. [13, 65-71, 398 and 430]
466. In reaching this conclusion on private views, there is recognition that this is only an outline application and that the eventual design and layout could be revised to lessen the impact on these properties. Even so, we have the benefit of a Masterplan layout included in the DAS, which indicates the proximity of new building to existing dwellings and to achieve the 900 or so units on the appeal site and still leave the levels of undeveloped land near to the By-pass would make it extremely difficult to safeguard private views or attenuate the effects materially. It is fair to say, in this context, that the Appellants did not see this as a major concern and, therefore, focused little on this aspect in their evidence. This omission may well have influenced the Appellants' lower grading of the landscape quality of the valley side, especially the upper slopes. [17, 65-71, 318, 398 and 430]
467. There is some disagreement about the planting that would be practical on the appeal site and its effectiveness in screening views into the appeal site from public and private vantage points. One could plant large specimens, thereby seeking maximum initial impact. The planting at under-storey could also be dense and, again, achieve relatively high levels of screening. Even so, if the Masterplan approach is followed, the initial benefits from even 'mature' planting would be extremely limited until the canopies of trees link some years down the line. [58-60, 246-247 and 318]
468. As the planting matures, its retention would be a matter of balance between the benefits of screening the development from the outside and the losses to solar gain, sunlight, daylight and structural protection internally. Experience suggests that the 'internal voice' would carry more weight in the longer term.

As such, the landscape proposals in both the short and longer term would be most unlikely to achieve the desired effect, as promulgated by the Appellants.

[58-60, 247 and 318]

469. The matter of Green Belt designation was also raised by the parties. This has two prongs. First, that the Green Belt designations east and west of LL/B are incompatible. Secondly, that there should be compensation following development and loss of Green Belt ELL and that the appeal site would be ideally positioned to fulfil this role. On the first point, the difference would perhaps be difficult to understand if both land ELL and west of Leighton Linlade (WLL) fell in the same administrative authority. However, the situation is that land ELL and WLL are in different counties and were designated as part of different Structure Plan regimes. [219-220, 305-308, 383, 388, 394, 424, 428 and 433]
470. The second point perhaps has more rationale, as designating the appeal site and land WLL as Green Belt, would rest comfortably alongside the aims of the DP in SRS Policy 2a that looks for compensation for lost Green Belt after growth at LL/B and the JCS, which seeks greater containment for the Town. Even so, neither of these lines of argument is something that falls within the remit of this appeal inquiry to decide and so no weight is attached to the arguments. [305-308, 383, 388, 394, 424, 428 and 433]
471. In summary on landscape matters and the effect on the character and appearance of this tranche of open countryside, there can be little doubt that the new experience for those using the highways closest to the appeal site would be inordinate and harmful for very many years. Although the land has no special landscape designation, it is open countryside. As such, it constitutes an important part of the valley through which the By-pass runs and that delivers an almost entirely rural aspect to those driving along it. As for the other viewpoints, both public and private, the impact and level of objection is of a somewhat lower order. Nevertheless, cumulatively they greatly reinforce the stronger fundamental landscape objection.
472. Under these circumstances, the appeal proposals would run counter to the aims and objectives of PPS1, PPS7, SEP Policies CC1, CC6 and C4 and the DLP Policy GP35 and not represent a sustainable environmental outcome.

Housing land supply (HLS)

473. Various lines of argument struggled for supremacy during the inquiry. Broadly, these relate to meeting the district wide HLS figure in Aylesbury Vale, the Rest of District (RoD) figure also for Aylesbury Vale and the district wide HLS figure for CBC. These are looked at in turn, though the main thrust of the Appellants' evidence eventually focused on the first. Following this, one or two tangential arguments are aired. [87-88 and 169-173]
474. The entire housing contribution from the appeal site would be in Aylesbury Vale and AVDC acknowledges that there is not a district wide 5-year supply of available and deliverable housing land. Faced with these circumstances, the Appellants seek to invoke PPS3⁽⁷¹⁾, which advises that, in such circumstances "*...Local Planning Authorities should consider favourably planning applications for housing, having regard to the policies in this PPS including the*

considerations in paragraph 69". If this is taken at face value then the Appellants intimate they are entitled to their permission. [13, 87-88, 97, 169, 294 and 297]

475. However, the content of PPS3₍₆₉₎ is of relevance to this case. This requires that, even where a shortfall in the 5-year HLS exists, there should be consideration of several criteria, including "*The suitability of a site for housing, including its environmental sustainability.*"; "*Using land effectively and efficiently.*"; and "*Ensuring the proposed 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 wider policy objectives e.g. addressing housing market renewal issues.*" [13, 87-88 and 239-240]
476. Of the three referred to above, the first has been considered under the character and appearance head and the second, will be looked at more closely under sustainability. It is, therefore, the third that requires examination here. In this context, AVDC draws attention to the spatial vision underpinning the DP and, in particular, the SEP disaggregation Policy MKAV1, which essentially, splits the Aylesbury Vale HLS requirement figure into three discrete elements. These identify growth in Aylesbury itself, an extension to the South West of Milton Keynes and a RoD figure to meet the local needs of its settlements and rural areas and to ensure the long term sustainability of the rural communities. As such, there are very good reasons why the disaggregation approach is appropriate for Aylesbury Vale. [89-90, 92-94, 252-260 and 295]
477. The appeal development emphatically does not contribute to either the Aylesbury or Milton Keynes growth areas. Moreover, to suggest they do so might inhibit growth figures for these areas, when the Aylesbury Vale Core Strategy is progressed. Logically, it must, therefore, count against the Aylesbury Vale RoD or the CBC figure for LL/B. Before looking at these, however, it is sensible to consider one further submission by the Appellants. This concerns the reference to the district wide figure in AVDC's second reason for refusal. [6, 230, 235 and 294]
478. The second reason certainly mentions the district wide HLS figure, but the wording is not simply a reference to the actual total district wide figure, in the context of establishing whether this is met or not. AVDC accepts that it is not met. What the second reason for refusal says is that, "*....there is no shortfall that could lead to a favourable consideration of the proposed development.*" Implicitly, this recognises a district wide shortfall, i.e. a PPS3₍₇₁₎ position, but clearly contends that, even so, there is a need to look at other factors under PPS3₍₆₉₎. Following consideration of such PPS3₍₆₉₎ matters as disaggregation and the spatial vision for the area and balancing these against the district wide numerical shortfall, the outcome is not favourable. It manifestly does not identify the district wide figure as the only relevant factor. [6, 38, 239 and 294]
479. Moving on, the appeal site lies in the RoD area, and here the Council can show a 9/10+ years supply of available and deliverable sites. Moreover, whereas housing requirement figures are usually not maximums, in this situation, where we are looking at a figure to meet local needs only, allowing unjustified

excesses would encourage development in less sustainable locations, contrary to the spatial strategy. [93-95, 97 and 102-103]

480. Accordingly, AVDC contends that there is no need to release further land in the RoD now, arguing that to do so would run counter to the spatial vision for the District as espoused in the DP. Later in the SEP period, little difficulty is expected in providing the necessary uplift in supply, through the release of smaller sites. That is, of course, if the longer term HLS figure remains relevant after the abandonment of the RSSs. [22-23, 30, 93-95 and 256]
481. As accepted by the Appellants, the basis for the spatial or strategic vision is founded on sustainability and one can see how this sits comfortably alongside the disaggregation approach. The growth in Aylesbury is to an already sizeable town that offers substantial sustainability credentials. The extension to Milton Keynes can similarly be argued. [103]
482. In addition, some of the larger towns such as Buckingham and Haddenham are able to support bigger sites, without upsetting the sustainable balance of the town. However, the smaller towns and villages in the remainder of the Aylesbury Vale hinterland are far less sustainable in terms of employment, schools and other facilities such as transport connectivity. Thus, allowing more development than is required to meet the local needs introduces a sustainability imbalance. Argued this way, weight should be given to the spatial vision based on the disaggregated approach to deliver sustainable development. If this is done, then there is no urgency to find additional developable land in the RoD; a similar conclusion reached recently in the Winslow appeal. [119-124, 255, 256 and 295]
483. However, the arguments in this case are not so simple.
484. Crucially, the appeal site is located immediately adjacent to the CBC boundary and alongside the Town of LL/B. This is a Town of some 40,000 inhabitants, with good rail connections to the Milton Keynes and London employment centres. In addition, in the EEP the Town is seen as a growth point and extensive sites ELL are identified in the submitted draft JCS. Against this background, development of the appeal site would not be inconsistent with the overarching aims for the Town. Moreover, in both the SRS and the later SEP, a western extension to the Town (WLL) is seen as a possibility, if not a probability. However, consideration was deferred until a further review of the SEP had been undertaken and, with an extant SEP, that remains the situation today. [152, 156-158]
485. Notwithstanding this, the appeal site was considered specifically as an option for development in the preparation of the JCS, but discounted for a number of reasons, including the massive, detrimental landscape/visual impact. The JCS, which favours development to the ELL is borne of considerable discussion and the work undertaken by two developers and the Joint Planning Board, responsible for the preparation of the JCS, has produced a Masterplan. The draft JCS has been submitted for examination and sessions are programmed for January 2012, with publication of the Inspector's Report and adoption of the Plan following shortly after. This approach is supported by CBC and the local Town Council. [15, 269-274, 437]

486. Given this timetable, and in circumstances where there is no doubt that development WLL would contribute to the growth of LL/B, it would seem illogical to allow the appeal scheme to proceed so shortly before the strategy for the Town is decided through public examination. Not least because the ELL strategy is a locally driven approach, with the Town Council signed up to build the requisite HLS figure. On the sustainability front, the proposed ELL extensions are anticipated to deliver mixed use development that includes sufficient employment to serve the 2,500 dwelling development, education facilities and a form of Eastern Link Road (ELR) to the Town that would cater for all the traffic generated by these development projects and still improve general traffic movement through the Town's central Corridor. One developer's planning application has been received and it is reported that everything is in place for the second to be submitted imminently. [101, 224, 272, 389 and 424]
487. Nevertheless, once again matters may not be straightforward. First, there is no guarantee that the JCS will be delivered according to programme. In July 2011, the Executive Committee in Luton resolved not to proceed with the JCS, though this still remains to be confirmed by the full Luton Council. If this were to happen, this could lead to a hiatus. The Joint Steering Committee, which is the planning authority for the JCS, comprises an equal number of elected Members from both Luton and CBC Councils, but without a Chair who has a casting vote. There is, therefore, the potential for deadlock and consequent delay or even withdrawal of the current JCS. Although, CBC is clear in its wish to continue according to the timetable, the legislation and constitution does not allow it to proceed on its own. It would seem that the present JCS would have to be abandoned and CBC recommence its own Core Strategy. [157, 159, 166-168, 222-223 and 304]
488. The second complicating factor is that the sites ELL are in the statutory Green Belt. As noted above, this could inhibit the two applications proceeding in advance of the JCS and a full review of the Green Belt boundary. [219-220, 303, 305-309]
489. The Appellants pray in aid this uncertainty, saying that, under these circumstances, the sites ELL are no different from the appeal site. None have permissions and none are allocated. Moreover, whether one looks at the housing requirement for Aylesbury Vale or for Central Bedfordshire, there is a shortfall in the district wide HLS and this delivers a PPS3₍₇₁₎ situation. Their view is that the appeal proposals do not materially compromise the PPS3₍₆₉₎ considerations and would provide a highly sustainable development scenario helping the RoD supply, albeit linking to a Central Bedfordshire town, while actually being built in Aylesbury Vale. [295, 299-300, 306]
490. As one looks at these matters in turn, the contribution the appeal site would make to the Aylesbury Vale RoD needs is unknown. It would most likely be small and, with the ELR, similar levels of help may be achieved by the ELL extensions. In any event, it would be of little or no use in supporting the smaller communities and their services in Aylesbury Vale: a fundamental plank of the spatial vision and a driver for the RoD allocation. [295]

491. As for the HLS on the other side of the border, the figures produced by CBC, which includes development ELL, show a delivery trajectory for housing meeting the requirement targets some time hence. Even so, this may be founded on sand. At the present time, and without confirmation through the JCS, many of the sites do not have the benefit of an extant planning permission and, if the JCS is delayed, there is every prospect they would not be built out at the anticipated rate. [173-174, 297 and 299]
492. Having said this, development ELL are firm proposals in the draft JCS, no doubt based on robust evidence that will have informed the SRS. In addition, the proposals are borne of a consultation process and have been submitted to the SoS for examination. Importantly, there is nothing to suggest that delay to the DP process would deflect CBC and the LL/B Town Council from this course. It is again worth remembering that they have considered and rejected the use of the appeal site in this context. Thus, it is accepted that there will be an extension to the Town and, within Central Bedfordshire, this will almost certainly have to be in the Green Belt, a factor recognised by the EEP and SRS. [161, 223-227]
493. The Appellants also claim that the decision to reject land WLL in favour of the land ELL preceded the landscape assessment that warranted omission of the site WLL. Although there appears to be some time anomaly, the present position is clear. Whenever the decision to promote development ELL was reached, the key parties to it now agree with the outcome, which is consistent with the landscape findings, and continue to support this through the JCS process. In this, the land ELL is distinctly different from that WLL. As such, little weight should be attached to this line of the Appellants' argument. [249, 437]
494. Crucially, in the case of CBC there is a large allocation, chosen locally, coming forward. Until that has been decided through the DP process an unrelated and unsupported development of the scale of the appeal proposals on the opposite side of Town may inhibit delivery of the favoured comprehensive package in the anticipated timescale. At the very least, should the appeal scheme be allowed, then this could reduce the urgency to release land ELL as there would then be a much reduced shortfall in the supply side. While the Appellants are correct to say that there has been no dedicated economic appraisal of the inter-relationship of development ELL and WLL, in a competitive market place common sense points to an adverse effect of the latter on the former. In a similar vein, to proceed with extensions both to the WLL and ELL may also be too rapid an expansion of the Town and impose too heavily on the service and community facilities necessary to achieve sustainable development. [156-158, 224, 272, 309 and 389]
495. Next, the failure of delivery at the designated growth points in Aylesbury Vale seems to have little to do with a scarcity of identified housing land. Land is identified, there are applications in and appeals pending. A crucial factor for the slow delivery appears to be a lack of market demand or prospects following the general depressed economic conditions. In these circumstances, Government looks to the release of additional sites in the hope that this will foster a new impetus to house building and no doubt appraisal of the applications and appeals currently under consideration will have regard to this

stance. Release of the appeal site would not help in this regard. [105-107, 258 and 296-297]

496. The Appellants also suggest that neither AVDC nor CBC has been able to look beyond local interest and grasp the significance and need to embrace cross boundary co-operation. Whereas they are right in saying this should be done, the fact is that this has been considered at all levels of the DP process. There is an extension to Milton Keynes allocated in Aylesbury Vale. The SEP said that on review it would again look at an extension to LL/B in Aylesbury Vale. Last, but not least, in preparing the JCS, land WLL was considered as an option when looking for extension to LL/B, though this was discounted before a comparative exercise had been completed, to confirm that this action was justified. Thus, though it may be argued that the responsible authorities reached an incorrect position, it is not true to say that the possibility has been ignored or rejected out of hand. [294, 298]
497. On another tack, the Appellants argue that developing the appeal site would deliver desirable housing that would serve the needs of the RoD in a more sustainable location than attaching development to the rural smaller towns and villages in Aylesbury Vale and add to choice. Moreover, the failure of two of the disaggregated housing requirement figures, namely the Aylesbury growth centre and the Milton Keynes extension, means that the Government's strong desire for housing to be a key step on the road to economic recovery is being stifled. The local agenda yet again conflicts with the default position of granting permission. [287-289, 298]
498. Certainly new housing would offer greater choice and be desirable for potential occupiers and close to LL/B Town Centre. As noted above, however, it is difficult to see how much better help the extension WLL would be to the RoD requirement than development ELL and this equally applies to choice. As for perceived shortfalls in the Aylesbury and Milton Keynes growth areas, development on the appeal site would contribute nothing. Both are held up by market factors and not an in principle unwillingness to release land. [287-289, 298]
499. At this stage it is sensible to address the position of the RSSs. It was urged by the MP and others that a decision based on strategic planning documents that will be abandoned early in November is ludicrous. The JCS for the relevant part of the District is progressing to reflect local views, and the draft allocations are presumably underpinned by the robust evidential basis that served the SRS. Importantly, even should the RSS be abandoned, there is no attempt by either Council to resile from the respective RSS figure, at least at this stage. Moreover, the formal abandonment of any RSS will not be immediate following legislation, but await the outcome of the SEA. [25-30, 108-116, 303 and 358]
500. However, we are faced with the Core Strategy for Aylesbury Vale having been abandoned and after the demise of the RSS the process is scheduled to restart. As such, the best figures we have for Aylesbury Vale are those contained in the SEP and the disaggregation that goes with them. If the RSSs are abandoned, or given little or no weight, there is no more suitable or emerging draft housing requirement figure for Aylesbury Vale, based on robust assessment, evidence or information. There is no Option 1 figure and the

SHLAA that informed the SEP offers no different figure. With the abandonment of the Vale of Aylesbury Core Strategy, this can offer no help. As such, there is no additional comfort for the Appellant and, of course, there could just as easily be pressure to reduce the present allocations in the Aylesbury Vale district wide figure, to reflect the current housing market. [25-30, 104, 108-116, 303 and 358]

501. Similarly, adopting the findings of the SHMA adds little. The figures informing the SHMA were gathered before the current economic downturn. Moreover, these figures lack objectivity, have not been the subject of SEA and, unlike the SEP and JCS figures, there has been no public consultation. [116, 296]
502. Finally, it is suggested that the land WLL would deliver housing within the level of flexibility permitted by the HLS figures in the DP. Whereas a 10% or higher might be considered reasonable for a district wide figure, the addition of a further 900 dwellings specific to LL/B would fall outside any reasonable definition of flexibility. [205]
503. Pulling these strands together, of the three ways the HLS arguments were tendered to the inquiry, that relating to the Aylesbury Vale district wide figure carries little if any weight. It flies in the face of the spatial vision evinced by the SEP and there is nothing to suggest that AVDC would move away from that approach when preparing its interim figure for a future Core Strategy. If one relies on the RoD figure then this again carries little weight as there is an identified HLS figure well in excess of the 5-year requirement and any figure likely to come forward in the future. In a disaggregated world there is no urgency to release housing land to serve the Aylesbury Vale RoD's needs and no benefit from releasing land WLL.
504. So the CBC figure is what is left and, reasonably, the appeal scheme can only relate to LL/B as an identified growth point in Central Bedfordshire. On the basis that, after considering options, the submitted JCS looks for the growth ELL and not WLL it would be premature to allow this appeal at this crucial stage of the JCS process. The possibility of extending WLL is flagged up in both the SRS and the RSS, but both see the housing figures counting against the Central Bedfordshire HLS figure and not that of Aylesbury Vale, either in total or disaggregated. [14-15]
505. A benefit of the appeal proposal is that it would bring forward another site and, should demand pick up, this rests comfortably with Government's desire to improve the rate of house building. Moreover, it would be in a relatively sustainable location and, economic factors excepted, it should be capable of fairly rapid delivery, thereby helping meet housing targets at a time these are failing. Against this is the fact that no-one supports the urban expansion of the Town to the WLL and the planned ELL extension should be decided, one way or another in the relatively short term, even allowing for possible difficulties in progressing the JCS. [293-302]
506. On balance, the expansion of the Town through local support and a public process of examination carries the day and a delay to a scheme for the western extension, even for 5-years or more would not affect the district wide delivery of either authority materially. On the other hand, to allow these

appeals could prejudice the delivery of the comprehensive and locally supported package on the easterly side of the Town. There can be little doubt that allowing this to be examined through the JCS process, or even through a future CBC Core Strategy, would promote the desired level of housing to be delivered, where and when the local agencies best see it serving their communities.

Traffic and transport

507. The appeal site proposes three access points to the adopted highway system. The two main access points separately connect the northern and southern areas of the site to Leighton Road, which is classified as C256 (formerly the B4032). This cross road junction would be signal controlled, and require substantial vertical realignment to facilitate acceptable forward visibility. As a free standing junction AVDC and Buckinghamshire CC as highway authority accept that this would operate without material adverse effects. [11, 17, 142, 327 and 349]
508. The only dissent from this position comes from third parties who consider that development would add several hundred traffic movements to the C256 each day and this would lead to queuing back from the roundabout on the Linslade By-pass (A4146), which already backs up further than the proposed site access junction. Site observations, however, show this not to be the case. In fact, the proximity of the By-pass would allow easy and direct vehicle access to the major road network, without passing through any existing urban areas and there is always the potential for further traffic management innovation to overcome any localised junction problem. Moreover, despite assertions by residents living alongside the C256, the highway authority confirms that traffic volumes using this section of the road have not increased materially since the opening of the By-pass; a feature not inconsistent with similar by-pass schemes. [327, 377, 381, 389]
509. A secondary access to Derwent Road is proposed from the southern element of the appeal site, close to the local primary school – Greenleas Lower School. This access would accommodate movements to the Town Centre and railway station via a mini roundabout at the junction of Derwent Road and Soulbury Road (C256) (Leighton Road changes name to Soulbury Road at the administrative boundary.) and also southwards via Bunkers Lane to Wing Road. [190, 280, 327 and 349]
510. Although the geometry of the Derwent Road junction is acceptable to CBC, considerable concern is expressed by third parties about the conflict its use would have with the activity of parents/carers delivering and collecting children to and from Greenleas School. To address this situation the Appellants, in conjunction with CBC, look to improve the highway geometry in the vicinity of the school, in terms of widening the footways and providing a car park area within the appeal site to be used as a drop off facility for the School, with a pedestrian facility across Derwent Road. There is also the possibility of further Traffic Regulation measures and monies would be available through the s.106. [12, 17, 327, 352, 359, 373 and 380]
511. At the specific request of the parties, site observations were taken in term time. These were taken during extremely good weather and show that there

are three periods during the day when parents/carers visit the school to drop off or collect their charges. Those are first thing in the morning, at lunch time and after school in the afternoon, when well over 50 cars are parked at times. At present, the school entrance markings work in the main at lunchtime and in the afternoon, but less so in the morning when pupils are being dropped off. However, outside these there is a demonstration of supreme driver selfishness, and lack of awareness.

512. Some parked cars were observed blocking the footway entirely, while others were so remote from the kerb, it requires a further expedition to find the footway. In addition to parking difficulties, there were some outrageous manoeuvres in the carriageway, the school entrance and around junctions that had little regard for highway safety, good driving practice or other road users. The situation was made very much worse by an extremely narrow footway (< 1m), with parking taking place exclusively on the inside of the bend, rendering forward visibility virtually non-existent.
513. On the basis of these observations, and however laudable the provision of a new off-street car park and other minor highway improvements may be, there seems little likelihood of it attracting great use. This would be especially true during inclement weather, when the situation could be expected to be far worse. Even with no waiting restrictions for some way along the road, they are unlikely to deter the stopping of parents/carers for a couple of minutes to set down or collect. The simple fact is that it would be less convenient and, therefore, unattractive and time consuming and, of course, additional no waiting restrictions would adversely affect nearby residents.
514. Consequently, it is likely the new junction would worsen the movement for through traffic along Derwent Road and for those using the secondary access, as well as increasing the risk of accidents. It seems clear that, in reaching the conclusion that there would be no worsening of safety, the Councils and the Appellants have assumed a level of compliance and common sense not borne out in reality. [335]
515. There is a suggestion that the access to Derwent Road should be for emergency and public transport purposes only. In the light of observations on site, one can have a deal of sympathy with this view. However, as the transfer of redirected traffic to the Leighton Road junction has not been appraised, it is not something this appeal decision could look to condition with any confidence. [426]
516. Turning to look at the ends of Derwent Road, where there are junctions with Soulbury Road in the north and via Bunkers Lane to Wing Road in the south, some concerns are raised about the operation of both routes. For the Soulbury Road Junction, this operates as a mini roundabout and ARCADY V6 shows this to work acceptably with a ratio of flow to capacity (RFC) of approximately 75% (Documents PN13 and 14). However, this has not taken into account the side road, Bideford Green, which joins Derwent Road some 15m south of the Soulbury Road mini roundabout. At certain times of the morning peak, it is suggested that a queue forms in this side road to join Derwent Road and traffic generated by any new development would exacerbate the situation and add to the

predicted delay. No evidence or observations support this, though, of course, the situation might be worse on some days. [380]

517. As for the other end, the present priority junction between Bunkers Lane and Wing Road has recently been upgraded to a mini roundabout. The exit from this to the east, then hits a further throttle point at the railway bridge on Wing Road, which has one way operation, controlled by signals and also subject to a pedestrian call, especially from pupils attending nearby schools on the far side of the bridge. CBC is concerned about any additional vehicles attracted this way from the appeal development and the interaction between the roundabout and signal operations. [178, 190, 280 and 327]
518. Observations show there is already considerable interaction between the roundabout junction and the bridge. If not managed carefully, any additional traffic from the proposed development, could clearly add to the current delays being experienced. Changes to the timings of the signals and especially improved detection could off-set these delays and there is money available through the s.106 for minor improvements of this kind. Even so, this must not be at the expense of the school pupils' crossing facility. Outside the peak hours the situation seems to work perfectly satisfactorily. Accordingly, this only represents a minor objection. [178 and 380]
519. Moving to look at what are by far the strongest concerns expressed, these relate to the main Soulbury Road route into and through the Town Centre. The attractors in this direction are the Town's main retail outlets, some schools/nurseries and the rail station. A recent improvement scheme has been introduced along the route through the Town Centre, concentrating on a shortish length, between Old Road to North Street. The results from this are recognised as being good and the CBC's fear is that the additional traffic generated by the appeal proposals would reverse the benefits that have accrued from the improvement and reintroduce previous or worse levels of congestion and delays in the central area. [10, 180-187, 329-330, 373-374]
520. Between the appeal site and the other, eastern, side of the Town, this is the only real option for movement, as constraints are imposed by the need to cross the River, Canal and Rail line. Along this stretch of road are a number of junctions and observations show that several are close enough for there to be significant interaction during peak periods. In particular, pedestrian facilities are demand led – old style pedestrian crossings having been reintroduced – and during peak periods queuing from one junction backs up sufficiently to impede vehicles leaving the one further back. Having said this, once again, observations show that the route operates well throughout the vast majority of the day, outside the peak hours. [178-181, 280-281, 328-329, 373-375 and 381]
521. When calculating the impact of the traffic generated by the appeal development on this through route, the Appellants have adopted the computer models of LINSIG for the signal junctions and ARCADY V6 for the mini roundabouts. ARCADY V6 treats each junction in isolation and essentially 'stacks' queuing vehicles, as opposed to them occupying a queuing lane back from the junction. With this spread sheet approach it is not possible to take account of interaction between junctions. ARCADY V7, which became available early in 2011, overcomes this problem, but the traffic assessment work was

undertaken prior to this date. This means that the effects of any additional traffic generated by the appeal site are likely to have been underestimated.

[181-182, 280,328-329 and 331]

522. There are also one or two further factors that may mean the predicted outturns would be somewhat worse. First, the model runs have not been validated to ensure the correct correlation with the existing position. Although the Appellants dispute this, there are clearly discrepancies from observation and the video produced by the Appellants. [183-184 and 189]
523. Next, the overall growth prediction rates for traffic have been used to test the highway system 10-years hence. This does not take into account committed development or ELL allocations in the JCS. Whereas the ELL allocations may not have been judged to be firm proposals, and, thus, may reasonably be excluded, the committed development should have been included. The general growth factor is to be applied additionally to existing traffic levels and reflects increased car ownership and demographic changes, especially the increase in women drivers over 60. Finally, there is very likely to have been an under estimate of the effects of pedestrian movement and of parked vehicles, loading and unloading and buses stopping to set down or pick up passengers, all potentially disrupting factors observed on site. [186-189 and 282]
524. On the other hand, no allowance has been made for modal shift as a consequence of the recent transport additions. This could discount some of the additions highlighted, but as there is no target for modal shift in the Travel Plan, this is difficult to factor in. The targets in the Community Travel Plan are primarily to reduce the number of single occupancy car trips and are unlikely to approach the 20% shift levels claimed to have been secured by FoE for other nearby sites. [333, 335, 353, 364 and 439-440]
525. In any event, there is no doubt that a micro-simulation model such as Paramics or VISSIM would have offered a much better approach to this assessment. These programs require detailed validation and would have overcome the junction interaction problems. However, to be fair to the Appellants, this was not requested by the Councils or their figures unduly criticised when the application and Transport Assessment were submitted. [280-282 and 331]
526. Notwithstanding, the Appellants are correct to say that the worst consequences flowing from any additional traffic on the network would largely be an increase in the length of the peak hour or 'peak spread'. This would certainly result in inconvenience, delay and an added level of frustration for road users, with the possibility of a greater risk of accidents, though no party suggests any increased potential risk would be material. [366]
527. Under these circumstances, this weighs as a negative factor when considering the appeal proposals, but perhaps not a compelling reason for resisting the development. As the Appellants point out, this is not an unusual situation for those needing to travel by car at the busiest times. Even so, any increased level of congestion is not a sustainable feature and this carries negative weight in the sustainability audit. [329]

528. Before closing on this issue, there is one further important factor that should be borne in mind. This relates to the emerging JCS, which proposes an ELL extension, comprising some 2500 dwellings and other mixed uses. As noted above, there has been considerable discussion between the local planning authority and two developers and the production of a Masterplan. As part of this Masterplan, a main distributor road for the area is proposed, which would also act as an Eastern Link Road (ELR) for the Town. This has been modelled and the highway arrangement envisaged would not only cater for the traffic generated by the ELL development, but also appreciably improve traffic conditions in the Town Centre. There is no demur from the highway authority as to the provenance for this conclusion. [201, 226-227 and 334]
529. As such, if the proposed WLL extension was factored in at that stage, then the forecast increased congestion in the Town Centre would be off-set by the improvements occasioned by the highway works to the east. Conversely, if the WLL extension happened in advance of the ELL extension, any inhibition to the progress on the ELL and the accompanying roadworks that are necessary to effect the highway improvements, would be to the cumulative disbenefit of the Town. This constitutes a further reason why, even should the principle of development on the appeal site be sanctioned, it would be premature to proceed at this time. [201 and 334]
530. Pulling all these factors together, the Derwent Road difficulties at the School and Wing Road offer a moderate objection, with the added traffic in the Town Centre adding a little more strength. All other problems can be mitigated to acceptable levels.

Other material considerations

Ecology

531. This topic constituted the third reason for refusal issued by AVDC. Following discussions with the Council and Natural England (NE), agreement was reached, subject to imposing conditions. These would require an Ecological Construction Method Statement, an Ecological Management Plan and the appointment of an Ecological Clerk of Works. As such, this reason for refusal was not pursued at the inquiry by AVDC. However, it was a matter raised by several third parties and, in particular earnest by Friends of the Earth (FoE) and the local wildlife trust BBOWT, who fielded three witnesses. The particular concerns voiced relate to bats, grassland habitat and the wetlands on the westerly side of the appeal site. The Appellants tabled a detailed rebuttal of the points raised. [6, 135, 337-338, 382, 402-404, 431 and 438]
532. First off, none of the appeal site is protected by any nationally recognised ecological designation. The only area that is designated is the wetland area, which is a Local Wildlife Site (LWS) of county value. In addition, to the north and east of the area of the appeal site to the north of Leighton Road lies the Linslade Woods and the Brickhills Area of Attractive Landscape (AAL). Apart from the three concerns referred to above, the site is inhabited by badgers and great crested newts. Their requirements are dealt with through the Ecological Management Plan that would be required by a condition attached to any planning permission. [360-361, 402 and 438]

533. Turning to look at the three main concerns in more detail, bats are in evidence on the site. However, past surveys have shown these to be isolated to one tree roost for a non-breeding single pipistrelle, which is a common and widespread species. A derogation licence would be necessary, but NE has not suggested that securing this would represent an insurmountable problem. Even so, the habits and roosting locations of bats can change with time and before commencement of any work, further surveys would be required. These may identify new roosts, which would have to be addressed in the same way. This represents a risk to the development, but one which the Appellants are content to take, having regard to the information available to them at present. [342-346, 362, 386 and 402]
534. On this basis, there is no objection to the principle of development on the site. Neither should bats hold up the grant of a planning permission. The ES is adequate as it stands and, whereas there may be some changes, the evidence is that these would be small and manageable at the reserved matters stage. Some bats roosting in Linslade Woods may forage over the northern area of the appeal site, but, even with the loss of a quantum open land as a result of development, significant open areas would remain around the Woods. To assist, money is included in the s.106 for improvements to the woods. [342-346, 362 and 386]
535. Incidentally, the question of lighting implications for bats foraging over the appeal site, based on the research into the habits of horseshoe bats in the west of England and Wales does not attract much force here. In the first place, horseshoe bats are not a species currently found foraging over the appeal site. Secondly, whereas the research may be valid as far as it goes, there still needs to be considerable work undertaken before any conclusions can be applied to bats generally. Neither does it invoke the precautionary principle as, if it did in such inconclusive circumstances as pertain here, it could inhibit development in almost every case. [345 and 362]
536. The protection and preservation of species rich lowland meadow existing within the site is perhaps clearer. Undoubtedly the best solution would be to preserve the fields of grassland interest undisturbed, in-perpetuity. However, this is not possible if the site is to be developed in the way proposed and two key facts pertain. First, the grasslands of ecological interest are not currently designated or protected in any way. Secondly, without protection, their present condition cannot be guaranteed for the future. This is a working, agricultural holding and fields can be ploughed and planted at any time. [132-134, 340-341, 363 and 365]
537. Under these circumstances, a compromise has been reached that would largely, if not entirely, safeguard the ecological interest. Some of the existing grassland would be retained and enhanced, some translocated to other parts of the site and the remainder 'safeguarded' through a habitat compensation scheme. On balance this would be acceptable to AVDC and, on the plus side, the proposals would, in themselves, ensure a greater degree of permanence than currently exists. [132-134, 340-341, 363 and 365]
538. As for the position, post development, for the wetlands to the westerly side of the site, these form a LWS. The main fear here is that the present hydro-

geological and hydrological regime would be compromised by development taking place on the higher stretches of land within the appeal site. This point has two aspects. First, the matter of water quantity and secondly, securing an acceptable quality of the water draining from the appeal site into the wetlands.

[339, 365 and 369]

539. Although there would be some risk, and great thought and care would be needed, experience shows that this is not an insurmountable problem. Despite the doubts and concerns expressed by some, flow rates and recharge can be controlled very precisely through well tried and tested engineering techniques. Similarly, water quality can be safeguarded through traps and filter beds. In this instance, the baseline data could be established and both water quality and quantity could be monitored through the Ecological Management Plan. For these reasons, there is no fundamental objection to the development on the basis of a threat to the wetland LWS. [339, 365 and 369]

Drainage and water

540. Insofar as foul water drainage of the site and its subsequent treatment and the supply of potable water to the development, discussions have taken place between the developer and Anglian Water Services Ltd. The Water Company is content that the capacity of the sewers that surround the site could be adapted to cater for the discharge and that there is sufficient environmental headroom at the Linslade Waste Water Treatment Works. This may impose costs on the developer, but an appropriately worded Grampian condition would safeguard the position. [6, 39, 348, 379, 384, 390, 435 and 438]
541. As for potable water, now that Anglian Water have completed the installation of the Wing Strategic Scheme, there is adequate capacity within the system. As such, and although several third parties raise this as a point of objection, sewerage and potable water supply no longer constitute sustainable objections to the appeal schemes. [6, 39, 348, 379, 384, 390, 435 and 438]

Sustainability

542. Although the sustainability accreditation of the proposed development was often at the forefront of the Appellants' case and individual attributes highlighted when presenting each part of their evidence, there is little detail or objective evidence to this effect. This is perhaps surprising as the Government's stated position is that it plans to put the UK on a path to sustainable, long-term economic growth by introducing *"....a powerful new presumption in favour of sustainable development, so that the default answer to development is 'yes'"*. (Document CD20.7) As this is only in draft at this stage and amenable to change, it can be afforded only little weight. However, sustainable development is a material consideration and so it merits a more detailed look at the appeal proposals in this regard. [17, 31, 33, 126-131, 291-292 and 302]
543. If sustainability in this context is one of locational sustainability: being adjacent to an existing built up area and able to take advantage of any existing services and infrastructure, then developing this site would score heavily. On the other hand, if we seek a Bruntland scenario, whereby today's

development would not impose environmental costs on future generations, we are a considerable way from achieving that. [31, 33, 126-131, 288, 356 and 434]

544. Irrespective, it is clear from the reasons for refusal that, at the time AVDC considered the proposals as they are reflected in the Design and Access Statement (DAS), the overall sustainability audit of the scheme was little, if any, above average. There was certainly no expectation that they would 'consume their own smoke'. [6, 17, 31, 33, 126-131, and 378]
545. Having said that, the Strategy for Sustainability in the DAS is sound and demonstrates an understanding of the key principles. It does not, however, deal in many specifics and targets other than the aim to reach Code for Sustainable Homes Level 4. There are too many references to things like "*exploring greywater recycling*" and "*a Travel Plan will be developed*" and "*more innovative approaches to transportation could be considered*". The DAS was not revised to reflect the Appellants' changed position on a number of relevant matters. [6, 17, 31, 33, 126-131, and 378]
546. As for movement, there was little beyond broad principles and these were largely internally focused. A Community Travel Plan was not submitted with the application. However, one was submitted as a supporting document, but lacked objectivity. Although the provision of a primary school was always envisaged, there was no guarantee that other service and leisure facilities such as shops and pubs would be provided or when. Off-site travel to these venues was, therefore, a distinct possibility. [17, 31, 33, 126-131, 378]
547. Since the refusal notices, considerable progress has been made to retrofit more sustainable features, especially in the realm of non-car transport. Now there would be a much improved, dedicated bus service between the appeal site, the Rail Station and the Town Centre, which would be delivered early in the scheme, with improved frequency as the development progresses. In addition, there would be the introduction of enhanced cycling and pedestrian routes from the appeal site to the Station and Town Centre. We now have a Community Travel Plan, which would facilitate the introduction of targets to reduce trips with single car occupancy. However, this falls well below the target modal shift of 20% FoE aims for and says it has achieved with other development. Also, it does not cover the construction period. [31, 33, 126-131, 330, 364, 371, 381, 393, 432 and 439]
548. Having said this, there remain several downsides. The biggest of these is that the mixed use elements of the site would not create a level of on-site employment to match the envisaged working population living on site. This means that there would be net outward commuting and, although the Town has good rail connections to Milton Keynes and London, the attractiveness and convenience of the new Westerly By-pass would be difficult to resist for those working in the Milton Keynes or Aylesbury employment areas. There is also a dearth of committed retail and leisure offers on-site. [31, 33, 126-131, 225, 276-279, 364, 381, 421 and 423]
549. Next, if one looks at the built elements then they would be constructed to Code Level 4. However, there is no attempt to be carbon neutral, and no life cycle analysis has been proffered to show how near to achieving it this project

would be. There are no guarantees of on-site low cost energy generation or sustainable drainage features such as grey water recycling, though there are now conditions agreed that would move these assets forward. In addition, any increase in vehicle usage would deliver corresponding increases in air, light and noise pollution. [17, 31, 33, 126-131, 291, 302 and 438]

550. Overall, the sustainable improvements, albeit late in the day, do offer some beneficial features, but are not so comprehensive or sufficiently innovative to merit the added weight of an additional presumption. To compound this, is the serious lack of environmental sustainability, as concluded in the character and appearance/landscape and highways/traffic sections of this Report. In any event, this aspect of the Appellants' case does not overcome the strong in principle objections. [31, 33, 126-131, 250, 347, 351, 383 and 387]

Education

551. There is natural concern that those new residents of school age would swamp the local schools in the Town, even with the promise of a new Primary School on the appeal site. Matters are complicated somewhat, with the appeal site and the Town being administered by two different local education authorities. As many children moving to the appeal site would already have a school place, initially this should not add unduly to the pressure on existing facilities overall. Even so, it would most likely lead to extra travel and some additional pressure on existing schools just over the border, at least for a short time. [390, 394 and 435]
552. Notwithstanding, the s.106 UU covers an agreed input as far as education is concerned. This would comprise the provision of a new on-site Primary School and nursery and financial contributions to cover other age groups. One area where there may have been a bone of contention – special needs provision – has been overcome. Thus, while recognising local concerns, this carries very little, if any, weight in the final balance. [355, 394, 412, 435 and 439]

Local facilities

553. The intention would be to have an interim community facility from quite an early stage. This would be replaced by a full community facility sometime later. These are covered in the s.106 UU. In addition, the playing fields and open space would form part of the proposals and be delivered by way of a Community Delivery Plan, though it is alleged that the Country Park would not meet PPG17 requirements. Where matters are less clear are for the commitment, on site, to shops and other leisure buildings such as pubs. These presumably would be demand led, as would local medical and dentist provision. Some contribution would be made to the respective authorities to cater for any increased pressure and usage. [368, 390-391, 393, 417-419, 424 and 434]
554. As for the Police request, no offer is made and, as the funding for the Police derives from Central Government and the Council Tax, seeking a 'roof tax' from new development to cover policing in a specific area may raise unrealistic expectations. No details of burial provision in the area were made available before the close of the inquiry, but presumably burial rights for residents

within the Parish of Soulbury would prevail and cremation would be an alternative option. [390-391, 393, 405, 407, 415 and 419]

555. In summary, things could be better, but reasonable efforts have now been made and there is little objection from the local authorities to the levels of provision or contribution. The main objections relate to the usage and reducing service the new development would have on the existing facilities in LL/B. Management of the Community Facility was also raised, but this is a matter for the Delivery Plan. As such, this does not feature as a compelling objection, but is a small negative factor to be weighed in the balance. [391, 405-407, 419, 424 and 434]

Localism

556. The impending Localism Bill is understood in a number of ways and, as a consequence, the expectation following its enactment varies significantly. At the inquiry this topic was led by Andrew Selous MP. He submitted that there are agreed figures for housing requirement in Central Bedfordshire and Aylesbury Vale and the decisions of how and where these should be delivered and whether increased provision would be possible or acceptable should be left to the local authorities concerned, through the DP process. In this case, a housing requirement figure representing significant levels of growth in the Town, is accepted by CBC and the Town Council, and the JCS incorporating this has been submitted for examination in the near future (early 2012). As such, delivery of this figure may be compromised by allowing the appeal application in advance of the JCS examination and its outcome. [358-359, 383, 385, 389, 391, 424 and 437]
557. At the other end of the spectrum there are many individuals and groups who consider that if the local consensus is against a development then it should not be granted a planning permission, irrespective of any merits it might boast. It seems that the definition of local can be very parochial and probably confined to those residents and others who consider they would be directly, albeit no doubt 'adversely', affected by any proposed development. Nowhere is it said that Government sees its localism agenda as one to promote nimbyism. It seems aimed at empowering local people and groups to deliver and better the Government agenda, without interference in the detailed management from the centre or regionally appointed bodies. It is not, however, directed to deliver less, but to deliver at levels to maximise or exceed Government strategic objectives. If successful in this, all well and good. However, if local bodies fail, then progress to the desired end will be achieved by default, which is very much in line with PPS3⁽⁶⁹⁻⁷¹⁾ approach to HLS. [377, 379-381, 383-384, 390, 396-399 and 437]
558. Against this background, very little weight can be afforded to those who consider the Town is large enough and do not wish for any more development of this kind. The bottom line is that LL/B is a growth Town. On the other hand, in a situation like this, where the key agencies involved are not attempting to reduce housing figures, but merely wish to promote their delivery through the DP process, considerable weight can be given. Any delay to this process and, thereby, failure to contribute to the economic recovery will, of course, lend weight to 'unallocated' sites coming forward, but we are

not yet at that stage. At the close of the inquiry the JCS examination remained programmed for early 2012. [358-359, 377, 379-381, 383-385, 389-391, 424 and 437]

Overall Balance and Conclusion

559. The three appeals remaining to be decided are inextricably linked. However, the two access appeals (Appeals B and D) are entirely dependant on the outcome of the substantive appeal (Appeal A). As such, and even allowing that there are now no technical differences about the geometry and capacity of the two proposed access points, allowing these appeals without a favourable decision for the substantive appeal decision would not be sensible or pragmatic. In fact, it might be deemed indicative that, in principle, the site is acceptable for mixed use development. Accordingly, these two appeals should follow the outcome of the main appeal scheme.
560. As for the main appeal, it is not in conformity with the DP and does not, therefore, attract the benefit of s.38(6). In site specific terms, it would intrude into a sensitive, open landscape area from a number of public and private vantage points. In particular it would represent the first major, urban incursion into a wholly rural valley landscape, either side of the By-pass, and be viewed by the occupants of some 20,000 vehicles each day. Although a comprehensive landscape scheme has been introduced alongside the By-pass, this will not screen the adjacent land from views for a considerable time and not then entirely, especially in winter and at night. All in all, the appeal scheme would harm the character and appearance of this rural area and, thereby, run counter to the Government policy for the countryside espoused in PPS1, PPS7 and landscape sustainable policies in the SEP and DLP. For these reasons, this represents a very strong reason for resisting this proposal.
561. Turning to the HLS issue, the proposed housing development would be in the AVDC area, where there is not a 5-year district wide supply. Thus, a PPS3⁽⁷¹⁾ position prevails. However, this obliges the decision maker to look at PPS3⁽⁶⁹⁾ and the criteria embodied therein. When this is done, it is clear that the proposal rests uncomfortably alongside the spatial strategy evinced by the DP, and especially relevant in this context, the disaggregation and RoD approach, where there is well in excess of a 5-year supply of housing land.
562. The conclusion, therefore, must be that if the appeal site is developed the housing built would count against the CBC allocation as part of the 'planned' expansion of LL/B. As CBC is in the throes of its JCS examination, which should deliver a 5-year supply of readily available housing land, to allow the appeal proposals in advance of the JCS outcome may well prejudice the delivery supported locally by all responsible agencies. Again, this represents a strong reason for resisting this appeal.
563. As for the traffic impact, the Appellants' assessment lacks focus in one or two areas, especially Derwent Road. Even so, the worst case scenario is that the vehicles generated by the appeal scheme would increase congestion and delay over a longer period of each day than exists at present. This is something that most experience for some time of each day and to find this compelling would create an unfortunate precedent for development everywhere. Crucially,

however, is the effect of completing the ELL extension and the ELR that would accompany it. These would provide benefits for all Town Centre travel and, thus, even if the principle of development on the appeal site is accepted, there would be benefits in delaying any work until the ELL extension is well under way, or even completed.

564. On other matters, there is no objection of major substance and the Unilateral Undertaking and conditions could temper any impacts to acceptable levels. The project lacks high levels of sustainability, albeit they have improved since the refusal notices were issued. A particular downside is that the scheme would promote some outward migration for employment purposes and also for some retail and leisure trips, all of which would increase congestion.
565. Finally, there is the localism argument. In this regard, the Localism Bill is still proceeding through the Parliamentary process and, thus, one cannot properly place much weight on the specific provisions contained therein. However, here all the local agencies are working hard to deliver Government objectives for needed housing in the right places, through the local agenda and, specifically, the DP process. These recommendations will support the continuation of that local endeavour.
566. In summary, there are two in principle objections to development of the appeal site, which is unallocated open countryside. These pertain to the adverse effect on the character and appearance and the failure to demonstrate that the housing is required here and at this time. As for other material considerations they do not singularly or cumulatively outweigh these core objections, which are strengthened by other shortcomings that would flow from the proposed development. Accordingly, and having taken into account all other matters raised, these appeals should fail.

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RECOMMENDATIONS

567. It is recommended that these appeals be dismissed, but if the SoS is minded to allow the appeals then the permissions granted for the appeal development and main and secondary accesses should be subject to the conditions set out respectively in Annexes A, B and C.

J S Nixon

INSPECTOR

APPEARANCES

FOR AYLESBURY VALE DISTRICT COUNCIL:

Hereward Phillpot of Counsel, instructed by Joanna Swift in the
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he called;

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James Cannell BA(Hons) Dip TP Development Control Manager, AVDC.
MRTPI

FOR CENTRAL BEDFORDSHIRE COUNCIL:

Alex Booth of Counsel, Instructed by the Borough
Managing Solicitor

Assisted by
Mr A Emmerton

Managing Solicitor CBC

he called;

Mr D Ager MIHE Principal Highways Development Control
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Mr Murdoch BA(Hons) DipTP MRTPI Principal Planning Officer Major Applications
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Mr Blacker MSc MCIT MILT Technical Director WSP UK Ltd

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Dr Rob Rowlands PhD BSc(Hons) MIEEM CEnv	Partner, The Environmental Dimension Partnership
Mr A Cattell (For conditions and s.106 discussions only)	Paul Newman New Homes, Milton Keynes
Mr Stephen Bernard Clyne LCP (For conditions and s.106 discussions only)	Founder of EFM Ltd, Education Consultancy

INTERESTED PERSONS:

Andrew Selous	MP for South West Bedfordshire
Victoria Harvey/Phillip Irving	South Beds. Friends of the Earth
Heather Lewis	Senior Conservation Officer, Berkshire, Buckinghamshire and Oxon Wildlife Trust
Mr Ballam	The Greensand Trust
Mr T Daly	Resident
Mr Keith Jennings	Resident
Mr John Petrie	Resident
Mr Martin Probert	Resident
Mr Gelder	Director of Voluntary and Community Action
Mr Clive Palmer	Residents of Bideford Green and Southcott Management Company Ltd
Tracey Wood	Resident
Mr Colin Lawrence	Resident and local school teacher
Heather Fox	Resident and Chair of Friends of Linsdale Woods
Mr TH Adburgham	Area Representative South Beds and Luton Campaign to Protect Rural England
Mr N Bond	Resident
Cllr David Hopkin	Ward Councillor and Governor for Greenleas Lower School
Mr H Maughan	Transport Officer on behalf of the Leighton Buzzard Society
Cllr P Snelling	Councillor for the Southcott Ward
Mr Christopher Green	Resident

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INTERESTED PERSONS (Cont):

Jennifer Neville	Resident
Mr Christopher Warby	Resident
Jacqui Orchard	Resident
Gill Jones	Resident
Sue Bond	Resident

DOCUMENTS AT START OF INQUIRY

Proofs of Evidence

Aylesbury Vale District Council;

Document	A1	James Cannell Proof of Evidence
Document	A2	James Cannell Appendices
Document	A3	James Cannell Summary proof
Document	A4	Jonathan Bellars Proof of Evidence
Document	A5	Jonathan Bellars Appendices A5.1 – A5.5
Document	A6	Jonathan Bellars Summary proof

Central Bedfordshire Council;

Document	CB1	Proof and Appendices - David Ager
Document	CB2	Proof and Appendices - Christopher Murdoch
Document	CB3	Proof and Appendices - Richard Fox

Arnold White Estates;

Document	AW1	Proof and Appendices - Geoffrey Gardener
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Willis Dawson Holdings;

Document	WD1	Proof of Evidence – Mervyn E Dobson
Document	WD2	Appendices – Mervyn E Dobson
Document	WD3	Summary proof – Mervyn E Dobson
Document	WD4	Proof of Evidence – A Cook
Document	WD5	Appendices – A Cook
Document	WD6	Summary proof – A Cook
Document	WD7	Proof of Evidence – A Blacker
Document	WD7b	Additional Proof of Evidence – A Blacker
Document	WD8	Appendices – A Blacker
Document	WD9	Summary proof – A Blacker

Appellant;

Document	PN1	Proof of Evidence - L M Durrant (doc5i) Summary Proof of Evidence (doc5ii)
Document	PN 2	Appendices 1 to 25 - L M Durrant
Document	PN 3	Summary proof - L M Durrant
Document	PN 4	Rebuttal proof - L M Durrant
Document	PN 5	Proof of Evidence – Duncan Mcinerney
Document	PN 6	Landscape plans/Appendices - Duncan Mcinerney,
Document	PN 7	Summary Proof - Duncan Mcinerney
Document	PN 8	Rebuttal proof - Duncan Mcinerney
Document	PN 9	Proof of Evidence – Dr Robert Rowlands
Document	PN 10	Appendices - Dr Robert Rowlands
Document	PN 11	Summary Proof - Dr Robert Rowlands

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Document	PN 12	Ecology response to FoE - Dr Robert Rowlands
Document	PN 13	Proof of Evidence – Jonathan Crabb
Document	PN 14	Appendices - Jonathan Crabb
Document	PN 15	Summary Proof - Jonathan Crabb
Document	PN 16	Addendum Proof - Jonathan Crabb
Document	PN 17	Appendices to Addendum Proof - Jonathan Crabb
Document	PN 18	Not used
Document	PN 19	Addendum Proof of Evidence – Duncan Mcinerney
Document	PN 20	Appendices 1 to 5 to Addendum Proof - L M Durrant

INQUIRY DOCUMENTS

Document	1	Not used
Document	2	Notification letters and circulation lists
Document	3	Statement of Common Ground with AVDC
Document	4	Statement of Common Ground with CBC
Document	5	Draft conditions Appeal A
Document	6	Draft conditions Appeal B
Document	7	Draft conditions Appeal D
Document	8	s.106 Unilateral undertaking
Document	9	Appeal scheme drawings
Document	10	Withdrawal of Appeal C
Document	11	Site visit itinerary

CORE DOCUMENTS

CD	1	Application Documents
CD	1.1	AVDC - Application Form, Certificate and Covering letter
CD	1.1a	CBC - Application Form, Certificate and Covering letter
CD	1.2	Environmental Statement – Volume 1: Main Text
CD	1.2a	Environmental Statement – Volume 2: Plans and Figures
CD	1.3	Environmental Statement Non - Technical Summary
CD	1.4	Planning Application Supporting Statement
CD	1.5	Design and Access Statement
CD	1.6	Green Infrastructure Statement
CD	1.7	Environmental Statement – Technical Appendix ES 4.1: Utilities Strategy
CD	1.8	Environmental Statement – Technical Appendix ES 4.2: Energy Strategy
CD	1.9	Environmental Statement – Technical Appendix ES 6: Transport Assessment
CD	1.10	Environmental Statement – Technical Appendix ES 7: Noise and Vibration Appendices
CD	1.11	Environmental Statement – Technical Appendix ES 8: Ecology
CD	1.12	Environmental Statement – Technical Appendix ES 9: Geo- environmental Report
CD	1.13	Environmental Statement – Technical Appendix ES 10: Water Resources, Hydrology and Flood Risk
CD	1.14	Environmental Statement – Technical Appendix ES 11: Air

		Quality Assessment
CD	1.15	Environmental Statement – Technical Appendix ES 12: Landscape and Visual Amenity Assessment
CD	1.16	Environmental Statement – Technical Appendix ES 13: Informal Open Space and Recreational Amenity
CD	1.17	Environmental Statement – Technical Appendix ES 14: Land Quality and Farming Circumstances Report
CD	1.18	Environmental Statement – Technical Appendix ES 14: Desk Based Archaeological Assessment
CD	1.19	Statement of Community Involvement
CD	1.20	Submitted Plans
		Site Location Plan No. C9451/10/001
		Primary Access Plan No D120148-100-002 Revision C
		Secondary Access Site Location Plan No. C9451.10.02
		Secondary Access Plan No D120148-100-003 Revision D
CD	2	Consultation Responses
CD	2.1	AVDC Leisure and Cultural Services
CD	2.2	Natural England
CD	3	Third Party Representations
CD	3.1	Buckinghamshire, Berkshire and Oxfordshire Wildlife Trust
CD	3.2	The Greensand Trust
CD	3.3	South Bedfordshire Friends of the Earth (FoE)
CD	3.4	An Assessment of Existing Ecological Information and Impacts Report by Philip Irving
CD	3.5	An Assessment of the Role of Valley Farm in Local Biodiversity and Green Infrastructure Networks Report by Philip Irving
CD	3.6	Review of ES of the West Linslade Urban Extension in relation to Bats (Chiroptera) Report by Ian Davidson Watts
CD	3.7	Other representations
CD	4	Committee Reports and Decision Notice
CD	4.1	Central Bedfordshire Development Management Committee Report
CD	4.2	Central Bedfordshire Decision Notice (CB/10/00859/FULL)
CD	4.3	Aylesbury Vale Strategic Development Control Committee Report
CD	4.4	Aylesbury Vale Decision Notice (10/00500/AOP)
CD	4.5	Aylesbury Vale Strategic Development Control Committee Report
CD	4.6	Central Bedfordshire Development Management Committee Report
CD	4.7	Central Bedfordshire Development Management Committee Report – Late Sheet
CD	4.8	Central Bedfordshire Decision Notice (CB/11/00750/FULL)
CD	4.9	Aylesbury Vale Decision Notice (11/00426/AOP)
CD	4.10	Aylesbury Vale Case Officer Report and Recommendation (11/00426/AOP)
CD	11.9	E-mail from David Watkinson of GLA
CD	5	Regional Strategy – South East
CD	5.1	The South East Plan Proposed Modifications

CD	5.2	The South East Plan
CD	6	Milton Keynes South Midlands Sub- Regional Study
CD	7	Aylesbury Vale District Local Plan
CD	7.1	Chapter 3 - Strategy
CD	7.2	Chapter 4 – General policies
CD	7.3	Chapter 10 – Rural Areas
CD	7.4	Extract – Proposals Map
CD	7.5	Letter from the Secretary of State concerning saved Policies of AVDLP
CD	8	Aylesbury Vale Local Development Framework
CD	8.1	Proposed Submission Core Strategy
CD	9	Withdrawal of AVDC Core Strategy Council report Minutes of Council Meeting Secretary of State Letter
CD	10	Core Strategy Evidence Base
CD	10.1	Aylesbury Vale Strategic Housing Land Availability Assessment
CD	10.2	Aylesbury Vale Landscape Character Assessment
CD	10.3	Aylesbury Vale Areas of Sensitive Landscape
CD	11	Monitoring
CD	11.1	AVDC Annual Monitoring Report
CD	11.2	Housing Land Supply (September 2010)
CD	11.3	District Housing Trajectory (September 2010)
CD	11.4	AVDC Annual Monitoring Report
CD	11.5	Buckinghamshire SMHA
CD	11.6	Housing Land Supply (March 2011)
CD	11.7	District Housing Trajectory (March 2011)
CD	12	AVDC Supplementary Planning Documents
CD	12.1	Affordable Housing Supplementary Planning Document
CD	12.2	Sport and Leisure Facilities Supplementary Planning Guidance
CD	13	Regional Strategy – East of England
CD	13.1	East of England Plan
CD	14	South Bedfordshire Local Plan
CD	14.1	South Bedfordshire Local Plan (including Proposals Maps)
CD	14.2	South Bedfordshire Local Plan (including Proposals Maps)
CD	14.3	List of SBLP policies indicating whether or not they are saved
CD	15	Luton and South Bedfordshire Joint Core Strategy
CD	15.1	Luton and South Beds Core Strategy Issues and Options
CD	15.2	Luton and South Beds Core Strategy Preferred Options Consultation
CD	15.3	Luton and Southern Central Bedfordshire Core Strategy: Pre-Submission
CD	15.4	Environmental Sensitivity Assessment South Bedfordshire Growth Area – Supplementary Report Relating to Portions of Land in Adjoining Council Areas Potentially Affected by the Delivery of Growth
CD	15.5	Peter Village QC submission to Luton & Southern Central Beds exploratory meeting
CD	15.6	EMW submission to Luton & Southern Central Beds

		exploratory meeting
CD	16	Reference Documents – Landscape and Ecology
CD	16.1	Guidelines for Landscape and Visual Impact Assessment (LI/IEEMA, 2002) – nb. Extract
CD	16.2	Inspectors Decision: A4146 Stoke Hammond and Linslade Western Bypass
CD	16.3	EDP Ecology Baseline Update
CD	16.4	Environmental Statement Addendum
CD	16.5	Natural England (2004) Bat Mitigation Guidelines
CD	16.6	Bat Conservation Trust (2007) Bat Surveys – Good Practice Guidelines
CD	17	Reference Documents - Transport
CD	17.1	DfT Guidance on the preparation of Transport Assessments – not included
CD	17.2	DfT Manual for Streets – not included
CD	17.2	BCC Travel Plan Guidelines for Developers
CD	17.3	The Buckinghamshire Local Transport Plan 2
CD	17.4	The Bedfordshire Local Transport Plan
CD	17.5	By Design – not included
CD	18	Countryside and related legislation
CD	18.1	Wildlife and Countryside Act 1981 (as amended) - Can download from here - http://www.legislation.gov.uk/ukpga/1981/69
CD	18.2	Countryside and Rights of Way Act 2000 - Can download from here - http://www.legislation.gov.uk/ukpga/2000/37/contents
CD	18.3	Natural Environment and Rural Communities Act 2006 Can download from here - http://www.legislation.gov.uk/ukpga/2006/16/contents
CD	18.4	Hedgerow Regulations 1997 Can download from here - http://www.legislation.gov.uk/uksi/1997/1160/contents/made
CD	18.5	EU Habitats Directive Can be downloaded via here - http://ec.europa.eu/environment/nature/legislation/habitatsdirective/index_en.htm
CD	18.6	Conservation Regulations 2010 Can be downloaded from here - http://www.legislation.gov.uk/uksi/2010/490/contents/made
CD	18.7	Natural England (2004) Bat Mitigation Guidelines Protection of Badgers Act 1992 - Can be downloaded from here - http://www.legislation.gov.uk/ukpga/1992/51/contents
CD	18.8	Bat Conservation Trust (2007) Bat Surveys – Good Practice Guidelines – not included

CD	19	Design
CD	19.1	EP/Design for homes
CD	20	Government Statements and Correspondence
CD	20.1	Letter to chief planning officers – not included
CD	20.2	Speech by Grant Shapps – not included
CD	20.3	Letter from Grant Shapps – not included
CD	20.4	Letter to chief planning officers – not included
CD	20.5	Government White Paper - "local growth" – not included
CD	20.6	Governments Plan for Growth – not included
CD	20.7	Planning for Growth – not included
CD	20.8	Statement by Greg Clark – not included
CD	20.9	Steve Quartermain letter – not included
CD	20.10	NPPF advisory group draft recommendations – not included
CD	20.11	SoS Decisions re Appeals Ref. Nos: APP/R0660/A/10/2140255 and 2143265
CD	21	Documents relating to associated appeals relating to revised access arrangements
CD	21.1	AVDC - Application Form, Certificate and Covering letter
CD	21.1a	CBC - Application Form, Certificate and Covering letter
CD	21.2	Environmental Statement Addendum Non – Technical Summary
CD	21.3	Planning Application Supporting Statement
CD	21.4	Design & Access Statement
CD	21.5	Technical Appendices ES 6.2: Technical Note 1 – Transport Assessment Supplement
CD	21.6	Technical Appendices ES 6.3: Technical Note 2 – Walking & Cycling
CD	21.7	Technical Appendices ES 6.4: Technical Note 3 – Public Transport
CD	21.8	Technical Appendices ES 6.5: Technical Note 4 – Highway Drawings
CD	21.9	Technical Appendices ES 6.6: Community Travel Plan
CD	21.10	Technical Appendices ES 8.2 Ecology Baseline Update
CD	21.11	Technical Appendices ES 12.2: Findings of Arboricultural Assessment
CD	21.12	Drawing No. D120148-SK-019 – Site Location Plan for the planning application to Aylesbury Vale District Council
CD	21.13	Drawing No. D120148-SK-020 – Site Location Plan for the planning application to Central Bedfordshire Council
CD	21.14	Drawing No. D120148-100-002 Rev G – Proposed Primary Development Access (Sheet 1 of 2)
CD	21.15	Drawing No. D120148-100-004 Rev G – Proposed Primary Access (Sheet 2 of 2);
CD	21.16	Drawing No. D120148-100-200 Rev E – Longitudinal Section along Leighton Road
CD	21.17	Drawing No. D120148-100-201 Rev A – Primary Access Visibility to the Back of Queue on the Eastbound Approach
CD	21.18	Drawing No. D120148-100-202 Rev A – Primary Access Visibility to the Back of the Queue on Westbound approach
CD	21.19	Drawing No. D120148-100-203 Rev B – Primary Access

		Typical Cross Sections
CD	21.20	Drawing No. D120148-100-003 Rev J – Proposed Secondary Access
CD	21.21	Drawing No. D120148-100-005 Rev E – Proposed 20mph Zone on Derwent Road near Greenleas Primary School
CD	21.22	Drawing No. D120148-SK-012 Rev B – Proposed Shared Footway/Cycleway along Soulbury Road (Sheet 1 of 2)
CD	21.23	Drawing No. D120148-SK-017 – Proposed Shared Footway/Cycleway along Soulbury Road (Sheet 2 of 2)
CD	21.24	Drawing No. D120148-SK-015 Rev B – Uphill Cycle Lanes on Himley Green and Derwent Road
CD	21.25	Drawing No. D120148-700-001 Rev C – Proposed Modifications to the Bridge Street/West Street Mini Roundabout
CD	21.26	Drawing No. D120148-700-002 Rev C – Proposed Modifications to the North Street/West Street Mini Roundabout
CD	21.27	Drawing No. D120148-700-003 Rev C – Proposed Modifications to the Hockliffe Street/West Street Mini Roundabout
CD	21.28	Drawing No. D120148-700-004 Rev B – Proposed Modifications to the A4146/Wing Road Roundabout
CD	21.29	Drawing No. D120148-100-101 – Detailed Planning Application for Primary Access
CD	21.30	Drawing No. D120148-100-102 – Detailed Planning Application for Secondary Access
CD	21.31	Email to CBC Enclosing Revised Highways Drawings
CD	21.32	Drawing No. D120148-700-001 Rev D – Proposed Modifications to the Bridge Street/West Street Mini Roundabout
CD	21.33	Drawing No. D120148-700-001 Rev D – Proposed Modifications to the Bridge Street/West Street Mini Roundabout
CD	22	The Big Plan II

DOCUMENTS SUBMITTED AT INQUIRY

AVDC	A5.6- A5.2 7	Further viewpoints
AVDC	A6	Not used
AVDC	A7	Statement in relation to Reason for refusal No 3 - Ecology
AVDC	A8	Statement in relation to Reasons for refusal Nos 4 and 9 - Infrastructure
AVDC	A9	Statement of Common Ground – Drainage - Reasons for refusal No 5
AVDC	A10	Statement of Common Ground – Transport - Reasons for refusal No 6, 7 and 8
AVDC	A11	Position statement in relation to Linked Access Appeal (PINS Ref: APP/J0405/A/11/2154252)

AVDC	A12	Appeal Decision Letter – Land East of Winslow (PINS Ref: APP/J0405/A/10/2135746)
AVDC	A13	List of appearances
AVDC	A14	Opening submissions
AVDC	A15	Comments on Appellants' Evidence – Housing Land Supply and e-mails relating to Berryfields MDA and land at Rockingham Road, Buckingham
AVDC	A16	Statement by Land Use Consultants relating to Landscape Sensitivity Assessment on Behalf of Luton and South Beds JTU
AVDC	A17	Statement of Common Ground – Landscape Matters 4 July 2011
AVDC	A18	Statement regarding impact on Soulbury Conservation Area
AVDC	A19	Site visit itinerary (See Inquiry Doc 11)
AVDC	A20	Note regarding Core Strategy, appeal at Winslow and applications at Buckingham and Haddenham
AVDC	A21	Lists of Statements of Common Ground
AVDC	A22	Position Statement by AVDC on the use of conditions to secure the provision and maintenance of leisure facilities
AVDC	A23	Note from BCC regarding cross border education issues
AVDC	A24	Note – AVDC outstanding points on UU
AVDC	A26	Note from Land Use Consultants
AVDC	A27	Note from AVDC re Timing of the By-pass and landscape matters
AVDC	A28	EDP's Landscape Briefing Note
AVDC	A29	Closing submissions
CBC	CB4	Opening submissions
CBC	CB5	Housing trajectory June 2010
CBC	CB6	Traffic counts on A4146 – the By-pass
CBC	CB7	Extract from Core Strategy
CBC	CB8	Closing submissions
Appellant	PN21	Opening submissions
Appellant	PN22	Extract from the Leighton Buzzard Observer 5 July 2011
Appellant	PN23	Note on transport and highway matters
Appellant	PN24	Minutes from Luton BC Executive Committee on 11 July 2011
Appellant	PN25	Journey time survey
Appellant	PN26	Primary school requirements
Appellant	PN27	Letter dated 30 March 2011 from The Guinness Partnership
Appellant	PN28	Note from Mr B S Clyne re education matters
Appellant	PN29	Position statement in respect of open space provision and maintenance
Appellant	PN30	Response to points raised by Voluntary and Community Action
Appellant	PN31	Closing submissions
Arnold White	AW2	Additional appendices to cover planning application and statement for land ELL

Report APP/J0405/A/10/2143343
APP/J0405/A/11/2154252
APP/P0240/A/10/2143323
APP/P0240/A/11/2154254

Arnold White	AW3	Closing submissions
Willis Dawson Holdings	WDH 10	CBC SPD re Statement of Adoption of Southern Beds Planning Obligations
Willis Dawson Holdings	WDH 11	Closing submissions
Third Parties	3/1	FOE submissions
Third Parties	3/2	Other Speaking notes
Third Parties	3/3	Representations handed into the inquiry

ANNEX A

CONDITIONS TO BE ATTACHED TO OUTLINE PLANNING PERMISSION FOR MIXED USE DEVELOPMENT INCLUDING RESIDENTIAL (C3) – 900 DWELLINGS, EMPLOYMENT (B1), COMMERCIAL (A1,A2,A3,A4,A5) PRIMARY SCHOOL, HEALTH CENTRE (D1), LEISURE AND COMMUNITY USE (D2), AND ASSOCIATED ROADS, DRAINAGE, CAR PARKING, SERVICING, FOOTPATHS, CYCLEWAYS, PUBLIC OPEN SPACE/INFORMAL OPEN SPACE AND LANDSCAPING, LAND AT VALLEY FARM LEIGHTON ROAD, SOULBURY

Planning Inspectorate Reference: **APP/J0405/A/10/2143343**

Local Planning Authority Reference: **10/00500/AOP**

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”) in accordance with the principles contained in the submitted Design and Access Statement. Thereafter, the proposed works are to be carried out in accordance with the approved phasing plan and details.

Reason: The application is for outline planning permission.

2. The development hereby permitted shall be carried out in accordance with the following plans, unless superseded by those submitted in relation to Appeal APP/J0405/A/11/2154252 and listed in Condition 20:

- C9451/10/001 – Site Location Plan
- D120148-100-002-C – Proposed Primary Development Access (Sheet 1 of 2)
- D120148-100-004-B – Proposed Primary Development Access (Sheet 2 of 2)
- D120148-100-200 – Longitudinal Section along Leighton Road

Reason: In order to ensure a satisfactory standard of development.

3. Application(s) for approval of the reserved matters in respect of each phase or sub-phase of the development shall be made to the Local Planning Authority not later than 3-years from the date of this permission.

Reason: To prevent the accumulation of planning permissions: to enable the Council to review the suitability of the development in the light of altered circumstances and to comply with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

4. The development hereby permitted shall be begun either before the expiration of 5-years from the date of this permission, or before the expiration of 2-years from the date of approval of the last of the reserved matters to be approved, whichever is the later

Reason: To prevent the accumulation of planning permissions: to enable the Council to review the suitability of the development in the light of altered circumstances and to comply with the provisions of Section 92(2) of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

5. Plans and particulars of the reserved matters in respect of each phase or sub-phase referred to in condition 3 above, relating to the siting, scale, design and external appearance of any buildings to be erected, shall be submitted to the Local Planning Authority for its approval in writing and shall be carried out as approved and accord with the phasing on approved drawing reference EDP 412/197.

Reason: To ensure a satisfactory form of development, and to accord with the advice in PPS1 and PPS3.

6. No development shall take place within any phase or sub-phase of development until there has been submitted to and approved in writing by the Local Planning Authority details for the whole of that phase or sub-phase of the finished ground and floor slab levels of all the approved buildings. The development of each phase or sub-phase shall be carried out in accordance with the principles included within the Design and Access Statement. Thereafter, the proposed works are to be carried out in accordance with the approved finished ground and floor slab levels of all the approved buildings.

Reason: For the avoidance of doubt and to ensure a satisfactory form of development, and to accord with Policy GP35 of the Aylesbury Vale District Local Plan and advice contained in PPS1.

7. No development shall take place on a phase or sub-phase of the development until there has been submitted to and approved in writing by the Local Planning Authority a scheme for the whole of that phase or sub-phase showing details of the boundary treatment, including a timetable for its implementation. The development of each phase or sub-phase shall be carried out in accordance with the principles included within the Design and Access Statement. Thereafter, the proposed works are to be carried out in accordance with the approved boundary treatment details and retained in a condition commensurate with their intended function.

Reason: To ensure that the details and appearance of the development are acceptable to the Local Planning Authority, and to accord with Policies GP8 and GP35 of the Aylesbury Vale District Local Plan.

8. No development shall take place on a phase or sub-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 or sub-phase of development. The development of each phase or sub-phase shall be carried out in accordance with the principles included within the Design and Access Statement. Thereafter, the proposed works are to be carried out in accordance with the approved materials.

Reason: To ensure a satisfactory appearance of the development, and to accord with Policy GP35 of the Aylesbury Vale Local Plan.

9. No development shall take place on a phase or sub-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 or sub-phase showing the proposed internal roads including gradients and the method of

surface water disposal. No building within that phase or sub-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. Final surfacing shall be carried out at a time approved in writing by the Local Planning Authority.

Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and of the development and to accord with advice contained in PPG13.

10. No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details including phasing 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. Where a sustainable drainage scheme is to be provided, the submitted details shall:

1. provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
2. include a timetable for its implementation; and
3. provide an ownership management and maintenance plan for the lifetime of the development, which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Reason: To prevent the risk of flooding, to improve and protect water quality, ensure the future maintenance of surface and foul water drainage systems and to accord with the advice contained in PPS1 and PPS25.

11. No development shall take place on a phase or sub-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 or sub-phase, including details of refuse storage and recycling facilities. The development of each sub-phase shall be carried out in accordance with the approved details and retained in a condition commensurate with its intended purpose for the lifetime of the development.

Reason: To ensure that development is adequately provided with waste and recycling facilities and to accord with the advice contained in PPS10.

12. No development shall take place on a phase or sub-phase of development until there has been submitted to and approved in writing by the Local Planning Authority details and timescale for provision of external facilities to be provided for disabled people and for those with mobility and visual impairment, which should include movement into, out of and through the site, access to, from and within parking facilities, bus stops, areas of open space and amenity land,

relating to that phase or sub-phase. The development of each phase or sub-phase shall be carried out in accordance with the approved details and, thereafter, retained in a condition commensurate with the intended purpose for the lifetime of the development.

Reason: To ensure the development is accessible and inclusive to all and to comply with Policies S1 and S5 of the South East Plan.

13. No development shall take place on a phase or sub-phase of development until there has been submitted to and approved in writing by the Local Planning Authority details relating to that phase or sub-phase of:
- a) the location of every existing tree (identified with a reference number) with a stem diameter over 75mm (measured at 1.5m above ground level) either within or overhanging the site, indicating its species, crown spread and assessment of its health and stability;
 - b) the location of every existing hedgerow (identified with a reference number) within or bounding the development site, indicating its constituent species and an assessment of its general health and stability;
 - c) identification of trees and hedgerows to be retained following completion of the phase or sub-phase; and
 - d) a scheme of measures to be taken to ensure the protection of the trees and hedgerows to be retained including a timetable for their implementation and subsequent removal.

The development of each phase or sub-phase shall be carried out in accordance with the approved details.

Reason: In order to ensure that damage does not occur to the trees during building operations and to accord with Policies GP38, GP39 and GP40 of the Aylesbury Vale Local Plan

14. No development shall take place within the residential development area indicated on the approved drawing no EDP 412/197 until the Appellants, or their agents or successors in title, have 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.

Reason: To ensure that sites of archaeological interest are identified and the desirability of their retention taken into account in the layout and landscaping of the development, and to accord with the advice in PPS5.

15. No development shall take place on a phase or sub phase of development until a landscape management plan, including design objectives, timescale for implementation, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens) has been submitted to and approved in writing by the Local Planning Authority. The development of each phase or sub-phase shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance of the development. In the interests of the visual amenities of the locality and to accord with Policies GP38 and GP39 of the Aylesbury Vale Local Plan.

16. 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, including timescales, 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,
 - ground waters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
 - (iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

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 2-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 in accordance with an agreed timetable, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that the potential contamination of the site is properly investigated, the risks to the planned end user group(s) quantified, and its implications for the development approved fully taken into account and to accord with the advice in PPS23.

17. If, during the course of development, any contamination is found which has not been identified in the site investigation required by condition 16, additional measures for the remediation of this source of contamination, and protection of the remainder of the site and surrounding areas, shall be submitted to and approved in writing by the Local Planning Authority. The remediation of the site shall incorporate the approved additional measures.

Reason: To ensure that the potential contamination of the site is properly dealt with and the risks to their planned end user group(s) minimised and to accord with the advice in PPS23.

18. The dwelling(s) shall achieve a **minimum** Level 4 of the Code for Sustainable Homes. No dwelling shall be occupied until a final Code Certificate has been issued for it certifying that Code Level 4 has been achieved.

Reason: To ensure that the development addresses sustainability requirements and to accord with Policy NRM11 of the South East Plan and to comply with the advice in PSS3 and PPS22.

19. No development shall commence until a foul water strategy (for both wastewater treatment and foul network) has been submitted to and approved in writing by the Local Planning Authority. Development shall proceed in accordance with details hereby approved, unless otherwise agreed in writing by the Local Planning Authority and thereafter retained in a condition commensurate with its intended purpose for the lifetime of the development.

Reason: In order to ensure that the development is adequately drained and to accord with advice contained in PPS25.

20. The proposed primary access as approved under appeal reference APP/J0405/A/11/2154252 shown on Drawing References D120148-100-002-G, 200 Rev E, 201 Rev A and 202 Rev A shall be constructed prior to commencement of construction of any residential or commercial buildings on site.

Details of the proposed car parking area, which will be provided adjacent to the secondary access to serve the development and to form an off-street car park which will facilitate drop off / pick up for Greenleas Lower Primary School shall be submitted to and approved in writing by the Local Planning Authority before first occupation. The car park shall be constructed in accordance with the approved plans before the secondary access is brought into use to serve residential traffic and retained free from obstruction and in a condition commensurate with its intended purpose for the lifetime of the development.

Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and of the development and to accord with the advice contained in PPG13.

21. An Ecological Construction Method Statement (ECMS) shall be submitted to and approved in writing by the Local Planning Authority prior to any work commencing on the site, pursuant to this permission. All work on site shall, thereafter, be in accordance with the approved ECMS, unless any alteration or variation has first been agreed in writing with the Local Planning Authority.

Reason: To address the impact of the development on biodiversity and to accord with Policy NRM5 of the South East Plan and to the overall objectives of PPS9.

22. An Ecological Management Plan (EMP) shall be submitted to and approved in writing by the Local Planning Authority prior to the completion of Phase 1 of the development. The EMP will then be implemented as approved.

Reason: To address the impact of the development on biodiversity and to accord with Policy NRM5 of the South East Plan and to the overall objectives of PPS9

23. The identity and function of an Ecological Clerk of Works (ECW) will be submitted to and approved in writing by the Local Planning Authority prior to any work commencing on site pursuant to this permission. Following approval, confirmation of the ECW's appointment will be confirmed in writing to the Local Planning Authority and they will be appointed for the duration of construction phase to ensure the implementation of the ECMS, unless any alteration or variation has first been agreed in writing by the Local Planning Authority.

Reason: To address the impact of the development on biodiversity and to accord with Policy NRM5 of the South East Plan and to the overall objectives of PPS9

24. Prior to commencement of Phase 2 development in Fields F5, F6, F7 and F8 details of the Grassland Off-set Project to be delivered using the methodology of conservation credits, will be submitted to and approved in writing by the Local Planning Authority. The details will include:
- (i) The methodology to be used to calculate the value of the offset to be purchased;
 - (ii) The identity of the body or organisation, which will deliver the offset scheme and to which monies will be paid;
 - (iii) The receptor site to which the offset scheme will be applied;
 - (iv) The general works or other measures to be carried out at the receptor site to which the offset scheme will be applied; and
 - (v) The timetable for delivery of the Grassland Off-set Project.

Reason: To address the impact of the development on biodiversity and to accord with Policy NRM5 of the South East Plan and to the overall objectives of PPS9.

25. The Local Planning Authority shall be provided with a certificate of payment or other written confirmation issued by the approved body or organisation that the Grassland Off-set Project has been secured in accordance with the approved details in accordance with Condition 24 prior to commencement of Phase 2 development in Fields F5, F6, F7 and F8 as shown on approved plan EDP 412/197.

Reason: To address the impact of the development on biodiversity and to accord with Policy NRM5 of the South East Plan and to the overall objectives of PPS9.

26. 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 routing and parking of vehicles of site operatives and visitors and the loading and unloading of all plant and materials;
 - (ii) storage of plant and materials used in constructing the development;
 - (iii) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate wheel washing facilities;
 - (iv) measures to control the emission of dust and dirt during construction (including measures for traffic management);
 - (iv) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
 - (vi) contact details including telephone number of Clerk of Works.

Reason: To minimise the danger and inconvenience to highways users, in the interests of residents living near the site, and to accord with Policy GP8 of the Aylesbury Vale District Local Plan and the advice in PPG13 and PPS23.

27. A) Before commencement of the development hereby approved, the developer shall submit to and have approved in writing by the Local Planning Authority, a detailed Open Space Management Plan to deal with the maintenance of all open space areas within the site, excluding any areas transferred to the relevant Council acting in its capacity as Highway or Education Authority. Such Open Space Management Plan shall make appropriate reference to the Aylesbury Vale District Council's SPG on Sport and Leisure Facilities and its Good Practice Guide. It shall also include financial arrangements for repair and replacement of any equipment associated play areas, safety surfacing and hard landscape within the open spaces. The Open Space Management Plan will also contain provisions ensuring that any identified areas of biodiversity are adequately protected and be fully co-ordinated with the Ecological Management Plan, required under the provisions of Condition 22 above. The Open Space Management Plan will also make arrangements to ensure that the areas of open space created within the development are retained in perpetuity for, and in a condition commensurate with, the purposes they were created.

B) No development shall take place on any phase or sub-phase of the development until a fully detailed schedule of maintenance for both formal and informal open spaces, play areas and other recreational facilities (for that phase or sub-phase) for a minimum period of 5-years has been submitted to and approved in writing by the Local Planning Authority. The schedule shall include details of the arrangements for implementation and subsequent management and maintenance. Development shall be carried out strictly in accordance with the Open Space Management Plan, the Ecological Management Plan, the approved Design and Access Statement and the Green Infrastructure Statement.

Reason: In the interests of ensuring that the open space facilities are provided and maintained in an appropriate condition for the purpose for which they were created, and in the interests of safety and amenity.

28. At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low-carbon energy sources (as described in the glossary of Planning Policy Statement 1: Planning and Climate Change (December 2007)). Details and a timetable of how this is to be achieved, including details of physical works on site, shall be submitted to and approved in writing by the Local Planning Authority as a part of the reserved matters submissions required by condition 2. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development addresses sustainability requirements and to accord with Policy NRM11 of the South East Plan and to comply with the advice in PSS3 and PPS22.

29. The development of the primary access to which this planning permission relates shall only be implemented in accordance with the plans and details submitted under appeal reference APP/J0405/A/11/2154252 and pursuant to planning application reference no. 11/00426/APP.

Reason: To ensure a satisfactory form of development and to accord with the advice in PPG13.

30. No residential or commercial building within this development shall be occupied until the proposed Derwent Road secondary access has been constructed in accordance with the details shown on Drawing No. D120148-100-003J approved by appeal APP/P0240/A/11/2154254.

Reason: In the interests of road safety and traffic movement.

31. No residential or commercial building within this development shall be occupied until the shared footway/cycleway that is proposed to extend between the Leighton Road primary access and Station Road has been constructed in accordance with the details shown on Drawing Nos: D120148-100-004H, D120148-SK-12B and D120148-017A approved by Appeal APP/J0405/A/11/2154254.

Reason: To provide facilities to support travel by non-motorised means

32. Prior to the occupation of the 200th dwelling within this development the proposed improvements to existing junctions within Leighton-Linslade Town Centre shall be completed in accordance with the details shown on Drawing Nos. D120148-700-001D, D120148-700-002D, D120148-700-003D and D120148-700-004B approved by Appeal APP/P0240/A/11/2154254.

Reason: In the interests of road safety and traffic movement.

ANNEX B

CONDITIONS TO BE ATTACHED TO FULL PLANNING PERMISSION FOR PRIMARY ACCESS OFF LEIGHTON ROAD/SOULBURY ROAD. REVISION TO THE APPLICATION 10/00500/AOP FOR MIXED USE DEVELOPMENT INCLUDING RESIDENTIAL (C3) – 900 DWELLINGS, EMPLOYMENT (B1), COMMERCIAL (A1,A2,A3,A4,A5) PRIMARY SCHOOL, HEALTH CENTRE (D1), LEISURE AND COMMUNITY USE (D2), AND ASSOCIATED ROADS, DRAINAGE, CAR PARKING, SERVICING, FOOTPATHS, CYCLEWAYS, PUBLIC OPEN SPACE/INFORMAL OPEN SPACE AND LANDSCAPING

Planning Inspectorate Reference: **APP/J0405/A/11/2154252**

Local Planning Authority Reference: **11/00426/APP**

1. The development hereby permitted shall be begun before the expiration of 5-years from the date of this permission.

Reason: This condition is required by Section 91 of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. No residential or commercial development pursuant to permission granted under Appeal Ref. No: APP/J0405/A/10/2143343 shall commence construction until the off site highway works shown in principle on drawings D120148-100-002 Rev G, 200 Rev E, 201 Rev A and 202 Rev A, which includes, but is not limited to the provision of a 4-arm signal controlled junction with associated pedestrian crossings, significant vertical alignment alterations, signs, road markings and footway/cycleway have been laid out and constructed in accordance with details to be first approved in writing by the Local Planning Authority in consultation with the Highway Authority.

Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and of the development.

3. 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 routing and parking of vehicles of site operatives and visitors and the loading and unloading of all plant and materials;
 - (ii) storage of plant and materials used in constructing the development;
 - (iii) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate wheel washing facilities;
 - (iv) measures to control the emission of dust and dirt during construction (including measures for traffic management);
 - (iv) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
 - (v) contact details including the telephone number of the Clerk of Works.

Reason: To minimise the danger and inconvenience to highways users, in the interests of residents living near the site, and to accord with Policy GP8 of the Aylesbury Vale District Local Plan and the advice in PPG13 and PPS23.

4. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority details relating to
- a) the location of every existing tree (identified with a reference number) with a stem diameter over 75mm (measured at 1.5m above ground level) either within or overhanging the site, indicating its species, crown spread and assessment of its health and stability;
 - b) the location of every existing hedgerow (identified with a reference number) within or bounding the development site, indicating its constituent species and an assessment of its general health and stability;
 - c) identification of trees and hedgerows to be retained following completion of the phase or sub-phase; and
 - d) a scheme of measures to be taken to ensure the protection of the trees and hedgerows to be retained including a timetable for their implementation and subsequent removal.

Reason: In order to ensure that damage does not occur to the trees during building operations and to accord with Policies GP38, GP39 and GP40 of the Aylesbury Vale Local Plan.

5. The development to which this planning permission relates shall only be implemented as part of the development proposed in appeal APP/J0405/A/10/2143343 and in substitution for the principal access arrangements proposed as part of that appeal.

Reason: To ensure a satisfactory form of development and to accord with the advice in PPG13.

ANNEX C

CONDITIONS TO BE ATTACHED TO THE REVISED SCHEME FOR THE FORMATION OF A SECONDARY VEHICULAR ACCESS ON LAND OFF DERWENT ROAD TO SERVE DEVELOPMENT PROPOSED WITHIN AYLESBURY VALE DISTRICT UNDER AN OUTLINE PLANNING APPLICATION FOR MIXED USE DEVELOPMENT INCLUDING RESIDENTIAL (C3) – 900 DWELLINGS, EMPLOYMENT (B1), COMMERCIAL (A1,A2,A3,A4,A5) PRIMARY SCHOOL, HEALTH CENTRE (D1), LEISURE AND COMMUNITY USE (D2), AND ASSOCIATED ROADS, DRAINAGE, CAR PARKING, SERVICING, FOOTPATHS, CYCLEWAYS, PUBLIC OPEN SPACE/INFORMAL OPEN SPACE AND LANDSCAPING, LAND AT VALLEY FARM LEIGHTON ROAD, SOULBURY.

Planning Inspectorate Reference: **APP/P0405/A/11/2154254**

Local Planning Authority Reference: **CB/10/00859/FULL**

1. The development shall commence not later than 5-years from the date of this permission.

Reason: To comply with Section 91 of the Town Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. No residential or commercial building within the adjoining Valley Farm urban extension development as approved by appeal APP/J0405/A/10/2143343 shall be occupied until the proposed Derwent Road secondary access has been constructed in accordance with the details shown on Drawing No. D120148-100-003J.

Reason: In the interests of road safety and traffic movement.

3. No residential or commercial building within the adjoining Valley Farm urban extension development as approved by appeal APP/J0405/A/10/2143343 shall be occupied until the shared footway/cycleway that is proposed to extend between the Leighton Road primary access to the urban extension development and Station Road has been constructed in accordance with the details shown on Drawing Nos. D120148-100-004H, D120148-SK-12B and D120148-017A.

Reason: To provide facilities to support travel by non-motorised means.

4. Before development commences and notwithstanding the details submitted with the application, further particulars of a scheme to provide a 20mph zone along Derwent Road in the vicinity of Greenleas Lower School together with traffic management measures along Derwent Road and Himley Green shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, no residential or commercial building within the adjoining Valley Farm urban extension development shall be occupied until the scheme has been carried out in accordance with the approved details.

Reason: In the interests of road safety and traffic movement and to support travel by non-motorised means.

5. Development shall not commence until details of the proposed car parking area to be provided within the Valley Farm urban extension development for use by parents/carers delivering/collecting children to/from the nearby Greenleas Lower School have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the required car parking area shall be constructed in accordance with the approved details before the completion of the 20mph zone and traffic management measures proposed along Derwent Road and Himley Green, referred to in Condition 4 above. The required car parking area shall be retained free from obstruction in a condition commensurate with its intended purpose for the lifetime of the development.

Reason: To ensure that off-street parking for parents/carers of children attending Greenleas Lower School is provided to compensate for the loss of existing on-street parking outside the school when parking restrictions are introduced along Derwent Road.

6. Prior to the occupation of the 200th dwelling to be constructed within the adjoining Valley Farm urban extension development as approved by appeal APP/J0405/A/10/2143343, the proposed improvements to existing junctions within Leighton-Linslade Town Centre shall be completed in accordance with the details shown on Drawing Nos. D120148-700-001D, D120148-700-002D, D120148-700-003D and D120148-700-004B.

Reason: In the interests of road safety and traffic movement.

7. Before the Derwent Road secondary access is first brought into beneficial use, to serve residential or commercial buildings within the adjoining Valley Farm urban extension development, sections of replacement hedgerow shall be planted on the land in positions and of species to be approved in writing by the Local Planning Authority. Any sections of hedgerow removed, dying, being severely damaged or becoming severely diseased within 5-years of planting shall be replaced with sections of hedgerow of similar size and species to those originally required to be planted.

Reason: To comply with Section 197 of the Town and Country Planning Act 1990, as amended, and to secure the planting of replacement hedgerows.

8. No development shall take place, including 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 routeing and parking of vehicles for site operatives and visitors and the loading and unloading of all plant and materials;
 - (ii) storage of plant and materials used in constructing the development;

- (iii) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate wheel washing facilities;
- (iv) measures to control the emission of dust and dirt during construction (including measures for traffic management);
- (v) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
- (vi) contact details including the telephone number of the Clerk of Works

Reason: To minimise the danger and inconvenience to highways users, in the interests of residents living near the site, and in accordance with advice contained in PPG13 and PPS23.

9. The development hereby permitted shall be carried out in accordance with the following plans:

- D120148-SK-020
- D120148-100-003 Rev J
- D120148-100-102
- D120148-100-005 Rev E
- D120148-100-004 Rev H
- D120148-SK-015 Rev B
- D120148-700-001 Rev D
- D120148-700-002 Rev D
- D120148-700-003 Rev D
- D120148-700-004 Rev D
- D120148-SK-012 Rev B
- D120148-SK-017 Rev A

Reason: In order to ensure a satisfactory standard of development.

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.