

Mr Mark Schmull
Hives Planning
46 Queen's Road
Reading
RG1 4AU

Our Ref: APP/J0405/A/11/2155042
APP/J0405/A/11/2155043

19 March 2012

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)
APPEALS BY ARNOLD WHITE ESTATES LTD AND OXFORD DIOCESAN BOARD
OF FINANCE.**

**APPLICATION REFS: 10/00135/AOP (Appeal A) & 10/00136/APP (Appeal B),
LAND AT QUARRENDON FIELDS, AYLESBURY, BUCKS.**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Christina Downs, BSc DipTP MRTPI who held a public local inquiry, which opened on 18 October 2011, into your client's appeal under Section 78 of the Town and Country Planning Act 1990, against the failure of Aylesbury Vale District Council (AVDC) to give notice within the prescribed period of a decision on an outline planning application for a mixed use development including up to 1,380 dwellings; a two form entry primary school; a neighbourhood centre including retail uses; a community centre including place of worship; a visitor centre; allotments; community orchard; formal and informal public open space and associated landscaping, in accordance with planning application ref:10/00135/AOP, dated 19 January 2010 (Appeal A). Also against the failure of the same Council to give notice within the prescribed period of a decision on an application for a 2MW wind turbine including access and associated infrastructure, in accordance with planning application ref:10/00136/APP, dated 19 January 2010 (Appeal B).

2. Appeal A was recovered for the Secretary of State's determination on 20 June 2011 in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because it involves a proposal for residential development of over 150 units on a site of more than 5 hectares, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities. Appeal B was recovered at the same time because it would be more efficiently and effectively decided alongside Appeal A.

Inspector's recommendation and summary of the decision

3. The Inspector, whose report is enclosed with this letter, recommended that Appeal A be dismissed and planning permission refused, and Appeal B be allowed and planning permission granted. For the reasons given in this letter, the Secretary of

State agrees with the Inspector's recommendations. All paragraph references, unless otherwise stated, refer to the Inspector's report (IR), or the Assessor's Report (AR) attached to it at Annex E.

Procedural Matters

4. In reaching his decision, the Secretary of State has taken into account the Environmental Statement and Addendum submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (IR6-7 and IR388-389). In doing so he has noted those shortcomings identified by the Inspector in IR389. Had he been minded to grant planning permission for Appeal A he would have needed to consider whether it was necessary to seek further information on those matters (by way of a request under Regulation 19 of the 1999 Regulations). However, given that he is refusing planning permission for Appeal A, and that there are other factors of sufficient weight which lead him to do so, he does not consider it necessary to seek further information on the identified shortcomings.

5. Following the close of the Inquiry, the Secretary of State received written representations from AVDC, dated 22 November 2011, and Gosschalks Solicitors (on behalf of Arnold White Estates Limited), dated 25 November 2011, about land ownership issues in relation to the Unilateral Undertaking. He has carefully considered this correspondence, but he does not consider that it raises any new issues which would affect his decision or require him to refer back to parties prior to reaching his decision. Copies of this correspondence may be obtained on written request to the above address.

Policy considerations

6. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the Milton Keynes and South Midlands Sub-Regional Strategy (2005), the South East Plan (2009) and the saved policies in the Aylesbury Vale District Local Plan (2004). The Secretary of State considers that the development plan policies most relevant to the appeal are those set out at IR23-29.

7. Other material considerations which the Secretary of State has taken into account include those documents listed at IR30 and IR32-33; Circular 11/95: *Use of Conditions in Planning Permission*; Circular 05/2005: *Planning Obligations*; and the Community Infrastructure Levy (CIL) Regulations (2010 and 2011).

8. The draft National Planning Policy Framework which was published for consultation on 25 July 2011 is a material consideration. However, as this is a consultation document and is subject to change, the Secretary of State has afforded it little weight. Similarly, the Aylesbury Vale Core Strategy is a material consideration, but as it is at an early stage in the adoption process it can be afforded little weight.

9. The Secretary of State considers that the revocation of Regional Strategies has come a step closer following the enactment of the Localism Act on 15 November 2011. However, until such time as the South East Plan is formally revoked by Order, he has attributed limited weight to the proposed revocation in determining this appeal.

Main Issues

10. The Secretary of State agrees with the Inspector that the main issues in these appeals are those set out in IR301.

Appeal A

Consideration 1: Whether the proposal would deliver a sustainable urban extension that would contribute to the housing requirements of the district

11. The Secretary of State agrees with the Inspector's reasoning and conclusions on whether the proposal would deliver a sustainable urban extension that would contribute to the housing requirements of the district, as set out in IR302-338. He notes that AVDC has a serious housing land supply shortfall (IR336), but agrees that the contribution towards resolving the 5 year deficit is unlikely to be as great as that anticipated by the appellants (IR337). In sustainability terms, he agrees that the lack of employment opportunities weighs against the scheme and that, although the proposed wind turbine would bring a renewable energy benefit, this would be for a temporary period (IR338).

Consideration 2: The effect of the proposed development on the landscape

12. The Secretary of State agrees with the Inspector's reasoning and conclusions on the effect of the proposed development on the landscape, as set out in IR339-352. He agrees that the proposal would result in a significant adverse impact on landscape character (IR344) and visual intrusion into the wider vale landscape (IR347), and would therefore be unduly harmful to the landscape (IR352).

Consideration 3: The effect of the proposed development on heritage assets

13. In considering the effect of the proposed development on heritage assets, the Secretary of State has had regard to the AR and, like the Inspector, endorses the Assessor's conclusions (IR353). He agrees that the proposal would obliterate the principal remaining visual link with the historic rural agricultural setting of the Scheduled Ancient Monument (SAM) (AR11) and would damage regionally important below ground remains (AR20).

Consideration 4: Whether the development would be accessible to a range of travel modes and would promote sustainable travel choices

14. The Secretary of State agrees with the Inspector's reasoning and conclusions on whether the development would be accessible to a range of travel modes and would promote sustainable travel choices, as set out in IR354-363. He agrees that, whilst the proposal would enable pedestrian or cycle access along the western link road to the railway station and Park and Ride sites, there would be no direct access to the Berryfields MDA itself. He also agrees that the accessibility of the appeal site is compromised by the uncertainties surrounding delivery of a fast and efficient bus service (IR362). Overall he agrees that the proposal would not be highly accessible to a range of travel modes and that for many journeys, including trips to the town centre and the commute to work, it would be likely to be car reliant.

Consideration 5: Whether the development would generate traffic that would cause unacceptable congestion or undue harm to highway safety

15. For the reasons given in IR364-370, the Secretary of State agrees with the Inspector that the transport assessment does not provide a realistic assessment of the traffic impacts of the appeal scheme, and that the proposal is likely to result in traffic generation that would add to existing problems of congestion and result in harm to the safety and free flow of traffic on the highway network (IR370).

Consideration 6: Whether any permission should be subject to planning conditions and a unilateral undertaking

16. The Secretary of State agrees with the Inspector's assessment of the proposed planning conditions and unilateral undertaking (UU) as set out in IR277-286, IR291-300 and IR371-384. He accepts that the UU is flawed in a number of respects (IR383) and considers that he could not therefore give it any weight.

Overall conclusions

17. The Secretary of State agrees with the Inspector's overall conclusions as set out in IR388-395. He considers that there are some factors in favour of the proposal, including a contribution towards meeting the 5 year housing supply and the pedestrian and cycle provision. However, there are a number of factors weighing against the proposal such as: conflict with the development plan in terms of harmful impact on the landscape and heritage assets; lack of accessibility to a range of travel modes; and harm to the safety and free flow of traffic on the highway network. He also considers that the proposed UU is flawed in a number of respects. Therefore, having weighed up all of the relevant material considerations, the Secretary of State considers that the proposal conflicts with the development plan in a number of respects and that, although there are material considerations weighing in its favour, these are not sufficient to outweigh this conflict.

Appeal B

Consideration 1: The contribution of the wind turbine to the provision of renewable energy

18. For the reasons given in IR396-397, the Secretary of State agrees that the wind turbine would be of benefit in terms of the supply of renewable energy (IR397).

Consideration 2: The effect of the proposed wind turbine and the Scheduled Ancient Monument (SAM)

19. The Secretary of State agrees with the Inspector's reasoning and conclusions on the effect of the proposed wind turbine on the landscape and the SAM, as set out in IR398-402. He has also taken into account the Assessor's findings. He agrees that the separation distance of the turbine from the SAM, together with its isolated appearance would, despite the rotating blades, preclude it from having any significant impact on the setting of the SAM or the listed buildings and gardens (AR12). He also agrees that, taking account of the small areas of land concerned, there would be little adverse impact on below ground archaeology (IR401).

Consideration 3: Whether any permission should be subject to planning conditions

20. The Secretary of State agrees with the Inspector's assessment of planning conditions as set out in IR287-290 and IR403. He agrees that the planning conditions are reasonable, necessary and otherwise comply with the provisions of Circular 11/95 (IR403).

Other matters

21. The Secretary of State agrees with the Inspector's reasoning and conclusions on those other matters set out in IR404-410. He agrees that the wind turbine is unlikely to be visually oppressive or overbearing, that there would be no significant noise disturbance to either existing or proposed development, and that no properties would be affected by flicker effects.

Overall conclusions

22. The Secretary of State agrees with the Inspector's overall conclusions at IR411. He considers that, notwithstanding its relatively small scale and limited lifespan, the contribution of the wind turbine to renewable energy provision is a significant benefit. He also considers that the impact on the landscape would be insignificant and the visual impact would not be unduly harmful, and that there would be no adverse effect on the SAM or heritage assets.

Formal decision

23. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendations. He hereby:-

dismisses Appeal A and refuses outline planning application for a mixed use development including up to 1,380 dwellings; a two form entry primary school; a neighbourhood centre including retail uses; a community centre including place of worship; a visitor centre; allotments; community orchard; formal and informal public open space and associated landscaping, in accordance with planning application ref:10/00135/AOP, dated 19 January 2010;

allows Appeal B and grants planning permission for an application for a 2MW wind turbine including access and associated infrastructure, in accordance with planning application ref:10/00136/APP, dated 19 January 2010, subject to the conditions set out in Annex A to this letter.

24. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.

25. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

26. This letter serves as the Secretary of State's statement under regulation 21(2) of the Town and Country (Environmental Impact Assessment) (England and Wales) Regulations 1999.

Right to challenge the decision

27. 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.

28. A copy of this letter has been sent to Aylesbury Vale District Council. A notification letter has been sent to other parties who asked to be informed of the decision.

Yours faithfully

Jean Nowak

Authorised by the Secretary of State to sign in that behalf

Conditions (Appeal B)

1. The development hereby approved shall be commenced within three years of the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following plans: Wind turbine planning application boundary (unnumbered); Proposed turbine access track (Figure 10.4); Turbine drawing (Drawing No HPL.CT.001) and supporting information: Access Roads and Crane Platforms (E-70 E4).

Further details

3. The maximum height of the turbine hereby permitted, when measured from the turbine base to the blade tip in the vertical position, shall be no greater than 149 metres from the natural ground level adjacent to the turbine base.
4. No development shall take place until full details of the turbine, including make, model, design, power rating, sound power levels and tonal assessment have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
5. No development shall take place until details of the external appearance and colour finishes of the turbine, including its blades, and associated infrastructure have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained as such thereafter.

Construction management

6. No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. The CMS shall identify:
 - a) areas on site designated for the storage of heavy duty plant and equipment, including vehicles, and car parking facilities for construction site operatives and visitors;
 - b) activities like earth moving, aggregate mixing, crushing, screening, and piling and on-site storage and transportation of raw material;
 - c) working practices to control emissions of dust and mud arising from on-site activities, including details of wheel washing facilities;
 - d) working practices for protecting nearby dwellings, including measures to control noise and vibration arising from on-site activities as set out in British Standard 5228:2009 *Noise and Vibration Control on Construction and Open Sites*;
 - e) details of bunded facilities for any storage of oils, fuels or chemicals;
 - f) details of the temporary construction compound;
 - g) a programme for the construction works.

7. The temporary construction compound shall be removed no later than three months from the date electricity is first exported from the wind turbine to the electricity grid network (First Export Date) and the ground restored to its previous condition within six months of such removal.

8. No development shall take place until a traffic management scheme for the implementation of the permission has been submitted to, and approved in writing by the local planning authority. The scheme shall include arrangements for abnormal loads and appropriate temporary signage and shall be implemented in accordance with the approved details.

Control of operational impacts

9. Prior to the erection of the turbine, a scheme providing for a baseline survey and the investigation and alleviation of any electro-magnetic interference to terrestrial TV caused by the operation of the turbine shall be submitted to and approved in writing by the local planning authority. The scheme shall provide for the investigation by a qualified independent television engineer of any complaint of interference with television reception at a dwelling (defined for the purposes of this condition as a building within Use Class C3 and C4 of the Use Classes Order) which lawfully exists or had planning permission at the date of this permission where such complaint is notified to the developer by the local planning authority within 12 months of the First Export Date. Where impairment is determined by the qualified independent television engineer to be attributable to the turbine, details of the mitigation works which shall first have been approved in writing by the local planning authority shall be implemented as approved.

10. The wind turbine hereby approved shall operate in accordance with a shadow flicker mitigation scheme which shall be submitted to and approved in writing by the local planning authority prior to the operation of the wind turbine unless a survey carried out on behalf of the developer in accordance with a methodology approved in advance by the local planning authority confirms that shadow flicker effects would not be experienced within habitable rooms within any dwelling which lawfully exists or had planning permission at the date of this permission.

11. i) The level of noise emissions from the turbine, as measured below, at any lawfully existing dwelling shall not exceed 37.5dB LA90, 10 mins between 0700 and 2300 hours, and 43 dB LA90,10mins at all other times or 5dB(A) above background noise levels, whichever is the greater.

ii) Where a complaint is notified to the developer by the local planning authority the level of noise emissions resulting from the operation of the turbine shall be measured in accordance with the methods recommended in Section 2.0 on Pages 102-104 of ETSU-R-97. Wind speed shall be measured on site and referenced to a height of 10m. Where it is necessary to convert between measured wind speeds and the wind speed at 10m height, this conversion shall be undertaken using a methodology to be agreed with the local planning authority. Tonal Noise or the impact of other characteristics that could cause additional disturbance (e.g. Amplitude Modulation) shall be assessed and rated in accordance with the advice contained in Sections 2.0 and 2.1 on Pages 103-109 of ETSU-R-97. The developer shall supply wind speed and direction data to and at the request of the local planning authority to enable it to evaluate

measurements made by the developer and to satisfy the foregoing requirements of this condition.

iii) Definitions:

- a) "ETSU-R-97" means "*the Assessment and Rating of Noise from Wind Farms*" published by the Energy Technology Support Unit for the Department of Trade and Industry in 1996.
- b) "Background Noise Level" means the background noise levels as reported in Chapter 12 Section B of the Environmental Statement (January 2010).
- c) "Tonal Noise" has the meaning given on Page 95 of ETSU-R-97.
- d) "Quiet Waking Hours" and "Night Hours" have the meaning described on Page 95 of ETSU-R-97.
- e) In relation to the properties for which no background noise level measurements have been taken, "Background Noise Level" means the background noise level measured at the property which is most likely to experience background noise levels similar to those experienced at the property in question.

12. Before development commences the location and dimensions of the wind turbine shall be communicated to the Ministry of Defence for inclusion within aeronautical charts and in the Aeronautical Information Publication.

Temporary provisions

13. The planning permission is for a period from the date of the installation until the date occurring 25 years from the First Export Date. Written confirmation of the First Export Date shall be provided to the local planning authority no later than 1 calendar month after that event.

14. Not later than 3 months from the date that the planning permission hereby granted expires, or if the turbine ceases to operate for a continuous period of 12 months then it shall be dismantled and removed from the site and the land reinstated to its former condition in accordance with a scheme and timetable which shall have been first submitted to and approved in writing by the local planning authority.

Cabling

15. All electrical cabling on site shall be buried underground.

Archaeology

16. i) Prior to the commencement of the development, the developer or their agents or successors in title shall complete Phase 2 of the archaeological evaluation in accordance with the Written Scheme of Investigation for a Programme of Archaeological Field Evaluation: (3 September 2009) (Document CD/3.3/3, Appendix 7.2) and submit a Report to the local planning authority. The Report will include an Archaeological Mitigation Plan defining, respectively, areas for archaeological preservation and areas for archaeological investigation which shall be subject to the approval of the local planning authority.

ii) No development shall take place until fencing has been erected, in a manner

to be first agreed in writing by the local planning authority, about the areas for archaeological preservation shown on the Archaeological Mitigation Plan. Fencing shall be retained in-situ until all equipment, machinery and surplus materials have been removed from the site. No ground disturbance or other works shall take place within the areas of archaeological preservation without the written consent of the local planning authority and then shall only be undertaken in accordance with an approved method statement.

iii) No development shall take place 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.

Highways

17. Development shall not commence until such time as that section of the Western Link Road from the A41 which provides access to the site has been laid out and constructed and opened for public use.

18. Development shall not commence until details of the private access way which provides access to the site from the proposed junction with the Western Link Road have been approved in writing by the local planning authority and constructed in accordance with the approved details.

End

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.



Report to the Secretary of State for Communities and Local Government

by Christina Downes Bsc DipTP MRTPI

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

Date: 9 February 2012

TOWN AND COUNTRY PLANNING ACT 1990

AYLESBURY VALE DISTRICT COUNCIL

Appeal made by

ARNOLD WHITE ESTATES LTD AND OXFORD DIOCESAN BOARD OF FINANCE

Pre-Inquiry Meeting held on: 30 August 2011

Inquiry held on: 18-21 October 2011; 25-28 October 2011; 31 October 2011; 1-4 November 2011
Land at Quarrendon Fields, Aylesbury, Buckinghamshire

File Refs: APP/J0405/A/11/2155042 & APP/J0405/A/11/2155043

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ABBREVIATIONS LIST

Term	Acronym
Aylesbury Vale District Council	AVDC
Aylesbury Vale District Local Plan	LP
Barwood Land & Estates Ltd	Barwood
Buckinghamshire County Council	BCC
Community Infrastructure Levy	CIL
Core Strategy Development Plan Document	CS
Design and Access Statement	DAS
Environmental Statement	ES
Housing Land Supply	HLS
Landscape Character Assessment	LCA
Local Transport Plan	LTP
Major Development Area	MDA
Milton Keynes and South Midlands Sub-Regional Strategy	SRS
National Planning Policy Framework	NPPF
Pre-Inquiry Meeting	PIM
Primary Public Transport Corridor	PPTC
Roger Tym/Lambert Smith Hampton Report: <i>Aylesbury Vale Employment Land Study(2008)</i>	ELS
Scheduled Ancient Monument	SAM
South East Plan	SEP
Statement of Common Ground	SCG
Strategic Environmental Assessment	SEA
Sustainable Drainage System	SuDS
The Landscape and Visual Impact Assessment	LVIA
Transport Assessment	TA
Western Link Road	WLR

Appeal A File Ref: APP/J0405/A/11/2155042

Land at Quarrendon Fields, Aylesbury, Buckinghamshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Arnold White Estates Ltd and Oxford Diocesan Board of Finance against Aylesbury Vale District Council.
- The application Ref 10/00135/AOP is dated 19 January 2010.
- The development proposed is mixed use development including up to 1,380 dwellings; a two form entry primary school; a neighbourhood centre including retail uses; a community centre including place of worship; a visitor centre; allotments; community orchard; formal and informal public open space and associated landscaping.

Summary of Recommendation: That the appeal be dismissed

Appeal B File Ref: APP/J0405/A/11/2155043

Land at Quarrendon Fields, Aylesbury, Buckinghamshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Arnold White Estates Ltd and Oxford Diocesan Board of Finance against Aylesbury Vale District Council.
- The application Ref 10/00136/APP is dated 19 January 2010.
- The development proposed is a 2MW wind turbine including access and associated infrastructure.

Summary of Recommendation: That the appeal be allowed

PROCEDURAL MATTERS

1. Appeal A relates to an outline planning application with all matters reserved for future consideration. Following comments received at consultation stage the proposal was revised which resulted in the omission of the visitors' centre and an overall reduction in the number of dwellings to 1,377. The Appeal B planning application is for full planning permission and remains unchanged (*Document CD/3.10, Section 1 and Paragraph 4.12*).
2. Both appeals are against Aylesbury Vale District Council's (AVDC) failure to determine the planning applications within the statutory time period. On 10 August 2011 AVDC resolved that it would have refused planning permission for both developments had it been in a position to do so. There were 7 putative reasons for refusal relating to the Appeal A planning application. The final one concerned the requirement for a Planning Obligation to cover affordable housing and infrastructure provision. AVDC indicated at the Inquiry that the reference to 30% affordable housing was incorrect and should have been 35%. The Appellants have now submitted a Planning Obligation by Unilateral Undertaking (the Unilateral Undertaking) to address these matters. There were 2 putative reasons for refusal relating to the Appeal B planning application. The second of these concerned vehicle routing and AVDC is satisfied that this has now been satisfactorily addressed. The putative reasons for refusal for both developments are in *Document CD/3.16*.
3. It is intended that the wind turbine will provide for the electricity needs of the mixed use development. However these are separate proposals and it was

made clear at the pre-Inquiry Meeting (PIM) that the two developments could also stand independently of each other (*Document CD/10.11, Paragraph 15*).

4. Barwood Land & Estates Ltd (Barwood) was given Rule 6 status at the Inquiry. It is presently promoting a proposal for an urban extension at Fleet Marston. Mr K D Barton BA(Hons) Dip Arch DipArb RIBA FCI Arb sat at the Inquiry as my Assessor for heritage and archaeological matters. His Report is at **Annex E**.
5. Since the Inquiry closed the Localism Bill has received Royal Assent (15 November 2011). However the provision in the Localism Act concerning the revocation of Regional Strategies has not yet come into force. This is because consultation is still underway on the outcome of the Strategic Environmental Assessments. The parties had a chance to address this at the Inquiry.

THE ENVIRONMENTAL STATEMENT

6. There is no dispute that the proposals are Environmental Impact Assessment developments. The planning applications were accompanied by a combined Environmental Statement (ES) and separate Transport Assessments (TA) (*Documents CD/3.3; CD/3.7; CD/3.7a*). Following a Regulation 19¹ request from AVDC further information was provided and an ES Addendum and a TA Addendum were produced (*Documents CD/3.4; CD/3.8*). These documents addressed the impacts relating to the revised Appeal A proposal mentioned in Paragraph 1 above. Further to the lodging of the appeals the Secretary of State made a further Regulation 19 request which resulted in a further Addendum to the ES (*Document CD/10.4*). This document also included more information about alternatives in connection with the Appeal B proposal following a point that I raised at the PIM (*Document CD/10.11, Paragraph 15*).
7. AVDC has confirmed that it is satisfied with the scoping of the ES, that all necessary publicity has been undertaken and that it is legally compliant (*Document CD/10.11, Paragraph 14*). Nevertheless both AVDC and Barwood raised concerns during the Inquiry that the impacts of alternative ways of providing for renewable energy had not been properly assessed in the event that Appeal B is dismissed. AVDC was also concerned about the assessment of traffic impacts. These matters are addressed in more detail in the parties' cases below.

APPEAL RECOVERY

8. The appeals were recovered by the Secretary of State for Communities and Local Government for his own determination on 20 June 2011. The reason for this direction in the case of Appeal A was that it involved a proposal for residential development of over 150 units and was on a site of over 5 ha, which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities. Appeal B was recovered at the same time because it would be most efficiently and effectively decided with Appeal A. There were several matters on which the Secretary of State wished

¹Regulation 19 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (as amended).

to be informed and these are set out in full in his subsequent statement of 1 July 2011 (*Document CD/10.10*).

THE SITE AND SURROUNDINGS

9. For the purposes of this section “the appeal site” is the Appeal A land within which the Appeal B site is also located. There is an agreed description of the site and its surroundings in the Statement of Common ground (SCG) (*Document CD/10.5, Section 3*). The ES also provides some helpful information about the surrounding area (*Document CD/3.3/1, Section 2*). There are some useful photographs in the ES and its Addendum (*Documents CD/3.3/2; CD/3.4/2, Tab 6*). A plan showing the appeal site and its relationship to the adjoining Major Development Areas (MDAs) and Scheduled Ancient Monument (SAM) is at *Document AV/1/3/1*. The location of the site in relation to the wider context, including the highway network, the future route of the Western Link Road (WLR) and surrounding facilities is in the Transport Assessment (*Document CD/3.7/2, Figs SMA 2, 3, 5*). There is also some useful information in the revised Design and Access Statement (DAS), including a topographical map and context plan (*Document CD/3.6, Pages 21, 23*). The wind turbine would be located in the north western corner of the Appeal A site as shown by the red circle in *Document AV/1/3/1*.

The main points are:

10. The appeal site covers an area of some 92.3 hectares of farmland to the north of Aylesbury. This land is part of the Vale of Aylesbury and is mainly in arable cultivation comprising several large fields separated by hedgerows. It generally rises up in a north easterly direction with a ridge that runs from the western part of the site out towards the village of Weedon. The land drops down to the south and west towards the Hardwick Brook. This wind turbine would be on a relatively small area of lower land close to the stream which then meanders southwards to join the River Thames.
11. The Hardwick Brook separates the appeal site from the MDA known as Berryfields which is currently under construction and lies to the south west. Whilst at present the southern boundary is not delineated by any natural feature it is to be bounded by the line of the approved WLR. To the south east of the site and on the southern side of this future road is another MDA known as Weedon Hill where construction is well underway. To the south of the site is the SAM which was designated in 1957 and is in an area known as Quarrendon Leas. This is in three sections which comprise two deserted medieval villages, the site of a Tudor mansion, the ruins of St Peter’s church and a series of earthworks whose origins and purpose are disputed by the parties. This site is pasture land grazed by sheep. To the south of the SAM is the River Thames and its meadows which also include sports pitches and playing fields. The established town lies beyond.
12. The eastern and northern boundaries are delineated by hedgerows beyond which is an agricultural landscape. Close to the south eastern boundary is a now disused PLUTO pumping station which was used in connection with the supply of oil through pipelines between England and France in World War II. To the east is the A413 which runs into the town past Weedon Hill. To the south of Berryfields is the A41 which is another main route into Aylesbury and

to the south of this is a new railway station. A short distance to the east is a new signal controlled junction where the WLR will join the A41. This road will then sweep round to the north of the SAM to join the A413 at a roundabout junction close to Weedon Hill.

THE APPEAL PROPOSALS

APPEAL A

13. The planning application was made in outline with all matters reserved for later consideration. It was accompanied by a number of documents that give further information about the proposed development. These include a DAS and a Masterplan both of which have been revised following the amendment to the scheme noted in Paragraph 1 above (**Document CD/3.6**). In accordance with Paragraph 52 of Circular 01/2006 there are indicative details of the distribution of uses, the amount of development proposed for each use, the layout and the height and size of building blocks. Further information relating to building dimensions and parameters and floor areas were provided during the Inquiry (**Document CD/10.40**). The application was also accompanied by a number of other documents including a TA and ES as referred to above. Before the application was submitted there was a process of consultation with AVDC and other stakeholders, which included meetings and two public exhibitions (**Documents CD/1.10; CD/1.2a; CALA/3/4**).
14. A detailed description of the appeal scheme is in the Planning Statement and its Addendum (**Documents CD/3.9; CD/3.10**). The Masterplan indicates that the development is seen as a new neighbourhood and a countryside gateway which would complement the nearby developments of Berryfields and Weedon Hill. Many of the houses would benefit from the south facing topography although a proportion would occupy land facing towards the west and north-west. Housing would generally occupy the lower slopes with the playing fields, allotments, orchards and woodlands closer to the ridge. There would be an average net density of 40 dwellings per hectare with densities decreasing towards the north and increasing around the neighbourhood centre. The latter facility would be centrally positioned and include retail uses and a community centre. There would also be a primary school on adjoining land.
15. The development is expected to be built over 4 main phases with a delivery of about 200 dwellings per year giving a total construction period of some 7 years. 468 of the 1,337 homes would be affordable units. The main existing hedgerows both within and around the site would be retained. Internal hedgerows would run through wide multi functional green corridors and be supplemented by tree planting (**Document CD/3.6, Page 56**). Drainage would be by means of a sustainable drainage system (SuDS). Subject to the approval of Appeal B the development's entire electricity requirement is intended to be generated by the wind turbine. In the alternative, low carbon and renewable energy technologies either on-site or off-site by means of Allowable Solutions are proposed although no details have been submitted at this stage.
16. The WLR would form the southern boundary of the site and three access points are proposed along it. Whilst the road itself is being built by Taylor Wimpey, the Appellants have a legal right to connect into it (**Document APP/5.1, Appendix 10**). The road would be bordered along its southern edge by hedgerow

planting at this point. The Hardwick Brook corridor within the site would be transformed into a wildlife meadow with a new footpath running through it and connecting to the WLR. This would also connect to a second path running north of the development along the upper slopes. A triangular segment of land to the south east of the main development would accommodate about 75 dwellings.

APPEAL B

17. The 2MW wind turbine is proposed in the north western corner of the appeal site as shown on the Masterplan (*Document CD/3.6, Page 33*). It would be positioned down the slope close to the boundary with Hardwick Brook. The tower would be 113 metres high and the total height including the blades would be 149 metres. As this is a freestanding proposal it includes an access link to the WLR and A41. The turbine would be connected to either the nearest existing substation or a new substation on the Appeal A development. It would have a 25 year lifespan and could generate 4,818,000 kWh a year on the basis that it would produce electricity for 27.5% of the time on average (*Document APP/7/1, Paragraph 4.6*). This would be by means of underground cabling beneath existing and proposed access roads (*Document APP/7/4*). In addition to providing for the electricity needs of the Appeal A development there would be a 26% surplus to be provided to the grid. In the event that Appeal A is dismissed all of the electricity generated would be provided to the grid.

RELEVANT PLANNING HISTORY

18. There is no relevant planning history on the land subject to the two appeals. Planning permission has been granted for mixed use urban extensions at Berryfields and Weedon Hill involving 3,235 and 1,022 dwellings respectively. The former MDA also includes 9 hectares of employment land. These developments are both under construction. Planning permission has been granted for the WLR which would also serve the appeal developments. When this road will be built is a matter of dispute between the parties but it is agreed to be sometime between late 2013 and the end of 2014. Planning permission has also been granted for strategic employment development to the east of the town at Aston Clinton Road. This has not been implemented to date.
19. Planning applications have been submitted for further mixed use urban extensions at Fleet Marston and Broughton Stocklade for 3,150 and 2,450 dwellings respectively (*Document CD/10.5, Paragraph 4.4*). These are at the time of writing undetermined.

PLANNING POLICY

20. The development plan comprises the **Milton Keynes and South Midlands Sub-Regional Strategy** (2005) (SRS), the **South East Plan** (2009) and the saved policies in the **Aylesbury Vale District Local Plan** (2004) (*Documents CD/1.4; CD/1.3; CD/1.1*).
21. AVDC submitted its **Core Strategy Development Plan Document** (CS) for examination in 2009 but following the Government's announcement that it was going to abolish Regional Strategies the CS was withdrawn in October 2010.

Prior to that and during the examination the Inspector provided an Interim Report (*Document APP/5/1, Appendix 9*). AVDC has now commenced work on its new CS entitled the Vale of Aylesbury Plan. This seems unlikely to be submitted for examination until mid 2013 at the earliest (*Document APP/5.1, Paragraph 3.20*). Due to its early stage in the adoption process there are no draft policies of relevance to these appeals.

22. Development plan policies are set out in the SCG (*Document CD/10.5, Section 5*). The sections below address those that are considered to have particular pertinence to the main considerations in this appeal. My conclusions and recommendations are based on a consideration of all relevant policies.

SOUTH EAST PLAN (SEP)

23. The role of Aylesbury as a growth area was established in the SRS and was carried forward in the SEP. The town is identified as a regional hub where investment will be focused to provide new housing, economic activity, multi-modal transport and infrastructure. **Policy MKAV1** sets out the relevant spatial framework and envisages 16,800 new dwellings between 2006 and 2026 in and around the Aylesbury urban area. More detail is provided by **Policy MKAV3** which envisages an average rate of 840 dwellings per annum. This is to be provided by maximising the use of urban land and identifying new sustainable urban extensions in addition to those identified at Weedon Hill and Berryfields. These extensions are to be integrated with new and enhanced public transport systems and interchanges. The policy requires a strategic long term framework for the development of the town which will include strategic high quality employment sites and a further 21,500 jobs over the period in question.
24. **Policy CC1** establishes that the achievement of sustainable development across the region is the principle objective. Other related cross cutting policies concern climate change (**Policy CC2**), sustainable design and construction (**Policy CC4**), sustainable communities and environmental character (**Policy CC6**) and infrastructure provision (**Policies CC7 and CC8**). **Policy BE6** seeks to protect, conserve and where appropriate enhance the historic environment. It gives the highest level of protection to nationally designated historic assets. **Policy C4** seeks to protect and enhance the diversity and local distinctiveness of the region's landscape outside of the national designations.
25. The regional housing provision is set out in **Policy H1** and **Policy H2** and aims to accelerate the rate of delivery in growth areas. **Policy H3** deals with the need for a substantial increase in the amount of affordable housing and sets an overall regional target of 25% of all new housing being social rented accommodation and 10% being intermediate affordable housing.
26. **Policies T1 and T2** recognise the need to provide a transport system which includes a re-balancing in favour of sustainable modes. Policy T1 also encourages development that is located and designed to reduce average journey lengths. **Policy T5** seeks to identify major travel generating developments for which Travel Plans should be developed.
27. **Policy NRM11** sets a target for larger developments that at least 10% of their energy requirements should be met from decentralised and renewable or low-

carbon sources, subject to viability. **Policy NRM12** sets out the regional targets for electricity generation and indicates that the greatest potential will be from wind, biomass and solar resources. Sub-regional targets are given in **Policy NRM14** with the highest being in the Thames Valley and Surrey sub-region. **Policy NRM15** indicates that local renewable energy development should be encouraged to help meet the targets. Wind and biomass developments in particular should be sited to minimise impacts including on landscape and heritage assets. Where available Landscape Character Assessment (LCA) should inform location and design. **Policy NRM16** sets out criteria for renewable energy proposals including the contribution that such development would make towards renewable energy targets and carbon dioxide savings.

AYLESBURY VALE DISTRICT LOCAL PLAN (LP)

28. Saved **Policy GP.2** seeks the provision of up to 30% affordable housing on all developments of 25 or more dwellings or sites of 1 hectare and more subject to considerations of local need and the economics of provision. Saved **Policy GP.35** aims for the design of development to respect its surroundings including the historic scale and context of the setting. Saved **Policy GP.59** makes provision for the protection, preservation and enhancement of the historic interest and setting of sites of archaeological importance. Saved **Policy RA.2** seeks to prevent the loss of open land that contributes to the form and character of settlements.
29. The LP recognises Aylesbury as a sub-regional growth centre where development should be concentrated in a sustainable way. Saved **Policies AY.13 and AY.14** allocate the land at Berryfields and Weedon Hill for a mix of uses and include provisions for the WLR and 100% contribution to the A41 and A413 PPTC's respectively. Saved **Policy AY.15** allocates land at Aston Clinton Road for a 26 hectare business park.

NATIONAL PLANNING POLICY

30. The relevant national policy documents are set out in the SCG. Of particular importance are:
 - **Planning Policy Statement 1: *Delivering Sustainable Development*** (PPS 1). **PPS 1 Supplement: *Planning and Climate Change***.
 - **Planning Policy Statement 3: *Housing*** (PPS 3) (June 2010). **The Planning System: General Principles**;
 - **Planning Policy Statement 5: *Planning for the Historic Environment*** (PPS 5); PPS 5: **Historic Environment Planning Practice Guide**.
 - **Planning Policy Statement 7: *Sustainable Development in Rural Areas*** (PPS 7).
 - **Planning Policy Guidance Note 13: *Transport*** (PPG 13).
 - **Planning Policy Statement 22: *Renewable Energy*** (PPS 22). **Planning for Renewable Energy: A Companion Guide to PPS 22**.

31. The draft **National Planning Policy Framework** (NPPF) was published for consultation in July 2011. The period of consultation has now been completed and it is likely that the approved document will be issued before the decision on these appeals is made. That being so, the above national policy statements will no longer be current although some guidance may be retained under transitional arrangements (*Document AV/4/7*). A key principle in the draft document is the presumption in favour of sustainable development. In the consultation draft the requirement for a 5 year housing land supply continues along with a 20% addition to aid flexibility.
32. **Overarching National Policy Statement for Energy** (EN-1) was designated by the Secretary of State along with the National Policy Statements on Energy Infrastructure in July 2011. These included the **National Policy Statement for Renewable Energy Infrastructure** (EN-3).
33. **The Ministerial Written Statement: *Planning for Growth*** was made in March 2011.

THE CASE FOR THE APPELLANTS: ARNOLD WHITE ESTATES LTD AND OXFORD DIOCESAN BOARD OF FINANCE

The main points are:

APPEAL A: THE MIXED USE DEVELOPMENT

INTRODUCTION

34. The appeal scheme has been designed to provide a modest and sustainable urban extension to Aylesbury town to help meet short term housing needs. This arises from AVDC's failure to maintain a sufficient 5 year housing supply either within the Aylesbury town identified area or the Aylesbury District as a whole. It would be of a scale that would be significant enough to make a substantial contribution to 5 year housing supply needs. However it would be modest when compared to the recent permissions for 4,272 dwellings at Berryfields and Weedon Hill; or over 3,000 dwellings planned through the CS for the major locations; or the current planning applications at Fleet Marston (3,150 dwellings) and Broughton Stocklade (2,450 dwellings).
35. It would also be modest in being a contained site which is bound by the ridge to the north and by the maintenance of a green wedge/gateway to the east, which would be sufficient to both contain Quarrendon Leas and to maintain its connection with the countryside beyond. Thus it is a site with modest ambitions and one which would not prejudice the future major expansion plans being considered through the Vale of Aylesbury Plan process as the long term spatial strategy. The development would therefore help to meet a short term deficiency in housing land supply whilst at the same time providing a much longer term residential neighbourhood.
36. In locational terms the proposed site helps to 'round off' the extension started by the other two MDAs, helping to integrate them more effectively with each other, with the town and with the surrounding landscape. At the same time, the development reinforces the topographic shape of the town, staying within the boundary formed by the northern ridgeline as does Berryfields. The combined arrangement of the three neighbourhoods gives the intervening

space of the Thames corridor and Quarrendon Leas a much stronger identity and, in line with the Green Infrastructure Strategy, helps to realise its potential as a multifunctional green space with a local, town-wide and regional role, providing a connection to the countryside beyond (**Document CD/2.21**).

37. Much time was spent discussing the ES. It is common ground that the ES is legally compliant. Likewise, any technical failings of the DAS have been rectified during the Inquiry.

DEVELOPMENT PLAN AND POLICY

Development plan

38. The SEP will probably be revoked in the spring of 2012. Until then it carries the weight of properly consulted and approved policy although the counter weight of other material considerations may increase with the passage of time and greater certainty of intention. It seems likely there will be some transitional provisions (**Document AV/4/7**). To avoid a local policy vacuum some further provisional life may thus be afforded to the SEP and its housing figures especially in the context of pending appeals and applications.
39. The SEP identifies Aylesbury as a Regional Hub and Centre of Significant Change and the majority of new houses in the district are to be provided at Aylesbury town. Development at Aylesbury is to be delivered through maximising the use and re-use of land within the urban area and through the development of new sustainable urban extensions integrated with the provision of new and enhanced public transport systems and interchanges. The appeal proposal complies with Policy MKAV3 of the SEP which sets a requirement for 16,800 additional dwellings for Aylesbury part of which should be found in "sustainable urban extensions". AVDC has calculated that 9,250 dwellings will be needed in such extensions (**Document CD/2.6, Paragraphs 2.59, 2.510**).
40. Although still part of the development plan the LP is now essentially of historic interest only. Nevertheless, it had a spatial vision of concentrating major development in the district including the already defined and implemented MDAs of Berryfields and Weedon Hill. It noted that the primary consideration in locating these MDAs was where this scale of development could be accommodated taking account of all normal constraints and the extent to which it could be served by an enhanced public transport system. The LP acknowledged that those MDAs would create a "*sustainable and attractive form of development for Aylesbury*" (**Document CD/1.1, Paragraph 5.54**). This spatial vision was continued consistently in the SEP and in the withdrawn CS.

Draft NPPF and Ministerial Statement

41. The recently published draft NPPF can be afforded some weight at this stage but may gain significant weight if adopted before the Secretary of State makes a decision on the appeal (**Document CD/7.3**). It builds on the Ministerial Statement of 23 March 2011 which is a significant material consideration and at the heart of the Government's planning policy (**Document CD/7.1**). It says that "*the answer should be yes*" and "*wherever possible to approve applications where plans are absent, out of date, silent or indeterminate*" and that there is "*the need to maintain a flexible and responsive supply of land for key sectors, including housing*". The details may be subject to consultation

and review but the central message that sustainable development should be granted planning permission in order to promote growth and housing is likely to remain unchanged.

42. This may not be as radical as some have claimed as 'sustainability' is not clearly defined. It should not be given a restricted meaning but a judgment should be made, having regard to the development plan and all other material considerations, on the overall merits of the appeal proposal. The patent need for housing development together with the other benefits should be weighed against any perceived harmful effects and the overall result is likely to be properly expressed in terms of its sustainability. If the Ministerial Statement is to have any meaning then the development of the appeal site is a prime opportunity to demonstrate this.

Prematurity

43. There is no reason for refusal on the grounds of prematurity but it was later argued that the appeal proposal should only be considered alongside other urban extension proposals in a 'holistic' manner. This is surely a claim that the appeal proposal is 'premature' (**Document AV/4/1, Paragraph 138**).
44. Paragraphs 17-19 of *The Planning System - General Principles* identify prematurity within the context of development which is "*so substantial*" that it would prejudice a development plan document that is being prepared, is under review or has not yet been adopted. At around 1,300 dwellings where urban extensions of over 9,000 dwellings were envisaged in the original CS the appeal development would not be 'substantial'. It is also stated that the weight of any case of 'prematurity' is dependent upon the stage of preparation of the development plan document. The CS was withdrawn in 2010 and the Vale of Aylesbury Plan is not even at consultation stage. Adoption is unlikely to take place until 2014 (**Document AV/4/1, Appendix 5**).
45. Lodging of the appeal has been criticised by AVDC as having little regard to the offer to continue a dialogue (**Document AV/4/1, Appendix 4**). However the letter of 19 January 2011 says three things. The first is that applications would be judged against the development plan which then as now includes both the SEP and the LP. The second refers to the status of the SEP and its eventual revocation and leaves the application to be judged only against the out of date LP. This is site specific and identifies no urban extensions beyond Berryfields and Weedon Hill. The third is that no application can be determined "*until there is greater clarity of the policy position*". The Vale of Aylesbury Plan timetable was attached which shows that "greater clarity" is unlikely to be reached until at least September 2013 when the Plan is submitted for examination. By then the argument is likely to be that adoption must be awaited. That is effectively a moratorium on any urban extensions until 2014. Although AVDC do not concur it could not identify a time when applications could be determined before that adoption².

² Inspector's Note – Mr Cannell was unable to say when the Fleet Marston and Broughton Stocklade planning applications would be determined or what the outcome was likely to be. He commented that the Vale of Aylesbury Plan would work to locally derived housing targets rather than those in the SEP.

46. Moreover, the existence of two planning applications undetermined some time after submission (Fleet Marston was first submitted in 2009, and again in August 2010) also suggests that there is a moratorium. Otherwise AVDC may be dragging its feet to benefit from the perceived advantages of localism in the hope to avoid meeting the requirement to meet current housing targets.
47. In view of the 'holistic' approach adopted by the Council³ it is unlikely that any major planning permissions will be granted before individual and cumulative assessment so that some integrated spatial vision may be achieved. Such an approach is anathema to the Secretary of State's policy on the need to maintain a 5 year supply of housing land. It also means that little progress is likely to be achieved pending the Secretary of State's decision on this case.

SUSTAINABILITY AND HOUSING LAND SUPPLY

Housing Land Supply

48. It is agreed that there is between a 2.2 and 2.9 years HLS, which represents a shortfall of between 2,133 and 3,574 dwellings in the 5 years to March 2017 (**Document CD/10.5, Appendix A4**). Paragraph 71 of PPS 3 then applies so that the appeal should be "*favourably considered*". This is an important and well established principle and one which is by definition urgent if at least this element of housing supply is to make any inroads on the increasing housing shortfall. It is a most important material consideration, even though the development is in accordance with the development plan in any event. Paragraph 69 of PPS 3 then needs to be addressed. This refers to achieving high quality housing of a good mix; the suitability of the site for housing; using land effectively and meeting housing objectives including the spatial vision. The 'spatial vision' has long been to concentrate major development in the District at Aylesbury and this theme is reinforced and quantified in SEP Policy. The appeal scheme meets all the Paragraph 69 provisions and it is promoted in those terms as an appropriate and sustainable housing extension (**Document APP/5/1, Paragraphs 4.37-4.42**).
49. There is no other major outstanding planning application which does not have problems to overcome⁴. In the case of Fleet Marston there is the constraint of the High Speed Rail 2 route which cuts through the site. There are also matters to overcome following the statutory consultation responses (**Documents APP/5/1, Paragraphs 2.14, 2.15; APP/4/4**). In the case of the Broughton Stocklade site the CS Inspector in his Interim Report raised significant concerns (**Document APP/5/1, Paragraph 2.22 and Appendix 9**).
50. Having accepted that there are serious housing land supply deficiencies AVDC attempts to avoid the consequences by suggesting that on revocation of the SEP the housing requirement will no longer have policy support. However the draft NPPF continues with the 5 year requirement even adding 20% for

³ Inspector's Note – in oral evidence both Mr Cannell and Mr Tester referred to a holistic approach to understanding the totality of the impacts of the various growth options on the town and its infrastructure, including the highway network.

⁴ Inspector's Note – There is a helpful plan at **Document APP/5/1, Appendix 5**. This shows the location of the Fleet Marston and Broughton Stocklade application sites. The latter is termed "Aylesbury East". It also shows the proposed High Speed Rail 2 route.

flexibility. Furthermore the evidence base and numbers that the SEP produced remain extremely important until replaced with new figures which are equally robust. In addition the very early indications in the GL Hearn "*Housing and Economic Growth Assessment*" undertaken for AVDC in September 2011 indicate a wide range of options for housing numbers (**Document CD/7.10**).

51. However these figures relate to the whole district and unlike the figure in Policy MKAV1 of the SEP they exclude the Milton Keynes extension. A like for like comparison is thus difficult. The SEP numbers for the district without the Milton Keynes extension (26,890 minus 5,390) would equate to 1,075 dwellings per annum. The GL Hearn study has a range for the District of between 624 and 1,032 dwellings per annum and no allowance for the 20% described in the draft NPPF has been made. It is thus concluded that Aylesbury will still need substantial growth and that if it were possible to calculate housing land supply at April 2012, in this very hypothetical situation with many variables, then it would seem to remain to be materially deficient (**Document APP/5/1, Paragraph 4.35**).

Sustainability

52. The promoters of the appeal scheme are committed to sustainable development and all the sustainability issues were considered prior to and during the planning application process. A Sustainability Director⁵ was employed with a track record of sustainable projects including the exemplar transport scheme at Southern Leighton Buzzard and the 2MW wind turbine at Double Arches (**Documents APP/1/2, Section 3; APP/7/1, Paragraphs 4.25-4.28**).
53. The sustainability of the general location to the north of Aylesbury has been accepted in Policy MKAV3 of the SEP by the allocation of the Berryfields and Weedon Hill MDAs in the LP. The site is on the edge of the large urban area of Aylesbury with its many facilities in easy reach including retailing, cultural and leisure facilities and employment. Convenient access is available by cycling and walking. Public transport links include the Aylesbury Vale Parkway rail station and a good bus service, including park and ride facilities which have been constructed as part of Berryfields and Weedon Hill. These will be enhanced and improved with an exemplar bus service proposed as part of the appeal development. This is a concept already pioneered by the Appellant in Southern Leighton Buzzard where there are similar circumstances of a congested town and lack of priority bus measures. This scheme has actually been shortlisted in the 'Putting Passengers First' category of the UK Bus Awards (**Documents APP/1/1, Paragraph 3.52; APP/1/2, Appendix 7, Section 3**).
54. AVDC and Barwood say that the appeal proposal fails the test of being a 'sustainable urban extension' because the site lacks an employment component although it is acknowledged that the school and neighbourhood centre would create jobs. It is accepted that residents on the appeal site will need good access to jobs but a token allocation within the appeal site would be unjustified. The likely diverse nature of the residents' employment needs would not be satisfied by a relatively small employment site within the development. There is already vacant capacity available at substantial

⁵ Mr M Ohrland.

strategic employment sites at Aston Clinton and Westcott⁶ as well as on sites within the town centre. Policy MKAV3 in the SEP establishes that urban renaissance is an important objective for the centre of Aylesbury and the redevelopment of industrial land is already taking place. The economic strategy further encourages high quality office space in the town to attract high value businesses (**Document CD/1.3, Paragraph 23.20**). The renaissance of Aylesbury and the quality office space needed would not be achieved by employment sites within urban extensions.

55. Neither AVDC nor Barwood could point to a single policy that requires every urban extension around Aylesbury to include employment provision. The adjoining existing urban extensions of Berryfields and Weedon Hill are described in Policy MKAV3 of the SEP as being sustainable and yet Weedon Hill has no employment provision. Policy MKAV3 provides for a long term planning strategy to provide for strategic employment sites and does not require employment land at future urban extensions in order for them to be sustainable (**Document APP/5/1, Paragraphs 4.19-4.21**).
56. The close proximity of the 10 hectares of employment land at Berryfields together with the good accessibility of the appeal site to the town centre and other sites is not only sufficient but would also help to bolster the viability of the Berryfields employment site. This echoes a finding in the Roger Tym/ Lambert Smith Hampton Report: *Aylesbury Vale Employment Land Study (2008)* (ELS) which considered that the Berryfields employment site would be badly placed to compete for high quality occupiers with the Aston Clinton Road site. It concluded that consideration should be given to reallocating this employment land to other uses (**Document CD/9.7, Paragraph 7.22**).
57. No evidence was given that there has as yet been any commercial interest in the Berryfields employment site. Additional local housing on the appeal site would actually reinforce viability of this employment area by providing additional local workers. Also another employment area on the appeal site could only weaken what was seen by the ELS as a marginal employment area and would therefore run the risk of also being similarly judged. Doubt has been cast about viability by AVDC's own consultants (**Documents APP/5/1, Paragraphs 4.24-4.27; CD/9.7, Paragraphs 5.31-5.33, 7.22**).
58. AVDC contended that the appeal site had the greatest negative impact in the assessment of site options conducted by CAG Consultants in order to inform the direction of growth at Aylesbury (**Document AV/4/1, Paragraph 37**). However that is not the case and in fact the site (referred to as Berryfields East) scores similarly to Fleet Marston in relation to landscape/ heritage and similarly to 4 other sites in relation to transport and travel (**Document APP/5.1, Appendix 7, Page 22**). The development of the appeal site was pursued through the CS process and the Inspector had all the information on the proposal before him. Unlike other sites there were no adverse comments about it in the Interim Report. Mention was though made of the unexceptional landscape and

⁶ Inspector's Note – Mr Gardner explained in oral evidence that the Aston Clinton employment site is on the eastern side of Aylesbury to the north of the A41 where development has not been started. The Westcott site is a former airfield about 5 miles west of the town and take-up has been slow.

lack of ecological impact. The central criticism of AVDC and Barwood is that the site is not sustainable. Despite the CS Inspector hearing the criticisms of AVDC and Buckinghamshire County Council (BCC) there is no mention of any lack of sustainability for the site in the Report (*Document APP/5/1, Appendix 9*).

Housing delivery

59. The criticism levelled at the appeal proposal is that notwithstanding an undisputed severe shortfall of housing land the site cannot be sure to deliver a significant supply of housing in the 5 year period up to March 2017. This is because it is reliant upon the provision of the WLR by the developers of Berryfields and Weedon Hill. The Appellants and AVDC have agreed that the WLR should be available in late 2013 (*Documents APP/5/1, Appendix 3; AV/4/3*). AVDC compiled a trajectory of known and projected completions published in May 2011 which used figures supplied by the sites' developers, including Taylor Wimpey (*Document CD/2.9*). Thus it provides a reasonable basis for the likely date when the road will open.
60. The earlier Weedon Hill Section 106 Agreement had provision for AVDC or BCC to serve notice on the Weedon Hill developer to complete that section of the WLR within 16 months. The notice should have been served when Berryfields commenced in July 2010 in which case the Weedon Hill section of the WLR would be open by now. For reasons that have not been explained the relevant authorities did not serve the notice although the suggestion of discretion may indicate that satisfactory progress is being made. However, the Section 106 Agreement relating to Berryfields supersedes the original Weedon Hill legal agreement and is quite clear that, without the serving of any notice not more than a combined total of 1,500 dwellings can be occupied until the WLR is open. Of these at least 611 have to be on the Berryfields site (*Document APP/5/1, Appendix 3*). The AVDC trajectory shows that the 1,500 dwellings will be completed towards the end of 2013 (*Document AV/4/3*).
61. Taylor Wimpey has asserted that delivery will not be until late 2014 (*Document AV/4/3, Page 4*). No explanation is given as to why the projected housing completion figures provided to AVDC only a few months ago have been altered. However Taylor Wimpey has clearly misunderstood the position as demonstrated in its e-mail of 2 November 2011 (*Document AV/4/4*). This confirms that the 600th occupation is anticipated in the 3rd quarter of 2013. It broadly accords with the AVDC trajectory so that the combined total for Berryfields and Weedon Hill should be reached as anticipated in about October 2013 (*Document AV/4/3, Paragraph 2*).
62. It was also suggested that there was no requirement to open the road, only that the number of dwellings could not exceed 1,500 without it. 642 of those dwellings had already been completed by March 2011 along with major infrastructure including substantial ends of the WLR at Berryfields and Weedon Hill. In view of the amount of investment that has already taken place it is inconceivable that the development will not continue past the 1,500 point which will be reached in late 2013. It is not in dispute that the Appellants have a right of connection to the WLR when available, the legal transfer having been provided. From this same document it is also demonstrated that they have the right of access for construction traffic along the line of the WLR even

before completion so that it is possible that work on site could start earlier in 2013 (*Document APP/5/1, Appendix 10*).

63. The Appellants have long experience of housing development and estimate that 200 dwellings per annum could be achieved. This compares favourably with the Fleet Marston estimate of delivery of 400 dwellings per annum. On that basis 650 dwellings would be delivered by March 2017 (the end of the relevant 5 year period). It is possible that delivery could start earlier and access gained to the already completed Weedon Hill end of the WLR. In such circumstances extra housing would be delivered.
64. Barwood was critical of this estimated rate of delivery drawing attention to the findings of a study by Buchanan entitled *Housing Delivery on Strategic Sites*. However the annual range of delivery for relevant sites was 3-324 dwellings so the estimated delivery of 200 would be well within that range. Furthermore the Buchanan work shows that small sites can have a shorter start up time compared to larger sites such as Fleet Marston. This is another reason why Fleet Marston is unlikely to be part of any solution in addressing the immediate shortfall in housing supply (*Document BL/3/2, Appendix 5, Table 1*).
65. Barwood also raised the matter of foul sewage capacity as a constraint on delivery (*Document BL/3/1, Paragraphs 16-29*). However Thames Water has clearly stated that there is no objection to the scheme and that it is able to deliver the required sewerage and sewage treatment infrastructure to serve the development within the advised timescale (*Document APP/5/2*). The response from Barwood is not from a qualified engineer and the Appellants' engineer is satisfied that there was no new matter to be considered (*Documents BL/3/3; APP/5/3*).

Viability

66. Barwood has attended the Inquiry to protect its own commercial interests at Fleet Marston. Its witnesses tended towards extreme views not admitting of the reasonableness of professional views at variance with their own. That may affect the weight that should be attached to them. Barwood has directly accused the Appellants of trying to "buy" a planning permission⁷. This is not correct and there is no evidence that it is so even if it were possible. The renegotiation of the Berryfields Section 106 Agreement⁸ has not been the subject of any critical evidence. Even if it were due to the lack of viability that does not mean that a similar situation would arise with the appeal scheme any more than it would at the proposed Fleet Marston site.

⁷ Inspector's Note – The context here is that the Unilateral Undertaking originally proposed 30% affordable housing with grant as confirmed at the PIM. It was then increased to 35% without grant. The proportion of social rented housing was increased from 50% to 75%. Mr Kingston suggested to Mr Gardner in cross-examination that the Appellants were buying themselves out of difficulty. Mr Gardner responded that this was a normal process of negotiation and that the Appellants would not have made an offer they could not deliver.

⁸ Inspector's Note – This refers to a Deed of Variation to the original Unilateral Undertaking whereby the contributions towards PPTC works on the A41 were reduced (*Document APP/5/1, Paragraph 4.53*).

67. The Appellants have committed significant resources to these appeals and are willing to accept a condition on Appeal A that requires early commencement to bring forward the development. This demonstrates their commitment to the scheme. The fact that they have met the substantial financial obligations in a careful manner is not evidence of non viability. Planning Obligations are a comprehensive balance of competing interests and strategic negotiations. It would be an unusual process that did not involve a negotiated settlement. Indeed there was a similar Unilateral Undertaking at Southern Leighton Buzzard and this scheme is being implemented. The Appellants have sought to reach agreement and have met all reasonable policy requirements in the Unilateral Undertaking whilst maintaining a viable and deliverable development. For example the affordable housing offer of 35% of the total without grant would deliver 468 homes. Of these 75% would be social rent which would be a major public benefit and should not be a matter for criticism.
68. The whole Section 106 package provides significant benefits worth well over £22m. This would include substantial education provision; transport benefits to the PPTC, Travel Plans and exemplar bus service; community provision; substantial open space (20 ha); and a considerable contribution to SAM management. Furthermore the development would generate a New Homes Bonus in excess of £13m which would be of substantial benefit to the district (*Document APP/5/1, Paragraphs 4.75-4.82*). The Unilateral Undertaking fully complies with Regulation 122 of the Community Infrastructure Levy (CIL) Regulations (*Document APP/5/4*).

LANDSCAPE

69. There are many different documents relating to landscape which have distinct roles and purposes. The LCA provides a baseline with general judgements and guidelines (*Document APP/4/1, Paragraph 2.6.21*). The Sensitivity Study has the express purpose of providing a replacement for the local landscape designations and is again generalised without specific reference to a particular type of change (*Document CD/2.15*). The Landscape Impact Assessment and Visual Impact Assessment provide an assessment of sensitivity and capacity with respect to potential development sites around Aylesbury (*Document CD/2.16*). Greater weight should be placed on those studies that sought to understand the potential impact of development on the landscape. They have at their root landscape character assessment and are explicitly based on the district LCA and so accord with PPS 1, PPS 7 and SEP Policy C4.
70. The Landscape Impact Assessment and Visual Impact Assessment considered 7 sites and also combined them into various growth options. When considered on its own, rather than as part of the northern growth option, the appeal site scored third lowest in terms of potential visual impact and third out of five in terms of landscape impact (*Documents CD/2.16; APP/4/1, Paragraph 2.6.34-2.6.35*). Despite the Council's suggestion that the visual assessment underestimates the visual impact of the appeal site area due to having less visual receptors this also applies to other sites as well (*Document APP/4/7,*

Appendix A)⁹. These results clearly show that development on the appeal site would be acceptable in visual and landscape terms.

71. The Council maintained that in terms of landscape quality the appeal site is within an area that is *"generally a pleasant but unremarkable representative of this landscape character type"* (**Document CD/3.14, Paragraph 7.14**). It also agreed that it has similar landscape characteristics to the Berryfields site¹⁰. The obvious implication is that if Berryfields was considered acceptable in landscape terms then the appeal site should be as well. The Council did not identify any specific characteristics of the site that make it special and focused instead on the proximity to the SAM and the issue of the development going beyond the ridge spur onto the western slope down to the Hardwick Brook. In the end these two issues seemed to be the only points that provided a basis for objection and reasons for refusal on landscape grounds.
72. With respect to the issue of development on the western side of the ridge spur the appeal site is contained visually within a distinct set of ridges that define the basin of the River Thames. Most importantly the evidence shows that the ridges visually contain the development as seen from the ground to the north and west from both distant and close views and it cannot be said to 'spill out' beyond the topographic boundary of the town. As seen from these viewpoints, development on the appeal site would either not be visible at all or would be seen to lie within the Thames basin (**Document APP/4/3**). The general approach taken with respect to proximity of development to the ridge followed the principle supported by the LP Inspector with regard to Berryfields (**Documents AV/4/1, Appendix 1, Paragraph 5.20.45; APP/4/1, Paragraph 2.6.62**).
73. The assessment of landscape character is a tool to aid decision making and manage change (**Document APP/4/1, Paragraph 2.6.21**). In the LCA the appeal site lies within the Northern Vale character area. The LCA sets out a number of guidelines that are relevant to the conservation of the character of this area (**Document AV/1, Paragraph 71**). The DAS and Masterplan closely follow these guidelines and the scheme includes restoring and enhancing the original field pattern, planting woodland, new hedgerow trees, maintaining neutral grassland and planting Black Poplars. Connectivity between habitats will be maintained and buffer strips of grassland created. There will be improved access, especially to Quarrendon Leas and the preservation and enhancement of the setting of key heritage features (**Document CD/3.6, Section 4**).
74. By all these measures the appeal proposal is using the characteristic features of the existing landscape to maintain and enhance the character of the area. There is no evidence that the guidelines in the LCA have not been followed. Treatment of the hedgerows which are key features within the site follows the principles accepted at Berryfields. Far from creating a sense of fragmentation as suggested by Barwood the incorporation of the hedgerows achieves the

⁹ Inspector's Note – Dr Kropf explained in examination-in-chief that the site is part of Site B. In the Tables in Appendix 1 of the Visual Impact Assessment the potential development sites have been assessed against 9 visual receptors. However it is not just Site B that is assessed against a lower number of receptors as is shown by asterisks in the tables.

¹⁰ Inspector's Note – In answer to my questions Mr Bellars said that both the appeal site and Berryfields (prior to development) were typical of the wider landscape character area.

aims of continuity and enclosure and is fully in accordance with the LCA guidelines, the Berryfields Development Brief, By Design and the Urban Design Compendium (*Documents CD/2.1; APP/4/5*). The appeal proposal has not been criticised by AVDC on the grounds of design. On the contrary it has been praised in a number of respects (*Document CD/3.14, Paragraph 7.14*).

CONSOLIDATION AND CONNECTION

75. AVDC sought to show that the proximity of the appeal site to Berryfields and Weedon Hill risked coalescence and sprawl (*Document AV/1/3/1*). On the other hand Barwood sought to show that the site was isolated, too far from the town and thus unsustainable (*Document BL/2/1, Paragraph 6.4*). These arguments are diametrically opposed and therefore negate each other. Barwood also contended that the proposal conforms to the negative model of 'doughnut development' identified in the Taylor Review, which is essentially unbroken contiguous development without gaps spreading out from the existing urban edge (*Document BL/2/1, Paragraphs 3.13-3.14*). At the same time the scheme was criticised for being isolated and having as its *raison d'être* a relationship with the countryside (*Document BL/2/1, Paragraph 4.7*). The critiques are basically contradictory which renders them meaningless.
76. The much more convincing similarity lies in the comparison between the appeal proposal and the model of good housing development illustrated in the Taylor Review (*Document CD/9.6, Page 63, Figure 2.2*). This shows distinct neighbourhoods with their own local centres as extensions set within intervening open space that serves a wider role for both the neighbourhoods and the town as a whole. This is precisely the model that has been adopted in the appeal proposal. This provides 60% of the site area as accessible open space and helps realise the aim of making Quarrendon Leas a key area of accessible natural green space that serves the town as a whole (*Document APP/4/1, Paragraphs 2.5.3-2.5.8*).
77. The appeal site benefits from connections to two radial routes, the A41 and the A413 therefore offering a choice of routes into the town. This situation provides choice and helps to distribute traffic in accordance with general principles in the Urban Design Compendium 1 and By Design (*Document APP/4/5*). The river, road, SAM and green space do not create barriers between the appeal site and town for the simple reason that the WLR goes around these features and provides close connections and relatively short travel times to Berryfields neighbourhood centre, the Aylesbury Vale Parkway Station, the Berryfields and Weedon Hill Park and Rides and the town centre. Barwood conceded that the travel distances it criticised in the appeal scheme are fundamentally the same for the Fleet Marston proposal¹¹.
78. The scheme has been carefully designed by an acknowledged expert in the field of urban design and conservation¹² and the concept is fully explained in the DAS (*Document CD/3.6*). The appeal site is well located to take advantage of key routes into town and would be readily accessible to a range of facilities

¹¹ Inspector's Note – Mr Lowndes agreed in cross-examination that the distances to the town centre were broadly similar from both sites.

¹² Dr K Kropf.

and services by bus, cycle and on foot. There are good connections to the countryside and substantial landscape proposals including woodland planting, allotments, playing fields, orchards, and open parkland, and there are new footpaths creating attractive walks. The proposed wind turbine would make a real contribution to the use of renewable energy and reducing CO² emissions.

IMPACT ON THE SAM AND ITS SETTING

79. A key consideration is the nature and significance of the SAM as a heritage asset. The case for the presence of a Tudor garden is based on the work of Mr Everson (*Document CD/8.4*). However there are no known contemporary text descriptions, graphic depictions or drawings and no evidence from sub-surface archaeology for the disposition of elements as set out in his work. AVDC accepted that the case set out by Mr Everson is necessarily conjectural and based on an interpretation of the earthworks survey¹³.
80. Barwood acknowledged that the concept of the 'large heritage asset' applied to the SAM and its setting as a whole. The terminology is not defined in PPS 5 but is included in the PPS 5 Practice Guide in a limited sense relating to a section on management and maintenance. It was however agreed that the wider area should not be designated¹⁴. Campden Manor House in Chipping Campden, which is used by Mr Everson as an example of a 'contemporary' garden to support his case for the Quarrendon garden, was suggested by Barwood to be late 16th century. In fact Campden Manor House is Jacobean, completed in 1613, some twenty years after the supposed date of the garden at Quarrendon¹⁵. It could not therefore have been any kind of model.
81. If Campden Manor House provides an example of some of the principles that may have applied at the earlier time there are significant differences with Quarrendon. These include the specific elements such as the almshouses which would have been a highly unusual freestanding element within a garden and away from any village or the purported site of the house. Another difference is the symmetry and regularity of the elements, including the shape of the site as a whole, the approach route and the shape of individual elements. While all of these points do not provide evidence to discount the idea of a garden altogether, they put into serious question the robustness of the current case for such a feature given the lack of any other evidence (*Document APP/4/1, Paragraphs 3.1.21-3.1.28*).
82. It is possible that the earthworks could have been part of efforts at flood water management, particularly given the known history of flooding on the site and its position partly in the flood plain (*Documents APP/4/1, Paragraph 3.1.71; APP/4/2, Appendix Page 42 photograph; CD/8.4, Page 31*). The water channels that feed into the SAM are considered as heritage assets and may have played a role in flood prevention (*Document CD/10/6, Annex 1*). The purpose of flood water management does not necessary exclude the possibility of the features

¹³ Inspector's Note – In cross-examination Mr Kidd agreed that it was a matter of a reasoned analytical survey and interpretation.

¹⁴ Inspector's Note – These points were agreed by Dr Miele in cross-examination.

¹⁵ Inspector's Note – This was said by Dr Kropf in evidence-in-chief.

having been part of a garden but puts into question a purely 'aesthetic' intention for the site.

83. The site has experienced many changes not least its progressive abandonment possibly in response to flooding and its cannibalisation for building materials, leading to its current state (**Document APP/4/1, Section 3**). The conclusion drawn is that because of the lack of robust evidence for a documented garden design and more importantly the history of 'desertions' and the resulting state of the site due to that very history the principal heritage value of the site is evidential and historical rather than aesthetic. If there is aesthetic value to the site it is due to its nature as a palimpsest and the work of time and weathering leading to a clear sense of desertion (**Document APP/4.1, Paragraphs 3.1.50-3.1.52**). This point is not disputed by English Heritage (**Document CD/10.7**). Barwood emphasised the importance of the 'work of time' giving the patina of age to the site. This is something that clearly does not apply to the setting, which is actively cultivated.
84. The history of the site resulted in the progressive separation of the SAM from the surrounding fields in terms of the functional/economic connection it would have had in the different stages of its history. Those changes reduce the contribution of the setting to the significance of the SAM. In essence, it is not necessary to see the fields in order to appreciate the evidential, historic and aesthetic value of the SAM. Rather, the separation highlights the historical fact of desertion (**Document APP/6/1 Paragraphs 3.1.67-3.1.70; 3.1.72-3.1.78**). The English Heritage Guidance: *The Setting of Heritage Assets* states that setting may change over time as the asset evolves (**Document CD/8.3A, Paragraph 2.4**).
85. A similar view had been taken with regard to impact of the Berryfields and Weedon Hill developments on the SAM. The 'core setting' of a minimum 100 metres from the boundary was incorporated into the MDA development briefs. It provided an ample setting for the SAM and maintained its connection to the wider countryside while providing a strong sense of desertion and isolation due to the large size of the area. The core area has also been carried forward into the Environmental Character Assessment that formed part of the evidence base for the draft CS (**Document APP/4.1, Paragraphs 3.1.55-3.1.60**). Even though the new guidance from English Heritage says that setting does not have a definite boundary the evidence base work still shows intent and a basis for drawing conclusions. The WLR will form a boundary to the most sensitive 'core area' so there will be a physical delineation that plays a part. Similarly the LP Inspector reinforced the general approach to the 'interface' between the proposal and the SAM (**Document AV/4/1, Appendix 1, Paragraph 5.20.93**).
86. Whilst the site lies within the setting of the SAM the contribution of the setting to the significance of the SAM is limited. What does remain relevant within the setting is limited to the 'agricultural' aspects, including the hedgerows and relict ridge and furrows, which have now been ploughed out. Barwood agreed that the setting extends beyond the appeal site and that other fields including those within the Berryfields MDA are also included¹⁶. The English Heritage guidance makes clear that setting is not just visual but involves spatial and

¹⁶ Inspector's Note – This was acknowledged by Dr Miele in cross-examination.

historic relationships and does not require public access. It does not need to be openly visible to have relevance and be appreciated.

87. In summary, the setting of the SAM provided by the core area and reinforced through the approval of the MDAs, WLR and the subsequent evidence base supporting the draft CS is more than adequate for protecting the significance of the monument given its specific nature and history. The proposed development on the appeal site would not therefore result in substantial or significant harm to the significance of the SAM or its setting. To the extent that there might be some harm, the content and nature of the proposal, including contributions to achieving the aims for the Quarrendon Leas projects, represent public benefits to put in the balance (**Documents APP/4/1, Paragraph 4.5; APP/4/2, Paragraph 1.3**).
88. Quarrendon Leas has a definite role within the town as a whole by dint of the fact it has been identified as a key green space within the Buckinghamshire Green Infrastructure Strategy (**Document CD/2.21**). That role is reinforced by the appeal proposal because it provides the SAM with a physical context that emphasises its importance and its history. Far from severing it from its context and setting the proposed development highlights its character as a deserted site of archaeological and historical value by giving it a clear identity and sense of containment. At the same time the views within and through the site to the surrounding areas, including to the far ridges of the Northern Vale, maintain the connection between the site and its setting. Containment and connection are not mutually exclusive. This is already demonstrated by the site in its current state. It has contained areas and areas that allow views through and out. The additional degree of containment on the northern edge resulting from the development would not preclude maintaining views through and out of the site.
89. The design approach has taken the SAM and its setting as both an asset and constraint from the outset. The main concept set out in the DAS is to see the SAM as a key focus for the northern neighbourhoods helping to tie it more directly into the town and the countryside. This is done by defining its boundaries, making physical footpath connections and maintaining visual connections. This is in accordance with Policies 7.4 and 7.5 of PPS 5 which encourage making use of heritage assets in the process of place making. At the more strategic level these aims are achieved with the definition of the SAM as a key element in the Green Infrastructure Strategy both physically in its relationship with the built areas and in its connections to those areas. It is also done at the site level by incorporation of historic features within the design. The topography and ridge and furrow patterns would be used as a basis for the street pattern, the historic hedgerows would be incorporated into the layout and new habitat would be created to enhance the quality of the environment. (**Document CD/3.6, Section 4**).
90. The inclusion of the historic features is recognition of their value in their own right, helping to give the proposal a distinct identity rooted in the history of the place. Inclusion and enhancement of these features also acknowledges their value in connection with the history of the wider area and the SAM. A real and tangible continuity is maintained in the face of change that gives the resulting environment the richness and time dimension that is so often

admired in valued historic places. The appeal proposal strikes the balance between significance and public benefit sought in PPS 5.

IMPACT ON BELOW GROUND ARCHAEOLOGY

91. The Archaeology SCG broadly agreed the following matters (*Document CD/10/6*):
- That the methodology used to gather baseline data was sound.
 - That evaluative works carried out to inform the ES provided valuable information sufficient to characterise remains and inform the planning process.
 - That development impacts on below ground remains have been reduced following consultation with Buckinghamshire County Archaeological Service and changes to the Masterplan made accordingly.
 - That the appropriate treatment of buried archaeological remains engages principally with the interpretation of Policies HE7, HE8 and HE12 of PPS 5.
 - That if planning permission was granted the requirements of Policy HE12 of PPS 5 should be utilised and a negative condition applied to secure this.
 - That if the land remained in arable use below ground remains could be damaged by ploughing and that no investigation would be prompted by that damage.
 - That the later prehistoric/Roman below ground remains located within the proposal are of regional significance but do not warrant scheduling at the present time.
 - That where similar sites have been investigated ahead of destruction this has contributed significantly to knowledge and understanding of the past.
92. The main area of dispute is whether the physical effect of development on below ground remains can be offset by the proposed mitigation strategy in the ES and its Addendum. As a result of consultations with Buckinghamshire County Archaeological Service and English Heritage the Masterplan was altered for the ES Addendum and the opportunity taken to preserve significant remains in situ (*Document APP/3, Section 3*).
93. The appeal proposal suggests taking remains out of an arable ploughing regime and so preserving them in situ or by record. Fieldwalking, geophysical survey and trial trenching had been used to demonstrate where the subsurface remains are located, which were shedding artefacts as a result of ploughing and which had no subsoil left (*Document APP/3/1, Paragraph 4.1*). It is thus legitimate to consider the opportunities offered through preservation by record for remains which may otherwise be destroyed or be reduced in significance with each passing year in arable production. In the future different crops may be grown on the appeal site like deep rooting sugar beet¹⁷. If such crops were grown then the level of destruction caused to below ground remains would

¹⁷ Inspector's Note – This was mentioned by Mr Abrams in re-examination.

increase. The choice of crops grown on the site is not affected by the presence of below ground remains and cannot be controlled by the planning system.

94. Modern archaeological investigation followed by publication, dissemination and archiving would lead to a significant increase in knowledge of archaeological remains within the site and connected to the SAM. This information would then be used in order to inform signage supplied for the Quarrendon Leas recreational area and within the proposal. This would lead to a greater knowledge of cultural heritage in the area and to greater opportunities for improved public access. This is in accordance with Policy HE3.1 of PPS 5 (*Document APP/3/1, Paragraph 4.2*).
95. A further opportunity for enhancement includes the reinstatement and retention of certain key field boundaries linked to the SAM. Although this is an enhancement which affects the setting of the SAM it would only be possible by utilising the results of investigation of below ground archaeological remains. The scheme accords with Policy HE12 and other relevant policies in PPS 5 and its Practice Guide (*Document APP/3, Paragraph 4.3 and Section 5*).

TRANSPORT

96. The issues between the Appellants and BCC as local highway authority have been narrowed (*Document ID/4*). There is no dispute that an appropriate standard of access from the WLR could be achieved or that appropriate corridors for pedestrians and cyclists within the development or along the WLR could be provided. It is also agreed that the further refinement of the Framework Travel Plan could be dealt with by means of planning conditions and through the Unilateral Undertaking. AVDC welcomed the Travel Plan initiatives despite having some reservations about the 20% traffic reduction target¹⁸.
97. Construction access could be provided once the WLR has been built to base course level up to either the eastern or western site boundaries (*Document APP/5/1, Appendix 10, Paragraph 12.3.1*). There are no time constraints related to the WLR that would delay a commencement of construction of the proposed development.

Traffic Modelling

98. The Appellants had sought to engage with the local highway authority as early as August 2011 in order to discuss and agree the extent of additional information needed. However it was only as a consequence of bringing this to the attention of the Inspector at the PIM that BCC acceded to a meeting (*Document CD/10.11, Paragraph 22*). This meeting took place on 5 September (*Document APP/1/3*). Since then the impact of the proposed development on a network-wide basis has been examined using the latest strategic traffic model (VISUM). All of the previous assessments undertaken by the Appellants had

¹⁸ Inspector's Note – Mr Tester said that he supports modal shift and that whilst the Travel Plan would be beneficial its outcomes are not guaranteed. He agreed that BCC has been successful in operating a Travel Plan for its own employees with a 35% reduction in single car occupancy.

been based upon the earlier strategic model (CONTRAM) that had been used to inform the draft CS (**Document AV/5/4**).

99. The previous strategic model included a number of assumptions relating to the Local Transport Plan (LTP) proposals for the works to the Primary Public Transport Corridor (PPTC), 10% Smarter Choices modal shift initiatives and the potential of the Weedon Hill Park and Ride site to remove traffic at peak times. These were omitted from the update modelling (**Document APP/1/4**). No rationale or convincing reason was given as to why the LTP priority schemes were not included in the modelling given that the assessment year of 2021 would give sufficient time for funding and delivery.
100. Nevertheless, the outcome of the most recent modelling concluded that only three junctions on the highway network, one on the A41 corridor and two on the A413 corridor, were likely to approach or exceed capacity in year 2021. The A41 junction would only be affected in the morning peak. The change in the ratio of flow to capacity was quite minor but due to the unreliability of the model it showed a significant increase in queuing (**Document AV/5/3, Table 1-B**). A potential mitigation scheme for the A41 junction was examined which would result in an improvement and reduced queuing. However in terms of resulting benefits the developer contribution would be better spent on implementing a significant part of the PPTC scheme (**Document APP/1/4, Page 3**).
101. Sensitivity testing was also undertaken upon the A413 junctions. This demonstrated that with allowances made for traffic reduction from the 35% affordable housing provision, modal shift from the Community Wide Travel Plan (20% from the appeal site and a further 10% when extended to Berryfields), trip reduction from the Weedon Hill Park and Ride and peak spreading there would be no deterioration in the 2021 position without development (**Documents APP/1/1, Paragraphs 3.54-3.63, 4.21-4.32, 4.39-4.52; APP/1/4, Pages 8-9**).
102. It is acknowledged that contributions should be made towards schemes that have been identified as key LTP priorities for encouraging travel behaviour change and increasing the use of public transport. The Unilateral Undertaking proposes a contribution of £1,617,770 towards the high priority PPTC scheme for the A41 and a contribution of £700,000 towards the proposed Park and Ride site at Weedon Hill on the A413 corridor (**Document APP/2/1, Paragraphs 2.74-2.81**). This would be supported by a robust Travel Plan that would be extended to the Berryfields MDA (**Document 3.54-3.62**). If the modal shift arguments and other minor proposed mitigations are accepted then the impact upon the relevant junctions would be negligible¹⁹.

Modal Shift Target (20%)

103. A principal plank of Government policy is the commitment to reducing carbon emissions and reducing the reliance on the use of the car. The appeal proposal has these themes at its heart. It also provides for the delivery of a

¹⁹ Inspector's Note – This proposition was accepted by Mr Tester in cross-examination although he did not agree that there was evidence to support the achievement of the assumed modal shift.

significant modal shift which is missing from neighbouring schemes, including Berryfields, which has no Travel Plan of its own.

104. There is every confidence in the measures being proposed to encourage travel behaviour change and achieve a minimum 20% modal shift by the assessment date of 2021. This is supported by recent experience in operating an exemplar transport scheme in Southern Leighton Buzzard which has a similarly congested town centre and no dedicated bus lanes. After only 6 months of implementation it has achieved an 8.85% reduction in vehicular trips and a 21.9% reduction over the corresponding 12 hour period. Whilst only around a 1% reduction has been achieved in the evening peak period the results after such a short time are extremely encouraging and are exceeding early expectations (*Document APP/1/2, Appendix 7*).
105. It is BCC's policy to seek to encourage travel behaviour change (*Document CD/2.22, Pages 69, 108*). Its concern about the 20% modal shift target is based upon the belief that it can only be treated as aspirational and cannot be guaranteed. However BCC has achieved and publicised the fact that simply through promotional travel awareness campaigns a considerable increase in bus patronage can be achieved with a consequential reduction in peak hour traffic of circa 22% (*Documents APP/1/1, Paragraph 5.21; APP/1/2, Appendix 20*). There is also support for applying a 20% modal shift target from the policies of Northamptonshire County Council and Central Bedfordshire Council (*Documents APP1/1, Paragraphs 5.10-5.16; APP1/2, Appendices 17 and 18*).
106. Achieving a 20% target or a material travel behaviour change will rely upon an appropriate range of measures to encourage reduced reliance on trip making by private car. Details of the Appellants' proposals are contained in the draft Community Wide Travel Plan and the transport planning obligations in the Unilateral Undertaking (*Documents APP1/2, Appendix 8; ID/3/10*). These would provide an exemplar transport scheme that would encourage residents to travel by sustainable modes.

Delivery of the PPTC

107. The provision of PPTCs is a key element in BCC's congestion strategy (*Document CD/2.22, Pages 76-77*). BCC has been successful in securing £2.1m from the Berryfields MDA towards the A41 PPTC (*Document AV/5/1, Paragraph 5.3*). Whilst this would not fund delivery of the full PPTC proposals it would finance sections of it. In recognition of the contribution that the PPTC would make by 2021 towards managing traffic on the A41 corridor it is proposed to contribute over £1.6m which will become payable on or before the first occupation of the appeal scheme. This would provide a total of over £3.7m towards the PPTC. It is agreed that whilst this combined contribution does not match the total cost it does not prevent the implementation of parts of the scheme (*Document ID/4, Page 3*).
108. The LTP sets out the potential future funding streams and includes developer contributions (*Document CD/2.22, Page 41*). An additional source would relate to the New Homes Bonus. In this case it would provide about £13m. As the PPTCs are high priority a proportion could be used towards delivery.

Bus Services

109. The proposed development would be provided with a high frequency bus service through the extension of the existing commercial service No. 2 and augmenting the number of buses. This would be delivered through the Unilateral Undertaking and a similar arrangement was accepted by the Secretary of State at Southern Leighton Buzzard (*Document ID/3/3*). The viability of the service would be underpinned by the existing patronage levels and future residents from the appeal development. The extension of the service could also serve Berryfields and provide a rationalised and optimum service to both developments as opposed to both providing separate services. This would be extremely beneficial now that the Berryfields contribution has been halved to £1m and the running of a single bus service should be welcomed in practical and financial terms. The bus operator Arriva is satisfied that the potential combined fund of £1.75m would be sufficient to support the services (*Document APP/1/5*).
110. For existing residents, the extended service would provide opportunities to travel by bus to the local station, the Berryfields employment area and the proposed secondary school. In any event a service would be provided to the appeal development if the option of a combined service is not taken up. There is also a contribution towards providing real time passenger information within individual homes by means of inbuilt display screens (*Document APP/1/2, Appendix 21, Page 243*).

Accessibility to Employment and the A41 PPTC

111. Barwood suggested that the lack of employment on the appeal site would deny new residents the opportunity to work nearby contrary to Policy T1 in the SEP. However, simply providing employment is no guarantee that residents would actually work there. Policy MKAV3 in the SEP does not compel new developments to make on-site provision for employment and there are sufficient alternative employment opportunities which could be reached on foot, by cycle, by public transport or using car share to make the short trips necessary.
112. The appeal site does not directly connect to the PPTC but the journey times by bus or car to the A41 would barely be above one minute. The proposed bus operator is satisfied that the slight increase in journey distance from the A41 could be adequately accommodated in the timetabling and scheduling of the buses. Connectivity from the site to the PPTC and Aylesbury Vale Parkway Station would be available by foot and cycle along the WLR. In conclusion the appeal site would be highly sustainable in transport terms (*Document APP/2/1, Paragraph 8.20*).

APPEAL B: THE WIND TURBINE

113. The 2MW wind turbine would be capable of generating sufficient electricity to power in excess of 1,500 dwellings. In the case of the Appeal A proposal the turbine could generate the entire electricity requirement and provide a 26% surplus of renewable electricity to the grid. The position is that that the two appeals are able to be decided independently and both schemes could come forward independent of the other. The turbine is linked independently to the

grid and the detail of how that is achieved is clearly contained in the planning application (*Documents CD/3.4/1, Paragraphs 3.25-3.28; APP/7/4*).

114. Should both appeals be allowed the Appellants would wish to see the two schemes linked together with the Unilateral Undertaking including provision for such link to ensure that Appeal A benefits from the renewable energy generation Appeal B would provide. However in the event that Appeal B is dismissed it would still be possible to provide the policy requirement of 10% of the site's energy demand from renewable or low carbon technology without affecting the design parameters of the scheme assessed. A mix and combination of technologies could be utilised including photovoltaic panels, ground source heat pumps and even biomass engines contained within the building envelope. The exact details would be determined at the reserved matters stage and a condition has been proposed to that effect. There is also the possibility of considering off-site compliance by means of an Allowable Solution as referred to in the Ministerial Statement (*Document APP/7/1, Paragraphs 3.41-3.47 and 4.24*).
115. AVDC was critical of the stated aim to meet in excess of the full electricity demand of the development and instead questioned why a lower level such as the requirement of 10% in SEP Policy NRM11 had not been the target. However as the policy level is clearly a minimum the aim should be to maximise the renewable energy potential. PPS 22 states that local authorities should promote and encourage the development of renewable energy resources. This should therefore be seen as a real opportunity to promote an urban extension alongside the only significant wind turbine in the district and possibly the county. The energy generation potential of the turbine was not disputed and the turbine would have the ability to create a zero carbon development, which is a significant factor (*Document APP/7/1, Paragraph 4.7*). The creation of surplus electricity would also be an environmental benefit worthy of significant weight (*Document APP/7/1, Paragraph 4.14*). SEP Policies NRM13 and NRM14 set challenging targets for the region and sub region to deliver renewable energy. In considering location Policy NRM15 differentiates between Areas of Outstanding Natural Beauty, National Parks and other parts of the countryside (*Document APP/7/1, Paragraphs 3.5-3.11*).
116. The putative reason for refusal considers that the turbine would be "eye catching" but that would be true of any turbine anywhere in the countryside. AVDC has raised no objections on the grounds of ecology, heritage or noise and there was a relatively small amount of public opposition (*Document APP/7/1, Paragraphs 4.16, 4.19-4.22*). Any potential impacts need to be considered against the uncontested significant environmental benefits of the proposal and the very current and important need to encourage alternative energy facilities wherever possible.
117. PPS 22, SEP Policy NRM15 and the appeal decision at Willow Bank Farm, Fewcott, Bicester for 4 turbines in a rural location clearly state that turbines should be acceptable in either urban or rural locations (*Document APP/6/1, Paragraphs 2.3.11-2.3.17*). Policy NRM15 also states that small scale wind projects below 5 MW should not be precluded even from AONBs. PPS 22 states that local designations should not be used on their own as a basis for refusal of turbines (*Document APP/4/1, Paragraphs 2.3.14, 2.3.18*). The

Landscape Sensitivity Study is intended as a replacement for the local landscape designations but is a generalised assessment that does not deal with specific types of development (**Document CD/2.15**). It contains no clear criteria based policy for wind turbines and so does not provide a robust basis for refusal. In any case it was not even cited in the reason for refusal.

118. The large scale of the Northern Vale landscape would be proportionate to the scale of the turbine, making it appear relatively small within the context of the wider basin. The inclusion of the proposed turbine would not result in visual clutter because, while there are other structures such as overhead power lines in the area, they are different in scale and would therefore appear to complement rather than compete (**Document APP/6/1, Paragraphs 2.3.24-2.3.28**). The objection by AVDC and Barwood seemed to concern the 'distracting' effect of the motion of the turbine. This is essentially a psychological issue and people would take less notice once they had become accustomed to it (**Document APP/6/1, Paragraph 2.3.29**).
119. There has been no objection to the turbine from English Heritage. AVDC has not presented any kind of compelling case that the proposed turbine would result in harm to the landscape and provided no substantial evidence to back up the reason for refusal.
120. There are no highways objections to the proposal provided a Routing Agreement is entered into prior to commencement of construction. This is likely to be done under the Highways Act.

THE CASE FOR THE AYLESBURY VALE DISTRICT COUNCIL

The main points are:

THE RELATIONSHIP BETWEEN THE TWO APPEALS

121. The Appellants' case is that Appeals A and B are independent and that they must be assessed on that basis as well as cumulatively. However without the wind turbine Appeal A is in considerable difficulty. Policy NRM11 in the SEP requires at least 10% of the energy requirements to be provided from decentralised and renewable or low-carbon sources. The approach adopted by the Appellants has not been to seek to meet this requirement with the least significant environmental effects. Rather the aim has been to maximise generating capacity, which is the most profitable approach. The assessment of alternatives to the wind turbine in the ES Addendum was carried out on the assumption that alternatives had to meet 100% of the electricity demands of the housing (**Document CD/10.4**). However there was no assessment of alternatives to meeting the policy requirement for the Appeal A scheme. Equally, the consideration of alternatives to the very high single turbine proposed through Appeal B proceeded on the assumption that the development proposed as part of Appeal A would be present on site as a constraint²⁰. The assessment of alternatives was therefore not carried out on a basis consistent with the treatment of the two appeals as independent.

²⁰ Inspector's Note – These points were accepted by Mr Schnull in cross-examination by Mr Phillpot.

122. It was accepted that for Appeal A there had been no demonstration that the policy requirement of 10% would be provided in the absence of the turbine. Various possible approaches were canvassed, but none form part of the application and none have been assessed in the ES. Nor can it be assumed that their impacts are benign. Photovoltaic panels would materially exacerbate landscape and visual impact and affect the setting of the SAM. Heat source pumps would involve significant work below ground in an area of archaeological sensitivity. None have been demonstrated to be capable of being successfully employed here so as to meet the policy target.
123. The Appellants asserted that they would meet the 10% policy requirement without the turbine and that a condition could be imposed to that effect. However that avoids the fact that they have failed to show that there is a workable, viable and environmentally acceptable means of meeting the policy objective if Appeal B is unsuccessful. No such condition can lawfully be found to address the policy requirement in those circumstances. Reliance on the 'Allowable Solutions' approach was futile in circumstances where it is common ground that it has no status as government policy and is dealing with possible future revisions to the Building Regulations. No 'Allowable Solutions provider' has been identified willing to take responsibility for this scheme²¹.
124. Thus Appeal A fails to comply with a very important development plan policy aimed at securing sustainable development. It is plain that this shortcoming is simply a result of the Appellants failing to think through the implications of Appeals A and B being advanced as independent proposals. Moreover the environmental implications of Appeal A proceeding in the absence of the wind turbine have not been adequately assessed. In consequence, Appeal A cannot lawfully be permitted in isolation. The Appellants rely on the temporary nature of the impacts of the turbine on the basis of a suggested condition requiring future decommissioning. It is agreed that this means that future power generation beyond decommissioning cannot therefore be assumed, and that benefits and impact must be assessed consistently. Consequently, it is common ground that any beneficial impact of the turbine on the Appeal A proposals is short-term only²².
125. For Appeal B it was accepted that as a stand alone application there was no reason why multiple smaller turbines would not be possible. Thus it can be no part of the Appellants' case that the degree of harm associated with the very large turbine selected is necessary and justified in order to deliver the benefits claimed. That has not been demonstrated and it needs to be if the harm is to be accepted as being outweighed by the benefits.

APPEAL A: THE MIXED USE DEVELOPMENT

SUSTAINABILITY AND HOUSING LAND SUPPLY

126. Sustainability must be judged having regard to a range of factors with a particular emphasis on planning for the long term. The unsustainable nature

²¹ Inspector's Note – Mr Schnull accepted these points in cross-examination by Mr Phillpot.

The Allowable Solutions approach is explained in **Document APP/7/1, Paragraphs 3.44-3.47**.

²² Inspector's Note – Mr Schnull accepted these points in cross-examination by Mr Phillpot.

of the proposal manifests itself in several different ways. This includes the landscape and visual impacts, adverse impact on important heritage assets, the remote location of the site and its implications for sustainable travel patterns, the inadequate mix of uses and the adverse impact on the congested arterial routes upon which Aylesbury's existing and future economic prosperity and future sustainable growth depends (*Document AV/8, Paragraph 6*).

General points on policy

127. It is common ground that the development is not in accordance with the LP and for the purposes of Section 38(6) of the Town and Country Planning Act it is dependent on being in accordance with the strategy in the SEP (*Document CD/3/9, Paragraph 6.1*). The weight to be applied to the intended revocation of the SEP is to be determined having regard to the progress of the Localism Bill through Parliament²³ and progress with the Strategic Environmental Assessment (SEA). In relation to this it is agreed that there is now a better understanding of progress and that the SEA has not dimmed the Secretary of State's determination to abolish the SEP (*Document AV/4/5*). The SEA is agreed not to identify any basis for keeping the SEP and by the time the appeal falls to be determined the consultation period will have ended.
128. It was agreed that abolition will be imminent by the time the Secretary of State's decision is made²⁴. In those circumstances the weight that ought properly to be attached to the intended revocation would be significant and the top down housing numbers set by the SEP are likely to be either moribund or dead. A 5 year housing land supply target based on those numbers will have become detached from its policy mooring. This is important because it offends against the cardinal principle that the development plan must be considered as a whole. Furthermore the Appellants' suggestion that those numbers should continue to be used is contrary to the Government's commitment to localism and the underlying rationale for the intention to abolish the SEP. It cannot have been the Secretary of State's intention simultaneously to free local planning authorities from the obligation to accept the top-down housing figures and yet effectively require them to continue to do so even when the associated checks and balances in the SEP to ensure the sustainability of such housing development have gone. Such an approach is irrational here because the reason why there is no CS in place is because the draft was withdrawn due to the implications of the purported revocation of the SEP.
129. The Secretary of State's Sandbach decision confirms that the draft NPPF can be given little weight at the present time (*Document CD/7.7, Paragraph 9*). This is not surprising as it is highly controversial draft policy, at an early stage of development, currently subject to consultation²⁵, and may be subject to change. In any event it supports development that is sustainable and is not just a blank cheque for developers.

²³ Inspector's Note – Since closing the Inquiry the Localism Bill has received Royal Assent.

²⁴ Inspector's Note – In cross-examination Mr Gardner said that he would be surprised if Regional Strategies existed by the end of 2012 and probably sooner.

²⁵ Inspector's Note – The consultation period on the draft NPPF closed on 17 October 2011.

PPS 3

130. The Appellants do not dispute that the reference to favourable consideration in Paragraph 71 does not mean the same thing as granting planning permission. There is a need to test the proposal against the Paragraph 69 considerations, which include whether a site is suitable for development and the need to ensure it is line with the spatial vision for the area without undermining wider policy objectives. The spatial vision is set by the development plan which must be read and understood as a whole. Wider policy objectives are those in the SEP and in national policy, including PPS 1, PPS 7 and PPG 13²⁶.

5 Year HLS

131. At the present time the housing target is set by the SEP. It was agreed that this target was not arrived at by a simple mathematical formula. There were judgments, choices and balances involved. Need and demand are one of a list of factors identified in Paragraph 33 of PPS 3. It also includes sustainability appraisal of the housing figure and its spatial distribution. Any such assessment will not look at the housing component of the plan in isolation but together with the other development planned for. The sustainability and environmental effects of the strategy will be considered as a whole²⁷. These appraisals will also have to include any assumptions made in the plan about the provision of new infrastructure and the timing of its delivery.
132. The target set by the SEP reflected choices made on those matters by the regional planning body and it is agreed that those targets must be understood in that context. It is also agreed that any future target in the Vale of Aylesbury Plan will need to be set having regard to what infrastructure is needed, what can realistically be planned for, ambitions for growth, the views of the local community and so forth. It is too early to second guess what will come out of that process²⁸. The GL Hearn Report includes a range of possible figures for need and demand and it is simply not possible to proceed on the basis that the Vale of Aylesbury Plan will be based on a housing target which is similar to the SEP (*Document CD/7.10*).
133. The fundamental flaw in the Appellants' case is that it proceeds from the assumption that the housing target in the SEP can be relied on to justify housing-led development of this scale in circumstances where the SEP's strategy for ensuring the sustainability of such development is defunct. As was accepted it is necessary to have an eye on what the position may be by the time the Secretary of State comes to consider the spatial strategy in the SEP. By the time the decision is taken greater weight may be attached to the intention to revoke the SEP.
134. The ambitious plans for housing growth for Aylesbury in the SEP were part of a carefully balanced strategy reliant on amongst other things:

²⁶ Inspector's Note – Mr Gardner agreed these points in cross-examination by Mr Phillpot.

²⁷ Inspector's Note – Mr Gardner agreed these points in cross-examination by Mr Phillpot.

²⁸ Inspector's Note – Mr Gardner agreed these points in cross-examination by Mr Phillpot.

- The delivery of new jobs at a ratio of 1:1 with new housing (*Document CD/1.3, Paragraph 23.7*).
 - The SEP itself did not see this ratio as a development control tool to constrain development because monitoring of the success of achieving the ratio would inform future revisions to the plan (*Document CD/1.3, Paragraph 23.27, 23.28*). It was not that achieving the ratio was unimportant but rather that the method for achieving it was through monitoring and then revising the SEP if it was not being achieved. It is common ground that this process will not now happen and the approach adopted by the SEP for achieving the necessary 1:1 ratio for the purposes of sustainability can no longer be relied upon²⁹.
 - In this context it should be noted that the jobs figures in the SEP to which the HLS targets are attached are significantly above the employment growth trend through the boom years. Simply assuming those jobs will be provided by someone else on another site is unrealistic.
 - It was not disputed that for the new population of about 3,316 residents the requirement would be for about 1,400-1,500 new jobs (*Document BL/3/1, Paragraph 4.27*). On that basis it is common ground that AVDC is headed for a substantial shortfall from the SEP total³⁰. The new residents of the proposed development would create a demand for new jobs equivalent to more than 50% of all new jobs created in the district as a whole between 2006 and 2009 (*Document BL/3/1, Paragraph 4.25*). If the level of growth continues and is not adjusted down for changed economic circumstances this one development would generate a requirement equivalent to 1 in 4 of all new jobs created in the district from 2006-2012. It is a very substantial additional demand and the development would do virtually nothing to meet it.
- The delivery of improved strategic transport connections (*Document CD/1.3, Paragraph 4.11 and Policy MKAV3*).
 - It was agreed that this means something more than putting on an additional bus. It means a substantial improvement on what was thought necessary to facilitate the expansion of the town at the time of the LP. One of the key challenges for Aylesbury is to reduce its dependence on out-commuting (*Document CD/1.3, Paragraph 23.2*). It is common ground that if more housing is developed without more employment, that problem will get worse³¹.
 - The PPTC was planned as being necessary to accommodate the growth in the LP but it has yet to happen because of a lack of funds. It will still be significantly short of funds even if the appeal scheme contributes towards the shortfall.

²⁹ Inspector's Note – Mr Gardner accepted these points in cross-examination by Mr Phillpot.

³⁰ Inspector's Note – Mr Gardner accepted these points in cross-examination by Mr Phillpot.

³¹ Inspector's Note – Mr Gardner accepted these points in cross-examination by Mr Phillpot.

- The delivery of the necessary infrastructure with a programme of delivery agreed before development can begin under Policy CC7.
 - No Implementation Plan was prepared by the Regional Planning Body before it was abolished and no-one has inherited that task. It was agreed that this key part of the SEP referred to in Policy CC7 is thus already moribund. That key part of the strategy will never happen even though it is one of the Core Objectives of the SEP (*Document CD/1.3, Paragraph 3.4*).
- The protection of the region's historic and natural environment both for its own sake and to underpin the social and economic development of the region.
 - This is a core objective of the SEP and is reflected in the spatial strategy (*Document CD/1.3, Paragraphs 3.4 and 4*). A sustainable development priority for the South East is ensuring the physical and natural environment is conserved and enhanced under Policy CC1.
- Consistency with the principles of urban renaissance which include the provision of accessible mixed use development in the spatial strategy and Policy SP3.

Mix of uses

135. The proposed development offers an inadequate mix of uses to be regarded as a sustainable urban extension, particularly given its size and location. The approach appears to have been to seek to achieve as much housing as possible and then to add a token level of other uses without any real thought to the overall balance. The absence of proper care and consideration for the appropriate mix of uses is evident in the long-running debacle over the parameters in the DAS. It was only in the third week of the Inquiry that the Appellants finally felt able to say how much floorspace they wanted for the various 'A Class' uses (*Document CD/10.4*). It is plain that no-one had given the matter any serious consideration beforehand.
136. This would be a very substantial urban extension. It would be the third largest single housing development in Aylesbury for the last 20 years. Its scale must be considered in the context of the settlement hierarchy in the district:
- In isolation the proposal is only 500 units shy of adding a new Winslow to the district. This settlement is in the third tier of the hierarchy that was drawn up for the draft CS (*Document CD/2.6, Page 20*).
 - The new population of some 3,316 residents would be equivalent to an Aston Clinton. The meagre facilities proposed for the new residents by the Appellants must be contrasted with the significantly greater level of retail, employment, community and other facilities available for the residents in that existing settlement (*Document AV/4/6*).
137. Whilst the appeal proposal is not a freestanding settlement like Aston Clinton it is some considerable distance from the town centre and off the primary arterial route. Failing to provide for a commensurate level of facilities and mix of uses on site in such a location would encourage unsustainable patterns of travel.

- This is reflected in the care that was taken to ensure that the Berryfields urban extension had a sustainable mix of uses appropriate to its scale and peripheral location albeit that it is on one of the main radial routes to the town. It was accepted that the size of the employment area at Berryfields was specifically related to the size of the MDA and that this was done to ensure Aylesbury would not be made to accommodate yet more housing without more employment in turn³².
 - The design philosophy appears to be that the new development would be an extension to Berryfields (*Documents APP/4/1, Paragraphs 2.1.1-2.1.2; APP/2/1, Paragraph 3.7*). This would take Berryfields from a population level broadly equivalent to Wendover to one not far short of Buckingham. In terms of the settlement hierarchy Buckingham is second only to Aylesbury (*Documents AV/4/6; CD/2.6, Page 22*). It has many branches of national multiple stores, a Tesco superstore, a University, two secondary schools, a community hospital and other facilities appropriate to its population level.
 - This point is also highly relevant when considering the sustainability of the site in transportation terms and in assessing the likelihood of significant internalisation of trips.
138. Connections between the appeal site and the Berryfields district centre are neither direct nor short especially from the further parts of the appeal site. They are likely to lead to the selection of motorised transport for trips whose purpose ought to be accommodated within the site itself. In any event, the nature and scale of the facilities on the Berryfields site were determined having regard to the size of the housing development permitted on that site. They were not intended to cater for a further 1,300 dwellings. The nature and scale of the facilities on the Berryfields site would have been different if such a significant additional level of housing had been envisaged.

Contribution to housing land supply and early delivery

139. Having regard to the current state of the housing market the housing land supply position in Aylesbury is not so acute as to justify the development of housing on otherwise unsuitable sites. In this case there are thousands of permitted dwellings still to be delivered on the neighbouring Berryfields site. In practical terms there is likely to be no shortage of homes in this general location for some time (*Document AV/1/4, Paragraphs 175-176*). The proximity of Berryfields would also affect the degree to which any planning permission on the appeal site would translate into the delivery of additional dwellings over the next five years (*Document AV/4/3, Page 4*).
140. The proposal is promoted on the basis of providing housing in the short-term as a stop-gap. This is at the heart of the Appellants' case and they invite

³² Inspector's Note – Mr Gardner accepted in cross-examination by Mr Kingston that the size of the employment area at Berryfields related to the size of population. He believed it was based on the theory that people who live there will also work there and that this is only important if there are no other employment sites.

considerable weight to be attached to the early delivery of housing³³. However the evidence does not support such an approach:

- In the absence of any commitment to early delivery through a planning obligation it is agreed that the weight to be attached must depend on the extent to which, on the evidence, that is the most likely outcome³⁴.
- A developer's assertions as to early delivery unsupported by financial evidence are commercial speculation rather than fact³⁵.
- There is no evidence to show that the appeal scheme is viable. Moreover, it is agreed that even if viability is assumed there is no evidence to show that it would be more profitable for the Appellants to build out early rather than to wait for values to improve before delivering most of the housing³⁶.
- It was accepted that in those circumstances approval on the basis of early delivery would have been given on an erroneous basis. The experience of Berryfields underlines the importance of this point and is a good example of why viability matters (*Document AV/5/1, Paragraph 5.3*).
- Paragraph 54 of PPS 3 deals with whether housing is considered "deliverable" for the purposes of the 5 year housing land supply. The Appellants' case goes beyond that and invites significant weight to be placed on early delivery to justify the grant of permission in this case.

141. There are a number of significant issues which will be likely to delay delivery:

- The WLR must be in place to allow delivery to commence and its timing is uncertain (*Document AV/4/3*). It is agreed that market conditions may affect the timing of delivery and that if the market units do not sell as quickly as hoped delivery is likely to slip³⁷.
- The evidence from Taylor Wimpey is important in this respect (*Document AV/4/3, Page 4*). They are either to be taken at their word and the WLR is unlikely to be complete before late 2014. Alternatively they are manifesting an intention to do all they can to hamper the development of a commercial rival who is dependent on their actions. It would not be safe to assume that they are both wrong and benign in their intentions.
- If completions on Berryfields slow down due to lack of demand housing land supply figures would be affected. However it is common ground that this would not be caused by land use planning obstacles but because the

³³ Inspector's Note – This was agreed by Mr Gardner in cross-examination by Mr Phillpot.

³⁴ Inspector's Note – This was agreed by Mr Gardner in cross-examination by Mr Phillpot.

³⁵ Inspector's Note – In evidence-in-chief Mr Gardner commented that if AVDC's housing completion figures include information from house builders they are bound to include a degree of commercial speculation (*Document AV/4/4, Page 2*).

³⁶ Inspector's Note – In cross-examination Mr Gardner said he was confident that a material contribution would be made to HLS in 5 years but agreed that there was no viability evidence to prove this and believed that in this regard it was similar to many other developments.

³⁷ Inspector's Note – Mr Gardner agreed in cross-examination by Mr Phillpot that if market rates slowed this would affect the timing of the delivery of the WLR.

market does not exist to support a faster rate of sales in this location. The appeal site would be equally affected in those circumstances.

142. The Appellants' case is that permitting 1,300 dwellings here would allow at least some breathing space to consider further growth. This is because the urgency of the need to provide more houses would be correspondingly diminished. The existence of the supply from this site would be a material consideration in weighing housing need arguments on other sites in future. However it was accepted that this is not a proposition unique to the appeal site but is a point of general application³⁸. If in the period between the closing of the Inquiry and the determination of the appeal planning permission was granted for one or other of the two proposed urban extensions currently before AVDC it was agreed that the same principle would apply. AVDC will therefore inform the Secretary of State if either application is determined, or appealed for non determination, in advance of his decision on the present appeal.

LANDSCAPE AND VISUAL IMPACT

Introduction

143. AVDC's oral and written evidence was thorough, logical and coherent and was largely unchallenged. The most likely explanation is that AVDC's concerns were demonstrably well-founded and that the Appellants' assessment was flawed. The methodology in the ES failed to comply with the Guidelines for Landscape and Visual Impact Assessment (*Document CD/4.1*). It was unclear and the procedure was not replicable because the allocation of impacts between the different categories of magnitude was entirely opaque (*Document AV/1/1, Paragraphs 171-183, 273-288*). Furthermore, in order to establish a major adverse impact an unrealistically high hurdle was set which was materially more onerous than that suggested in the Guidelines (*Documents AV/1/1, Paragraphs 175-177; CD/4.1, Page 145, Option 2*).
144. The Appellants' landscape witness³⁹ did not display the virtues of balance and objectivity. It was accepted that he was not presenting himself as an independent commentator in relation to the appeal proposals as he was in effect their author⁴⁰. The weight that is attached to his views must necessarily be reduced to reflect the fact that he is not independent.

Policy

145. A useful summary of the policy position is to be found in the appeal decision relating to the land east of Winslow, Buckinghamshire for 175 dwellings (*Document CD/7.6, Paragraphs 19, 32*). A number of points were accepted as common ground⁴¹:

³⁸ Inspector's Note – This was accepted by Mr Garner in cross-examination by Mr Phillpot

³⁹ Dr K Kropf.

⁴⁰ Inspector's Note – Dr Kropf agreed in cross-examination by Mr Phillpot that he had overall responsibility for the design of the appeal development. In answer to the question whether he could therefore be an independent witness as his own work was effectively being criticised he said that he did not claim to be independent of the scheme.

⁴¹ Inspector's Note – Dr Kropf accepted these points in cross-examination by Mr Phillpot.

- The policy objectives identified by the Inspector in that case are up to date, and are fully capable of justifying refusal of planning permission for the proposed residential development of a site with no special landscape designation.
- That is the case even where the settlement in question is a sustainable location for that level of development in principle.
- If it is concluded that there is significant harm in terms of landscape and visual impact there would be a conflict with policy.
- Ensuring the physical and natural environment of the South East is conserved and enhanced is a sustainable development priority for the region under Policy CC1 in the SEP. This is properly described as a fundamental objective and is highly relevant to the weight to be attached to conflict with the policy aimed at achieving that objective (*Document CD/1.3, Paragraph 11.2*).

Urban/rural fringe

146. The Appellants sought to cast doubt on the level of protection afforded to the appeal site in policy terms by seeking to categorise it as urban fringe (*Document APP/4/1, Paragraphs 2.3.1-2.3.7*). Insofar as Paragraph 26 of PPS 7 identifies a specific approach to countryside near towns it is to emphasise the importance of such areas and does not suggest a lower level of protection. The SEP identifies the urban/rural fringe as a particularly important asset reflecting the approach in PPS 7 (*Document CD/1.3, Paragraph 11.12*). It is agreed that there is nothing in PPS 7 or the development plan to suggest that if the appeal site itself is urban rural fringe it should be regarded as of lesser importance or subject to a lesser degree of protection⁴².
147. The SEP also identifies opportunities to link its management with the creation of new green infrastructure, which is what the BCC Green Infrastructure Strategy is seeking to achieve here with the Countryside Access Gateway (*Document CD/2.21*). Of the ten key functions identified in the SEP for such areas the first is a bridge to the country (*Document CD/1.3, Paragraphs 11.13-11.14*). The concept is a continuous green corridor between town and country and that is exactly what presently exists when seen from the SAM (*Document AV/1/2, Photo 1*).

Impact

148. It is common ground that the application of national policy in Paragraph 5 of PPS 1 requires an examination of the character of the area and what makes it distinctive. It is also common ground that pursuant to Policy CC6 in the SEP once what is characteristic and distinctive about landscapes and settlements has been identified it should be respected and where appropriate enhanced⁴³. In particular Policy C4 in the SEP indicates that the diversity and local distinctiveness of the region's landscape as informed by a LCA should be protected and enhanced. AVDC has the benefit of a LCA (*Documents CD/2.12;*

⁴² Inspector's Note – This was agreed by Dr Kropf in cross-examination.

⁴³ Inspector's Note – These points were agreed by Dr Kropf in cross-examination.

AV/1.1, Paragraphs 54-72). That LCA identifies the Northern Vale Landscape Character Area as being of high sensitivity with a guideline of 'conserve' (**Document AV/1.1, Page 19**).

149. Although the Appellants sought to criticise the approach in the LCA it was agreed that it had been carried out using the appropriate methodology⁴⁴. The criticisms related firstly to double counting, especially of heritage features, and secondly to how the sensitivity value of a large area is based on elements contained in only a small part of it (**Document APP/4/1, Paragraph 2.6.25**). On the first point the Guidelines for Landscape and Visual Impact Assessment set out the methodology and this was followed. On the second point smaller elements within an open landscape such as this can have a significant impact. On neither of these responses was the Council's oral evidence challenged.
150. The Appellants' conceded that landscape character and sensitivity were affected by the presence of the SAM and its setting. However it is plain from a fair reading of the LCA methodology and findings that the presence of the SAM was not the only factor leading to the judgment on sensitivity (**Documents CD/4.1, Paragraphs 2.2-2.3; AV/1/1, Paragraphs 62-70**). In any event, it was agreed that if the presence of the SAM and its setting adds to the sensitivity of this landscape that will be at its most acute as one gets closer to the SAM⁴⁵.
151. The characteristics of the appeal site are typical of that highly sensitive Northern Vale landscape character area. It is a large tract of land in agricultural use, and has been in that use for as long as records exist. There were agreed to be no visible features to make it different in character or appearance from the other fields⁴⁶. To the south the site is clearly separated from the edge of the urban area and is within open countryside (**Documents AV/1/3; AV/2/5, Slide 5**).
152. Once Berryfields is completed it will present the nearest urban edge to the appeal site. It was accepted that the eastern edge of that development will run along the natural topographical boundary of the Hardwick Brook. Once completed there will be the edge of the built development, then suitable landscaping, then the Hardwick Brook and then the steeper slope upwards to the appeal site. It is common ground that there will be a clear logical boundary to the edge of that new urban area⁴⁷.
153. Weedon Hill lies to the south east on the far side of what will eventually be the WLR. To the east of the appeal site there is more open countryside with no obvious topographical feature to suggest any natural boundary to the urban area. Whilst there is a hedgerow along the eastern boundary there is nothing to distinguish the position on one side to the other. As was eventually

⁴⁴ Inspector's Note – Dr Kropf agreed in cross-examination that notwithstanding the problems he had identified the general methodology was acceptable.

⁴⁵ Inspector's Note – Dr Kropf agreed these points in cross-examination by Mr Phillpot.

⁴⁶ Inspector's Note – Dr Kropf agreed these points in cross-examination by Mr Phillpot.

⁴⁷ Inspector's Note – Dr Kropf agreed these points in cross-examination by Mr Phillpot.

accepted there would be nothing in landscape terms to prevent building up to the next logical boundary, which is the A413⁴⁸.

154. The landscape and visual impact of the proposed development would be substantial, adverse and permanent. This was not properly reflected in the ES, even using its own flawed methodology. The Appellants accepted that impacts were inaccurately recorded as moderate when they should have been significant⁴⁹. AVDC's own more realistic and balanced assessment has not been seriously challenged (**Document AV1/1, Pages 105-107**). There are a few points of particular note:

- At present the appeal site forms a key part of a green corridor connecting the SAM to the wider countryside. The value of maintaining visual connections to the countryside is effectively acknowledged in the revised DAS (**Document CD/3.6, Paragraph 4.4**). However the proposed means of doing this is through the Hardwick Brook "corridor". From the SAM the "corridor" would not provide any meaningful visual connection to the countryside. It was accepted that what would be seen would be continuous urban development (**Documents AV/1/3; APP/1, Page 118, second photomontage**).
- Similarly, the "strategic gap" between the site and Weedon Hill is hardly of strategic significance. From the SAM the natural focus of view is to the north-west taking in the SAM and the panoramic view of the countryside beyond and not to the north east.
- The photomontages must be treated with considerable caution (**Document APP/4/1, Appendix 6**). It is apparent that the colour rendering, which was an input provided by the person making the image, was not representative of the visual impact of the buildings in terms of the contrast with greenery. The importance of this factor needs also to be seen in the context of what is envisaged in the DAS which includes buildings with red brick, large windows, timber cladding, dark roofs and so forth (**Document CD/3.6, Page 59**). The photomontages do not allow for the impacts of these characteristics nor do they make any allowance for the effect of photovoltaic panels on south facing roofs. The impact of such panels has not been assessed in the ES or in the evidence.
- For the reasons set out in Paragraph 124 the Appeal A proposal cannot go ahead on a policy-compliant basis without the turbine. It is in any event necessary to consider the cumulative visual impact of both developments together. There can be no doubt that the landscape and visual impact of the housing development would be exacerbated by the presence of a 149 metre high turbine moving in the background and drawing attention to the

⁴⁸ Inspector's Note – Dr Kropf accepted in cross-examination by Mr Phillpot that the character of the fields was similar each side of the hedgerow and that there was nothing to prevent building on one side and not the other.

⁴⁹ Inspector's Note – Dr Kropf agreed that in the ES (**Document CD/3.3/1**) the significance of visual impacts recorded for 07a (Pages 6-49) and 07d (Pages 6-50) relating to two views of the SAM should have been "significant" in accordance with the methodology on Pages 6-8.

built development below. The Appellants have not considered the cumulative impact of the turbine with the urban extension.

- A great deal of reliance is placed on the development being located on south facing slopes and that this is characteristic of what can be found in the surrounding area (*Document APP/4/1, Paragraph 2.6.48*). However about 100-200 units would be located on the west/north-west facing slopes (*Document AV/1/3/2*). This part of the development alone would be equivalent to a new Hardwick⁵⁰. The additional plans and photographs produced by the Appellants to respond to this difficulty are flawed and misleading in a number of respects (*Documents APP/4/3; AV/1/4*).
- In order to seek to screen the development the Appellants have proposed planting that would in itself be harmful. As part of the consideration of the Berryfields MDA through the LP Inquiry the Inspector took the view that the landscape was predominantly open with large fields, a somewhat degraded hedgerow network and small coverts and copses. The LP Inspector went on to conclude that heavy and extensive woodland planting would appear alien and should be avoided. It was for that reason and because the lighter form of planting required would not suffice to mitigate the effect of development on to and over the ridgeline that he recommended re-aligning the north-west boundary immediately to the south-east of the ridgeline (*Document AV/4/1, Appendix 1, Paragraph 5.20.45*).
- When the Masterplan is examined it is clear that what is proposed here is development which spills over to the north-west facing slope with heavy and extensive woodland and orchard planting in between. (*Document CD/3.6, Page 33*). It is exactly what the LP Inspector rejected.
- The existing field pattern would be lost. There is the implicit assumption that the characteristic openness and the fields themselves are not valuable features of importance to landscape character (*Document CD/3.3/1, Paragraph 6.4.15; APP/4/1, Paragraphs 2.6.39, 2.6.52*). That proposition then leads to the conclusion that the residual effect of the development is not significant (*Documents CD/3.3/1, Paragraph 6.4.16; CD/3.4/1, Paragraph 6.4.13*). A similar argument was run in the appeal relating to land east of Wilmslow (*Documents AV/1/5/1; AV/1/5/2*). That argument was rejected by the Inspector who concluded that once the fields were filled with houses the field pattern would be very difficult to discern from either outside or within the site rather than as a key characteristic of the surroundings (*Document CD/7.6, Paragraphs 12-14*). That was an outline scheme as well and there is no difference in principle here. AVDC is entitled to expect consistency in approach in those circumstances.

155. There appeared to be no real answer to the concern that the Appellants had failed to consider the impact on the thousands of people travelling each day on the WLR. These important receptors seem to have been neglected both in the ES and the evidence and yet by number at least they are likely to be amongst the most significant. The impact on these receptors would be significant and adverse. In the 'no development' case they would experience the WLR as a

⁵⁰ Inspector's Note – This was acknowledged by Dr Kropf in cross-examination by Mr Phillpot.

rural road with the SAM on one side and open fields on the other. With the appeal scheme in place the rural character would be lost and replaced by a prominent satellite housing estate (*Document AV/1/Paragraphs 297-299*).

IMPACT ON THE SAM AND ITS SETTING

Policy

156. The setting of the SAM benefits from several layers of policy protection. At the national level Policy HE9 of PPS 5 explains that the significance of designated heritage assets can be harmed through development within their setting. Where the harm would be substantial planning permission should be refused unless it is necessary to deliver substantial public benefits that outweigh that harm. Policy HE10.1 explains that when considering developments which do not preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset the harm should be weighed against any wider benefits of the application. The greater the negative impact the greater the benefits that will be needed to justify approval. At the regional level SEP Policy BE6 explains that proposals should be supported where they protect, conserve and where appropriate enhance the historic environment. Nationally designated assets should receive the highest level of protection. At the local level LP Policy GP.59 adopts the same approach.

The nature and significance of the SAM

157. In this case there is a dispute as to the nature and significance of the SAM as a heritage asset. It is common ground that the SAM is a heritage asset designated as being of national importance because of its archaeological significance⁵¹. By reference to policy HE7.2 of PPS 5 the understanding of the archaeological significance of the SAM is key to understanding the proposed development's effects on that significance. That is reflected in Paragraph 54 of the PPS 5 Practice Guide which explains the importance of being able to properly assess the nature, extent and importance of the significance of a heritage asset and the contribution of its setting in order to make decisions in line with the PPS. It advises in Paragraph 58 that consideration be given to whether the nature of the affected significance requires an expert assessment to gain the necessary level of understanding.
158. In the circumstances it is important to have regard to the degree of dissent amongst those whose views are before the Inquiry and the nature and extent of their expertise:
- The Appellants' witness is not a qualified archaeologist and his claim to status as an expert witness does not extend to matters requiring archaeological expertise⁵². He has some experience as a contributor to the Royal Horticultural Society's Dictionary of Gardening on the general subject of garden history but accepted that he had published no work in peer-

⁵¹ Inspector's Note – This was agreed by Mr Gardner in cross-examination by Mr Phillpot

⁵² Inspector's Note – In cross-examination by Mr Phillpot the Appellants' witness, Dr K Kropf, agreed that he does not have archaeological qualifications or expertise. He did however refer to his expertise in garden history.

reviewed journals dealing with the archaeological investigation or interpretation of gardens.

- In the dispute over the most likely archaeological interpretation of the remains at the Quarrendon SAM the Appellants' witness accepted that he is a lone voice and that there is otherwise a consensus from the other experts, including English Heritage, as to the interpretation advanced by Mr Everson in his full and detailed study published in the Records of Buckinghamshire (*Documents CD/8.4; CD/10.7*)⁵³.
- The Archaeological Assessment in the ES by Albion Archaeology included an analysis of the nature and significance of the SAM (*Document CD/3.3/3, Section 7, Paragraphs 3.1.5-3.1.6*). It was acknowledged to be a nationally outstanding example of an English Medieval village with no hint of any doubt as to its significance or merit as a SAM. Reference was made by the author, who is also a qualified archaeologist, to Mr Everson's work without any suggestion of dispute with it. It also included an assessment of the changes to the setting of the SAM again without any suggestion that this raised questions as to the interpretation of the SAM advanced by Mr Everson. And yet for the purposes of the Inquiry the only qualified archaeologist on the Appellants' team was not asked to deal with the issues relating to the SAM and its significance⁵⁴.
- Mr Everson is the person best qualified to express an expert opinion as to the most likely interpretation of the remains (*Document AV/2/3*). The Appellants' witness accepted that Mr Everson's particular experience and expertise made him especially well-qualified in this regard and was far in excess of anything to which he could lay claim⁵⁵.

159. The Everson interpretation should be adopted for the purposes of considering the nature and significance of the SAM. The issues raised in evidence by the Appellants are of little moment for the purposes of this appeal for the following reasons:

- No alternative interpretation of the remains has been offered.
- The existence of the Tudor mansion is not disputed and no alternative suggestion for its location has been put forward.
- The suggestion that the earthworks could have been a tiltyard was not taken forward⁵⁶.

⁵³ Inspector's Note – Dr Kropf accepted in cross-examination by Mr Phillpot that he was the only one calling into question the interpretation of the Tudor garden.

⁵⁴ Inspector's Note – This was Mr J Abrams who compiled the Archaeological Assessment in the ES and gave evidence on below ground archaeology on the site itself.

⁵⁵ Inspector's Note – This was agreed by Dr Kropf in cross-examination by Mr Phillpot although he maintained that this did not mean that Mr Everson was right.

⁵⁶ Inspector's Note – Mr Milner suggested to Mr Kidd in cross-examination that the earthworks could have been connected to a tiltyard in association with the staging of pageants. Dr Kropf made clear in cross-examination by Mr Phillpot that this was not a suggestion with which he concurred and that the idea had not come from him.

- The notion that the earthworks identified by Mr Everson as raised walkways associated with the Tudor garden were in fact flood defences was first revealed in the third week of the Inquiry. It was not based on any detailed evaluation of their characteristics or comparison with similar features elsewhere.
- The Everson work is agreed to remain the most up to date informed academic interpretation of the nature and significance of the SAM by an acknowledged expert in the field. It is supported by English Heritage who advises the Secretary of State on such matters and significant weight should be given to these views.
- The notion that the significance of the SAM should be reduced because of the absence of contemporary records is unsupported by policy and would have perverse consequences if adopted as an approach. On that basis ancient monuments such as Stonehenge would be of less significance than those which are associated with more modern eras when written records were more common.

The setting of the SAM

160. The English Heritage Guidance on setting is agreed to be the most up to date and authoritative guidance available on this matter (**Document CD/8.3a**). It is common ground that much of the area proposed for development lies within the setting of the SAM using the approach espoused by that document. The guidance advises that setting must be considered by reference to an understanding of the historic relationship between places (**Document CD/8.3a, Page 5, Bullet 2**). It was agreed that this is not dependent on an ongoing functional relationship. It was accepted that the field systems on the appeal site are likely to have been those of the medieval settlement of Quarrendon and that there is a direct link historically between the SAM, its occupation by the Lee family, and the appeal site. It was also agreed that the appreciation of the SAM is aided by its juxtaposition with the appeal site⁵⁷.
161. The English Heritage Guidance makes clear that the contribution the setting makes to the SAM is not dependent on public access and that it is necessary to consider the future potential for the appreciation of the asset's significance (**Document CD/8.3a, Page 5, Bullet 5 and Page 8**). There is already public access by guided groups and the intention is that public access will increase (**Document AV/2/5, Slide 21**). The Guidance explains that the fact that aspects of the SAM's significance are not readily appreciated by the casual observer does not detract from its significance or its setting (**Document CD/8.3a, Page 5, Bullet 5 and Page 8**).
162. Setting in this case includes views of the surroundings from the SAM and some of those views are of greater importance than others. It was accepted that from the high point of the monument there are a number of views across the SAM itself and across the countryside with which historically it was functionally associated (**Document AV/1/2, Photo 1**). It was also agreed that this is one of

⁵⁷ Inspector's Note - These points were agreed by Dr Kropf in cross-examination by Mr Phillpot and Mr Kingston.

the best vantage points from which to see the SAM in its context and that the appeal site is a clear and substantial part of that view⁵⁸.

163. The setting of the SAM has changed to some extent over time but that is not unusual as the Guidance makes clear (*Document CD/8.3a, Page 7*). However the degree of change is relatively limited and the appeal site continues to provide a rural agricultural setting as it has done for the past 500 years. It is agreed that the change from grazing to arable use was a far less significant change of character than the proposed change from agricultural to urban⁵⁹.
164. The construction of the WLR will bring a degree of change to the setting. However great care has been taken to keep that change to a minimum and the route was moved further away from the SAM to protect its setting (*Document AV/4/1, Appendix 1, Paragraph 5.20.93*). The WLR will be located in the low ground of the valley floor so as to minimise its intrusiveness. It has been designed to make it appear as a relatively inconspicuous rural road free of visible signage and lighting. The hedgerow planting to the south of the WLR has been determined so as to ensure it is in keeping with the existing hedgerows in this part of the landscape (*Document AV/2/1, Paragraph 46 and Appendix 3*). Those painstaking efforts to minimise the impact of the WLR will look pretty forlorn if the rising ground on the far side is filled with houses with a 149m high moving object placed in the background drawing the eye and attention to the houses below (*Document APP/4/1, Page 118, Photomontage*).
165. The field system has been identified by the Appellants as the principal element of the historic environment on the appeal site (*Document APP/4/1, Paragraph 2.1.6*). The concept enshrined in the DAS is to retain and reinforce the historic hedgerows within the site as key features of historical significance both in themselves and as part of the setting of the SAM (*Document CD/3.6, Pages 22, 40*). It is acknowledged that this approach recognises that the fields on the appeal site form part of the setting of the SAM. However the DAS also states that the planting on the southern part of the site is intended to help screen views of the site from the SAM (*Document CD/3.6, Page 44*). It was acknowledged that the field patterns would no longer be perceived from the SAM⁶⁰ (*Document APP/4/1, Page 119*).
166. The Appellants' approach is inconsistent and incoherent. On the one hand it seeks to claim credit for maintaining the field pattern within the site as part of the setting of the SAM and on the other it seeks to screen views so that this will not be perceived from the SAM. The planting would inappropriately screen the SAM from part of its historic setting. It is also being used to hide the development which is even less appropriate in the SAM's setting.

IMPACT ON BELOW GROUND ARCHAEOLOGY

167. This is agreed to constitute a series of heritage assets of regional significance (*Document CD/10.6, Paragraph 3.1.7*). It is also common ground that the effect

⁵⁸ Inspector's Note - Dr Kropf agreed these points in cross-examination by Mr Phillpot

⁵⁹ Inspector's Note - Dr Kropf agreed these points in cross-examination by Mr Phillpot.

⁶⁰ Inspector's Note - Dr Kropf agreed these points in cross-examination by Mr Phillpot.

of the development would be to have a high adverse impact on those parts of the assets in AZ2, 3 and 5 which would be within the area to be developed (**Document CD10.6, Paragraph 2.3.2.7**). High impact relates to areas of construction and would in practice amount to complete loss of archaeological interest (**Document AV/2 Paragraph 57**). Policies HE7, HE8 and HE12 of PPS 5 are thus engaged.

168. The differences between the parties in relation to policy relate primarily to the significance of Policy HE12.1. The policy makes clear that the ability to create a record of a heritage asset will not be regarded as a material consideration or given any weight. Any other interpretation would be unreasonable in the *Wednesbury* sense and thus unlawful. Further assistance can be gleaned from the Practice Guide. It was agreed that there is a preference for avoiding impact on heritage assets, preserving the prospects of future investigation and explaining why knowledge from investigation today is not a substitute for the asset itself⁶¹.
169. However the Appellants took the entirely novel point that the Secretary of State's approach as encapsulated in Paragraph 127 of the Practice Guide was wrong. There had been no prior indication in the written or oral evidence that such views were held but no proper explanation for disagreeing with the approach spelt out clearly in Policy HE12.1 was advanced⁶². On the contrary the guidance is sensible, self-evidently correct and should be applied here. It was accepted that there is nothing unique about this case that would justify departing from the Guidance⁶³. It is notable that this highly relevant passage from the Practice Guide was not referred to in the written evidence or the Addendum to the ES.
170. The ES preceded PPS 5 and treats investigation, recording and dissemination as a "major positive benefit" (**Document CD/3.3/1, Paragraph 7.5.3**). It then takes that treatment and feeds it into the assessment to produce a finding of major positive impact (**Document CD/3.3/1, Paragraph 7.7.2 and Tables on Pages 7-21, 7-22**). That approach cannot now be reconciled with Policy HE12.1. If a record is not as valuable as the asset in situ and will not be a factor in deciding whether to grant permission then creating a record cannot properly be identified as a major benefit. If the assessment had not adopted that approach the outcome would clearly have been major negative.
171. It was agreed that there was then a change of approach in the ES Addendum. In response to the clear and unequivocal advice in PPS 5 reliance was now placed for the first time on the threat to the existence of below ground remains from ploughing. This change needs to be seen in the context of the following points, all of which are common ground⁶⁴:

⁶¹ Inspector's Note - Mr Abrams agreed these points in cross-examination by Mr Phillpot. The parts of the PPS Practice Guide referred to are Paragraphs 99, 106 and 127.

⁶² Inspector's Note – Mr Abrams said that the PPS 5 approach was based on the assumption that techniques and ideas move on with time. However he took issue with the assumption that insights in the future will necessarily be deeper and the environment for archaeological assessment may change in the future by funding cuts, for example.

⁶³ Inspector's Note – This point was agreed by Mr Abrams in cross-examination by Mr Phillpot.

⁶⁴ Inspector's Note - Mr Abrams agreed these points in cross-examination by Mr Phillpot.

- This was not a factor relied upon at all in Chapter 7 of the original ES. It did not warrant even a mention and was certainly not relied upon to seek to justify the conclusions of the assessment.
 - It has now been elevated to the status of justifying a departure from the Secretary of State's clear policy approach.
 - Consideration of this issue is reliant on what is said in the Archaeological Field Evaluation and so was already known about when the relevant parts of the ES were written (**Documents APP/3/1, Paragraph 4.1; CD/3.3./3, Appendix 7.4, Section 7.3**). That assessment concluded that despite some evidence of plough truncation the sub-surface remains investigated by trial trenching were well preserved. That is the case after 500 years of cultivation the last 50 of which have been mechanised. There is an acknowledgment that future ploughing will continue to cause damage but no further elaboration beyond that.
172. Aerial photographs show all the Roman sites have been levelled and cut into by medieval cultivation and mechanised cultivation has taken place for the last 40-50 years. To assess the "do nothing" scenario it is necessary to know to what extent the sites are being ploughed now and how vulnerable they would be in the future. The low quantity of finds during field walking of only 40 sherds which were generally small and abraded is not consistent with active destruction. Whilst the distribution of these finds focussed on AZ2 suggesting active destruction the rarity of finds across AZ3 and AZ5 are not consistent with that. The shallow ploughsoil and patchy presence of shallow subsoil in most trial trenches indicates a vulnerability to future damage as does the top and middle slope locations of AZ3 and AZ5. None of the sites have been shown to contain especially vulnerable remains but some shallow features such as gullies and postholes could be at risk (**Document AV/2 Paragraphs 61-63**).
173. There is a long term risk to the below ground assets from arable cultivation. This could be addressed by taking the land out of cultivation but now the assets are known Environmental Stewardship grants are available to encourage farmers to do that without the need for development (**Document AV2 Paragraphs 64-65**).
174. In the ES Addendum this is converted into an assertion that the "do nothing" option "*would almost certainly lead to their eventual total loss without record*" (emphasis added) (**Document Paragraph 7.5.3**). That assertion goes far beyond what the evidence can reasonably justify. In particular, it should be noted that the following points are common ground⁶⁵:
- There is no demonstration in the ES or in the evidence as to how significant any future damage would be.
 - The 'heavy soils' point advanced by the Appellants is not based on any published research either asserting or demonstrating its correctness.
 - No additional fieldwork or other evidence was gathered since the original ES to justify such a conclusion.

⁶⁵ Inspector's Note - Mr Abrams agreed these points in cross-examination by Mr Phillpot.

- It is not a point based on any new archaeological fieldwork.
- The words used in the ES Addendum are not those of the Appellants' expert witness nor are they found in or demonstrated by what he had said in carrying out the field evaluation.

175. The assessment should properly record the archaeological impact as being major adverse. Such a conclusion should have led to a re-evaluation of the scheme to see if such an impact could be avoided. The failure to avoid it leads to conflict with policy, substantial harm to regionally important heritage assets, and to the sustainability credentials of this development.

TRANSPORT

Accessibility and modal choice

176. It is agreed that the relevant benchmark set by policy is that the location for housing development such as this must be "*highly accessible by public transport, walking and cycling*" and that the proposal does not achieve that⁶⁶. Paragraph 8.9 of the SEP identifies one of the key components of its strategy for the management of the transportation implications of the planned growth in the region as influencing the pattern of development so that more people have the opportunity to work, shop and so forth closer to their home location. Thus the question of accessibility and the mix of uses on-site and nearby are interlinked. That linkage is particularly pertinent here as one of the key challenges is to reduce Aylesbury's dependence on out-commuting. Paragraph 23.19 states that in identifying sustainable urban extensions the emphasis will be on "*locations able to provide enhanced public transport corridors*".
177. The appeal site is not a sustainable location in transport terms and the absence of the PPTC has implications for its accessibility by public transport. In the absence of bus priority measures such buses as are provided will need to sit in the same traffic queue as cars and be subject to the same network constraints and delays (*Document AV/5/1, Paragraph 5.21*). It is agreed that there is a very substantial shortfall in funding but little evidence was forthcoming from the Appellants as to how it would be addressed. BCC made a bid for Community Infrastructure Funding but that failed and no further bid is expected to be made⁶⁷. It cannot be assumed that other developments will necessarily be approved that would make contributions to the PPTC. In any event the TA has not assessed the additional traffic from such developments⁶⁸.

⁶⁶ Inspector's Note – Paragraph 6 of PPG 13 sets out this requirement. In cross-examination Mr Atkinson said that the site is less than 2 km from the PPTC corridors and is thus reasonably accessible.

⁶⁷ Inspector's Note – It was confirmed by Mr Tester in cross-examination by Mr Milner that the Community Infrastructure Funding bid was for £5m. This was the maximum that could be applied for on the grounds that this was a high priority scheme on a high priority public transport corridor. However this was for a lesser scheme than the preferred choice which had been costed at around £8m. Mr Tester said that BCC was unlikely to make another bid.

⁶⁸ Inspector's Note – Mr Ohrland confirmed in cross-examination by Mr Phillpot that the only other housing along the A41 corridor that had been taken into account was Berryfields.

178. As a last resort general reliance was placed on the New Homes Bonus but that cannot properly be relied upon to make up the shortfall. The New Homes Bonus is part of a framework of incentives to support growth intended to enable communities to benefit as a consequence of accepting new homes. The decision on how the New Homes Bonus is spent rests with the community. The Appellants effectively invite the assumption that BCC will choose to spend every penny of whatever it receives from the New Homes Bonus on the PPTC and that this will enable the scheme to be implemented. These assumptions are unsound and there is no evidence that they are either likely or desirable. In short the accessibility or otherwise of this site must be assessed without reliance on the availability of the PPTC.
179. It must also be assessed without reliance on the Weedon Hill Park and Ride site. The Appellants confirmed that the funding offered would not provide any actual service. No funding exists to provide the service⁶⁹.
180. In addition to its location away from the A41 and A413 and the problems of congestion along those routes the site's accessibility is also limited by reason of its physical distance from the town and the absence of a direct route to it. This is clearly illustrated in the revised DAS (*Document CD/3.6, Figure 3.10 and Table 3.2*). The distances to key facilities such as places of employment and shopping are considerable. Where those journeys involve travel along the congested A41 or A413 the journey times will often be lengthy. It is notable that the Appellants have chosen not to present journey times between the site and key facilities. This remoteness is reflected in the concession that because of its location the site would be considered "very marginal" in employment terms⁷⁰.
181. Much reliance has been placed by the Appellants on their exemplar bus service. The nature and procurement of this service remains opaque and the extent to which it can be relied upon to come forward either at all or in anything like the form presented in evidence is very limited. The following points are of particular note:
- The approach in the Unilateral Undertaking appears to rely on BCC agreeing to take certain steps, which it is under no obligation to take and has not agreed to take. Some of those steps are simply unlawful because they appear to involve BCC undertaking to fetter its discretion as to how it deals with its contractual rights in relation to a third party. Such an approach is entirely inappropriate and a similar conclusion was reached by the Inspector in an appeal decision relating to Wendover Road, Aylesbury (*Document ID/2/8*). If it cannot be achieved the burden of providing the service shifts to BCC with no initial funding and only a series of contributions starting at Phase 2 of the development. There is no evidence as to what the funding would provide in terms of additional bus provision or its effect as the bus operator refers to funds of £1.75m which includes the

⁶⁹ Inspector's Note – Mr Atkinson confirmed in answer to my questions that the land and access is already available and that the contribution would help provide infrastructure such as the bus shelters, surfacing and circulation bays. The buses themselves would be provided by BCC.

⁷⁰ Inspector's Note – This was agreed by Mr Gardner in cross-examination by Mr Kingston.

Berryfields contribution (**Document APP/1/5**). If the provision is inadequate it will be the public purse left to make up the shortfall.

- The Unilateral Undertaking also suffers from the following fundamental problems in relation to the proposed bus service⁷¹:
 - There is no binding obligation to procure the service just to use "*reasonable endeavours*" to do so. That only applies for 5 years following construction of the first dwelling and is linked to what happens on Berryfields.
 - There is no binding requirement for the service to be on a 15 minute frequency. There is no obligation to provide any particular frequency from the outset.
- The viability of the route either during the initial period of subsidy or thereafter has not been demonstrated. There has been no viability assessment or capacity assessment⁷². Whilst the bus company (Arriva) thought the service would work no more detail was provided on the grounds of confidentiality (**Document APP/1/5**). The untested assertion of a company with a clear commercial interest cannot properly form the basis of a conclusion that this service would in fact be viable. The letter from Arriva was based on funding of £1.75m but no reference to extending a separate Berryfields service or to what would happen if BCC does not act as the Unilateral Undertaking anticipates.
- Even if the service were to operate its attractiveness would be seriously limited as a result of the tortuous route it would take. It emerged at the Inquiry that this would not be a bespoke service and that it would include the existing No 2 route which runs through the Quarrendon estate (**Document APP/1/2, Appendices MO4 and MO5**). The revised DAS shows where it would run once inside the site (**Document CD/3.6, Page 47**). What is clear is that the route would be slow, winding and indirect. Taking account of the route, the likely number of stops and the congested conditions along the A41 corridor a 24 minute journey between the site and town centre seems highly optimistic for the peak period⁷³. The equivalent journey time by private car by the most direct route would be very much quicker and thus more attractive.
- This issue is also relevant to the reliability of the Appellants' suggested discounts to their traffic generation. The bus service that is envisaged for urban extensions in the Northamptonshire County Council document to support a 20% target would be a fast, reliable and high-frequency (at least every 10 minute) service with bus priority, real time information and smart card integrated ticketing (**Document APP/1/2, Appendix 18, Paragraph 9.9**).

⁷¹ Inspector's Note – Mr Ohrland agreed these points in cross-examination by Mr Phillpot.

⁷² Inspector's Note – This was accepted by Mr Ohrland in cross-examination by Mr Phillpot. He said that discussions with the bus operator were confidential.

⁷³ Inspector's Note – In evidence-in-chief Mr Atkinson said that the journey between the site and the bus station would take about 24 minutes at peak times and 20 minutes off-peak. However in cross-examination by Mr Phillpot he agreed that there was no evidence to justify those timings.

The only element in common with the Appellants' proposal is the provision of real time information. That would be of little assistance if the service to which it refers is unattractive and insufficiently convenient.

182. There are no direct foot or cycle paths indicated between the appeal site and Berryfields (**Document CD/3.6, Page 47**). No discussion has taken place with the developers about the principle and feasibility of providing such connections nor has any evidence been presented to demonstrate that such routes are likely to be provided when the appeal site is developed⁷⁴. Movement between the two sites on foot or cycle is thus likely to involve travelling along the side of the WLR to the Berryfields site. This would not be direct, convenient or attractive and is likely to encourage additional vehicular trips. The accessibility of the two schemes is in no sense co-ordinated. The development does not meet the benchmark set by PPG 13 and this is not a sustainable development in transport terms.

Congestion

183. It is agreed that ever-increasing congestion is not acceptable in planning terms as it harms economic growth and the environment. If Aylesbury becomes ever more congested it will be a less attractive place in which to live, work and invest. Simply adding to existing congestion without addressing the consequences is inherently unsustainable⁷⁵. The LTP reflects that approach and is right to identify the maintenance or improvement in the reliability of journey times on key routes as being important objectives for a thriving economy (**Document AV/5/1, Page 9**). Circular 02/2007: *Planning and the Strategic Road Network* acknowledges the need to create new capacity in some cases and this applies equally to important radial routes such as the A41 and A413.
184. The A41 and A413 are key routes into Aylesbury and important for the town's accessibility and successful functioning. They are identified in the LTP as Primary Congestion Management Corridors (**Document CD/2.22, Page 76**). It was agreed that these routes have a strategic function, carry high traffic flows and are heavily congested during peak periods⁷⁶ (**Document AV/5/1, Paragraph 3.3**). It is important to ensure that conditions on this part of the network do not deteriorate and to carry out a robust assessment of transportation impacts. The Appellants have chosen to adopt an approach to assessment whereby however substantial the adverse impact on the local highway network the methodology could not produce anything more than a 'minor' impact (**Document CD/3.4/1, Page 10-2, Table 10-1**).

Transport modelling

185. The Appellants' TA and TA Addendum are fundamentally unsound and cannot be relied upon as a basis for addressing the transportation impacts of the

⁷⁴ Inspector's Note – Mr Atkinson in cross examination by Mr Phillpot said that the Appellants were willing to bring footpath connections to the boundary of their site. There had been no discussion with Taylor Wimpey but the adjoining land would be public open space so they would expect to be dealing with AVDC on the matter.

⁷⁵ Inspector's Note – Mr Atkinson agreed these points in cross-examination by Mr Phillpot.

⁷⁶ Inspector's Note – Mr Ohrland agreed these points in cross-examination by Mr Phillpot.

proposed development (**Document AV/5/1, Section 5**). The following points of common ground were established⁷⁷:

- A cautious approach is important in transport modelling and because of the uncertainties involved it is necessary to base the assessment on robust assumptions.
- The ES and ES Addendum relied on a baseline assessment for 2013 which assumed the signalisation of five junctions. Four of these are roundabouts and there is no commitment to signalising any of them.
- The baseline assessments have not been calibrated to check whether they reflect existing conditions as the Department for Transport guidance requires (**Document AV/5/1, Appendix G**). Indeed no such calibration could be undertaken because the baseline assessment assumes a network that does not exist.
- There is no assessment of the network in 2020 without the development. A comparison cannot be made of the operation of the network or a particular junction in the assessment year without the development in place.
- When the effect of adding the development traffic plus background growth but without any discounts to key junctions was considered the results were inexplicable (**Documents CD/3.3/1, Page 10-20, Table 10-15; CD/3.4/1, Page 10-16, Table 10.13**). The results are patently unsound and in many cases simply defy sensible explanation.
- The TA and TA Addendum are based on a number of assumptions, which tend to improve the position for the Appellants (**Document CD/3.4/1, Paragraph 10.3.6**). The following matters were however agreed⁷⁸:
 - The PPTC, which was designed to address the impact of Berryfields and Weedon Hill as part of the LP expansion of the town is assumed to be in place in its entirety. However there is a very substantial shortfall in funding for that scheme. The Appellants have not identified any part implementation of the PPTC as being appropriate to offset the impacts of the proposed development and no assessment or costing has been carried out on the basis of partial implementation. It is thus not possible to justify the provision of any particular sum by reference to the requirements of the CIL Regulations other than to assert that it was "proportionate" (**Document APP/5/4**). If the remaining shortfall was to be met by contributions from other developments these would be over and above the extensions planned as part of the LP and no such traffic has been included in the model.
 - The effect of the 10% Smarter Choices reduction can no longer be relied on due to the absence of further funding for this initiative (**Document AV/5/2**). Also the assumption made for Berryfields was that on top of the Smarter Choices reduction there would be a further 10% reduction

⁷⁷ Inspector's Note – Mr Ohrland agreed these points in cross-examination by Mr Phillpot.

⁷⁸ Inspector's Note – Mr Ohrland agreed these points in cross-examination by Mr Phillpot.

from extending the Appellants' Travel Plan measures to that site (*Document APP/1/1, Paragraph 4.49*). So the development traffic had been reduced by 30%, and then added to a network on which background traffic had already been reduced by 10%.

- The Northamptonshire County Council guidance not only described the 20% modal shift target figure as challenging it also explained that appropriate targets would need to be determined on a site-by-site basis (*Document APP/1/2, Appendix 18, Paragraph 5.2*). The target also needs to be seen in the light of the document as a whole, including what it says about bus provision for urban extensions (*Document APP/1/2, Appendix 18, Paragraph 9.9*).
 - In assessing the extent to which the traffic reductions associated with the Southern Leighton Buzzard bus scheme might be applicable elsewhere it is necessary to consider the site-specific context. The evidence has not considered how the sites compare in terms of existing public transport services, existing highway network conditions, or the existing travel patterns of proximate residential neighbourhoods.
186. The Appellants' evidence claimed a reduction in vehicular trips as a result of its exemplar scheme at Southern Leighton Buzzard of 21.9% over a 12 hour period. However the actual peak hour figures were markedly less being 8.85% for the morning peak and only 0.97% for the afternoon peak (*Document CD/3.8, Page 11, Paragraph 3.8.8 and Table 4*). This does not provide justification for assuming a 20% reduction in both peak hours when assessing the transportation implications of the appeal proposal.
187. The Appellants' approach confuses the desirability of seeking to achieve targets for modal shift for highly accessible sites and the robustness of assuming that those targets would necessarily be achieved on this site when assessing transport impact. If the Southern Leighton Buzzard experience demonstrates anything it is that even in relatively benign conditions and with the benefit of what the Appellant regards as an exemplar scheme the actual results can fall very significantly short of desirable targets.
188. The Appellants now appear to be seeking to rely on the work undertaken by Jacobs as a substitute for their own submitted assessment (*Documents AV/5/3; APP/1/4*). However Jacobs have not sought to undertake a full TA of the appeal scheme and nor have they been asked to do so. More would need to be done for a proper assessment but in any event the Jacobs work does not support a conclusion that the development's impacts are acceptable and nor does it identify any satisfactory means of addressing those impacts. The sensitivity testing of the Jacobs work was produced at a very late stage by the Appellants and includes changes that are entirely inappropriate and which are rejected by Jacobs and BCC (*Document APP/1/4, Pages 7-9*).
189. The ES has not been based on the Jacobs work but on the TA and TA Addendum and no Regulation 19 material has been requested by the decision-maker or submitted to supplement the ES. In those circumstances the Appellants cannot simply 'adopt' the Jacobs work and any decision to approve the appeal based on that work would not be lawful.

APPEAL B: THE WIND TURBINE

Policy

190. SEP Policy NRM15 explains that outside urban areas priority should be given to development in less sensitive parts of the countryside and the location and design of all renewable energy proposals should be informed by LCA where available. Similar advice is given in the Companion Guide to PPS 22. The appeal site is outside an urban area and it is not located in a part of the countryside that can properly be described as less sensitive. In this case LCA has been carried out and this has been identified as an area of high sensitivity in landscape terms. The site is not in a major transport area or other more obviously suitable location. It is not therefore a site which the SEP identifies as a priority for such development.
191. The supporting text to Policy NRM15 adds to this by explaining that renewable energy infrastructure should be located and designed so as to avoid conflict with landscape conservation. There is no indication at all that this turbine has been designed with that in mind. It was agreed that if it is concluded that this location would produce conflict with landscape conservation in PPS 7 there would be conflict with this part of the development plan⁷⁹.
192. Nor does PPS 22 endorse such development regardless of landscape and visual impact. The first key principle in Paragraph 1 requires an examination of whether this is a location where environmental impact can be addressed satisfactorily. If it cannot the proposal would not be supported by PPS 22.

Renewable energy

193. AVDC recognises that the proposed development would make a contribution to the supply of renewable energy and that this is a benefit that must be weighed in the balance. However, it is clear from the policy context that this does not override any adverse effects. This is a landscape of high sensitivity, the adverse effects on that landscape are considerable and those effects produce conflict with policy.
194. The only argument available to seek to justify that harm is that the need for renewable energy should prevail. However that argument can only succeed if it has been demonstrated that the need cannot be met in a less harmful way. That has not been done here.

Below ground archaeology

195. In terms of the below ground archaeology, the turbine would be built in the area of least archaeological interest. The access road would cross areas AZ1 AZ2, AZ3, and AZ6 but it might be possible to construct it to avoid the buried remains. Even if this was not possible, the proportion of each area that would be affected is small and could be mitigated by archaeological investigation secured by condition (*Document AV2 Paragraph 71*).

⁷⁹ Inspector's Note – This was agreed by Mr Schnull in cross-examination by Mr Phillpot.

Landscape and Visual Impact

196. The objection to the turbine arises from the adverse landscape and visual impact associated with it. There is no freestanding heritage objection to the turbine in itself. However when considering the impact of the proposed housing on the setting of the SAM it is necessary to consider how that effect would be exacerbated by the cumulative impact of the two developments together. The two key defining features of the proposed turbine in terms of landscape and visual impact are its height and its movement.
197. The overall height of the turbine would be 149m from base to tip. There is no justification for that height in the absence of the housing proposals and no demonstration that a greater number of smaller turbines would be any less effective. The height is significant because it negates the effectiveness of any mitigation through planting. The proposed woodland planting may have a limited effect in screening a portion of the lower section of the tower. However the major cause of visual impact the blades, nacelle and hub would remain clearly visible to viewers not least those in the SAM.
198. Whilst there are a number of pieces of 'equipment' within the landscape none are of the scale of the proposed turbine. Furthermore with the exception of the considerably smaller Quanton historic windmill none of those items of equipment move (*Document AV/1/1, Paragraph 303-304*). The movement of the turbine blades would have a significant visual effect that would draw attention to the turbine and also to any adjacent housing development.
199. The Appellants suggested that the turbine would be noticed less over time as a result of familiarity. Whilst people may get used to it that does not necessarily mean that the impact would lessen significantly. Also familiarity would have no effect on the impact on new or infrequent visitors passing through the area. The landscape and visual impacts of the turbine would thus be significant and adverse especially on views from the SAM (*Document AV1/1, Paragraphs 306, 347*). That impact is not outweighed by the benefits associated with the renewable energy it would generate and cannot properly be said to be outweighed in the absence of a proper assessment of alternative means of achieving those benefits.

THE CASE FOR THE RULE 6 PARTY: BARWOOD LAND & ESTATES LTD

The main points are:

INTRODUCTION

200. This is a case in which the Appellants have not adhered to the procedural guidance in PINS 01/2009 and the PINS Good Practice Advice Note 10. In particular they were not ready to proceed with the appeal once it was made so that a lot of matters had to be considered at a late stage with the scheme evolving as the Inquiry proceeded. Attempts to blame others such as BCC on highways issues are clearly inappropriate. It is the Appellants' responsibility to get the scheme in order and have the necessary evidence to support it.
201. This aspect has been heightened in the closing stages of the Inquiry when discussions took place with regard to a fundamental matter relating to the

transport strategy and the bus provision. There was a very real sense of the Appellants' case being changed and re-cast moment by moment. This is fundamentally the wrong approach and it disadvantages other parties and prevents a proper examination of the issues.

BARWOOD'S POSITION

202. Barwood have played a full and active part in the consideration of growth proposals for Aylesbury. They made substantial submissions to the CS which included producing evidence in relation to a range of issues including the appropriate location for sustainable urban extensions of Aylesbury, the provision of infrastructure, highways and transportation matters and in particular the approach to sustainability and sustainability appraisal. These concerns were substantially endorsed by the CS Inspector in his Interim Report (*Document APP/5/1, Appendix 9*).
203. As a part of the process and against a background of a very full and careful consideration of the options a planning application was made for a sustainable urban extension at Fleet Marston. That planning application and all its supporting material including the Environmental Impact Assessment was before the Inspector at the CS examination. So the Inspector's views with regard to the appropriateness of the appeal site and Fleet Marston as locations for accommodating growth at Aylesbury should be taken to be fully informed.
204. These comments about Fleet Marston are made not because the appeal is concerned to reconsider its merits as a location for a sustainable urban extension but because from time to time during the Inquiry the Appellants made comments which sought to suggest that Fleet Marston suffered from some disadvantage. There is no basis for any such suggestion indeed to the contrary there is every reason to suppose that Fleet Marston can be brought forward and contribute in a sustainable way to the growth of Aylesbury.

APPEAL A: THE MIXED USE DEVELOPMENT

THE PLANNING BACKGROUND

205. The relevant development plan policy background for consideration of the appeal proposal is not contentious. It is a part of Government policy that in selecting housing provision levels local authorities should set out to meet the needs of their area and make full provision for the housing that is required.
206. The Appellants' case is that the appeal scheme represents a rounding off or natural extension of developments that have been permitted at Berryfields and Weedon Hill. However these two urban extensions were very carefully considered by the LP Inspector in his Report. In respect of Berryfields many matters were considered including scale, visual impact and the setting of the SAM (*Document BL/1/2, Appendix 5, Paragraphs 5.20.8, 5.20.9, 5.20.15*). The site was permitted on the basis that development would not extend any further to the east although that could easily have been done if it was thought appropriate. What was considered and regarded as appropriate by the Inspector was the pushing of the WLR further to the north (*Document BL/1/2, Appendix 5, Paragraph 5.20.93*).

207. A similar process was gone through with regard to Weedon Hill where issues in relation to scale, visual intrusion, coalescence and the SAM were also raised (*Document BL/1/2, Appendix 5, Paragraphs 5.21.5, 5.21.9, 5.21.15*). In respect of those matters the context for their consideration was again no development to the north of the SAM or further to the west of Weedon Hill. The Inspector's conclusions about the WLR being taken further to the north were again quite clear (*Document BL/1/2, Appendix 5, Paragraphs 5.21.29, 5.21.47, 5.21.73*).
208. In these circumstances there is no basis for any suggestion that the Inspector would have found acceptable development to the north of the SAM effectively filling the gap between Berryfields and Weedon Hill. On the contrary all of the indications are that keeping that area open and preserving the setting of the SAM was regarded as important. Any case therefore based on the approach of a natural extension or rounding off has to contend with the fact that there have been deliberate decisions taken here to limit the approved urban extension areas in a way which was designed deliberately to preserve the setting of a nationally important monument.
209. At the recent CS examination the Appellants made very full representations and appeared at the Hearing sessions to support those representations. They drew attention to the paucity of the land supply for residential development in Aylesbury and the merits of the appeal site (*Document CD/9.2*). They sought in strenuous terms to persuade the Inspector that they should be an essential part of any mix of sites designed to meet Aylesbury's needs (*Documents CD/9.1; CD/9.2, Paragraphs 9.5, 9.11, 9.15, 9.16; CD/9.3; CD/9.4, Paragraphs 5.4, 7.8*). At the time of the CS examination the Appellants had made their planning application and so were in a position to put before the Inspector everything which might be thought to have supported the merits of the site.
210. The Inspector's conclusions in his Interim Report are to be seen against the background of what it was that the Appellants asked him to do. They did not simply ask him to not exclude the site from future consideration but actively and repeatedly pressed the merits of the site to seek its identification above all others as an early delivery site of significant merits. The CS Inspector did not accept those submissions (*Document APP/5/1 Appendix 9*). The best the Appellants could achieve is that the Inspector was willing to allow their site to go forward among a range of others to be considered as possible locations for growth. The Inspector's report makes some factual comments about the site but nowhere supports the Appellants' views as to its merits.
211. The contrary is true with regard to Fleet Marston. Having had all the relevant material to allow a detailed consideration of every aspect of that proposal the Inspector set out what he believed to be an appropriate approach to take the CS forward (*Document APP/5/1, Appendix 9, Paragraph 6*). He explained why he considered that Fleet Marston and the Aylesbury South East site should be parts of the mix with one other site chosen from the range available coming forward to meet the need. Issues of sustainability, landscape, heritage, impact on communities, flooding, transportation and High Speed Rail 2 route were addressed against a background of being fully informed and able to make a reasoned judgment. The Inspector had been give information which addressed the issue of High Speed Rail 2 (*Document CD/9.5*). Nothing subsequently produced gainsays the outcome of that work.

212. The Appellants have already had one go at persuading an Inspector that this site was head and shoulders above others in terms of its merits and should be preferred over others which are currently being processed as a means of addressing Aylesbury's growth needs. The failure of those attempts to have the site identified in that way is highly material to this appeal because the same merits are being pressed without any attempt to identify any material change of circumstance since they were rejected by the CS Inspector.

MIXED USE

213. The appeal proposal comes forward against a background of not providing any specific employment opportunities outside of the limited range related to the neighbourhood centre and the school. It is estimated that the new resident population will be about 3,316 residents with a requirement for between 1,400 and 1,500 jobs and this was not subject to any challenge (**Document BL/3/1, Paragraphs 4.19-4.33**). There is thus an identified and substantial employee cohort arising as a result of the appeal scheme. The proposal is advanced as being a sustainable urban extension. It is necessary that it should be capable of being characterised as such as required by Policy MKAV3 in the SEP. Although Weedon Hill has no employment provision the LP Inspector specifically considered the issue and concluded that employment needs could be provided elsewhere in accordance with the policy at the time (**Document AV/4/1, Appendix 1, Paragraph 5.21.43**).
214. A sustainable urban extension needs to incorporate a genuine mix of uses which includes employment opportunities otherwise occupiers will commute elsewhere (**Document BL/2/1, Paragraphs 6.11-6.14**). The Appellants did not challenge this evidence or suggest that a development could qualify in urban design terms as a mixed use development if it omitted any substantial employment opportunities.
215. The absence of employment uses was excused by reliance on the ELS (**Document CD/9.7**). However this has been drawn on selectively in seeking to purport that Berryfields was badly placed for employment use. The ELS advises that there is a need to concentrate on small, good quality office development to attract and retain small and medium sized employers which form the backbone of the local office market (**Document CD/9.7, Paragraphs 4.59, 4.63, 5.19-22, 5.24**). This is just the sort of employment use that may be attracted to locate on an urban extension. The recommended approach in respect of the Berryfields employment land was against the background of an expectation that the Aston Clinton Road site would be taken up but in fact it is not being progressed. However the Berryfields MDA is coming forward and there is no indication that the employment element is not to be pursued.
216. In part the Appellants' approach to employment provision on the appeal site relies on the argument that if the Berryfields location was regarded as unsuitable so would be the appeal site (**Document APP/5/1, Paragraph 4.26**). However if an appropriate mixed use cannot be supported then that is an indication that the site is not in an appropriate and accessible location. The reliance on employment at Berryfields is misplaced as that allocation was specifically identified to deal with the likely needs arising from that MDA. It is not expected that all of the people working in an employment site on a sustainable urban extension will be those from within the extension itself. The

important principle, especially for a town like Aylesbury, is that significant areas of additional housing should not be provided without some significant additional levels of employment in order to avoid unsustainable patterns of commuting. It is important to provide people with the opportunity to live near their work as recorded in Paragraph 8.9 of the SEP.

217. The absence of any specific employment provision on the appeal site is a structural deficiency which should count heavily against the proposal. It conflicts with the SEP and with up to date and unchallenged advice with regard to the creation of sustainable urban extensions.

VIABILITY AND DELIVERY

218. The Appellants' position had consistently been that affordable housing would be provided but only on the basis that grant was available to support it (*Document CD/3.10, Paragraph 4.16*). This position was confirmed at the PIM (*Document CD/10.11, Paragraph 20*). However in current circumstances there is no likelihood that grant will be available and this very significant and costly item is now to be brought forward without any grant at all. There has been no explanation as to how such a position could have arisen.
219. The Appellants claim that they would not promote the appeal site unless it was a viable development. However promotion started a long time ago and they are in effect stuck with continuing with it now⁸⁰. They have been given the opportunity to demonstrate that the development is viable in the context of their changed position on affordable housing and also in the context of what has been a quite determined attempt to buy their way out of difficulty with regard to other matters such as education, highways, and sewers. They have steadfastly refused to take up that opportunity but continued to assert that the case should proceed on the basis that this site, which was once critically dependent on grant for the delivery of its affordable housing should be assumed to be viable⁸¹. At the same time it is part of the Appellants' case that the site can be brought forward for early delivery and that there are no impediments concerning viability or the need for any financial input from any other source. Given the emphasis on early delivery it is a compelling inference in this case that the absence of any evidence to demonstrate viability indicates that there are substantial difficulties in bringing the site forward.
220. Taylor Wimpey have indicated that negotiations with the Appellants concerning early delivery of the WLR have not been progressed in order to ensure that they would have early access to the road (*Document AV/4/3, Page 4*). It is a reasonable inference that what was involved was simply a consideration of what the Appellants were willing to pay in order to secure the road which is critical to the delivery of any housing from the site. With those negotiations breaking down in circumstances where it is reasonable to infer that the only

⁸⁰ Inspector's Note – Mr Gardner in cross-examination by Mr Kingston said that this was a normal negotiation process whereby the Appellants were seeking to reach agreement with as many parties as possible. He contended that they would not agree to a level of affordable housing provision unless it could be viably delivered.

⁸¹ Inspector's Note – Mr Gardner confirmed in answer to my questions that no viability evidence was to be provided.

issue was the amount of money involved there is clear support for the view that this is a site which is struggling with its viability. In the current circumstances there is no reasonable basis to conclude that the appeal site bearing its current burdens in terms of infrastructure and affordable housing is likely to be viable and therefore able to produce an early delivery of housing.

221. It is accepted by the Appellants that delivery of any housing from the appeal site is critically dependent upon the completion of the WLR (**Document CD/3.10, Paragraphs 2.6 and 2.10**). At the PIM it was claimed that there was in place an Agreement which would provide for the timely delivery of the WLR (**Document CD/10.11, Paragraph 22**). There is no such Agreement in place. What there is are Section 106 Agreements related to Berryfields and Weedon Hill (**Document APP/5/1, Appendix 3, Paragraph A1.2**). In respect of the Weedon Hill Agreement AVDC has not exercised its discretion to serve the relevant Notice perhaps because it does not wish to impose unnecessary burdens on house builders at this time. In respect of the Berryfields Agreement the number of occupied dwellings has not yet been reached where the requirement for completion of the road would be triggered.
222. The Appellants rely on the trajectory figures for Berryfields and Weedon Hill given to AVDC by the developers in March of this year (**Document AV/4/3**). However at that stage Taylor Wimpey had in excess of £6m available to them by way of grant to promote early delivery of affordable housing at Berryfields. The assumptions by Taylor Wimpey about the degree to which grant money would support future delivery are not known. However their most recent view is that they will not reach the 1,500 cumulative occupation of dwellings level until late 2014 (**Document AV/4/3, Page 4**). Taylor Wimpey may not be truthfully reporting their best estimate as to delivery because they wish to prevent a competitor's scheme coming forward. Alternatively they are accurately reporting as a responsible and major house builder their current view. Whichever is the case the construction of the WLR is unlikely to be to a timeframe that would support early delivery from the appeal site.
223. The Appellants indicated that they would expect to start construction in advance of the completion of the WLR. However it was not satisfactorily explained how that might take place bearing in mind these are major construction works. They would either have to use an incomplete road and rely on being able to access the site whilst it was still being constructed or they would have to gain access to the appeal site across unmade ground⁸². It was unconvincing and no testament as to the ability to deliver early.
224. The suggested completion of 200 dwellings per year from the first year onwards is very ambitious. There is no evidence that such a delivery rate could be supported in terms of local residential sales market absorption. Furthermore it is much higher than historic completion rates in Aylesbury and also the rates achieved on Berryfields and Weedon Hill (**Document CD/2.9, Page 3**). An analysis of housing delivery rates for various strategic sites was

⁸² Inspector's Note – Mr Atkinson explained in cross-examination by Mr Phillpot that the Legal Agreement with Taylor Wimpey allowed a right of way once the WLR had been constructed to base course level and also a right of way along the line of the road to construct a temporary access (**Document APP/5/1, Appendix 10**).

undertaken by Buchanan. For developments of this size the average annual rate was 101 dwellings per annum with a lead-in time of 4.7 years (**Documents BL/3/1, Paragraphs 5.30-5.49; BL/3/2, Appendix 5**). The proposed delivery rates thus look highly improbable and certainly cannot be relied upon as being likely to occur.

225. Reliance upon the rate of delivery at Berryfields is clearly inappropriate having regard to the extent to which that was being secured by very substantial grant funding. In any event the Berryfields site is a scale of development which if Buchanan is correct would support a higher rate of delivery than the appeal site. This would be a smaller scale of development and competing with its larger better sited and more attractive neighbour. Unless the Appellants' evidence convincingly demonstrates that their development is one which in the particular circumstances here should be regarded as viable and capable of early delivery they lose any of the advantage which they claim enable them to override the admitted disbenefits of the proposal with regard to heritage issues for example (**Document CD/10.1**).

IMPACT ON THE SAM AND ITS SETTING

226. Barwood's case is substantially coincident with that of the Council and these matters are not repeated. PPS 5 and its accompanying Practice Guide at Paragraph 10 invite a holistic approach. There is accordingly no basis for drawing a divide between designated and non-designated heritage assets. Paragraph 6 of PPS 5 recognises the contribution which heritage features make to cultural, social and economic life. Policy BE6 and its supporting text in the SEP draws attention to the contribution made to a sense of place and local distinctiveness. These are important considerations in Aylesbury where there is a good deal of modern development and a commitment to growth. The SAM and appeal site with its multi-faceted heritage interest lend real local distinctiveness and help prevent the town becoming an "anywhere" place.
227. The designated element here in the form of the SAM is an outstanding assemblage of features. It includes two deserted medieval villages, the site of a Tudor mansion and garden, with the garden remains in a good state of preservation. There is also an extensive rabbit warren and a range of other buried remains with surface features or remains such as St. Peter's Church (**Document BL/1/1, Paragraphs 4.27-4.28**). Although there has to be a boundary for the purpose of designation the reality in the circumstances of this case is that there is a continuum of interest of a significant kind from the SAM across the appeal site.
228. It is clear from the Albion Archaeology Field Evaluation (January 2010) carried out on behalf of the Appellants that the appeal site contains important heritage items (**Document BL/1/2, Appendix 13**). Prior to the production of that report and in the first DAS the Appellants had asserted that the appeal site was one of the least constrained (**Document CD/3.5, Paragraph 1.3**). They had not drawn attention to there being any significant heritage issues and their approach to relevant designations and on-site heritage features was to draw attention to the historic hedgerows but little else (**Document CD/3.5, Paragraphs 2.5, 3.1 and Pages 18, 20**). The Field Evaluation identified that the appeal site:

- Contains regionally and locally important remains which are of significant heritage interest.
 - Has within it features which clearly link it to the SAM in a number of different ways (*Document BL/1/2, Appendix 13, Paragraphs 3.1.2, 3.1.3, 4.2.3*).
229. The Field Evaluation identifies just what a significant range of discoveries have taken place at a time when the planning approach had already been subject to EIA and the DAS had been prepared (*Document BL/1/2, Appendix 13, Section 7*). This work flags up the significant advance of knowledge, the richness of the site, the obvious links both historical and functional with the SAM and the specific links to the Lees family. The Appellants were therefore faced with a crushing range of revelations not only in relation to on-site interest but also to the obvious implications for any consideration of the setting issue of the SAM.
230. The Appellants did not do what they should have done which was to abandon the proposals and look elsewhere for a suitable site. Instead they set about a fundamental recasting of the proposals in an attempt to overcome the difficulties which had arisen. The extent of the difficulties is obvious from Barwood's Briefing Note on changes to the Masterplan (*Document BL/2/3*). The extent of those changes is not disputed. Attention is drawn to the following changes in the revised DAS (*Document CD/3.6*):
- Paragraph 2.5 recognised that significant heritage assets are now in play.
 - There is a complete revision to Page 18 with an acknowledgement of a larger heritage interest beyond what had previously been referred to as the limited areas.
 - Page 20 recognises that the development is within the setting of the SAM and that impact on the setting is an issue.
 - Page 22 recognises the historic features within the site and explicitly that the site is within the setting of the SAM. Also that there is a multi-layered significance to the site and that the archaeologically discernible evidence of ridge and furrow is relevant.
231. All of that was against the background of the recognition in the Field Evaluation that the fields of the appeal site were directly related to the medieval settlements at Quarrendon. The Appellants do not dispute that the appeal site is within the setting of the SAM. It is part of the Appellants' own evidence base that there are clear historical functional relationships between the site and the SAM.
232. PPS 5 requires a consideration of significance. The values that give a heritage asset significance arise from the English Heritage *Conservation Principles* document and are not disputed (*Document BL/1.1, Paragraphs 3.20, 3.31*). It is agreed that there is clear evidential and historical value but issue is taken as to whether there is aesthetic and communal value (*Document APP/4/1, Paragraphs 3.1.37-3.1.53*).
233. The aesthetic value involves sensory and intellectual stimulation. Here the landscape combines fortuitously. The outcome of the way it evolved through the open field to enclosure with direct historical links between those who

owned and occupied the area of the SAM and the appeal site. The form of the pre-parliamentary enclosures remains on the appeal site as physical evidence of what was one of the most important economic and social events in English history. This is supported by the Field Evaluation and contradicts the contention that there is not aesthetic value here.

234. The Appellants' suggestion that there is not really communal value here is risible. On a single open day some 500 people attended in order to look at the site and get some idea as to its communal value (**Document BL/1/2, Appendix 8, Page 3**). The significance of the site is clearly heightened by its association with the SAM. The strong evidential, historical and aesthetic links are not limited to the consideration of whether or not it is a palimpsest. They extend well beyond that.
235. The Appellants suggested that the view in the Everson work that the SAM had accommodated a Tudor mansion and Tudor garden was speculation (**Document CD/8.4**). The fatal difficulty in advancing that argument is that it involved archaeological considerations in respect of which the Appellants' witness⁸³ was clearly not qualified to offer a view. The person from the Appellants' side who was qualified to offer a view⁸⁴ had done so in two particular documents which identified clearly that this was no speculation:
- The ES makes absolutely clear that the appeal site is part of the setting of the SAM and that there was a shift from arable agriculture to pasture on the appeal site associated with the pre-parliamentary enclosures. These changes in the economic basis of Quarrendon Parish and the setting of the medieval village and the post medieval Tudor mansion at Quarrendon are key points of cultural heritage interest (**Document CD/3.3/1, Paragraph 7.36**).
 - The Archaeology SCG is explicit in its acceptance of the existence of a Tudor mansion and the Tudor gardens at Quarrendon (**Document CD/10.6, Annex 1**).
236. It is therefore quite unnecessary to undertake any sort of forensic analysis of Mr Everson's well researched and well supported article. This was supported by a full suite of research papers available as part of the public record and referenced at the end of the article itself along with the distinguished list of those who assisted in the investigative work (**Document BL/1/1, Paragraph 4.32; BL/1/2, Appendix 10, Pages 43-45**). In the circumstances the significance of the SAM should be put at the highest level. The appeal site not only as a part of the setting of such a significant heritage asset but also in its own right should be regarded as of particular significance.
237. When faced with the substantial heritage interest which was discovered by Albion Archaeology in their Field Evaluation of January 2010 it is clear that the Appellants looked for some means to redesign the scheme and justify its substantial and very harmful impacts. The result in the revised DAS is an exercise in sophistry and spin. As already noted this document involved very substantial revisions. It ended up designing a development which is described

⁸³ Dr K Kropf.

⁸⁴ Mr J Abrams.

as being contained, isolated and experienced as countryside (**Document APP/4/1, Paragraph 2.6.66**). This is because it is trying to protect the setting of the SAM but manifestly fails to do so because it cuts the SAM off from what is admitted to be an important part of its setting.

238. The justification for the development hinges on the acceptability of building all over the fields and preserving hedgerows in a form that will leave them completely and radically altered. The proposal refers to maintaining and enhancing the hedgerows and integrating them closely into the development (**Document APP/4/1, Paragraphs 2.1.6, 2.1.8**). However the reality is that they will be formed into substantial landscape buffers having been reinforced with native large structure trees so that they will look nothing like a hedgerow and everything like a woodland belt. The ability to recognise the enclosure pattern, relate it to the fields and then understand it as part of what supported the deserted medieval villages and the Tudor mansion would be completely lost.
239. The revised DAS attempts to rationalise the approach with regard to development by suggesting that it has been laid out in a way which follows the line of the ridge and furrow ploughing. However the ridge and furrow has been completely ploughed out so that what has been taken as a design reference is not something which has any presence on the ground but is completely artificial. In any event examination of the plans in the revised DAS indicates that there are as many lines of development access crossing the ridge and furrow as there are going along them so that the whole picture is confused and exposes the artificiality of what has been done (**Document CD/3.6, Page 41**). The result is a development which completely obscures the heritage interest of the site, materially harms that interest and materially harms the setting of an outstanding SAM. Such a development should only be approved if there is some truly overwhelming and compelling case for it.
240. Part of the case advanced is related to the future use of the SAM. However as a SAM it needs no future use. It is already in an appropriate use which allows its interest to be preserved and to the extent that any management is appropriate it could be achieved by a very much lighter touch than the wholly destructive and thoroughly inappropriate proposal advanced here. The Countryside Access Gateway proposals are nowhere articulated on the basis of requiring a development of this scale. It is in any event unclear how a development which effectively plugs the gap into the open countryside could preserve the SAM as being a Countryside Gateway. The very narrow gap on the western side of the appeal site and the slightly wider gap on the eastern side do nothing to indicate that there would be any sort of gateway.

DESIGN ISSUES

241. There are significant design deficiencies which arise from the location of the site away from a radial route and not therefore directly connected to the town. The development would rely on a link road between the A41 and A413 corridors. With no employment development on the site what one would have is an isolated pod of residential development. For all but the limited range of local services available on site occupiers would be travelling elsewhere. The development would be separate from the town and poorly related to it in urban design terms. The difficulties of the site would be compounded in design terms by the location of the neighbourhood centre away from any through

route. The evidence that this would have consequences for its long term sustainability was unchallenged (*Document BL/2/1, Paragraphs 6.11-6.14*).

242. The chosen location has a number of structural barriers to contend with, including the river and its flood plain, the SAM and the WLR. The result of these separators and the need to respect them is a gap that can never be closed (*Document BL/2/1, Paragraphs 5.7-5.12*). The gaps have become separators in relation to a development which is not on some well established radial route with a public transport corridor passing by but rather an isolated disjointed development struggling to make its connections in any sensible respect to the town which it pretends to be a part of.
243. The Appellants' attempt at relating the WLR to the characteristic morphological pattern of concentric routes connecting two radials is inappropriate (*Document APP/4/1, Paragraph 2.5.13*). The Appellants were unable to draw attention to any connector between radials in the Aylesbury context which would look anything like the WLR with the appeal site in place⁸⁵. The connectors in the Aylesbury context are embedded into the morphology of the town fronted by buildings, uses and different access points. They are fundamentally different to what is proposed here.
244. The criticisms of the approach to urban design relate to the fundamental of good design and the selection of sites for development. It is quite clear when comparing the original and the revised DAS that the site selection process was deficient. Ever since the discovery of the full substantial heritage interest on the appeal site and the realisation of the difficulties of contending with the barriers the Appellants have been struggling to find a justification for the development location and the form of development which would have any credibility whatsoever. It is not the kind of development espoused by the Taylor Review (*Documents CD/9.6; BL/2.1, Paragraphs 3.13-3.15, 6.11, 7.20*).

SUSTAINABILITY ISSUES AND TRAVEL

245. This is another area where Barwood's approach is coincident with the Council's. It is fundamental to PPG 13 that there should be integration between planning and transport. Good accessibility is key to sustainability. In the Aylesbury context integration involves a consideration of the links from development to essential services and wider employment opportunities. In Aylesbury the public transport improvements focus on the PPTCs as the best means to achieve sustainable patterns of movement.
246. The appeal site is divorced from these routes and time resources and infrastructure are required in order to try and make the connection. It is not sustainable to put development where it is constantly struggling to gain access to one of the PPTCs. This is particularly important because the deliberate decision has been made to isolate the appeal proposal from employment opportunities by not providing them on site.

⁸⁵ Inspector's Note – Dr Kropf was taken to the map extract at *Document BL/2/5* in cross-examination by Mr Kingston and agreed that he could not identify any development on a connector road that was similar in urban form to the appeal scheme.

247. An indication of the difficulties from a transport point of view is that the appeal site, which is intended to be a discreet and recognisable community, can only be justified as an extension of Berryfields (*Document APP/2/1, Paragraph 3.7*). There is no evidence of any need to add to the critical mass of either Berryfields or Weedon Hill from any perspective and what the appeal proposal attempts to do is to "piggyback" these other developments because on its own merits it simply cannot survive.
248. The Unilateral Undertaking is legally objectionable because, amongst other things it requires BCC to enter into covenants regarding the exemplar bus service that it is not willing to take on. This is quite different from the Southern Leighton Buzzard case where that Council had no objections to the reversed covenant. In any event the exemplar bus service in Southern Leighton Buzzard is fundamentally different in terms of the area serviced to that which is offered up here. There the urban extension is differently located and much more easily stitched into the existing fabric of the town. The transport strategy in the appeal proposal is flawed. The site is in the wrong location in order to satisfactorily fit into the pattern of transport infrastructure currently existing and proposed in Aylesbury.

FOUL SEWERAGE

249. The cost of requisitioning the sewers is likely to be very significant. The Appellants do not know the cost yet because the sewer, its route and the necessary works have not been defined. There are significant capacity issues both within the sewers and at the sewage treatment works. Consistent with their approach overall they say it will be afforded whilst not providing any assurance in that regard at all. Berryfields is limited to a discharge rate in to the same sewer that the Appellants propose to use. They have not explained how they can discharge freely other than to say that a requisition will be required at a cost which is not known. Occupation of the new dwellings could not occur until suitable arrangements have been made for foul drainage (*Documents BL/3/1, Paragraphs 5.16-5.29; BL/3/3*).

APPEAL B: THE WIND TURBINE

250. The evidence relating to the impact of the turbine was largely unchallenged. The movement of the turbine would draw attention to it and heighten its impact emphasising the fact of development to the north of the SAM (*Document BL/1/1, Paragraphs 5.12, 5.17, 6.8*).

WRITTEN REPRESENTATIONS

251. Many of the points made in the representations were similar to those expounded in the oral and written evidence of the main parties and recorded in the preceding sections of the Report. These will not generally be repeated.

REPRESENTATION RECEIVED TO APPEAL A

252. DLP Planning objected to the proposal on behalf of **Hallam Land Management Ltd** who control land to the east and west of the A413 in the vicinity of the site (*Document CD/10.8*). They consider that the most reliable evidence of when the WLR is likely to be built is late 2014. They doubt that 200 dwellings could be delivered annually bearing in mind what has been

achieved at Weedon Hill and that no funding from the Homes and Communities Agency would be available. On the basis of the Buchanan study the rate is likely to be considerably less. The 232 dwellings that are likely to be built would make an insignificant contribution to reducing the shortfall in housing land supply. The transport work is flawed due to out of date modelling and incorrect assumptions. No infrastructure improvements are being proposed to accommodate the additional traffic and there is no evidence that the Travel Plan measures could achieve a 20% modal shift.

REPRESENTATIONS RECEIVED TO PLANNING APPLICATION A

253. **Aylesbury Town Council** did not specifically object but was concerned about prematurity and the effect on the SAM from wider recreational use.
254. There were some 31 objections from **local residents** submitted in respect of the original application and about 16 objections to the amended proposal. Additional points raised by **local residents** concerned the following matters:
- Further congestion on the Chiltern railway line.
 - Insufficient healthcare and schools. The promised amenities may take years to deliver.
 - Serious deterioration of the local social landscape.
 - Loss of irreplaceable prime agricultural land and adverse impact on natural habitat and wildlife.
 - Adverse impact on surrounding villages which would lose their historic character and sense of community.
255. **Waddesdon Parish Council** made clear that it also represented those living in the parishes of Quarrendon and Fleet Marston who have no Parish Council of their own. It had additional concerns about the effect on the villages of the additional traffic travelling along the A41 including during the construction phase. **Hardwick Parish Council** raised further concerns about flooding. There were a number of additional points made by **Weedon Parish Council**, including whether the additional housing was needed either in the short or longer term. The use of 2005 traffic data was considered out of date and taking account of the poor uptake of modal shift schemes in other developments the assumptions made by the Appellants in this regard were questioned. There were also concerns about the effect of light pollution extending into the countryside and about the impact on wildlife, including the prized Black Poplar. These effects would be all the greater bearing in mind that there are two other urban extensions in close proximity.
256. Additional points by **Buckinghamshire Garden Trust** included adverse changes to the hydrology of the SAM and impacts on key views from the Grade I listed Waddesdon Manor.
257. Milliken & Company object on behalf of the **Waddesdon Estate**, the **National Trust** and **Historic House Hotels Ltd (Hartwell)**. They had strongly objected to Berryfields and had been assured that it would be a freestanding and self contained development. The concern relates to the adverse impact on the historic Vale of Aylesbury. They consider that since the CS was withdrawn

there is a change in stance by the Council and that the Planning Committee decided not to endorse large scale developments. It is likely that lower growth spread more evenly across the district will be favoured.

258. The representations are summarised in the Committee Report and can be found in full in the questionnaire (*Documents CD/3.14; CD/10.3*).

REPRESENTATIONS RECEIVED TO PLANNING APPLICATION B

259. About 40 objections were received from **local residents**. Additional points to those already reported were:

- Noise, shadow flicker and vibration would unacceptably impact on nearby residents.
- The turbine would dominate the view from houses and gardens.
- There would be serious health implications to those living nearby.
- There are many balloon operators within this area and the turbine would cause safety problems and have financial implications for these businesses.
- The energy consumed in making and erecting the turbine would be far greater than the energy it produces. The back-up supply further questions its green credentials.
- The wind would be insufficient to make installation worthwhile.
- Loss of farmland to provide the proposed access road.

260. **Buckinghamshire Gardens Trust and Garden History Society** echoes the concerns of others about the impact on the setting of the SAM and the damage to key views from Waddesdon Manor (Grade I), Hartwell House (Grade II*), Chequers and Halton House (both Grade II) and the SAM itself. It refers to English Heritage's *Wind Energy and the Historic Environment* which highlights the particular concern about the setting of historic sites.

261. **Weedon Parish Council** is concerned that there is no strategic evaluation of the potential and constraints for wind turbines in the district and considers that this should be addressed by the Council urgently. There is little evidence to support the claim that the turbine would operate for 30% of the time bearing in mind low wind speeds in the Vale. Noise from the turbine is likely to result in adverse effects, including sleep deprivation, to residents living nearby. The potential for electro-magnetic interference and the impact of shadow flicker has not been properly explored. Due to the prevailing wind direction noise would especially affect Weedon. There was also insufficient consultation to allow areas such as Quarrendon, which has no parish council, to consider the proposal.

262. **Waddesdon Parish Council** considered that the location of wind turbines should be determined on a sub-regional basis and not through ad hoc proposals. Apart from landscape concerns its position on lower ground would result in less wind. **Hardwick Parish Council** echoed the objections of others and was also concerned about the impact on wildlife and birds.

263. Milliken & Company objected on behalf of **The Waddesdon Estate, The National Trust and Historic House Hotels Ltd (Hartwell)** on the visual impact on the landscape and the Registered Parks and Gardens of Waddesdon Manor, Eythrope Park and Hartwell House. A similar point was made about a co-ordinated approach being needed to wind turbine development.
264. **Branded Sky** and **Champagne Flights** are hot air balloon companies which launch from a site at Watermead. This is within 2 km of the turbine and due to its height it could not be cleared safely and legally especially in windy conditions. Many local families enjoy this activity and having to relocate would result in serious financial loss.
265. The representations are summarised in the Committee Report and can be found in full in the questionnaire (*Documents CD/3.15; CD/10.3*).

RESPONSES FROM EXTERNAL CONSULTEES FOR APPEAL A

266. Consultation responses are at *Document CD/10.3* and are summarised in the Council's Committee Report at *Document CD/3.14*. The responses below are to the amended scheme.
267. **The Environment Agency** raises no objections subject to conditions relating to flooding, surface water drainage, biodiversity, contamination and SuDS. **Thames Water** raises no objection in terms of water infrastructure or foul drainage.
268. **English Heritage's** objections are at *Document CD/10.7*. It points out that the monument is an exceptional archaeological complex and of national importance. The SAM was subject of a detailed survey in 1990 and the results have been published by Mr Everson in the Records of Buckinghamshire 2001. There has been a variation on the previously accepted interpretation of the remains which includes the especially outstanding remains of the formal gardens associated with the Tudor mansion. The remains originally believed to be related to the Civil War are re-interpreted as pillow mounds associated with a rabbit warren possibly associated with the moated Tudor mansion. Quarrendon was recorded in the Domesday Book. The manor was acquired by the Lee family who were significant members of Elizabethan aristocracy in 1512. However by the 1560s the population had fallen to a very low level and the villages were deserted due to the wholesale conversion to pasture and the grazing of sheep. The significance of the monument is also partly due to its aesthetic value whereby it is easy to understand the changes that have occurred over the passage of time. There is a sense of desertion and emptiness even though the site is in relative proximity to the town.
269. The appeal site is clearly within the rural agricultural setting of the heritage asset. English Heritage refers to its guidance on setting which was in draft at the time of its letter but has now been published in its final form. It points to the advice about how setting can contribute to significance. In the case of Quarrendon this concerned the arable fields which were later converted to pasture and are still used for agricultural purposes. This is recognised by the Appellants and is the main reason why existing hedgerows are to be retained in the development, for example. There is a direct visual relationship between the SAM and its agricultural setting and this would not be preserved by the

appeal scheme. The historical association would be lost as would the sense of desertion and emptiness. The harm could not be mitigated by landscaping and retention of hedges because the fields would be replaced by houses. Substantial harm would be caused to the significance of the asset.

270. Policy HE9 indicates that permission should be refused unless the substantial harm to significance is outweighed by delivery of substantial public benefits. The contributions to a visitor centre and increased public appreciation are not sufficient to outweigh the harm.
271. **Thames Valley Police** considers that development of this scale would have a major impact upon the service and its operational infrastructure. There is no government or other funding to meet such increased demands. Achieving safe and sustainable communities through the funding of emergency services is a policy commitment at national, regional and local level. Contributions would be required in accordance with the formula in the police's Unilateral Undertakings – Police Contributions document. Contributions would go towards capital and staff costs and there may be a need for a small police office to be provided fully fitted for occupation by Thames Valley Police.
272. The **Primary Care Trust** commented that there should be sufficient capacity for new residents to be served by the new medical facility at Berryfields. However in case that is not so developer contributions towards an additional facility would be sought.

RESPONSES FROM EXTERNAL CONSULTEES FOR APPEAL B

273. Consultation responses are at *Document CD/10.3* and are summarised in the Council's Committee Report at *Document CD/3.15*.
274. **NATS** has no safeguarding objection. The **Civil Aviation Authority** made a number of recommendations relating to consultation with Luton Airport, Cranfield Airport and Aston Abbots Helicopter Landing Site. Comments were also made about painting the upper parts of the turbine white, lighting and consultation with the Ministry of Defence and NATS.
275. **English Heritage** raises no objection.
276. **Natural England** raises no objection and considers that whilst there would be a slight impact on the Chilterns AONB this would not be significant. The **Chilterns Conservation Board** considered the turbine would be a significant vertical intrusion in the vale landscape which would be exacerbated by the movement of the blades. It is not considered that the impacts on the setting and enjoyment of the AONB would be neutral. The development would not conserve or enhance the natural beauty of the AONB and it would dominate views to and from the AONB.

CONDITIONS

277. The Appellants and AVDC produced a list of conditions for each appeal which were discussed in detail at the Inquiry (*Documents ID/2/1; ID/2/2*). The conditions have been considered having regard to the above discussions and also the advice in Circular 11/95: *The Use of Conditions in Planning*

Permissions. The comments in this section and the condition numbers support and reflect the list produced in Annex C and Annex D of this Report.

APPEAL A

278. Although this is an outline proposal with all matters reserved for future consideration it has been accompanied by a considerable amount of supporting information. The Environmental Impact Assessment was also based on these details and it is important to ensure that the assessment in the ES is relevant to the development that is finally built. The Masterplan and DAS establish the vision and design principles and **Conditions 1-4** are necessary to ensure that these are carried forward into the scheme itself. The Masterplan and Parameter Plan are within the DAS and so I have used the drawing number in that document and made it clear that the relevant plans are those in the revised DAS dated March 2011. **Condition 3** is in the alternative and provides for a scenario whereby Appeal B is allowed and a scenario whereby it is not.
279. **Conditions 5-9** relate to the reserved matters and implementation of the development. It is intended to be built out in several phases over a 7 year period. Part of the justification for the appeal scheme is that it would make a significant contribution to the 5 year housing land supply. There is thus good reason in this case for a departure from the standard timescales in order to ensure that construction proceeds expeditiously. The Appellants have agreed to these shortened timescales. **Condition 10** specifies further details that are required in connection with the reserved matters. These details will provide necessary guidance and it is not unreasonable to ask for them with a development of this scale. However the suggested tree protection condition is unnecessary as it replicates **Condition 14**.
280. The building period will be over a number of years. Those living nearby, especially on the new Berryfields and Weedon Hill developments, will undoubtedly be inconvenienced. However the adverse impacts can be reduced if an effective Construction Management Plan is in place. This is provided by **Condition 11** and the hours of work are set out in **Condition 12**.
281. Although landscaping is a reserved matter **Condition 13** is appropriate because it includes a requirement to provide a strategy for the implementation, maintenance and long term management of the landscaped areas and open spaces. There are trees within the site and along its boundaries. **Condition 14** ensures that these are protected during the course of construction and follows the standard wording in the Circular. The Masterplan includes a green framework and the ES and its Addendum comment on the opportunity to increase biodiversity and create more diverse habitats. **Condition 15** is required to ensure a scheme that provides the necessary ecological mitigation and enhancement.
282. **Condition 16** is necessary in order to ensure that the recommendations in the Flood Risk Assessment are adhered to. The scheme would incorporate a SuDS system to manage surface water disposal. Effective management and maintenance is key to whether such drainage systems work properly especially in the longer term. **Condition 17** is thus essential in order to ensure that the necessary safeguards are in place. Barwood is concerned about whether the foul drainage system would be able to accommodate the development and

Condition 18 is necessary to ensure that satisfactory provision is made. It is noted that Barwood has fundamental concerns about whether the necessary capacity exists and therefore whether the matter could effectively be dealt with by means of a planning condition. For the reasons given in Paragraph 321 below it is considered that there is adequate justification to support the imposition of the condition.

283. There is no dispute that there are below ground archaeological remains of regional importance on the appeal site. The ES deals with mitigation measures and **Condition 19** is required to ensure that these are carried out in the appropriate manner. Policy NRM11 in the SEP seeks to promote the greater use of decentralised and renewable or low carbon energy in new development to secure at least 10% of its energy provision. Whilst a condition to this effect would be necessary if Appeal B is dismissed to accord with the policy requirement the environmental impact of alternative energy options has not been assessed. For the reasons given in Paragraph 334 below a condition cannot reasonably be imposed.
284. **Condition 20** concerns "A" class uses which are part of the mix that would provide new residents with facilities to meet their day to day needs. A condition restricting the size of these units and the scale of the overall provision is necessary to ensure that they are commensurate with the neighbourhood centre and the population it is intended to serve. The size of the community centre is indicated in the revised dimension tables in the DAS (*Document CD/ 10.4/4*) and it is appropriate that this should be specified in **Condition 21**.
285. **Condition 22** concerns refuse disposal and recycling and it is necessary on a scheme of this size to ensure that a co-ordinated approach is applied in a sustainable manner. Much of the appeal site is at a gradient and so it will be necessary to change levels to accommodate the development. In order to control the visual impact of such changes **Condition 23** requires details of floor levels in relation to existing and finished site levels.
286. **Conditions 24, 25 and 26** are required to ensure that the roadways, parking and turning areas are designed and provided in order to meet the needs of the development and to ensure the free flow of traffic in a safe and convenient manner. The development would be accessed from the WLR and **Condition 28** requires details of these access points. **Condition 27** requires the WLR to be completed before any part of the development is occupied. These are both necessary requirements as at present the WLR is not in place and it would not be satisfactory to have a development of this scale without proper linkages to the highway network.

APPEAL B

287. **Conditions 1, 13 and 14** are necessary to allow sufficient lead-in time for implementation and to provide for decommissioning and restoration at the end of the turbine's 25 year lifespan. **Condition 6** requires provision of a Construction Method Statement, **Condition 7** concerns removal of the temporary construction compound, **Condition 8** seeks a traffic management scheme, and **Conditions 17 and 18** require appropriate access arrangements

to the site of the turbine. All of these are necessary in order to minimise the impact of the development during the construction period.

288. A condition was suggested that requires details of the works within the highway that would be required to facilitate the transport of the turbine. However it is understood that such matters as road closures, temporary removal of highway infrastructure and the like would be dealt with through highway legislation. Indeed the condition requires an Agreement to be entered into with the Highway Authority. Such an Agreement cannot be required by condition and in any event the issue is covered by other legislation. In the circumstances the suggested condition would be unreasonable and unnecessary. Conditions have also been suggested regarding the accommodation of the vehicles of site operatives and precautions to prevent mud on the highway. These matters are covered by the Construction Method Statement under **Condition 6** and duplicate conditions are unnecessary.
289. **Conditions 3, 4 and 5** require further details regarding the specification of the turbine, its external appearance, colour and maximum height in order to limit its landscape and visual impact and to protect the living conditions of nearby residents. These conditions and **Condition 12** also address points raised by the Civil Aviation Authority about safety. **Condition 12** requires notification to the Ministry of Defence and has been added to comply with the mitigation in the ES Addendum (*Document CD/3.4/1, Appendix 15, Paragraph 15.3.5*). There is no dispute that there are below ground archaeological remains of regional importance on the appeal site. The ES deals with mitigation measures and **Condition 16** is required to ensure that this is carried out in the appropriate manner. **Conditions 9, 10 and 11** are necessary to mitigate the effect on living conditions of nearby residents due to possible shadow flicker, noise and television interference. They draw on information provided in the ES. **Condition 15** requires cabling to be placed underground and this would ensure that visual impacts were minimised.
290. **Condition 2** has been reworded to require that the development is carried out in accordance with the approved plans. This is for the avoidance of doubt and in the interests of proper planning.

PLANNING OBLIGATION

291. The Planning Obligation by Unilateral Undertaking (the Unilateral Undertaking) is dated 4 November 2011 and is made by the Oxford Diocesan Board of Finance ("The Owner") and Arnold White Estates Ltd to AVDC and BCC (*Document ID/3/10*). As a response to discussions at the Inquiry several draft documents were produced (*Documents ID/3/1; ID/3/7; ID/3/9*). Both AVDC and BCC submitted various comments and the Appellants submitted their responses (*Documents ID/3/2-ID/3/6*).
292. The covenants with AVDC and BCC are by the Owner save for those relating to the procurement of the exemplar bus service and the provision of the Travel Plan which are made solely by Arnold White Estates Ltd. The Appellants explained that Arnold White Estates Ltd have no interest in the land and therefore could not be bound by the obligations generally. However they were making a personal covenant in respect of the bus service and Travel Plan. The obligations involving the payment of money require the relevant public

authorities to enter into a deed of covenant that sets out how the contribution should be administered.

The main provisions are as follows:

293. **Community Facility Contribution:** At the start of Phase 3 a sum of £350,000 will be paid to AVDC for the construction of a community facility of about 1,500 square feet. If AVDC state in advance that it does not wish to accept the contribution then the Owner will provide the facility subject to obtaining the required approvals. Before any dwelling is constructed land for the community facility will be transferred to AVDC for a nominal sum. AVDC must complete the transfer within 12 months otherwise this obligation falls.
294. **Quarrendon SAM Contribution:** A contribution of £100,000 is made towards the Quarrendon SAM. This money will contribute towards the Quarrendon SAM Management Plan which is defined in the Berryfields Unilateral Undertaking and/ or a visitor centre and/ or providing better access to the monument. The payment will be staged with equal payments in the 4 development phases.
295. **Public Open Space Contribution:** A Public Open Space contribution of £500,000 will be paid to AVDC prior to the occupation of any dwelling on Phase 3 for the provision of formal and informal public open space. If prior to the date of this payment AVDC notifies the Owner that it does not wish to accept the contribution then the Owner will provide the facility subject to obtaining the necessary approvals. Before any dwellings are constructed on Phases 1-3 land to provide open space in that phase will be transferred to AVDC for a nominal sum. AVDC must complete the transfer within 12 months otherwise this obligation falls.
296. **Affordable Housing:** The Unilateral Undertaking sets out the arrangements for the provision, distribution and mix of affordable housing on the site. It specifies 351 affordable dwellings for rent and 117 shared ownership dwellings. This equates to 35% of the total housing provision with a 75:25 tenure split. On any phase no more than 50% and 80% of market homes can be occupied until 50% and 100% of affordable dwellings respectively are ready for occupation. In the event that an occupier acquires an affordable home by right there are provisions that require further affordable homes to be funded from the proceeds.
297. **Code for Sustainable Homes:** The provision is for Code Level 4 for the market houses or Code Level 3 in relation to energy consumption targets if the wind turbine has been procured.
298. **Education:** The Owner can choose whether to transfer land of around 2 hectares and pay a contribution of £6,914,160 to BCC for the purposes of a 420 place primary school and 60 place nursery or whether to provide the facility itself. If BCC is to provide the school it must complete the land transfer within 12 months or the obligation will fall. If the Owner is to provide the school there are a series of triggers and completion must be before 350 dwellings are occupied. There is also provision for a Bond to ensure that the school is delivered. Contributions of £9,704,042 and £100,000 are made to BCC towards secondary education and special needs provision. Payments will be staged between Phases 2-4 of the development.

299. **Exemplar transport scheme:** This requires BCC to set up an exemplar fund into which it will place the Bus Service Contribution of £1,000,000 from the Berryfields MDA, the staged payments by the Owner totalling £750,000 and the Travel Plan Contribution of £450,000. When the first of these payments has been made Arnold White Estates Ltd covenants to use best endeavours to procure for a 5 year period a bus service by a licensed operator to serve Berryfields and thereafter the appeal site. A high quality and frequent bus service is to be provided generally with a service frequency of 15 minutes to be built up having regard to occupancy rates. Arnold White Estates Ltd also agrees to provide and implement a Travel Plan to support the exemplar transport scheme. The Owner covenants to procure and install real time bus information up to a ceiling of £1,136,450. If the exemplar fund is not set up before the first dwelling is provided on the appeal site the obligations fall apart from the £750,000 payment towards the provision of a bus service by BCC.
300. **PPTC Contribution:** The sum of £1,617,770 towards the A41 PPTC is to be paid before construction commences on Phase 1. **Park and Ride/ Junction Improvements Contribution:** The sum of £700,000 towards the Weedon Hill park and ride facility is to be paid before the commencement of development on Phase 2. **Travel Plan Contribution:** The sum of £450,000 in staged payments over Phases 1-3. **Rights of Way Contribution:** The sum of £100,000 will provide links to Berryfields and/ or cycleways along the WLR.

CONCLUSIONS

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

301. Taking account of the oral and written evidence, my site observations and the matters on which the Secretary of State wishes to be informed the **MAIN CONSIDERATIONS** in this appeal are as follows:

Appeal A

- Whether the appeal proposal would deliver a sustainable urban extension in an efficient and timely manner that would contribute to the housing requirements of the district.
- The effect of the proposed development on the landscape
- The effect of the proposed development on heritage assets
- Whether the development would be accessible to a range of travel modes and would promote sustainable travel choices
- Whether the development would generate traffic that would cause unacceptable congestion or undue harm to highway safety
- Whether any permission should be subject to planning conditions and a Unilateral Undertaking

Appeal B

- The contribution of the wind turbine to the provision of renewable energy and combating climate change
- The effect of the wind turbine on the landscape and the Scheduled Ancient Monument (SAM)
- Whether any permission should be subject to planning conditions

APPEAL A

CONSIDERATION ONE: WHETHER THE APPEAL PROPOSAL WOULD DELIVER A SUSTAINABLE URBAN EXTENSION IN AN EFFICIENT AND TIMELY MANNER THAT WOULD CONTRIBUTE TO THE HOUSING REQUIREMENTS OF THE DISTRICT.

Introduction

302. The relevant development plan is the South East Plan (SEP), the Milton Keynes and South Midlands Sub-Regional Strategy (SRS) and the saved policies in the Aylesbury Vale District Local Plan (LP). The LP preceded the SEP and so its housing requirements are out of date and have not been saved. It lends no support for housing development on the appeal site. The SRS identified Aylesbury as a growth area but its provisions have largely been subsumed in the SEP [20; 23; 29; 127].

303. Barwood Land and Estates Ltd (Barwood) participated at the Inquiry as a Rule 6 Party. It has submitted a planning application which at the close of the

Inquiry was under consideration by AVDC. However the merits of this proposal, which does not benefit from a planning permission, or its comparative advantages and disadvantages are not a matter that is of pertinence to this appeal [4; 64; 66; 77; 202; 203; 204; 211].

Housing Requirements

The Development Plan

304. The Coalition Government is committed to the abolition of regional strategies and this is now enshrined in the Localism Act. The legal action undertaken by Cala Homes Ltd has established that the Government's intention is capable of being considered as a material consideration to which weight can be attributed by the decision maker. Clearly the amount of weight will reflect the stage in the process and the degree of certainty about the final outcome. At this point regional strategies are the subject of Strategic Environmental Assessment and this has not yet been completed. The Environmental Report has not identified any significant adverse impacts arising from revocation but has yet to complete the period of consultation. In the circumstances the government's intention to abolish the SEP can be afforded limited weight although this position may have changed by the time the Secretary of State makes his decision on the appeal [127; 128].
305. At the present time the SEP is the statutory strategic document and provides the most up to date policy position. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act it is thus the starting point in the determination of this appeal. In terms of housing numbers it is agreed by the main parties that there is between a 2.2 and 2.9 years supply of housing land in the district. It is unnecessary to spend time considering which of the two figures are correct because even taking Aylesbury Vale District Council's (AVDC) figure of 2.9 years the shortfall is very serious indeed [20; 38; 48].
306. Planning Policy Statement 3: *Housing* (PPS 3) makes clear that there should be a continuous 5 years supply of deliverable sites in order to ensure that there is a flexible, responsive supply of land for house building. By the time this decision is made it is possible that the draft National Planning Policy Framework (NPPF) will have been superseded by the final version of that document. However the consultation draft endorses the 5 year housing land supply requirement and indeed adds a requirement that a further 20% of the 15 year supply should be brought forward for flexibility. In view of the government's economic growth agenda as set out in the Ministerial Statement "*Planning for Growth*" it seems unlikely that the requirement for a 5 year supply of deliverable housing sites will be scrapped [31; 41; 48].
307. Aylesbury has been firmly established as a growth area in the LP, the SRS and the SEP. Policy MKAV3 in the SEP sets out the spatial framework for the Aylesbury growth area. It envisages an average rate of 840 dwellings a year and makes quite clear that the redevelopment of land within the existing urban area will be insufficient to accommodate such growth. Greenfield development will be necessary with sustainable urban extensions being integrated with new and enhanced public transport systems and interchanges. The policy refers to the sustainable extensions already approved through the LP at Berryfields and Weedon Hill. However the SEP makes clear that the scale and pace of

development will depend on the timely delivery of the necessary infrastructure to support it and Policy CC7 indicates that an Implementation Plan will be prepared which sets out the necessary investment to support the growth. As the Regional Planning Body has been abolished this task will not now be undertaken [23; 39; 134].

Prematurity

308. In October 2010 following the government's announcement that regional strategies were to be abolished AVDC decided to withdraw its emerging Core Strategy (CS) which was part way through the examination process. Work on a new CS entitled the Vale of Aylesbury Plan has started but this is at a very early stage and adoption is not likely until 2014. There is no reliable information available at present about the level of growth that is envisaged for the district or how it will be distributed. Reference was made by the parties to a study by GL Hearn entitled "*Housing and Economic Growth Assessment*" which will form part of the evidence base for the new CS. This contains a range of figures relating to housing need and demand. However it is not possible from this work to conclude that the housing targets in the new CS will be similar to those in the SEP [21; 44; 50; 132; 257].
309. The Government is committed to a localism agenda. However there is no credible alternative housing requirement figure on which to rely at the present time, albeit that the SEP target comes with a number of caveats concerning public transport integration and employment growth. This is likely to remain the position even if the SEP has been revoked by the time this appeal is determined. The SEP is supported by a robust evidence base that has been subject to public scrutiny. Taking account of the very early stage that the Vale of Aylesbury Plan has reached and its untested and incomplete evidence base this is not a case where prematurity can successfully be argued bearing in mind the advice in Paragraphs 17-19 of *The Planning System – General Principles* and PPS 3 [38; 44; 128; 253].
310. AVDC is clearly in a difficult position whereby its vision for the future of the district and Aylesbury in particular has not yet been formulated for a non-SEP world. The CS Inspector did helpfully produce an Interim Report before the emerging plan was withdrawn. This gave his views on growth around Aylesbury on the basis of the evidence from the examination, which included representations from the present Appellants on the merits of their proposal. Whilst my colleague did not dismiss the appeal site as a future sustainable development opportunity he did not specifically endorse it in these terms either [21; 44; 58; 209; 210; 212].
311. Notwithstanding the concern of the Appellants it does not seem to be the case that AVDC is seeking to impose a moratorium on new housing growth until its policy position is settled. Such an approach would not comply with government policy in PPS 3 or that advanced in the draft NPPF. From the evidence it is clear that AVDC still considers that Aylesbury is a suitable location for growth, albeit that the scale of that growth may change in the future. However the town does undoubtedly suffer from serious problems of congestion partly caused by the lack of local employment and the prevalence of out-commuting. AVDC is therefore seeking to deal with development proposals in an integrated manner to ensure that they are fully supported by

appropriate infrastructure. To this end it invited a collaborative approach with developers proposing urban extensions including those at Fleet Marston, Broughton Stocklade and the appeal site. This is a commendable way forward but it should be noted that there is no certainty that either the Fleet Marston or the Broughton Stocklade proposals will be granted planning permission and thus help resolve the district's short term housing land supply problems. In the case of Fleet Marston the development proposal has been on the table for some time and there are clearly issues to resolve such as its relationship with the High Speed 2 Rail Link [45; 47; 49; 50; 142; 208].

Contribution to the five year housing land supply

312. Within this rather uncertain policy climate one of the key considerations is whether the appeal scheme has the potential to make a significant contribution to the district's 5 year housing land supply. Indeed this is a major premise on which the site is being put forward by the Appellants. Whilst the proposal is not as large as developments such as Berryfields it is still of sizeable scale. Although PPS 3 also requires local authorities to identify a longer term supply of developable sites the position later in the trajectory is likely to be addressed in the Vale of Aylesbury Plan. The relevant period in terms of short term supply is 2012 to 2017 and it is the Appellants' estimate that they could build out 650 dwellings within this timeframe. If this quantum of housing could be delivered it would be a significant factor in favour of the appeal scheme [34; 35; 63; 136; 142].
313. However no specific measures have been put forward to guarantee early delivery of homes on the appeal site. The only requirement is through the planning conditions whereby a shorter timeframe to the standard implementation period has been agreed. A start must be made 3 years from the date of the outline planning permission or one year from the approval of the last reserved matter for Phase 1, whichever is the latest. Even so these conditions do not ensure that homes would be ready for occupation at any particular date. Whilst the Appellants say that they intend to undertake development as soon as possible there are several factors that will affect their ability to do so. These in turn will affect the likely contribution of the site to the short term supply of housing [140; 220; 221].

Delivery of the Western Link Road (WLR)

314. At the moment the appeal site has no road access. The development relies on the construction of the WLR which is presently unbuilt apart from the junctions with the A41 and A413 at either end. By virtue of a Legal Agreement with Taylor Wimpey, the Appellants have the right to connect into the WLR and use it to serve their development. However when the WLR will be open for public use and thus able to perform this function is a matter of dispute between the parties. Its delivery depends on a complex set of triggers enshrined in the Legal Agreements to the Berryfields and Weedon Hill planning permissions. Most of these triggers are now of historic interest and the most relevant one relates to the point when a combined total of 1,500 houses have been completed with not less than 611 of these dwellings being at Berryfields. AVDC's housing trajectory indicates that this point will be reached towards the end of 2013. The trajectory was based on the position in March 2011 and it is

understood that it was informed by the input of developers, including Taylor Wimpey [12; 16; 60; 62; 222].

315. It is noted that that in September 2011 Taylor Wimpey said that based on their current build programme the WLR is not likely to be built until late 2014. However in further correspondence at this time the house builder confirmed that the 600th dwelling at Berryfields is likely to be completed in the third quarter of 2013/14, which is in line with AVDC's trajectory. If the existing and forecast completions for Weedon Hill from the trajectory are factored in as well that site would have contributed just over 900 units within the same period meaning that the 1,500 dwelling trigger point would be reached during the third quarter of 2013/14. There is no evidence that the build rates for Weedon Hill are wrong and in the circumstances it is difficult to reconcile Taylor Wimpey's latest statement about a delay to the delivery of the WLR [61; 252].
316. It is possible that when the trigger point is reached all development at Berryfields will be brought to a halt so that construction of the WLR can be delayed. However this seems a rather improbable position for a national house builder to adopt especially bearing in mind the amount of investment in infrastructure that has already been committed. It would be an extreme response if the purpose were to block the development of a competitor. Whilst the Appellants referred to the possibility of linking in to the completed Weedon Hill end of the WLR at an earlier date there is no evidence that the eastern section of the road is likely to be built in advance of the rest. For all of these reasons it is not unreasonable to expect that the WLR will be in place by late 2013 [62; 63; 141; 222].
317. It would not be satisfactory to permit dwellings on the appeal site to be occupied without a proper road access and a condition has been agreed to this effect. In theory there is no reason why construction could not start before the WLR is fully operational and the Legal Agreement with Taylor Wimpey allows for this once it is constructed to base course level. Whilst it also permits a right of way between the appeal site and the A41 it seems improbable that a temporary haul route would be constructed by the Appellants solely for the purpose of advancing construction by a few months. Such would in any event require planning permission and would also be likely to add a considerable cost to the project. The Appellants indicated in oral evidence⁸⁶ that building works would commence in late 2012 early 2013 and that the first houses would be available for sale in late 2013 or early 2014. However for the reasons given above this seems an unlikely scenario. Also to be factored in is the time for approval of reserved matters for Phase 1 along with a number of quite complex pre-commencement conditions. Internal roads, drainage and other infrastructure would also need to be in place. In the circumstances having houses ready for occupation in the timeframe envisaged seems rather improbable [62; 223].

Rate of house building

318. The Appellants anticipate that they would be able to deliver 200 dwellings a year from the start. This seems overly optimistic for a number of reasons.

⁸⁶ This information was given by Mr Gardner in answer to my questions regarding delivery.

Reference was made to a research study by Buchanan entitled "*Housing Delivery on Strategic Sites*". This considers the lag times between application submission and first build and the annual build rate for a number of strategic sites of different sizes. For sites of the size proposed here the average lag time was 4.7 years with a variation of between 1 year and 13 years. The average build rate was 101 dwellings per year with a variation of between 3 and 324. In order to achieve the anticipated output on the appeal site the lag time would only be 3 years. [63; 64; 224].

319. The Buchanan study was based on completions between 1980 and 2004 and so has included ups and downs in the economic cycle. Whilst the Appellants' estimates fit in with the ranges given in the study they are well above the average levels at a time of low economic growth and austerity. It is also relevant to consider the rates of delivery that have been achieved locally. The Weedon Hill Major Development Area (MDA) is relatively well advanced and of comparable size. The trajectory shows that this achieved 204 dwellings in 2008/9 and 181 in 2009/10 but otherwise it achieved less than 125 units a year [64; 224].
320. Berryfields is only just getting underway and it is understood that construction so far has been mainly affordable housing benefiting from grant subsidy. It is not known how this will affect future delivery of market housing although as noted above Taylor Wimpey anticipate building in accordance with the trajectory which shows 300 dwellings a year. However Berryfields is a much larger scale development and the Buchanan study anticipates higher average build rates of 330 dwellings per year. It cannot thus be used as a comparator for the appeal development. Furthermore the appeal site would be competing for the same pool of available purchasers as the two adjoining MDAs which are both further advanced and so better established. It would not make good business sense to build houses and have them stand empty. This is another factor that would affect how quickly homes from the appeal development are brought to the market. For all of these reasons it seems unlikely that a consistent delivery rate of 200 units per annum will be achieved or that delivery will commence as quickly as the Appellants anticipate [139; 141; 225; 252].

Foul sewage disposal

321. Barwood has questioned whether there is sufficient capacity within the sewers or at the sewage treatment works to serve the proposed development. It is noted that the Berryfields development is limited in terms of its discharge rate and undoubtedly improvements to the sewerage system will need to be made. However Thames Water has not objected to the appeal proposal and has confirmed that the necessary arrangements for disposal of foul sewage including sewage treatment infrastructure can be delivered to serve the development within the necessary timescale. In the circumstances this in itself does not seem to be an overriding obstacle to the delivery of the scheme in a timely manner [65; 249].

Viability

322. The question of viability was discussed at some length at the Inquiry but no detailed viability assessment appeared to have been undertaken. Usually this

would not be necessary if the full policy requirements are being met as is the case here. Nevertheless there are some points of concern especially relating to the affordable housing provision. The application proposal was predicated on a 30% provision of affordable housing on the basis of grant money being available. At the pre-Inquiry meeting it was pointed out that the policy level in the SEP was 35% without grant and the proposal was subsequently amended to meet this provision. However the tenure split between affordable rent and intermediate remained on the basis of 30% provision. It was not until well into the Inquiry itself that this was corrected. As a consequence the number of affordable rented units was substantially increased to accord with the regional target in Policy H3 of the SEP. Whilst negotiation in order to remove areas of dispute is always commendable the significant last minute changes to the affordable housing provision seem to have arisen unilaterally in an attempt to make the proposal policy compliant [2; 25; 66; 140; 218; 219].

323. Affordable housing represents a considerable cost to any development and here it is in addition to the £22m of infrastructure contributions. The additional quantum, the absence of grant funding and the lower proportion of shared ownership units would entail a not insignificant financial burden and no evidence has been provided to give confidence that these further costs, which materialised well into the appeal process, could be absorbed. It is not doubted that the Appellants are committed to the scheme or that the affordable housing provision as now proposed would result in a considerable benefit. However on the basis of the available information it is not an unreasonable conclusion that at the very least house building is likely to be delayed or slowed down to await an upturn in values and returns [67; 68; 140; 218; 219].
324. For all of the above reasons it is concluded that the appeal site is likely to make a much more modest contribution to reducing the 5 year housing land supply deficit than the Appellants anticipate. In the circumstances the benefit derived from early delivery is of limited significance in this case.

Sustainability

325. Paragraph 71 of PPS 3 indicates that in the absence of a 5 year supply of deliverable sites proposals for housing should be viewed favourably subject to the considerations in Paragraph 69. In the Statement of Common Ground it is agreed that the areas of dispute in this regard are whether this is a suitable site for housing and whether the proposal is in line with planning for housing objectives reflecting the need and demand for housing and the spatial vision for the area [130].
326. In the SEP the growth of Aylesbury is predicated on urban extensions that are sustainable. The draft NPPF and the Ministerial Statement "*Planning for Growth*" also have sustainability as a central theme and it is probable that the Vale of Aylesbury Plan will do likewise. I return to this key matter in my final conclusions once issues concerning landscape, heritage and transport have been addressed. One point to be considered here though is whether an urban extension requires employment provision in order to be sustainable [41; 126].

Mix of uses

327. The appeal proposal includes no employment provision apart from the relatively limited number of jobs to be provided in the neighbourhood centre and school. There is no national or local policy requirement that an urban extension has to include jobs in order to be considered sustainable. On the other hand it was not disputed that the appeal development would result in a new population of over 3,000 residents who would generate a requirement for 1,400-1,500 new jobs. The appeal development is about the same size as Weedon Hill and this includes no employment provision despite being referred to as a "sustainable urban extension" in the SEP. However that development was allocated in the LP when a different policy context applied and the LP Inspector was satisfied that there were sufficient job opportunities including at Berryfields. The situation has now changed with the considerable level of job growth anticipated in the SEP [55; 213].
328. The Appellants consider that sufficient opportunities already exist within the town and point out that there are strategic employment sites at Aston Clinton Road and at Westcott. However it is relevant to note that despite being allocated as a MDA in the 2004 LP Aston Clinton Road has not yet come forward. Furthermore, the evidence suggests that the take-up at Westcott, which is a former airfield, has been slow. Whilst it is naïve to expect that all the jobs provided on the appeal site would be filled by its residents such employment would provide the opportunity to work locally and avoid commuting. The SEP makes clear that out-commuting is a particular problem and it is important to ensure that it does not get any worse. The spatial strategy thus encourages the provision of jobs apace with the provision of new housing. Policy MKAV3 sets an ambitious target for new jobs in the district and most of them are to be in and around Aylesbury [23; 54; 111; 134; 215; 216].
329. The Roger Tym/ Lambert Smith Hampton Report "*Aylesbury Vale Employment Land Study*" (ELS) indicates that there is a particular need to concentrate on small, good quality offices. The Berryfields MDA includes 10 hectares of employment land. The ELS questions whether this is in a suitable location but this was in the context of Aston Clinton Road coming forward to provide an attractively located strategic site. In addition when the ELS was published development at Berryfields had not commenced and the comparative conclusion was perhaps a reasonable one. Even though there may not have been any commercial interest in the Berryfields employment land yet it is relevant to note that the development only got underway in 2010 whereas Aston Clinton Road remains unimplemented [56; 138; 215].
330. Whilst office development will take place in the town centre that does not exclude it from elsewhere. Small scale offices are just the sort of use that may be expected to be found as part of the mix within an urban extension. There is no evidence that the employment provision at Berryfields will not manifest in due course. This was considered to be appropriate to the scale of that MDA and there is no support for the contention that workers from the appeal site are needed to shore up its viability. There is also no evidence that an employment area at the appeal site would either be unviable or weaken the Berryfields offer. It is not unreasonable to expect that some of those living on

the appeal site would work at Berryfields just as some Berryfields residents would have jobs at the appeal site if an area of employment were provided. However this does not alter the fact that the appeal site makes little material contribution towards the job needs of its population. In the circumstances it is likely that many new residents will have to travel further afield to find employment thus exacerbating problems of out commuting [54; 57; 137; 138; 214; 241].

331. Taking all of these factors into account it is considered that in this case the lack of meaningful employment provision on the site reduces the sustainability credentials of the appeal proposal.

Energy provision

332. Although Appeal A and Appeal B are to be considered independently it is proposed that all of the electricity requirements of the development would be provided by the wind turbine. The generating potential of the turbine has not been seriously challenged. Policy NRM11 in the SEP sets a minimum target of 10% of energy requirements from decentralised and renewable or low-carbon sources. The proposal clearly exceeds this and should be seen as a benefit which complies with national planning policy objectives for renewable energy including in PPS 22 and the draft NPPF [27; 113; 115; 259; 261].
333. The wind turbine would only be operational for 25 years which is considerably less than the lifetime of the development. No provisions have been made to secure the continuation of a sustainable energy supply thereafter. Whilst requirements could continue to be met through wind power there may be other more advanced technologies available that offer greater efficiencies. At this stage however such opportunities have not been assessed. The future position is thus unknown and so the benefit that the Appeal A development would derive from the wind turbine is reduced due to its short term nature [17; 124].
334. The Unilateral Undertaking requires that market housing should be built to Level 4 of the Code for Sustainable Homes in the event that Appeal B is dismissed. A planning condition has also been suggested to specify that 10% of energy provision would be from decentralised sources in accordance with targets set out in Policy NRM11 of the SEP. The Appellants suggested that such sources could include photovoltaic panels or heat source pumps but the impact of such technologies has not been addressed in the Environmental Statement [283; 297].
335. It is appreciated that Application A is in outline form. However the site is in a sensitive location in relation to the Scheduled Ancient Monument (SAM) and also contains buried archaeological remains of regional importance. The installation of photovoltaic panels on the roofs of houses on the south facing hillside and the placing of heat source pumps underground could therefore have significant impacts on heritage assets. Whilst it is quite possible that these effects would be benign it is impossible to judge in the absence of an assessment. The Appellants referred to off-site provision through Allowable Solutions but at the present time there appears to be no provider for such a scheme. If the Secretary of State decides to allow Appeal A but dismiss Appeal B the environmental implications have not therefore been adequately assessed. Consequently the matter could not be resolved by a planning

condition. In such circumstances the development could not claim that it would be sustainable in terms of its energy provision [27; 114; 122; 123; 297].

Conclusion

336. AVDC has a serious housing land supply shortfall based on the SEP housing targets. Whilst these are likely to be abolished following the demise of regional strategies there is no credible alternative requirement on which to assess the housing needs of the district. The spatial strategy includes housing growth at Aylesbury mainly through sustainable urban extensions. It also relies on a substantial increase in job provision to help stem the amount of out-commuting. Whilst the Vale of Aylesbury Plan will eventually provide a new strategy and re-assess housing requirements it is at a very early stage and cannot be relied upon at the moment.
337. The appeal scheme would help to address the housing land supply shortfall. However its contribution towards resolving the 5 year deficit is unlikely to be as great as the Appellants anticipate. The weight given to early delivery is thus limited. In the longer term the Vale of Aylesbury Plan will provide a locally derived vision and strategy that reflects the needs and priorities of AVDC and the local communities it represents [132].
338. Paragraphs 71 and 69 of PPS 3 are engaged and set out a number of criteria against which proposals such as the appeal scheme should be judged. Whilst an overall conclusion on sustainability will be reached in Paragraph 395 at the end, the lack of employment opportunities weigh against the scheme in the circumstances pertinent to Aylesbury. Although the proposed wind turbine would bring a renewable energy benefit this would be for a temporary period and then only if Appeal B were allowed.

CONSIDERATION TWO: THE EFFECT OF THE PROPOSED DEVELOPMENT ON THE LANDSCAPE

339. Both national and local planning policy seeks to protect the countryside from harmful forms of development and there is no reduction in protection due to proximity to the urban boundary. In fact the concept advanced in the Green Infrastructure Strategy for a Countryside Access Gateway emphasises the importance of the rural area close to the edge of the town. In the SEP Policy C4 aims to protect and enhance local landscape character and Policy CC6 seeks to respect the character and distinctiveness of the landscape. The Aylesbury Vale Landscape Character Assessment (LCA) places the appeal site within the "Northern Vale" Character Area. There is no convincing evidence that this is other than a robust piece of work that has been undertaken in accordance with the methodology appropriate to such assessments. The appeal site is an integral part of the Northern Vale landscape and it is reflective of the wider character type [24; 147; 149; 151].
340. The Northern Vale is typified by an open, large scale agricultural landscape with an irregular shaped pattern of fields bounded by hedgerows. The area contains a number of deserted medieval village sites and is sparsely populated. The low lying vale is crossed by several shallow valleys and is defined by hills to its north and south. Although the Northern Vale is not protected by any national landscape designation the LCA establishes its condition as good and

its sensitivity to change as high. The LCA concludes that the character of the area should be conserved and it provides a series of guidelines. These include the restoration and enhancement of the original field patterns, maintenance and improvement of hedgerows and preservation of heritage features and their setting [145; 146; 147; 148; 149; 151].

341. The Appellants' assessment of landscape and visual impacts (LVIA) is within the ES and is said to comply with the *Guidelines for Landscape and Visual Impact Assessment*. However it has a number of shortcomings. The main criticism is that contrary to the advice in the Guidelines the procedure is neither clear nor replicable. The magnitude of impacts seems to be weighted in favour of beneficial outcomes and there are no attributes assigned to moderate or slight impacts making it difficult to understand how they contribute to significance. Furthermore it was conceded at the Inquiry that some of the impacts had been inaccurately recorded and that visual impacts on receptors along what will become the WLR route had not been considered. For these reasons both the landscape and visual impacts are likely to have been under estimated and the assessment in AVDC's landscape evidence is more robust and to be preferred⁸⁷ [143; 154; 155].

Landscape Impact

342. The fact that the appeal site is only a small part of the Northern Vale Character Area does not seem particularly relevant to a consideration of impact significance. That it is typical of its landscape type means that it has a role to play in contributing to the whole. The Appellants' LVIA takes issue with the sensitivity rating of the Northern Vale landscape in the LCA and concludes that it is the setting of the SAM and its associated field system that warrants high landscape sensitivity. There is no dispute that the appeal site is within the setting of the SAM and this undoubtedly increases the sensitivity of this part of the landscape to change. However that does not necessarily mean that the landscape within the Character Area as a whole does not have an intrinsic worth [71; 149; 150].
343. From the revised DAS and Masterplan it is clear that many of the guidelines referred to in the LCA have been followed. Mitigation measures include the retention and reinforcement of the main hedgerows and planting of native vegetation including the locally prized Black Poplar. However another important guideline is restoring and enhancing the original field pattern and this would largely be lost if the arable fields were filled with built development. The pattern of agricultural fields bounded by hedgerows would be completely changed and the built development itself along with the proposed new planting would be likely to diminish views of the pattern of hedgerows in the wider landscape [73; 74; 154].
344. The Appellants place some store on siting the new development on the south facing slopes. However the assertion that such a development pattern is typical of local villages in the vicinity does not seem to be supported by observation. Nevertheless containment within the Thame Basin was a particular matter of importance to the LP Inspector in relation to the

⁸⁷ This is in Mr Bellars' proof of evidence at **Document AV/1/1** and summarised on Page 106.

Berryfields MDA. He recommended that the new buildings should be sited down from the ridge to limit the visual intrusion in the wider vale landscape. There are a number of such ridges within this part of the Northern Vale and these vary in height. Whether the ridge that crosses the western part of the appeal site is a spur or merely a lower section of the main ridge running from Weedon it remains the case that a significant number of houses would spill over the top and occupy the north western slopes. For these reasons I concur with the AVDC assessment that the development would result in a significant adverse impact on landscape character, notwithstanding mitigation [10; 36; 72; 154].

Visual Impact

345. Much of the appeal site comprises the south facing slopes of the shallow valley sides of the River Thame. From the south the visual change would be particularly striking with the introduction of built development. This would particularly impact on visitors to the SAM who would experience a considerable change to the present rural and tranquil setting of the monument. The impact on the setting of heritage assets is considered in the next section but there is no doubt that the presence of the monument increases the sensitivity of views from this direction. Although the WLR will in itself introduce change this has been carefully planned to sit on lower ground with hedgerow planting along its southern side to minimise its impact on the SAM. Whilst there would be lighting around the main junctions it is understood that the stretch in between would remain unlit and essentially rural. By contrast an urban development to the north would represent a significant and unwelcome change for those travelling along this route [10; 150; 154; 155; 164].
346. The proposed wind turbine in Appeal B would be located on lower ground close to the northern boundary and the new development would be seen on rising ground in front when viewed from the south. Whilst the moving blades would catch the eye it is difficult to see how this would exacerbate the visual harm already identified in relation to the Appeal A development [154; 196; 250]
347. Following an extensive site visit to public viewpoints to the north and west it was clear that a not insignificant number of new houses would be seen both in long and short distance views. The ridge to the west of Berryfields is relatively low and the new houses on the north western slopes would in places be clearly seen above it. This would result in visual intrusion into the wider vale landscape which, as noted above, was something that the LP Inspector sought specifically to avoid in relation to the Berryfields MDA [72; 154].
348. A package of mitigation measures is proposed and this includes extensive new planting, creation of open spaces and grassland. The planting would grow and mature but taking account of the rising ground this is unlikely to provide effective screening. In any event heavy woodland planting is not typical of the vale landscape and this was a particularly important finding of the LP Inspector in connection with the siting of development at Berryfields. Furthermore such screening if successful would obscure the connection between the SAM and its setting. I therefore concur with the AVDC assessment that the development would result in a significant adverse visual residual impact [72; 73; 76; 154; 166].

349. AVDC commissioned a Visual Impact Assessment and a Landscape Impact Assessment to inform strategic decisions on the location of future growth at Aylesbury. This amalgamated potential development sites together into four growth options with the appeal site being part of the growth arc to the north of the town. This scored highest in terms of potential for landscape and visual impact although when the scores were disaggregated the development site of which the appeal land formed a part fared significantly better. AVDC was critical of some elements of these assessments and suggested that the impacts in relation to this development site were under played. Whether or not that is the case it is important to recognise that this was a comparative exercise for the purpose of strategic decision making whereby the merits of different growth options were being tested relative to each other. It thus has limited value in the present case where it is necessary to consider the specific development proposal and the significance of the landscape and visual impacts that would ensue [58; 69; 70].
350. Reference was made to the two nearby MDAs and it is undoubtedly the case that they are being built on land with similar landscape characteristics to the appeal site. However this does not ameliorate or justify the adverse landscape and visual impacts that would arise from the appeal development. Apart from their locational differences to the site on which the appeal scheme is proposed both Berryfields and Weedon Hill were LP allocations. Impact on the landscape will have been considered along with all the other factors pertinent to those developments during the LP process [71].
351. Once completed Berryfields will have a natural defensible eastern boundary along the Hardwick Brook. Conversely the eastern boundary of the appeal site has no specific topographic delineation and its landscape character is similar to that of the land on the other side of the eastern perimeter hedgerow. It would thus be difficult in landscape terms to see why development should not extend as far as the A413. Furthermore the location of the site relative to Berryfields and Weedon Hill would result in an arc of development to the north of the SAM. Whilst it is acknowledged that there would be gaps between the appeal development and the MDAs these would be relatively insignificant especially in the case of Berryfields. Whether or not the appeal scheme would be akin to the concentric “doughnut” growth pattern that the Taylor Review sought to discourage there would still be a serious diminution in the visual connection between the town and the countryside which the appeal site presently provides and the Countryside Access Gateway seeks to promote [11; 36; 71; 75; 88; 147; 151; 152; 153; 154; 206; 240].

Conclusion

352. For all the above reasons it is concluded that the appeal development would be unduly harmful to the landscape. This would be contrary to development plan policy including Policies CC6 and C4 in the SEP and saved Policies GP.35 and RA.2 in the LP. It would also conflict with PPS 7 which seeks to protect the countryside from unwarranted development.

CONSIDERATION THREE: THE EFFECT OF THE PROPOSED DEVELOPMENT ON HERITAGE ASSETS

353. The Assessor's Report is at **Annex E**. His conclusions are that the Appeal A scheme would have a significant detrimental impact on the setting of the SAM and would damage regionally important below ground remains contrary to Policy BE6 in the SEP, saved Policy GP.59 in the LP and Policies HE7.4 and HE9.1 in PPS 5. These conclusions are endorsed.

CONSIDERATION FOUR: WHETHER THE DEVELOPMENT WOULD BE ACCESSIBLE TO A RANGE OF TRAVEL MODES AND WOULD PROMOTE SUSTAINABLE TRAVEL CHOICES.

354. The appeal site is some distance from the town centre and would not have direct access to either the A41 or the A413 Primary Public Transport Corridors (PPTCs). Instead it would be served by the WLR which, when constructed, will provide a link between the two. Whilst locating development off a radial route may be atypical of Aylesbury there is no reason why it should be inherently unacceptable in terms of accessibility. It would be a relatively short distance from the site entrances to the PPTCs along the WLR. This would incorporate a footway/ cycleway and so would allow residents to reach Aylesbury Vale railway station and the Park and Ride sites without the need for a car. Although some trains may be crowded at peak times this is an issue that needs to be resolved by the train operator and is not unique to Aylesbury [**12; 16; 53; 77; 96; 112; 180; 246; 243; 254**].
355. There is though no specific provision for pedestrian links between the appeal site and Berryfields. Whilst it may be possible to provide such connections it was clear from the evidence given at the Inquiry that no discussion about this had taken place with Taylor Wimpey. The only certain way to access Berryfields district centre, for example would be via the WLR. This is a missed opportunity especially as some reliance is placed by the Appellants on the advantages of an integrated development with Berryfields and its facilities [**36; 57; 182**].
356. PPG 13 makes clear that Travel Plans are an important tool in the delivery of sustainable transport objectives and that they should be submitted alongside planning applications that are likely to have significant transport implications. They are also endorsed in Policy T5 of the SEP. The Travel Plan measures are especially important for the appeal scheme because most residents will have to travel elsewhere especially for purposes of employment. In this case it is proposed to implement a Community Travel Plan and its provisions would extend to Berryfields. As this development has no Travel Plan of its own this would undoubtedly be beneficial. There are many good initiatives in the Travel Plan including the provision of real time passenger information to individual homes. The assumption is that as well as the 20% modal shift that would arise from Travel Plan initiatives at the appeal development a further 10% would arise from their extension to Berryfields. The effectiveness of the Travel Plan in encouraging modal shift would in large part rely on the operation of a fast, reliable and high frequency bus service between the appeal site and the town centre [**26; 101; 102; 103; 106; 110**].

357. An important element of the sustainable travel package is the exemplar bus service. It became clear during the Inquiry that rather than being a bespoke service for the appeal development it would be an extension of the existing No 2 route and would also serve Berryfields. The No 2 route circulates through the Quarrendon estates either side of the A41 and then goes on to the town centre. This would be extended to run in a loop through the Berryfields development and then on to the appeal site. New residents would therefore have a relatively circuitous journey which would reduce the attractiveness of the bus as a mode of travel to the town centre. This would be exacerbated by the absence of dedicated bus lanes along the A41 so that the bus would sit in congestion in common with other road users. The estimated 24 minute journey seems overly optimistic especially during the morning and afternoon peaks. It is likely that in such circumstances many new residents would consider a car trip as a more attractive and convenient alternative [109; 177; 181].
358. In theory it makes sense to have one bus service to serve Berryfields and its proposed new neighbour. The Appellants have chosen a Unilateral Undertaking as the mechanism for delivery. However in order for the provisions to come about BCC is required to set up a dedicated fund from which the Appellants can draw in order to provide the bus service. Furthermore BCC is required to enter into a deed of covenant that agrees to place into the fund the Berryfields bus service contributions. BCC has not agreed to these provisions, which may also involve a cost to the public purse. Furthermore the bus service itself is to be provided by Arnold White Estates Ltd through a personal covenant as it has no interest in the land. If the company fails BCC may well have the money but it would be left with the responsibility of procuring the bus service. In the absence of an agreement to accept such responsibility there is the very real danger that the bus service will not materialise [109; 181; 292; 299].
359. The Appellants rely on a similar arrangement that has been accepted by the Secretary of State at Southern Leighton Buzzard. However the oral evidence at the Inquiry indicated that in that case the reversed covenant was not contentious and the Council was willing to accept it. That is not the case here and if BCC does not do what is asked of it the Appellants are released from their obligations with regards to provision of the bus service and the implementation of the Travel Plan. I note that in another appeal decision the Inspector concluded that the transport contribution could not be secured because of the unilateral nature of the undertaking [104; 109; 181; 248; 292].
360. If this part of the obligation fails all that would be required is that three staged payments of £250,000 would be made and there is no guarantee that this would be sufficient to procure a suitable bus service within a reasonable period of time. Indeed the bus operator has only referred to the sufficiency of a fund of £1.75m which includes the £1m contribution from Berryfields. Even with all the funding it is unclear whether the bus service would be viable. The only evidence is a letter from the bus operator and there was no information about the patronage levels on which that was based. Even if the bus service did get underway there is no commitment to its frequency. Although the oral

evidence⁸⁸ indicated that the bus would run every 15 minutes from the start the terms of the Unilateral Undertaking envisage a gradual build up in line with occupancy rates [109; 110; 181; 299].

361. Setting these problems aside it is relevant to note that the exemplar bus service at Southern Leighton Buzzard has not been going for very long. To date the monitoring does not provide persuasive evidence that the anticipated modal shift is taking place. The Appellants cite examples from nearby local authorities where there are modal shift targets of 20%. BCC's LTP also makes clear that it seeks to encourage changes in travel behaviour and gives an example of how this has led to a substantial reduction in peak hour traffic. However the success of such measures will depend on individual circumstances and for the reasons already given the terms of the Unilateral Undertaking are not sufficiently robust to guarantee that a high quality and frequent bus service will actually get off the ground. Its probable success is further clouded by the uncertainty surrounding the implementation of the PPTC and its measures to combat congestion including bus lanes [104; 105; 178; 181; 185; 186; 252].

Conclusion

362. Paragraph 6 of PPG 13 refers to placing development at locations which are highly accessible. Promoting accessibility is an important objective of national policy and key to achieving sustainability. In this case the appeal site is not on a PPTC and is some distance from the town centre. Whilst it would enable pedestrian or cycle access along the WLR to the railway station and Park and Ride sites there would be no direct access to the Berryfields MDA itself. Furthermore its accessibility is compromised by the uncertainties surrounding delivery of a fast and efficient bus service [112; 176; 245].
363. It is therefore concluded that the appeal development would not be highly accessible to a range of travel modes. For many journeys it would be likely to be car reliant including trips to the town centre and the commute to work. The proposal thus conflicts with relevant development plan policies, including Policy T1 in the SEP and the principles in PPG 13 which promote sustainable transport choices and accessibility

CONSIDERATION FIVE: WHETHER THE DEVELOPMENT WOULD GENERATE TRAFFIC THAT WOULD CAUSE UNACCEPTABLE CONGESTION OR UNDUE HARM TO HIGHWAY SAFETY.

364. The housing growth at Aylesbury envisaged by Policy MKAV3 in the SEP requires integration with new and enhanced public transport systems and interchanges. It is also recognised that out-commuting is a particular problem and that the creation of jobs is important if a sustainable outcome is to be achieved. The A41 and A413 are the main routes into the town centre and both carry relatively heavy traffic flows and are congested in peak periods as is recognised by their designation as Primary Congestion Management Corridors in the Local Transport Plan (LTP). Their role as PPTCs includes a number of

⁸⁸ Mr Orhland said that after further discussions with Arriva the bus operator it was agreed that a 15 minute service would be run from the start.

measures to improve traffic flows including bus lanes and the signalisation of various junctions. There is no doubt that increasing levels of congestion is undesirable both from an environmental standpoint and also in terms of encouraging growth and investment [23; 134; 183; 184].

365. The PPTC improvements were intended to accommodate the Berryfields and Weedon Hill developments. Unfortunately as far as the A41 is concerned they have not happened due to a serious funding shortfall. This has come about partly because the Berryfields contribution was subsequently renegotiated and reduced and partly because costs have increased. The attempts by BCC to obtain grant funding also failed and it was unable to confirm when or indeed if the PPTC works would be undertaken. The appeal proposal includes a contribution towards the PPTC works but in common with other contributions in the Unilateral Undertaking this requires BCC to enter into a reversed covenant which it is not willing to do. In any event the contribution would be insufficient to close the funding gap on current costings. Even taking account of the Berryfields contribution the Appellants have provided no assessment of how a partial scheme of PPTC improvements would work or whether it would provide the desired mitigation. Furthermore it should be remembered that the A41 PPTC was intended to mitigate the transport impact of Berryfields and not further development at other sites [66; 107; 134; 177; 183; 184; 185].
366. The strategic transport model for Aylesbury has been changed and updated. Unlike its predecessor the new model no longer assumes that the PPTC works will be in place. Other assumptions previously made were the 10% Smarter Choices modal shift initiatives identified in the LTP and the potential for the Weedon Hill Park and Ride site to remove peak hour traffic. However BCC made clear that there was no longer public funding to carry these projects forward. Although the Appellants are making a contribution toward the Park and Ride this would go towards the layout of the site and would not fund the running of buses. In the circumstances the operation of the scheme is not secured. It is quite possible that in the future funding will be available for the LTP measures including the PPTC. However due to the present uncertainties it would be inadvisable to rely on them when assessing the transport impact of the appeal scheme. Whilst the New Homes Bonus may provide a solution to the funding difficulties in the future it cannot be relied upon to do so at the present time in the absence of any evidence from either AVDC or BCC about spending priorities [99; 108; 134; 177; 178; 179; 185].
367. The Appellants' Transport Assessment (TA) was undertaken on the basis of the old model and thus the outdated assumptions. However there were other problems with the assessment including that it did not have a "without development" scenario for the design year of 2020 so that a comparative analysis is not possible. As the baseline analysis was for the year 2013 it was not possible to undertake calibration to check whether it was realistic in terms of actual traffic flows and travel behaviour. Also it relied on traffic lights at a number of junctions but these are presently roundabouts with no commitment to signalisation. In the circumstances little reliance can be placed on the transport work that accompanied the planning application [98; 99; 185; 252].
368. It is appreciated that the Appellants have had difficulties engaging with BCC in terms of reassessing the transport evidence and applying the new model.

Nevertheless it is an important failing of the appeal scheme that it does not have a robust TA on which to rely. The only other work that is available is the revised modelling by Jacobs which uses the new software and was commissioned by BCC in September 2011. This does not however provide a full assessment and due to the short timescales involved was unable to provide a full picture of the highway impacts arising from the appeal development. It did nonetheless identify capacity issues in 2021 at two junctions on the A413 and one junction on the A41. Although queue lengths were shown to substantially increase, the differences between the “with development” and the “without development” scenarios do not seem to correspond with the changes in saturation level. This may be because the model becomes inherently unstable at higher flow to capacity ratios and so the results become unreliable. The most that can be concluded from this work is that at 3 junctions in peak periods congestion would worsen with the appeal development in place but to what extent is difficult to say [98; 100; 188; 189].

369. The Appellants undertook sensitivity testing of the Jacobs modelling. This concluded that with allowances for a 30% modal shift from Travel Plan initiatives, a trip reduction from the Weedon Hill Park and Ride, an adjustment for the 35% affordable housing and peak spreading there would be no material deterioration in the 2021 situation at the two A413 junctions. Peak hour morning congestion at the A41 junction would get worse even with these measures in place. Whilst the Appellants have suggested some minor junction improvements to rectify this problem there is no specific mechanism for carrying these forward. In any event BCC has concerns about indirect effects including rat running through the Quarrendon estate. The sensitivity testing relies on the anticipated modal shift being achieved and for the reasons given in the previous section this is far from certain [101; 185].

Conclusion

370. The TA does not provide a realistic assessment of the traffic impacts of the appeal scheme. For all of the above reasons it is concluded that the proposal is likely to result in traffic generation that would add to existing problems of congestion and result in harm to the safety and free flow of traffic on the highway network. It thus conflicts with relevant development plan policies, including Policy T1 in the SEP and PPG 13

CONSIDERATION SIX: WHETHER ANY PERMISSION SHOULD BE SUBJECT TO PLANNING CONDITIONS AND A UNILATERAL UNDERTAKING.

Planning conditions

371. The planning conditions that have been suggested by the main parties and other consultees are set out in Annex C. Justification has been provided in Paragraphs 278-286 of the Report and there are also references to specific conditions where relevant in my Conclusions. It is considered that the conditions are reasonable, necessary and otherwise comply with the provisions of Circular 11/95: *The Use of Conditions in Planning Permissions*. I recommend that they are imposed if the Secretary of State decides to allow the appeal and grant planning permission for the proposed development.

Planning Obligation by Unilateral Undertaking (Unilateral Undertaking)

Procedural Issues

372. There was a detailed discussion about the Unilateral Undertaking at the Inquiry and many of the points in this section rely on the oral evidence of the parties. I do not agree with AVDC that individual house owners should be bound by the obligations requiring contributions. In practice the householder would have no control over the wider site and so it is difficult to see how a breach could be remedied or how any payments towards such a remedy could be fairly distributed. In addition it is likely that such requirements would make it more difficult to secure a mortgage and this could have consequences for delivery. Finally there may well be Human Rights implications.
373. The Unilateral Undertaking includes a variety of provisions as set out in Paragraphs 291-300 of the Report. One of the main problems is that it includes a number of clauses requiring action to be taken by either AVDC or BCC before the clauses are effective. This includes entering into deeds of covenant relating to how the money should be held, accrual of interest and repayment of unexpended monies. However as the Unilateral Undertaking is not bilateral such provisions cannot be binding. This has already been mentioned in relation to the transport provisions and it also applies to the Community Facility Contribution, the Public Open Space Contribution and the education contributions. At the Inquiry the Appellants argued that these would not be onerous or costly requirements. That may be the case but is not the relevant point. These clauses seek to impose requirements on third parties who, from the oral evidence given to the Inquiry, would be unlikely to agree to accept them. It is noted that no deed of covenant is required in relation to the SAM Contribution or the Rights of Way Contribution.
374. In the case of the community facility and public open space AVDC can decline to accept the contributions and thus would not be obliged to enter into the respective deeds of covenant. In such circumstances the Appellants would carry out the work but the timing and specification of provision is not stipulated. The only prerequisite is for them to act "reasonably". There is the danger that these facilities will either not be to a suitable standard or that they will not be expeditiously provided to meet the needs of new residents.
375. Another requirement on the public authorities is that they must accept the transfer of the land relating to the primary school, open space and community facility. This has to be completed within 12 months or the obligations fall. BCC is concerned that this period is unreasonably short. Whilst I would not necessarily agree it remains the case that this again requires action by parties not signed up to the undertaking.
376. Many of the above problems could have been resolved by negotiating a bilateral Agreement. However this was not the route chosen by the Appellants and for the above reasons I do not consider that the Unilateral Undertaking is fit for purpose. In short there is no guarantee that it will deliver what it promises. This is a major concern because if for example the bus service, community facility, primary school or open space did not materialise there would not only be serious implications for those living on the development

itself but also unacceptable pressure on existing resources to accommodate the shortcomings.

Compliance with Circular 05/2005 and the Community Infrastructure Levy (CIL) Regulations

377. However in the event that the Secretary of State disagrees with the above conclusion I turn to consider the provisions of the obligations in terms of the tests in Circular 05/2005: *Unilateral Undertakings* and the three statutory requirements in Regulation 122 of the CIL Regulations (2010). The latter make clear that a Unilateral Undertaking may only constitute a reason for granting planning permission if it is necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development.
378. The various contributions were discussed at the Inquiry and generally they comply with policy requirements and supplementary planning guidance. In terms of the education provision BCC provided sufficient evidence to be satisfied that the new primary school and contribution to secondary education is necessary and would be sufficient to meet the needs of the development⁸⁹. Affordable housing both in terms of quantum and tenure split meets the policy requirements in the SEP. The timing of delivery is set for each phase or sub-phase and is linked to the occupation of the market dwellings. This seems reasonable to ensure that delivery of the affordable units proceeds in a timely and appropriate fashion.
379. It was agreed at the Inquiry that the SAM contribution would be sufficient to mitigate the impact of development although BCC did not consider that it would result in a net benefit. The Rights of Way Contribution would provide footpath connections that are necessary in terms of accessibility and to provide new residents with routes into the adjoining countryside. Whether they can also link into Berryfields is less certain for the reasons given in Paragraph 355 above.
380. AVDC expressed concerns about whether the Public Open Space and Community Facility Contributions would be sufficient for the provision and future maintenance of these facilities. The Appellants commented that the sum of money for the community facility was based on estimated build costs and was similar to that agreed for Southern Leighton Buzzard. However there was no real evidence that the contributions would be sufficient for the purpose required at the appeal site and AVDC's concerns in this respect are therefore understandable.
381. Taking account of the highway issues the PPTC Contribution is clearly necessary to counter congestion arising from additional traffic generated by the appeal development. The problem is whether the sum offered would be sufficient in terms of mitigation for a development of this scale. As has already been commented there would still be a significant funding gap even

⁸⁹ A proof of evidence was prepared by BCC on education matters (**Document AV/3**). However following discussion with the Appellants agreement was reached on educational matters and no evidence on the subject was given to the Inquiry.

taking account of the contribution from Berryfields to implement the BCC scheme of PPTC improvements. It may be that lesser measures could be put in place that would satisfactorily ameliorate the impact but no such partial or reduced scheme has been put forward. In the circumstances it is impossible to know whether the £1,617,770 offered would be fairly and reasonably related in scale and kind to the development [185].

382. A similar problem arises from the Weedon Hill Park and Ride money. This is said to be sufficient to finish the site but no robust evidence has been produced to support this assertion. Whilst the Travel Plan is to be implemented by Arnold White Estates Ltd (subject to BCC agreeing to the reversed covenants) this is within the scope of a specific contribution paid to BCC. Apart from the fact that no form of Travel Plan is appended to the Unilateral Undertaking there is no guarantee that the sum offered is sufficient to effectively do the job.

Conclusion

383. For the above reasons it is concluded that any planning permission should be subject to the suggested list of planning conditions. However the Unilateral Undertaking is flawed in a number of important respects and not fit for purpose. It should thus be given little weight in the decision on Appeal A. However if that conclusion is not accepted and on the available evidence the SAM Contribution, the Rights of Way contribution and the education contributions are CIL compliant and can be taken into account. The other contributions cannot be guaranteed to serve the purpose for which they are required and it cannot be established that they are directly related to the development in scale and kind. For this reason they are not CIL compliant and cannot be taken into account.
384. These shortcomings could not be rectified through the use of planning conditions as they are directly related to the payment of money. Even if a "Grampian style" condition was considered appropriate requiring "schemes" to be put in place the uncertainties surrounding the cost of such schemes would render such conditions unreasonable in my judgement. It should be noted that such a route was not suggested at the Inquiry or discussed by the parties.

OTHER MATTERS

385. The ES categorises the agricultural land of the appeal site as 3b or 4. Whilst the site contributes to food production PPS 7 does not describe this as agricultural land of the highest quality. Its loss is not a determining factor in this appeal [254].
386. The planning application was accompanied by a Flood Risk Assessment. This confirms that the built development will occupy Flood Zone 1 which has the lowest flood risk. Surface water drainage would be managed by a Sustainable Drainage System. The Environment Agency and Thames Water have raised no fundamental objections subject to the imposition of appropriate conditions. There is no evidence that the development would affect the hydrology of the SAM in such a way that would harm the integrity of the heritage asset [15; 255; 256].

387. A population of over 3,000 new residents would clearly have an impact on existing social and community infrastructure. However a remedy can only be justified if existing capacity is shown to be deficient. In the case of healthcare the Primary Care Trust has indicated that the new medical facility at Berryfields should be sufficient. A payment towards secondary education is proposed and a new primary school is to be provided. It is not of course the responsibility of the Appellants to remedy existing deficiencies. Whilst the requirements of Thames Valley Police are noted there is not sufficient evidence provided to be satisfied that the contributions sought are reasonable and necessary or directly related to the scheme in question. Furthermore they do not appear to have any status in a supplementary planning document that has been endorsed by AVDC or been subject to public consultation [254].

OVERALL CONCLUSIONS AND PLANNING BALANCE

388. The appeal proposal is EIA development and the planning application was accompanied by an Environmental Statement (ES). The ES was adequately publicised in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (The Regulations). Under Regulation 3 planning permission cannot be granted for EIA development unless the environmental information has been taken into account. This includes not only the ES but also the written and oral evidence to the Inquiry. This environmental information has been taken into account in my consideration of this appeal and my recommendation to the Secretary of State.
389. However there are two particular shortcomings in the environmental information which affects the weight that can be given to it. The first concerns the lack of assessment of the impact from alternative options for provision of renewable energy in the event that Appeal B is dismissed. The second concerns the TA which was based on outdated modelling. Reliance was placed on new modelling undertaken during the course of the Inquiry but this did not comprise a TA and did not form part of the ES [7; 37; 122; 189].
390. The SEP is part of the development plan at this time and provides the most up to date policy position for this appeal. Policy MKAV3 provides for a considerable amount of housing growth around Aylesbury mainly in the form of sustainable urban extensions. There is no dispute that there is a serious housing land supply deficit based on SEP requirements. Whilst the government is committed to abolishing regional strategies this has limited weight at the present time. The LP preceded the SEP and there is currently no local policy context on which to rely. However this will eventually be provided by the Vale of Aylesbury Plan which will address the issue of longer term needs and growth in the district in accordance with a locally derived vision. This will accord with the government's localism agenda.
391. The guidance in Paragraphs 71 of PPS 3 indicates that where an up to date supply of deliverable housing sites cannot be demonstrated proposals should be viewed favourably. In this case a proportion of the housing would be delivered within the next 5 years. However this is likely to be significantly less than the Appellants' anticipate and the benefit attributed to reducing the deficit is correspondingly reduced. Furthermore Paragraph 69 of PPS 3 makes clear that environmental sustainability as well as the spatial vision are important

considerations. A pre-requisite for growth in SEP Policy MKAV3 is that it should be sustainable.

392. The appeal scheme is being promoted as a sustainable urban extension and not as a satellite housing estate tacked on to the side of Berryfields. However there are a number of reasons why it would not meet its sustainability aspirations. There would be significant harm to the setting of the SAM as well as to on-site archaeology. The heritage assets are of national and regional importance and the adverse impacts weigh heavily against the appeal proposal. There would also be adverse impacts on the rural landscape and significant limitations on the accessibility of the site and the ability of the scheme to promote sustainable travel choices. In addition the development would be likely to exacerbate the already serious problems of congestion along the A41 corridor and the failure to properly assess the transport impacts relating to the scheme is a serious deficiency [71].
393. The proposal includes a number of local facilities for new residents but shortcomings in the Unilateral Undertaking mean that there is a question mark on delivery of many of them. This uncertainty reduces considerably the sustainability credentials of the proposal. If that point is not accepted there are also problems in terms of compliance with the CIL Regulations and only the new primary school and contributions towards secondary education, the SAM and rights of way can be taken into account. Whilst these are to be welcomed they would only mitigate adverse impacts arising from the proposal and so are not specific benefits. Furthermore if important social and community facilities cannot be taken into account the sustainability of the development is diminished.
394. On the positive side all electricity requirements would be provided by the wind turbine, albeit only for a temporary period. However this would only be a benefit if Appeal B is allowed. In the event that it is dismissed there is no certainty that alternative renewable energy sources could be employed without unacceptable environmental impacts. This would be a considerable disadvantage and would fail to comply with important national and local planning policy.
395. The Ministerial Statement, which has significant weight, encourages economic growth. Whilst the draft NPPF has limited weight at this stage it also stresses the importance of the planning system to the delivery of growth and prosperity. However both the Ministerial Statement and the draft NPPF establish that development should be delivered within the context of sustainability. For all of the above reasons the appeal scheme would not be sustainable even assuming that it would obtain all of its electricity from the wind turbine. Returning to the first consideration the final conclusion is that the scheme would not deliver a sustainable urban extension in an efficient and timely manner that would contribute to the housing requirements of the district. The proposal is thus contrary to national and local planning policy including Policy MKAV3 in the SEP. Furthermore Policies HE9.2 and HE10.1 of PPS 5 indicate that any harm to designated heritage assets should be weighed against the wider benefits of the proposal and that clear and convincing justification would be needed for any harm. For the reasons given there is no such justification in this case [129; 156; 270].

APPEAL B

CONSIDERATION ONE: THE CONTRIBUTION OF THE WIND TURBINE TO THE PROVISION OF RENEWABLE ENERGY AND COMBATING CLIMATE CHANGE

396. PPS 22 makes clear that the wider economic benefits of proposals for renewable energy projects at whatever scale are material considerations that should be given significant weight in determining whether proposals should be granted planning permission. The SEP sets out regional targets for electricity generation and Policy NRM12 indicates that wind power is one of the sources of greatest potential. The highest sub-regional target is in the Thames Valley and Surrey sub-region under Policy NRM14 [27; 115].
397. Whilst some objectors question whether local climate conditions would provide sufficient wind for the turbine to operate efficiently there is no evidence to question its generating potential. If the turbine operated in conjunction with the Appeal A development it would provide all the electricity requirements along with a 26% surplus for the grid. Alternatively without the Appeal A development the scheme would provide all its generated electricity to the grid. Either way it would result in a sustainable outcome and a benefit in terms of the supply of renewable energy. This would accord with the draft NPPF in recognising that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions [17; 113; 115; 193; 259; 261; 262].

CONSIDERATION TWO: THE EFFECT OF THE PROPOSED WIND TURBINE ON THE LANDSCAPE AND THE SAM

398. Whilst encouraging local renewable energy development Policy NRM15 in the SEP indicates that wind and biomass projects in particular should be sited so that the impacts on landscape and heritage assets are minimised. PPS 22 also indicates as a key principle that renewable energy developments should be accommodated where, amongst other things, the environmental impact can be satisfactorily addressed. Wind turbines commonly occupy countryside locations but AVDC has no local criteria based policy relating to the siting of such development [17; 116; 117; 191; 192; 261; 262].
399. The wind turbine would be a relatively tall structure with a tower rising some 113 metres from the ground and reaching a total height of 149 metres including the full extension of the blades. Wind turbines are not a characteristic feature in the Northern Vale landscape. Whilst there are other pieces of infrastructure equipment such as power lines these are smaller scale and apart from the transmission tower to the north at Quainton there are no other structures nearby of similar magnitude. Furthermore apart from the Quainton windmill this would be the only piece of equipment that would move and the rotation of the blades would further draw attention to its presence. Nevertheless the turbine would be sited on lower ground close to the Hardwick Brook and some screening would be provided by stands of trees and other development. Whilst there is no doubt that the upper parts of the structure and its moving parts would be widely seen, including in views to the north and west, the significance in those views would decrease with distance [17; 118; 197; 198].

400. The comments of the Chilterns Conservation Board are noted but the AONB is a considerable distance to the east of the appeal site and the turbine would be seen within the context of the wide, open vale panorama. I therefore agree with Natural England that, notwithstanding the height of the structure and the movement of the blades, there would be an insignificant impact on the setting of the Chiltern Hills or the enjoyment of the natural beauty of its landscape. Unlike the Appeal A development the turbine would occupy a relatively small area of land and be seen as a discreet feature and a relatively small part of the overall view. Further mitigation would be provided by using an appropriate colour finish and this could be controlled by condition. Although the LCA categorises this as a landscape sensitive to change the single structure could be satisfactorily assimilated into the wide and open Vale landscape without undue harm [10; 118; 198; 276; 289].
401. Taking account of the intervening ridge only the upper part would be visible from the SAM although the rotating blades would to some extent attract the eye. Nevertheless I concur with the conclusions of the Assessor set out in full in Annex E to this Report. The turbine would not in itself affect the agricultural use of the fields that form part of the setting for the SAM but would appear as a distant isolated structure similar to the power lines that can also be seen in the wider landscape. There would thus be no significant visual impact on the setting of the SAM. I also agree with the similar conclusion that he reached in relation to other designated heritage assets including the Grade I listed Waddesdon Manor. There would be little adverse impact on below ground archaeology taking account of the small areas of land concerned. I agree with the Assessor that this could be adequately mitigated by a condition requiring investigation and recording. With regards to the cabling itself the ES makes clear that this would be underground and below the haul road. This again would be ensured by condition. No objections to Appeal B have been made by English Heritage [17; 113; 119; 195; 196; 197; 199; 250; 260; 263; 275; 289].
402. Taking all of these factors into account I conclude that there would be no unacceptable adverse impact on the landscape or the SAM. In this respect the proposal accords with development plan policy including Policy NRM15 in the SEP and the guidance in PPS 22.

CONSIDERATION THREE: WHETHER ANY PERMISSION SHOULD BE SUBJECT TO PLANNING CONDITIONS.

403. The planning conditions that have been suggested by the main parties and other consultees are set out in Annex D. Justification has been provided in Paragraphs 287-290 of the Report and there are also references to specific conditions where relevant in my Conclusions. It is considered that the conditions are reasonable, necessary and otherwise comply with the provisions of Circular 11/95: *The Use of Conditions in Planning Permissions*. I recommend that they are imposed if the Secretary of State decides to allow the appeal and grant planning permission for the proposed development.

OTHER MATTERS

404. Whilst this is not a putative reason for refusal local people and parish councils have raised various amenity concerns about the proposed wind turbine. Due to its height it would undoubtedly be seen from many established residential

properties both on the new MDA developments and further afield. Whilst it would result in a significant change in outlook for some this would be seen as part of a wider view given the perspective of distance. In such circumstances it is unlikely to be either oppressive or overbearing. If the Appeal A proposal is allowed those most closely affected would be the new residents themselves. They would be able to exercise choice weighing up the benefits of the turbine against any perceived visual drawbacks [259].

405. PPS 22 indicates that the 1997 report by ETSU (ETSU-R-97) should be used to assess and rate noise from wind energy developments and this is re-affirmed in the draft National Policy Statement for Renewable Energy Infrastructure. ETSU-R-97 describes a framework for measuring wind farm noise and gives indicative levels calculated to offer a reasonable degree of protection for neighbours without placing an unreasonable restriction on wind farm development or adding unduly to the costs and administrative burdens on wind farm developers or local authorities. A noise assessment has been undertaken in the ES and there is no evidence that this is not thorough or robust. It is based on the ETSU guidance and concludes that there would be no significant noise disturbance to either existing or proposed development. A condition based on the outcome of the assessment is proposed and should provide comfort to those existing residents who are concerned about noise impacts and sleep disturbance [259; 261; 289].
406. ETSU-R-97 takes into account the low frequency noise commonly described as "blade swish". Whilst subsequent research found that such noise did sometimes occur in ways not anticipated in the ETSU report it nevertheless found no evidence of risks to health. Why such a phenomenon occurs in some cases and not in others is not known [259; 261].
407. The ES has considered the effect on aviation including any impacts on the Aston Abbotts helicopter landing site. To mitigate any obstruction effects on low flying aircraft the location and dimensions will be notified to the Ministry of Defence for inclusion on the relevant charts and publication and this can be controlled by a condition. Interference with television reception is unlikely with the switch from analogue to digital. However a precautionary condition is suggested that would deal with any negative impacts that may arise following installation of the turbine [261; 274; 289].
408. The ES has assessed the potential effect of shadow flicker on existing and proposed residential properties. The advice in the Companion Guide to PPS 22 states that only properties either side of north relative to the turbines would be affected. Flicker effects have been proven only to occur within 10 rotor diameters of a turbine. On this basis the ES concludes that no properties would be affected and this conclusion has not been challenged by any contrary evidence. Nevertheless a precautionary condition is proposed to deal with any problem that may arise following installation of the turbine. Any concern about reflected light could be adequately mitigated through the imposition of a condition relating to the choice of blade colour and finish [259; 289].
409. There are several balloon companies that operate from Watermead and are concerned that the turbine could harm their operations and business. However no evidence is provided to support the contention that it would cause a danger to safe take off and landing and indeed this seems highly unlikely. The

intervening distance between the site of the turbine and Watermead is considerable. Furthermore this would be a highly visible structure easily seen in daylight hours when balloons are active. Whilst mention was made by objectors of problems in windy weather it is my experience that such conditions are not generally favourable to balloon activity. For all of these reasons it is not considered that the risk would be significant [264].

410. The damage to wildlife and birds was raised as a concern. This has been dealt with in the ES which concluded that a significant negative impact would be unlikely. The ES categorises the agricultural land of the appeal site as 3b or 4. Whilst the site could contribute to food production the overall land-take including the access track is relatively small. Furthermore PPS 7 does not describe this grade of agricultural land as being of the highest quality and its loss is not a factor that militates against the appeal development [259; 262].

OVERALL CONCLUSIONS AND PLANNING BALANCE

411. The contribution of the wind turbine to renewable energy provision is a significant benefit notwithstanding its relatively small scale. This would be the case whether Appeal A is allowed or not. The impact on the landscape would be insignificant and the visual impact would not be unduly harmful. There would be no adverse effect on the SAM or heritage assets and no other unacceptable impacts have been identified. The development would comply with relevant development plan policies and PPS 22. In the circumstances it is unnecessary to be concerned about whether a greater number of smaller turbines would be as effective [197].

RECOMMENDATIONS

412. **That Appeal A is dismissed and planning permission is refused.**
413. **That Appeal B is allowed and planning permission is granted subject to the conditions in Annex D.**

Christina Downes

INSPECTOR

414. ANNEX A: APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Hereward Phillpot of Counsel

Instructed by Ms J Swift, Legal Department
of Aylesbury Vale District Council

He called

Mr J Bellars

BA Dip LA(Hons) DipUD CMLI

Mr A Kidd

BSc(Hons) MA(Archaeology) MIA
MRTPI

Mr D Tester

IEng FIHE MCIHT

Mr J Cannell

BA(Hons) DipTP MRTPI

Senior Landscape Architect and Urban
Designer with Aylesbury Vale District Council
County Archaeologist with Buckinghamshire
County Council

Director of DT Transport Planning Ltd and
Lead Development Officer, Transport with
Buckinghamshire County Council
Development Control Manager with
Buckinghamshire County Council

FOR THE APPELLANTS:

Mr Jonathan Milner of Counsel

Instructed by Hives Planning Ltd

He called

Mr M Ohrland

BA(Hons) MACA CMILT

Mr S Atkinson

BSc(Hons) CEng MICE MIHT MAPM

Mr J Abrams

BA(Hons) MIFA Professional
Member SMInstLM

Dr K Kropf

BA(Landscape Architecture)

MA(Urban Design) PhD

Mr G Gardner

MSc MRTPI DMS MCIWM

Mr M Schmull

BSc MSc MRTPI

Associate Director of Stuart Michael
Associates

Director of Stuart Michael Associates

Project Manager with Headland Archaeology

Director of Built Form Resource Ltd

Director of Hives Planning Ltd

Principal Planner with Hives Planning Ltd

FOR BARWOOD LAND AND ESTATES LTD

Mr Martin Kingston of Queen's
Counsel

Instructed by Mr M Taylor, GVA

He called

Dr C Miele

MRTPI IHBC FRHS FSA

Mr M Lowndes

BA(Hons) DipTP MSc DipAA

Mr M Taylor

BSc(Hons) MSc MRTPI MIED

Partner of Montagu Evans

Planning and Urban Design Director at Turley
Associates

Director of GVA

ANNEX B: DOCUMENTS

CORE DOCUMENTS

CD/1 DEVELOPMENT PLAN DOCUMENTS

CD/1.1	Adopted Aylesbury Vale Local Plan (January 2004)
CD/1.2	Buckinghamshire County Structure Plan 1991-2011 (March 1996)
CD/1.3	The South East Plan (May 2009)
CD/1.4	Milton Keynes and South Midlands Sub Regional Strategy

CD/2 AYLESBURY VALE BOROUGH COUNCIL DOCUMENTS

CD/2.1	Berryfields MDA Development Brief (March 2004)
CD/2.2	Weedon Hill MDA Development Brief (August 2003)
CD/2.3	Affordable Housing Supplementary Planning Document (November 2007)
CD/2.4	Supplementary Planning Guidance on Sport and Leisure Facilities (August 2004)
CD/2.5	Sport and Leisure Facilities SPG Companion Document Ready Reckoner (August 2005)
CD/2.5a	A Strategy for MDA related Greenspaces (March 2001)
CD/2.6	Aylesbury Vale Submission Core Strategy (2009)
CD/2.7	AVDC Annual Monitoring Report (2010)
CD/2.8	AVDC Housing Land Supply (March 2011)
CD/2.9	AVDC Housing Trajectory (March 2011)
CD/2.10	AVDC Report of Housing Completions and Commitments (March 2011)
CD/2.11	AVDC LDF Briefing Note: Housing Requirements (March 2009)
CD/2.12	AVDC Landscape Character Assessment (May 2008)
CD/2.13	AVDC Environment Character Assessment (April 2006)
CD/2.14	AVDC Green Spaces Plan (2005-2008)
CD/2.15	AVDC Areas of Sensitive Landscape (October 2008)
CD/2.16	AVDC Potential Development Areas Around Aylesbury – Comparative Assessment of Landscape and Visual Impact (October 2008)

CD/2	AYLESBURY VALE BOROUGH COUNCIL DOCUMENTS
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- | | |
|---------|---|
| CD/2.17 | AVDC Infrastructure Schedule (August 2007) |
| CD/2.18 | AVDC Direction of Housing Growth at Aylesbury – Infrastructure Requirement for the growth at Aylesbury (October 2008) |
| CD/2.19 | AVDC Viability Assessments (Provisional) Options for Housing Growth at Aylesbury (February 2009) |
| CD/2.20 | AVDC Direction of Housing Growth at Aylesbury Preliminary Viability Overview (April 2009) |
| CD/2.21 | Buckinghamshire Green Infrastructure Strategy (2006) |
| CD/2.22 | BCC Local Transport Plan 3: 2011-2016 (April 2011) |

CD/3	PLANNING APPLICATION DOCUMENTS
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|----------------|--|
| CD/3.1 | Submitted Planning Application for mixed use development including up to 1,380 dwellings; a two form entry primary school; a neighbourhood centre including retail uses; a community centre including place of worship; a visitor centre; allotments; community orchard; formal and informal public open space and associated landscaping. (AVDC reference 10/00135/AOP) |
| CD/3.2 | Submitted planning Application for the erection of a 2MW Wind Turbine including access and associated infrastructure (AVDC reference 10/00136/APP) |
| CD/3.3/1-3.3/4 | Environmental Statement (December 2009) |
| CD/3.4/1-3.4/3 | Environmental Statement Addendum (March 2011) and Regulation 19 letter from the District Council (16 April 2010) |
| CD/3.5 | Design and Access Statement (January 2010) |
| CD/3.6 | Revised Design and Access Statement (March 2011) |
| CD/3.7/1-3.7/2 | Transport Assessment (December 2009) (mixed use development) |
| CD/3.7a | Transport Assessment (December 2009) (wind turbine) |
| CD/3.8 | Transport Assessment Addendum (March 2011) |
| CD/3.9 | Planning Statement (January 2010) |
| CD/3.10 | Planning Statement Addendum (March 2011) |
| CD/3.11 | Flood Risk Assessment and Drainage Strategy |

CD/3 PLANNING APPLICATION DOCUMENTS

- CD/3.12 Sustainability Statement
- CD/3.13 Confidential Badger Survey
- CD/3.14 Committee Report for 10/00135/AOP and amendment sheets
- CD/3.15 Committee Report for 10/00136/APP and amendment sheets
- CD/3.16 Resolutions of the Strategic Development Control Committee (10 August 2011)

CD/4 OTHER POLICY GUIDANCE

- CD/4.1 Guidance for Landscape and Visual Impact Assessment (LI/IEMA, 2002)

CD/5 SCHEDULE OF PLANS: APPEAL A

- CD/5.1 Planning Application Boundary for Residential Application
- CD/5.2 Illustrative Masterplan (Figure4.1) (From Revised DAS March 2011)
- CD/5.3 Illustrative Phasing Plan (Drawing No 3050.011) (From Planning Statement Addendum March 2011)
- CD/5.4 Illustrative Parameter Plan (Figure 4.29) (From Revised DAS March 2011)

SCHEDULE OF PLANS: APPEAL B

- CD/5.5 Planning Application Boundary for Turbine Application
- CD/5.6 Figure 10.4 – Proposed Turbine Access Track
- CD/5.7 DWG. No., HPL CT.001 – Turbine Dimensions
- CD/5.8 Turbine Specification Documentation

CD/7 OTHER DOCUMENTS

- CD/7.1 Written Ministerial Statement: Planning for Growth (23 March 2011) the Minister of State for Decentralisation Mr Greg Clark
- CD/7.2 Government Draft Guideline Statement: Presumption in favour of Sustainable Development (June 2011)
- CD/7.3 Draft National Planning Policy Framework (July 2011)
- CD/7.4 Allowable Solutions for Tomorrow, New Homes Towards a Workable Framework (July 2011)
- CD/7.5 Cost of Building to the Code for Sustainable Homes – Updated Cost Review August 2011

CD/7.6	Appeal decision ref APP/J0405/A/10/2135746 Land East of Winslow
CD/7.7	Appeal decision ref APP/R0660/A/10/2141564 Land off Abbey Road and Middlewich Road, Sandbach
CD/7.8	Not used
CD/7.9	Court of Appeal Decision dated 27 th May 2011 – Cala Homes
CD/7.10	Executive Summary Aylesbury Vale Housing and Economic Growth Assessment – G L Hearn September 2011 – Main Report to be provided as a library copy

CD/8	CORE DOCUMENTS FOR MR KIDD
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CD/8.1	Aylesbury Vale Environmental Character Assessment. Historical Environments Assessment. BCC June 2006
CD/8.2	Introduction to Heritage Assets, Roman Settlements (English Heritage May 2011)
CD/8.3	The Setting of Heritage Assets: English Heritage Guidance (July 2010 consultation draft)
CD/8.3a	English Heritage Guidance: The Setting of Heritage Assets
CD/8.4	Peasants, Peers and Graziers: The Landscape of Quarrendon Buckinghamshire, interpreted. (Everson, 2001 in Records of Buckinghamshire vol 41)
CD/8.5	Aylesbury Vale Green Infrastructure Strategy 2009-2026 (Draft)
CD/8.6	Aylesbury Vale District Local Plan Policy AY.34 Written Statement by Alexander Kidd (15 th May 2000) and letter to Mr Beasley (22 June 2000)
CD/8.7	Quarrendon Scheduled Ancient Monument. Access and Interpretation Plan (Alison Farmer Associated June 2004)
CD/8.8	Quarrendon Leas Statement of Significance
CD/8.9	Farming the Historic Landscape: An Introduction for Farmer Advisers (English Heritage, DEFRA, ALGAO & FWAG, 2005)
CD/8.10	Farming the Historic Landscape, Caring for Archaeological sites on arable land (English Heritage, DEFRA, ALGAO * FWAG 2005)
CD/8.11	PLANARCH 2. A Review of Cultural Heritage Coverage in Environmental Impact Assessments in England (Hind and Lambrick 2005)

- CD/8.12 Cultural Heritage and Environmental Impact Assessment in the Planarch Area of North West Europe
- CD/8.13 Planning Appeal Decisions E1/J0405/2/4/06: APP/J0405/A/96/275140; T/APP/K1128/A/98/300381/P5
- CD/8.14 Solent- Thames Research Frameworks. County Resource Assessments: The Late Bronze Age and Iron Age Buckinghamshire, Roman Buckinghamshire, Medieval Buckinghamshire, Post Medieval Buckinghamshire
- CD/8.14.1 Solent-Thames Resource Assessments: Late Bronze Age and Iron Age; Roman; Later Medieval; Post Medieval and Modern
- CD/8.14.2 Solent – Thames Research Agendas: Late Bronze Age and Iron Age; Roman; Later Medieval; Post Medieval and Modern

CD/9 CORE DOCUMENTS FOR BARWOOD LAND AND ESTATES LTD

- CD/9.1 Letter dated 12/02/2010 to the EiP Inspector from Gosschalks Solicitors
- CD/9.2 EiP Session 3 Aylesbury Growth Arc, including alternatives dated 16-18 February 2010 (including appendices)
- CD/9.3 E-mail to EiP programme officer dated 09/02/2011
- CD/9.4 EiP Session 11 (Session 3 Overrun) dated 30/31 March 2011
- CD/9.5 Memo from Halcrow submitted to EiP dated 25/03/2010
- CD/9.6 Living Working Countryside: The Taylor Review of Rural Economy and Affordable Housing
- CD/9.7 Aylesbury Vale Employment Land Study (March 2008)

CD/10 APPEAL DOCUMENTS

- CD/10.1 Appeal forms and accompanying documentation (Appeal A)
- CD/10.2 Appeal forms and accompanying documentation (Appeal B)
- CD/10.3 Questionnaires and accompanying correspondence
- CD/10.4/1 Environmental Statement and DAS Addendum (September 2011) and Regulation 19 letter from the Secretary of State (4 August 2011)
- CD/10.4/2- DAS – Revised parameters tables
10.4/4
- CD/10.5 Statement of Common Ground

CD/10.6	Statement of Common Ground on archaeology
CD/10.7	Letter from English Heritage (19 September 2011)
CD/10.8	Letter from DLP Planning on behalf of Hallam Management Ltd (27 October 2011)
CD/10.9	Note on Housing Delivery submitted on 9 September 2011 by Hives Planning Ltd
CD/10.10	Letter recovering the appeals for the Secretary of State's determination (20 June 2011) and statement of matters (1 July 2011)

INQUIRY EVIDENCE

APP/ APPELLANTS' EVIDENCE

APP/1/1	Proof of evidence of Mr Ohrland
APP/1/2	Mr Ohrland's Appendices
APP/1/3	Mr Ohrland's Rebuttal
APP/1/4	Transport modelling – Appellant's position statement
APP/1/5	Letter from Arriva bus service (27 October 2011)
APP/2/1	Proof of evidence of Mr Atkinson
APP/2/2	Mr Atkinson's Appendices
APP/3/1	Proof of evidence of Mr Abrams
APP/3/2	Buckinghamshire County Council's archaeology advice on Quarrendon Fields planning application
APP/4/1	Proof of evidence and Appendices of Dr Kropf (Appeal A)
APP/4/2	Dr Kropf's Rebuttal
APP/4/3	Quarrendon Fields: Ridgelines and views
APP/4/4	Consultation responses to Fleet Marston planning application
APP/4/5	Extract from the Urban Design Compendium
APP/4/6	Note on DAS building design information
APP/4/7	Extract from CS background document relating to the Visual Impact Assessment of potential development areas around Aylesbury
APP/4/8	Map showing highest points of Berryfields Ridge
APP/4/9	Plan showing the position of the flag poles erected for the site visit
APP/5/1	Proof of evidence and Appendices of Mr Gardner

APP/5/2	Letter from Thames Water concerning requisition of sewage treatment (4/10/11)
APP/5/3	Appellant's response to Mr Taylor's note on sewer requisition (Document BL/3/3)
APP/5/4	Note regarding compliance of Unilateral Undertaking contributions with the Community Infrastructure Regulations
APP/6	Proof of evidence and Appendices of Dr Kropf (Appeal B)
APP/7/1	Proof of evidence and Appendices of Mr Schnull
APP/7/2	AVDC Environment and Scrutiny Committee Renewable Energy Overview (14/9/11)
APP/7/3	Committee Report - Westcott Solar Farm Phase 1 (25/11/10)
APP/7/4	Note on the ES and turbine grid connection
APP/8	Opening submissions of Mr Milner
APP/9	Closing submissions of Mr Milner

AV/	COUNCIL'S EVIDENCE
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AV1/1	Proof of evidence and Appendices of Mr Bellars
AV1/1/2	Mr Bellars' clip of photographs
AV1/1/3/1	Plan showing proposed development in relation to MDA's
AV1/1/3/2	Plan showing proposed development in relation to MDA's with development over the spur ridge shaded
AV1/1/4	Council's comments on Dr Kropf's ridgelines and views (Document APP/4/3)
AV1/1/5/1	Landscape evidence by the Council relating to the appeal concerning land east of Winslow, Bucks (APP/J0405/A/10/2135746)
AV1/1/5/2	Extract from the Council's closing submissions for the above appeal
AV/2/1	Proof of evidence and Appendices of Mr Kidd
AV/2/2	Photomontages along Western Link Road
AV/2/3	Written statement by Mr Everson to Mr Kidd
AV/2/4	Extract from The Tudor House and Garden by Paula Henderson (2005)
AV/2/5	Mr Kidd's viewpoints and slide presentation
AV/2/6	Monuments Protection Programme: Buckinghamshire and Milton Keynes Evaluation Review (July 2001)
AV/3	Proof of evidence and Appendices of Mr Chainani

AV/4/1	Proof of evidence and Appendices of Mr Cannell
AV/4/2	Plans showing the route of the approved Western Link Road
AV/4/3	Position statement in relation to the Western Link Road
AV/4/4	Statement in relation to housing land supply
AV/4/5	Revocation of Regional Strategies: Consultation on environmental assessments and Environmental Report on the revocation of the SEP
AV/4/6	Settlement review (January 2009)
AV/4/7	Update on planning reform by Rt Hon Greg Clarke (19/10/11)
AV/5/1	Proof of evidence and Appendices of Mr Tester
AV/5/2	Council's response to Mr Ohrland's position statement on transport modelling (Document APP/1/4)
AV/5/3	Note of revised modelling prepared by Mr Tester
AV/5/4	Note on the Aylesbury Land Use Transport Strategy (ALUTS)
AV/6	Letter to PINS (10 October 2011)
AV/7	Note on extant and revoked sections of PPS 7 and their relation to PPS 4
AV/8	Opening submissions of Mr Phillpot
AV/9	Closing submissions of Mr Phillpot

BL/	BARWOOD LAND AND ESTATES LTD
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BL/1/1	Proof of evidence of Dr Miele
BL/1/2	Dr Miele's Appendices
BL/1/3	Extract from <i>Understanding Heritage Values</i>
BL/1/4	Extract from The Tudor House and Garden by Paula Henderson (2005) concerning Campden Manor House
BL/2/1	Proof of evidence of Mr Lowndes
BL/2/2	Mr Lowndes' Appendices
BL/2/3	Briefing Note on changes to the Masterplan (13/10/11)
BL/2/4	Extract from the Urban Design Compendium
BL/2/5	Plan of Aylesbury and its environs
BL/2/6	Briefing note in response to Dr Kropf's ridgelines and views (Document APP/4/3)
BL/3/1	Proof of evidence of Mr Taylor
BL/3/2	Mr Taylor's Appendices
BL/3/3	Note on sewer requisition

BL/4 Opening submissions of Mr Kingston

BL/5 Closing submissions of Mr Kingston

ID/	INQUIRY DOCUMENTS
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ID/1	Council's letter of notification of the Inquiry and list of persons notified
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ID/2/1	Planning conditions agreed between the Appellant and the Council for Appeal A
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ID/2/2	Planning conditions agreed between the Appellant and the Council for Appeal B
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ID/3/1	Draft Planning Obligation by Unilateral Undertaking
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ID/3/2	District Council's comments on the draft Unilateral Undertaking
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ID/3/3	Appellant's response to the Council's comments and Unilateral Undertaking in relation to Pratts Quarry, Leighton Buzzard
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ID/3/4	District Council's further comments on the Appellant's response in ID/3/3
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ID/3/5	County Council's comments and Appellant's response on draft Unilateral Undertaking
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ID/3/6	County Council's further comments on the Appellant's response in ID/3/5
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ID/3/7	Revised draft Planning Obligation by Unilateral Undertaking submitted on 3 November 2011
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ID/3/8	District Council's further comments on the revised draft Unilateral Undertaking
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ID/3/9	Draft Planning Obligation by Unilateral Undertaking and pages of proposed changes submitted for discussion at the round table session on 4 November 2011
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ID/3/10	Certified copy of Planning Obligation by Unilateral Undertaking executed on 4 November 2011
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ID/4	Draft position statement on highway matters
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ID/5	Site visit map
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ANNEX C: CONDITIONS FOR APPEAL A

1. The development hereby permitted shall not be carried out otherwise than in substantial accordance with the Design and Access Statement dated March 2011 (as updated by Document CD/10.4/3 dated 3 November 2011) ("the DAS") including the Masterplan (Document CD/5.7) and the Parameter Plan (Document CD/6.2). The development hereby permitted shall be built out at an average density of 40 dwellings per hectare in respect of the net residential area.
2. The following drawings are authorised by this planning permission:

Supporting Plans	
Unnumbered	Planning Application Boundary
Figure 4.1	Parameter Plan (March 2011)
3050.011	Phasing Plan
Illustrative Plan	
Figure 4.29	Masterplan (March 2011)

Design Code

3. Prior to the submission of the first reserved matters application, a detailed Design Code for the development shall have been submitted to and approved in writing by the local planning authority. The detailed Design Code shall demonstrate how the objectives of the DAS will be met and shall take account of the drawings referred to in Condition 2 above. The development hereby permitted shall be carried out in accordance with the approved Design Code. The Design Code shall include the following:

- a) principles for determining quality, colour and texture of external materials and facing finishes for roofing and walls of buildings and structures including opportunities for using locally sourced and recycled construction materials;
- b) accessibility to buildings and public spaces for the disabled and physically impaired;
- c)** sustainable design and construction, in order to achieve a minimum Code for Sustainable Homes Level 4 (or other such equivalent sustainability standard as may be agreed in writing by the local planning authority) for residential buildings and a 'very good' Building Research Establishment Environmental Assessment Method (BREEAM) rating for non residential buildings, maximising passive solar gains, natural ventilation, water efficiency measures and the potential for home composting and food production;

or – in the event that the wind turbine is allowed:

- c)** sustainable design and construction, in order to achieve a minimum Code for Sustainable Homes Level 3 (or other such equivalent sustainability standard as may be agreed in writing by the local planning authority) for residential buildings and a 'very good' Building Research Establishment Environmental Assessment Method (BREEAM) rating for non residential buildings, maximising passive solar gains, natural ventilation, water efficiency measures and the potential for home composting and food production;
- d) measures which show how energy efficiency is being addressed to address

climate change;

- e) built-form strategies to include density and massing, street grain and permeability, street enclosure and active frontages, type and form of buildings including relationship to plot and landmarks and vistas;
 - f) principles for hard and soft landscaping including the inclusion of important trees and hedgerows;
 - g) structures (including street lighting, floodlighting and boundary treatments for commercial premises, street furniture and play equipment);
 - h) design of the public realm, areas of public open space, areas for play, the allotments and orchards;
 - i) open space needs including sustainable urban drainage;
 - j) conservation of flora and fauna interests;
 - k) a strategy for a hierarchy of streets and spaces;
 - l) alignment, width, and surface materials (quality, colour and texture) proposed for all footways, cycleways, bridleways, roads and vehicular accesses to and within the site (where relevant) and individual properties;
 - m) on-street and off-street residential and commercial vehicular parking and/or loading areas;
 - n) cycle parking and storage;
 - o) means to discourage casual parking and to encourage parking only in designated spaces;
 - p) integration of strategic utility requirements, landscaping and highway design.
4. No more than 1,337 dwellings shall be constructed on the site pursuant to this planning permission.

Reserved matters and implementation

5. Approval of the details of the access, layout, scale, design and external appearance of any part of the development within each phase of the development (as shown in drawing 3050.011 as per condition 2 above, or such phases as may otherwise be agreed in writing) hereby permitted and the landscaping associated with it ('the reserved matters') shall be obtained in writing from the local planning authority before that part of the development is commenced within that phase. Development shall be carried out in accordance with the approved details.
6. Application for approval of the reserved matters in respect of Phase 1 of the development hereby permitted (including the primary school) shall be made to the local planning authority before the expiration of 2 years from the date of this permission.

7. Application for approval of the reserved matters in respect of each subsequent phase of the development hereby permitted shall be made to the local planning authority before the expiration of 5 years from the date of this permission.
8. Phase 1 of the development hereby permitted shall be begun either before the expiration of 3 years from the date of this permission, or before the expiration of 1 year from the date of approval of the last of the reserved matters in respect of Phase 1, whichever is the later.
9. Subsequent phases of the development hereby permitted shall be begun either before the expiration of 6 years from the date of this permission, or before the expiration of 1 year from the date of approval of the last of the reserved matters to be approved in respect of that phase, whichever is the later.
10. Plans and particulars submitted pursuant to Condition 5 above shall include the following details:
 - a) any proposed access road(s) including details of horizontal and vertical alignment;
 - b) the layout, specification and construction programme for (1) any internal roads not covered by (a) above, (2) footpaths, (3) parking, turning and loading/unloading areas (including visibility splays), (4) cycle parking areas, (5) cycle storage facilities, (6) access facilities for the disabled and (7) individual accesses;
 - c) the positions, design, materials and type of boundary treatment (including all fences, walls and other means of enclosure) to be provided;
 - d) details for all hard landscaped areas, footpaths and similar areas, including details of finished ground levels, all surfacing materials, and street furniture, signs, lighting, refuse storage units and other minor structures to be installed thereon;
 - e) contours for all landscaping areas, together with planting plans and schedules of plants, noting species, sizes and numbers/densities, details of all trees, bushes and hedges which are to be retained and a written specification for the landscape works (including a programme for implementation, cultivation and other operations associated with plant and grass establishment);
 - f) details of compliance with the principles set out in the Design Code as approved pursuant to Condition 3;
 - g) lighting to roads, footpaths and other public areas.

Construction management

11. Before each phase of the development hereby permitted is commenced a Construction Management Plan in respect of that phase shall have been submitted to and approved in writing by the local planning authority. Construction of each phase of the development shall not be carried out otherwise than in accordance with each approved Construction Management

Plan. Each Construction Management Plan shall include for the following provisions:

- a) parking and turning for vehicles of site personnel, operatives and visitors;
 - b) loading and unloading of plant and materials
 - c) piling techniques if necessary;
 - d) storage of plant and materials;
 - e) programme of works (including measures for traffic management and operating hours);
 - f) provision of boundary hoarding and lighting;
 - g) provision for protection of important trees, hedgerows and other natural features.
 - h) details of proposed means of dust suppression and noise mitigation;
 - i) details of measures to prevent mud from vehicles leaving the site during construction.
12. No works in respect of the construction of the development hereby permitted shall be undertaken at the following times:
- a) Outside the hours of 0700 - 1800 on Mondays to Fridays (inclusive);
 - b) Outside the hours of 0800 - 1300 on Saturdays;
 - c) On Sundays and on public holidays.

Landscape and open space strategy

13. Before the development hereby permitted is commenced a Landscape and Open Space Strategy (covering a period of 7 years or until completion of the development hereby permitted, whichever is the later), shall have been submitted to and approved in writing by the local planning authority, The development shall be carried out in accordance with the approved Landscape and Open Space Strategy. The Landscape and Open Space Strategy shall be in substantial accordance with the Parameter Plan drawing number Figure 4.1 (March 2011) and shall include:
- a) a programme for implementation;
 - b) long-term design objectives;
 - c) long-term management responsibilities;
 - d) proposals for advanced structure planting;
 - e) maintenance schedules for all hard and soft landscape areas and open spaces (other than privately owned domestic gardens), and any associated features.

Tree protection

14. The plans and particulars submitted in accordance with the Condition 11(g) above shall include:

- a) a plan showing the location of, and allocating a reference number to, each existing tree on the site which has a stem with a diameter, measured over the bark at a point 1.5 metres above ground level, exceeding 75 mm, showing which trees are to be retained and the crown spread of each retained tree;
- b) details of the species, diameter (measured in accordance with paragraph (a) above), and the approximate height, and an assessment of the general state of health and stability, of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs (c) and (d) below apply;
- c) details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site;
- d) details of any proposed alterations in existing ground levels, and of the position of any proposed excavation, within the crown spread of any retained tree or of any tree on land adjacent to the site;
- e) details of the specification and position of fencing and of any other measures to be taken for the protection of any retained tree from damage before or during the course of development.
- f) In this condition "retained tree" means an existing tree which is to be retained in accordance with the plan referred to in paragraph (a) above.

Ecology

15. Before the development hereby permitted is commenced a scheme to secure the completion of any ecological mitigation and enhancement measures required for the development shall have been submitted to and approved in writing by the local planning authority. The scheme shall be carried out as approved and shall be based upon the mitigation and enhancement measures contained within the Environmental Statement dated December 2009 and the Environmental Statement Addendum dated March 2011 and shall include a programme for implementation.

Drainage and flooding

16. The development hereby permitted shall not be carried out otherwise than in accordance with the Flood Risk Assessment dated September 2009.
17. Before the development hereby permitted is commenced a detailed drainage strategy shall have been submitted to and approved in writing by the local planning authority. For the purposes of this condition the strategy shall be based upon the principle of sustainable drainage systems as set out in Planning Policy Statement 25: *Development and Flood Risk* (or any revision or replacement of it). The development shall be carried out in accordance with the approved drainage strategy and shall include the following:
- a) A programme for implementation.
 - b) A scheme for the subsequent management and maintenance of the drainage system for the lifetime of the development including any arrangements for adoption by any public authority or statutory undertaker.

18. Before the development hereby permitted is commenced a scheme to dispose of foul and surface water shall have been submitted to and approved in writing by the local planning authority. The scheme shall include a programme for implementation. Development shall be carried out in accordance with the approved scheme.

Archaeology

19. i) Prior to the submission of any reserved matters the developer or their agents or successors in title shall complete Phase 2 of the archaeological evaluation in accordance with the Written Scheme of Investigation for a Programme of Archaeological Field Evaluation: (3 September 2009) (**Document CD/3.3/3, Appendix 7.2**) and submit a Report to the local planning authority. The Report will include an Archaeological Mitigation Plan defining respectively areas for archaeological preservation and areas for archaeological investigation which shall be subject to the approval of the local planning authority.
- ii) No development shall take place until fencing has been erected, in a manner to be first agreed in writing by the local planning authority, about the areas for archaeological preservation shown on the Archaeological Mitigation Plan. Fencing shall be retained in-situ until all equipment, machinery and surplus materials have been removed from the site. No ground disturbance or other works shall take place within the areas of archaeological preservation without the written consent of the local planning authority and then shall only be undertaken in accordance with an approved method statement.
- iii) No development shall take place 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.

Commercial and community uses

20. The 'A Class' uses (A1, A2, A3, A4 and A5) hereby permitted shall not exceed 1,800 m² (gross floorspace). The individual units shall not exceed a maximum of 300 m² (gross floorspace).
21. The Community Centre (including the Place of Worship) hereby permitted shall not exceed 150 m² (gross floorspace).

Waste

22. 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 phase or 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.

Slab levels

23. Prior to the commencement of development in each phase details of the finished floor levels for that phase shall be submitted concurrently with the reserved matters applications and approved in writing by the local planning authority.

These details shall include the finished floor levels for each building and finished site levels (for all hard surfaced and landscaped areas) in relation to existing ground levels. The development shall be carried out in accordance with the approved level details.

Highways and parking

24. The number of car parking spaces for the development shall not exceed the standards set out in the Aylesbury Vale District Council's Supplementary Planning Guidance: *Parking Guidelines* (April 2002) (or any replacement requirement in force at the time of the reserved matters applications).
25. The development of each phase shall not begin until details of the estate roads and footways for that phase have been submitted to and approved in writing by the local planning authority. The details shall provide full information on the means of dealing with the disposal of surface water from the roads and footways for that phase. No dwelling in that phase shall be occupied until the estate roads which provide access to it from the existing highway have been laid out and constructed in accordance with the approved details.
26. The details to be submitted in accordance with Condition 26 shall include a scheme for that phase of the development for parking, garaging and manoeuvring and the loading and unloading of vehicles in accordance with the Aylesbury Vale District Council's Supplementary Planning Guidance: *Parking Guidelines* (April 2002) (or any replacement requirement in force at the time of the reserved matters applications). The approved scheme shall be implemented and made available for use before the development of that phase hereby permitted is occupied and that area shall not be used for any other purpose.
27. No part of the development shall be occupied until the Western Link Road has been laid out, constructed and opened for public use.
28. No other part of the development shall begin until the accesses onto the Western Link Road have been sited and laid out in accordance with the details to be submitted to and approved in writing by the local planning authority and constructed in accordance with Buckinghamshire County Council's guide note "*Commercial Vehicular Access Within Highway Limits*" (2001).

End of conditions for Appeal A

ANNEX D: CONDITIONS FOR APPEAL B

1. The development hereby approved shall be commenced within three years of the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following plans: Wind turbine planning application boundary (unnumbered); Proposed turbine access track (Figure 10.4); Turbine drawing (Drawing No HPL.CT.001) and supporting information: Access Roads and Crane Platforms (E-70 E4).

Further details

3. The maximum height of the turbine hereby permitted, when measured from the turbine base to the blade tip in the vertical position, shall be no greater than 149 metres from the natural ground level adjacent to the turbine base.
4. No development shall take place until full details of the turbine, including make, model, design, power rating, sound power levels and tonal assessment have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
5. No development shall take place until details of the external appearance and colour finishes of the turbine, including its blades, and associated infrastructure have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and retained as such thereafter.

Construction management

6. No development shall take place until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details. The CMS shall identify:
 - a) areas on site designated for the storage of heavy duty plant and equipment, including vehicles, and car parking facilities for construction site operatives and visitors;
 - b) activities like earth moving, aggregate mixing, crushing, screening, and piling and on-site storage and transportation of raw material;
 - c) working practices to control emissions of dust and mud arising from on-site activities, including details of wheel washing facilities;
 - d) working practices for protecting nearby dwellings, including measures to control noise and vibration arising from on-site activities as set out in British Standard 5228:2009 *Noise and Vibration Control on Construction and Open Sites*;
 - e) details of bunded facilities for any storage of oils, fuels or chemicals;
 - f) details of the temporary construction compound;

- g) a programme for the construction works.
7. The temporary construction compound shall be removed no later than three months from the date electricity is first exported from the wind turbine to the electricity grid network (First Export Date) and the ground restored to its previous condition within six months of such removal.
 8. No development shall take place until a traffic management scheme for the implementation of the permission has been submitted to, and approved in writing by the local planning authority. The scheme shall include arrangements for abnormal loads and appropriate temporary signage and shall be implemented in accordance with the approved details.

Control of operational impacts

9. Prior to the erection of the turbine, a scheme providing for a baseline survey and the investigation and alleviation of any electro-magnetic interference to terrestrial TV caused by the operation of the turbine shall be submitted to and approved in writing by the local planning authority. The scheme shall provide for the investigation by a qualified independent television engineer of any complaint of interference with television reception at a dwelling (defined for the purposes of this condition as a building within Use Class C3 and C4 of the Use Classes Order) which lawfully exists or had planning permission at the date of this permission where such complaint is notified to the developer by the local planning authority within 12 months of the First Export Date. Where impairment is determined by the qualified independent television engineer to be attributable to the turbine, details of the mitigation works which shall first have been approved in writing by the local planning authority shall be implemented as approved.
10. The wind turbine hereby approved shall operate in accordance with a shadow flicker mitigation scheme which shall be submitted to and approved in writing by the local planning authority prior to the operation of the wind turbine unless a survey carried out on behalf of the developer in accordance with a methodology approved in advance by the local planning authority confirms that shadow flicker effects would not be experienced within habitable rooms within any dwelling which lawfully exists or had planning permission at the date of this permission.
11.
 - i) The level of noise emissions from the turbine, as measured below, at any lawfully existing dwelling shall not exceed 37.5dB LA90, 10 mins between 0700 and 2300 hours, and 43 dB LA90,10mins at all other times or 5dB(A) above background noise levels, whichever is the greater.
 - ii) Where a complaint is notified to the developer by the local planning authority the level of noise emissions resulting from the operation of the turbine shall be measured in accordance with the methods recommended in Section 2.0 on Pages 102-104 of ETSU-R-97. Wind speed shall be measured on site and referenced to a height of 10m. Where it is necessary to convert between measured wind speeds and the wind speed at 10m height, this conversion shall be undertaken using a methodology to be agreed with the local planning authority. Tonal Noise or the impact of other characteristics that could cause

additional disturbance (e.g. Amplitude Modulation) shall be assessed and rated in accordance with the advice contained in Sections 2.0 and 2.1 on Pages 103-109 of ETSU-R-97. The developer shall supply wind speed and direction data to and at the request of the local planning authority to enable it to evaluate measurements made by the developer and to satisfy the foregoing requirements of this condition.

iii) Definitions:

- a) "ETSU-R-97" means "*the Assessment and Rating of Noise from Wind Farms*" published by the Energy Technology Support Unit for the Department of Trade and Industry in 1996.
 - b) "Background Noise Level" means the background noise levels as reported in Chapter 12 Section B of the Environmental Statement (January 2010).
 - c) "Tonal Noise" has the meaning given on Page 95 of ETSU-R-97.
 - d) "Quiet Waking Hours" and "Night Hours" have the meaning described on Page 95 of ETSU-R-97.
 - e) In relation to the properties for which no background noise level measurements have been taken, "Background Noise Level" means the background noise level measured at the property which is most likely to experience background noise levels similar to those experienced at the property in question.
12. Before development commences the location and dimensions of the wind turbine shall be communicated to the Ministry of Defence for inclusion within aeronautical charts and in the Aeronautical Information Publication.

Temporary provisions

13. The planning permission is for a period from the date of the installation until the date occurring 25 years from the First Export Date. Written confirmation of the First Export Date shall be provided to the local planning authority no later than 1 calendar month after that event.
14. Not later than 3 months from the date that the planning permission hereby granted expires, or if the turbine ceases to operate for a continuous period of 12 months then it shall be dismantled and removed from the site and the land reinstated to its former condition in accordance with a scheme and timetable which shall have been first submitted to and approved in writing by the local planning authority.

Cabling

15. All electrical cabling on site shall be buried underground.

Archaeology

16. i) Prior to the commencement of the development the developer or their agents or successors in title shall complete Phase 2 of the archaeological evaluation in accordance with the Written Scheme of Investigation for a Programme of

Archaeological Field Evaluation: (3 September 2009) (Document CD/3.3/3, Appendix 7.2) and submit a Report to the local planning authority. The Report will include an Archaeological Mitigation Plan defining respectively areas for archaeological preservation and areas for archaeological investigation which shall be subject to the approval of the local planning authority.

ii) No development shall take place until fencing has been erected, in a manner to be first agreed in writing by the local planning authority, about the areas for archaeological preservation shown on the Archaeological Mitigation Plan. Fencing shall be retained in-situ until all equipment, machinery and surplus materials have been removed from the site. No ground disturbance or other works shall take place within the areas of archaeological preservation without the written consent of the local planning authority and then shall only be undertaken in accordance with an approved method statement.

iii) No development shall take place 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.

Highways

17. Development shall not commence until such time as that section of the Western Link Road from the A41 which provides access to the site has been laid out and constructed and opened for public use.
18. Development shall not commence until details of the private access way which provides access to the site from the proposed junction with the Western Link Road have been approved in writing by the local planning authority and constructed in accordance with the approved details.

End of conditions for Appeal B

ANNEX E: ASSESSORS REPORT ON THE SAM AND BELOW AND ABOVE GROUND ARCHAEOLOGY

The numbers in square brackets refer to paragraph numbers in the main report that are relevant to my conclusions.

Introduction

1. I sat as Assessor on 27, 28 and 31 October 2011 hearing the evidence on heritage matters from Mr Kidd (AVDC), Dr Miele (Barwood), Mr Abrams (Appellant), and Dr Kropf (Appellant). An unaccompanied visit to the SAM was carried out on 26 October and an accompanied visit to the SAM, the appeal site, the PLUTO site and the surrounding area was undertaken on 1 November 2011.

Impact on the Setting of the SAM

2. The SAM, which lies to the south of the appeal site, was originally designated in 1957 and comprises three fields enclosed by hedgerows and managed as pasture for sheep. It was the subject of a detailed survey in 1990 and the results were published by Mr Everson in the *Records of Buckinghamshire 2001*. This resulted in some variations to the previously accepted interpretations of the remains [11; 79; 268].
3. The western field, which is separated from the rest of the SAM by a gap through which the Hardwick Brook runs, contains the remains of a deserted medieval village. The ruins of St Peter's Chapel, some foundations of Church Farm, and what are now interpreted as the 'especially outstanding' remains of a sixteenth century formal garden relating to a Tudor house built by the Lee family, occupy the central field. The eastern field contains the remains of a deserted medieval village and earthworks that were believed to be related to the Civil War but which are now interpreted as 'pillow mounds' associated with a rabbit warren, possibly contemporary with the Tudor house [268].
4. The Appellant's witness (Dr Kropf), who is not a qualified archaeologist, questions the interpretation of the earthworks as a formal garden pointing out that Campden Manor, used by Mr Everson as an example of a contemporary garden, post dates the supposed date of Quarrendon by 20 years and has significant differences. However, he is a lone voice in doing so, and there is consensus between the other experts, including English Heritage. Indeed, the Archaeological SCG accepts the existence of a Tudor mansion and garden and the author of the Archaeological Assessment in the ES, who is a qualified archaeologist, refers to the Everson work with no suggestion of dispute [80; 81; 158; 159; 235; 236].
5. A suggestion that the earthworks may have been an attempt at flood management would not preclude the features from having been part of a garden. Whilst the garden interpretation is to some extent conjecture, it is the most likely interpretation in the light of present understanding. Notwithstanding the differences between the experts about the garden, and the absence of any contemporary documentation relating to it, there is no suggestion that the SAM is anything other than an exceptional archaeological complex of national importance, although it is agreed that the wider area should not be designated [79; 80; 82; 158; 159; 236; 268].

6. The settlement at Quarrendon was recorded in the Domesday Book and the medieval villages would have been surrounded by ridge and furrow fields giving them a rural agricultural setting. The Lee family acquired the manor in 1512 but by the 1560s the population had fallen to a very low level due to the wholesale conversion to pasture and the grazing of sheep. The setting for the house and garden would also have been fields, maintaining the rural agricultural setting. The manor was subsequently abandoned and cannibalised for building materials and a later farm has also gone [83; 160; 230; 268].
7. Quarrendon Leas is designated as a key green space in the Buckinghamshire Green Infrastructure Strategy. However, the western field of the SAM is now surrounded on three sides by the Berryfields MDA. Aylesbury lies to the south on the opposite side of the River Thame, whilst the Weedon Hill MDA lies to the east. The appeal site, on rising ground to the north, remains in agricultural use. The briefs for the MDAs included a 'core setting' for the SAM of a minimum of 100 metres from the boundary. This was to maintain its connection to the wider countryside whilst providing a sense of desertion and isolation. Whilst the SAM has become progressively separated from the surrounding fields in terms of function and ownership, it retains a rural agricultural setting that includes the appeal site and beyond [11; 84; 85; 88].
8. The appellant maintains that the principal heritage value of the site is evidential and historical rather than aesthetic. English Heritage Guidance indicates that the contribution the setting makes to the SAM does not depend on public access or the fact that some aspects are not readily appreciated by the casual observer. Although the SAM might have a slightly neglected appearance with unmanaged trees and hedgerows, the topography provides an important view from the eastern end of the SAM towards the rising ground of the appeal site. This view is aesthetically important and allows an appreciation of the evolution of the site and the form of the pre-parliamentary enclosures. The site also has communal value with some 500 people attending an open day [82; 83; 161; 231; 232; 233; 234].
9. Although the WLR would run between the appeal site and the SAM, the route occupies the low ground of the valley floor to minimise its intrusiveness. Indeed, the route was moved away from the SAM to help protect its setting. The WLR has also been designed to be a relatively inconspicuous rural road free from visible signage and lighting as far as possible. Hedgerow planting to the south of the WLR would be in keeping with hedgerows in that part of the landscape [11; 85; 164].
10. The proposal would introduce housing at around 40 dwellings per hectare on the lower slopes of the rising ground on the opposite side of the valley. This would significantly erode the rural agricultural setting of the SAM that is important to the understanding of its relationship to its surroundings. The importance of the relationship is recognised by the appellant in the design which seeks to use the topography and the ridge and furrow patterns as a basis for the street patterns and which incorporates the historic hedgerows into the layout [14; 15; 86; 89; 163; 165; 233].
11. However, planting on the southern side of the site would, to some extent, screen views of the site from the SAM and the appreciation of the historic fields delineated by the hedgerows would be obscured by the development between them. The proposal would obliterate the principal remaining visual link with

the historic rural agricultural setting of the SAM, contrary to the aims of LP Policy GP.59, SEP Policy BE6 and PPS 5 Policy HE9.1 [87; 88; 89; 155; 162; 163; 165; 166; 238].

12. A proposed wind turbine, some 149 metres to the tip of the blade, would stand towards the northern end of the appeal site on the opposite side of the ridge to the SAM. Consequently only the upper part would be visible from the SAM, although the rotating blades would, to some extent, attract the eye. Whilst views of the development itself would be negligible due to the intervening distance the turbine would also be visible from the Grade I listed Waddesdon Manor, Grade II* listed Hartwell House, and Grade II listed Chequers and Halton House and the Registered Parks and Gardens of Waddesdon Manor, Eythrope Park and Hartwell House. However, it would not in itself affect the agricultural use of the fields that form part of the setting for the SAM but would appear as a distant isolated structure similar to the power lines that can also be seen in the wider landscape. The separation distance of the turbine from the SAM, together with its isolated appearance would, despite the rotating blades, preclude it from having any significant impact on the setting of the SAM or the listed buildings and gardens. Indeed, English Heritage has not objected to the wind turbine [17; 118; 119; 196; 197; 198; 199; 250; 256; 260; 263; 275].
13. Reference has been made to a PLUTO pumping station site to the east of the appeal site. Whilst this is of interest in itself, the pipeline 'passed through' the landscape and consequently the surrounding area is relatively unimportant to an appreciation of the pumping site itself. The separation of the PLUTO site from the eastern boundary of the appeal site is sufficient to prevent any unacceptable impact on either the PLUTO site or its setting [12].

Impact on Below Ground Archaeology

14. The nature and extent of archaeological interest has been defined by field evaluation in accordance with PPS 5 Policy HE6. As a result, the Masterplan was amended to prevent harm to some areas and to reduce the impact on others. Despite the harm having been reduced, the main concerns are Roman sites in AZ2, AZ3 and AZ5. It is agreed that the buried remains in these areas are of sufficient interest to be considered heritage assets of regional importance but they are not equivalent to a scheduled monument and so PPS 5 Policies HE7, HE8 and HE12 are relevant [91; 92; 167].
15. Remains in the three areas of concern would be at least partly in areas for construction and so would effectively suffer a complete loss of archaeological interest. Whilst investigation could increase knowledge and inform signage on the SAM and the reinstatement and retention of key field boundaries, PPS 5 Policy HE12.1 states that a documentary record of our past is not as valuable as retaining the heritage asset. Consequently the ability to record evidence should not be a factor in deciding whether a proposal resulting in the destruction of an asset should be given permission [91; 94; 95; 167; 168; 170].
16. The shallow ploughsoil and patchy presence of shallow subsoil in most trial trenches indicates a vulnerability to future damage, as does the top and middle slope locations of AZ2 and AZ3. However, aerial photographs show the Roman sites levelled and cut into by medieval activity. That has been followed by mechanised cultivation for the last 40-50 years. Although some shallow

features such as gullies and postholes could be at risk, none of the sites have been shown to include especially sensitive remains and there is no substantial evidence of serious future harm. The low quantity of finds during field walking, only 40 sherds that are generally small and abraded, is not consistent with active destruction. Whilst the majority of finds were in AZ2, which might indicate active erosion, the lack of finds in AZ3 and AZ5 does not support that conclusion [171; 173].

17. It is accepted that there is a long term risk to the heritage assets due to the arable cultivation of the fields. If deep rooted crops were grown in future then damage could increase without any investigation. Taking the land out of arable cultivation would be a small benefit but, although there is no evidence of take up, now that the heritage assets are known Environmental Stewardship grants are available to take land out of cultivation [91; 93; 174].
18. The original ES acknowledged that there would be a major negative impact on the below ground remains but the ES Addendum now reaches a conclusion that doing nothing “would almost certainly lead to their eventual total loss without record”. This assertion is not justified by the evidence. Recording investigations might mitigate any harm that would be caused to some extent but, as indicated in PPS 5 Policy HE12.1 supported by paragraph 127 of the Practice Guide to PPS 5, it should not be a factor in deciding whether a proposal resulting in the destruction of an asset should be given consent, and could not be regarded as a benefit. Notwithstanding the mitigation that could be required, and the improvements due to altering the Masterplan, the proposal would still damage a regionally important asset, contrary to the aims of PPS 5 Policy HE7.4 [168; 169; 170; 172; 175].
19. Turning to the turbine, it would be built within the area of lowest archaeological interest. Although the access road would cross areas of higher interest, it may be possible to construct it over the buried remains. Even if this were not possible, the proportion of each area affected would be small and a level of mitigation could be provided by a condition requiring archaeological investigation and recording [195].

Conclusions

20. Notwithstanding the conclusions relating to the wind turbine and the PLUTO site, the proposal in Appeal A would have a significant detrimental impact on the setting of the SAM and would damage regionally important below ground remains contrary to policy objectives.
21. PPS5 Policies HE9.2 and HE10.1 indicate that any harm to designated heritage assets should be weighed against the wider benefits of the proposal and that clear and convincing justification would be needed for any harm. The conclusions above should be considered alongside conclusions on other matters in the overall planning balance.

K D Barton

INSPECTOR