

## Appeal Decision

Inquiry held on 18 to 21, and 25 July 2017

Accompanied site visit made on 25 July 2017

**by M C J Nunn BA BPL LLB LLM BCL MRTPI**

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

**Decision date: 04 January 2018**

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**Ref: APP/J0405/W/16/3157098**

**Land South of the Strand, Quainton (East of the Old Police House),  
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 PAG Ventures Ltd against Aylesbury Vale District Council.
  - The application Ref: 15/03583/AOP is dated 20 October 2015.
  - The development is described as "residential development comprising up to 31 dwellings, access, public open space, landscaping and associated infrastructure".
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application is made in outline with all matters except access reserved for subsequent determination. In addition to my accompanied site visit, I made unaccompanied visits to the site and its surroundings on other occasions, before, during and after the Inquiry.
3. The Council failed to determine the application within the prescribed period. The Council's delegated report of 18 November 2016 advises that, had it determined the application, it would have refused permission for three reasons<sup>1</sup>. The third reason, relating to the need to enter a planning obligation to secure financial contributions and other provisions, has now been withdrawn following the completion of a legal agreement.
4. The Council's first and second putative reasons for refusal to some extent overlap. Whilst I deal with landscape and heritage matters separately, the two matters are linked because of the form and character of the village, and the importance of the landscape in defining the setting of the Quainton Conservation Area and listed buildings.
5. After the close of the Inquiry, the Council drew my attention to its latest 5 Year Housing Land Supply Statement, published in August 2017. The appellant's

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<sup>1</sup> Statement of Common Ground, Paragraph 1.4 [CD4.4]

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comments were sought on this document and have been taken into account in my decision.

6. The Submission Version of the Vale of Aylesbury Local Plan (VALP) was also published after the Inquiry closed. The parties' comments were sought on this and I have taken them into account in my decision.
7. At the Inquiry, a query regarding the precise boundary of the Quanton Conservation Area arose, and specifically whether a very small part of the appeal site lies within it. A plan was supplied<sup>2</sup> although it is not determinative. I have adopted the approach agreed by both main parties in the Statement of Common Ground that the appeal site remains outside the Conservation Area, but immediately abuts its boundary<sup>3</sup>.

### **Main Issues**

8. The main issue is the acceptability of the proposal having regard to the adopted development plan and national policy, and whether there are material considerations to justify a determination other than in accordance with the development plan, having regard to:
  - i. the effect of the proposal on the character and appearance of the area, including the landscape;
  - ii. the effect on heritage assets including the adjacent Quanton Conservation Area, statutorily listed buildings and buildings of local note<sup>4</sup> in the vicinity; and
  - iii. whether the Council can demonstrate a five year supply of deliverable housing sites.

### **Reasons**

#### *Planning Policy Context*

9. The relevant legislation<sup>5</sup> requires the appeal to be determined in accordance with the statutory development plan unless material considerations indicate otherwise. The statutory development plan comprises the 'saved' policies of the Aylesbury Vale District Local Plan, adopted in 2004 ('the Local Plan'). The Council's remaining putative reasons for refusal allege conflict with the following Policies: GP.35 dealing with the design of development proposals; and GP.53, dealing with new development and conservation areas.
10. The National Planning Policy Framework ('the Framework') sets out the Government's up-to-date planning policies and is a material consideration in planning decisions. Importantly, the Framework does not change the statutory status of the development plan for decision making. However, the Framework advises at Paragraph 215 that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework.

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<sup>2</sup> Inquiry Document (ID) 17

<sup>3</sup> Statement of Common Ground, Paragraph 2.14 [CD4.4]

<sup>4</sup> As designated in the Conservation Area Review 2015 [CD5.13]

<sup>5</sup> Section 38(6) of the 2004 Act

11. The Local Plan predates the Framework. Nonetheless, the Framework states that policies should not be considered out of date simply because they were adopted prior to the Framework's publication<sup>6</sup>. As the appellant notes, the Local Plan is formally 'time expired', being designed to provide policy guidance up to 2011<sup>7</sup>. That said, the mere age of a plan does not mean that it loses its statutory standing as the development plan.
12. Policy GP.35 requires amongst other things that development should respect and complement the physical characteristics of the site and surroundings, the historic scale and context of the setting, the natural qualities and features of the area, and the effect on important public views and skylines. The appellant is of the view that the policy is not relevant to outline applications, on the basis that it is primarily concerned with design. However, various appeal decisions have concluded that GP.35 can apply to outline applications<sup>8</sup>. For example, the Secretary of State concluded that a number of the policy criteria are directly applicable to outline applications as a 'first step' in assessing the principle of a development in a particular location and whether a scheme would respect its surroundings<sup>9</sup>. I see no reason to take a different view. I find the overall approach of Policy GP.35 to be consistent with the Framework. It should therefore be given full weight in this appeal.
13. Policy GP. 53, relating to Conservation Areas, states that the Council will seek to preserve or enhance the special characteristics that led to the designation of the area; and that proposals will not be permitted if they cause harm to the character or appearance of Conservation Areas, their settings or any associated views of or from the Conservation Area; also, that proposals must respect the historic layout, scale and form of buildings, street patterns, open spaces and natural features in the Conservation Area that contribute to its character and appearance.
14. Although the site abuts the Quanton Conservation Area rather than falling within it, the explanatory text to the policy notes that the use and development of land adjacent to Conservation Areas can frequently have a material effect on the character of the area, for example by affecting views to or from the Conservation Area<sup>10</sup>. It notes that the need to respect the setting of the Conservation Area in terms of design of new buildings and alterations applies beyond designated boundaries. For these reasons, the policy is relevant to this appeal.
15. It is the case that Policy GP.53 does not reflect aspects of the Framework's approach to heritage assets<sup>11</sup>, for example, in terms of assessing harm or in respect of the weighing of public benefits. Nonetheless, the requirements in Policy GP.53 to preserve or enhance the special characteristics of Conservation Areas are not in fundamental conflict with the underlying aims of the Framework, nor with the relevant planning legislation<sup>12</sup>. Therefore, this policy can be afforded moderate weight.

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<sup>6</sup> Paragraph 211

<sup>7</sup> Local Plan [CD5.1]

<sup>8</sup> APP/J0405/W/16/3146817 [CD7.1], APP/J0405/A/14/2219574 [CD7.7], APP/J0405/W/15/3002218 [ID 16], APP/J0405/A/12/2181033 [CD7.5], APP/J0405/A/13/2205858 [CD7.2]

<sup>9</sup> Paragraph 13 [CD7.2]

<sup>10</sup> Paragraph 4.153

<sup>11</sup> Section 12

<sup>12</sup> Planning (Listed Buildings and Conservation Areas) Act 1990

16. The Local Plan does not make provision for new housing beyond 2011, and so in that respect is out of date. Therefore, the second bullet point of Paragraph 14 of the Framework is potentially engaged in this appeal. This states that where the development plan is absent, silent or out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. However, this so called 'tilted balance' in favour of granting permission can be subject to dis-application where specific policies in the Framework indicate development should be restricted<sup>13</sup>. I deal with this matter later on.

#### *Neighbourhood Plan*

17. The Quainton Neighbourhood Development Plan was made on 31 October 2016. As such, it forms part of the development plan, and proposals should therefore be determined in accordance with it unless material considerations indicate otherwise. Policies cited within the putative refusal grounds are H1, E1, E2 and NE1.
18. Policy H1 supports proposals for new homes within the settlement boundary, subject to certain criteria, but there is a presumption against new homes outside the settlement boundary, except on sites along Station Road adjoining the settlement boundary. The appeal site falls outside the settlement boundary in the Neighbourhood Plan.
19. Policy E1 seeks to conserve and enhance the Quainton Conservation Area. Whilst this policy primarily relates to the Conservation Area itself, the explanatory text refers to the landscape setting being fundamental to the historic character of the village. Given that the impact on the setting of a Conservation Area is capable of causing harm to the Area itself, Policy E1 is relevant in this appeal. Policy E2 relates to development beyond the Conservation Area, and requires that new buildings and extensions should be an asset to the street scene. It requires that new development should not detract from those parts of the views identified on the Key Views and Vistas Map; and that all development should conserve and enhance the historic character and heritage assets of the Parish.
20. Although the Neighbourhood Development Plan was recently made, Policies E1 and E2 do not reflect the Framework's approach to heritage assets in terms of assessing harm, or in respect of the weighing of public benefits. On this basis, the appellant contends they should be given very little weight. However, the requirements in both policies to conserve and enhance the special characteristics of Conservation Areas are not fundamentally inconsistent with the underlying aims of the Framework, nor the relevant planning legislation. Therefore, I see no reason to disregard them in this appeal.
21. Policy NE1 relates to the protection of designated Local Green Spaces. I acknowledge that the proposed development would be located between designated Local Green Spaces (LGS 3 to the north and LGS 4 to the south). However, the appeal site is not so designated. Therefore, I do not consider this policy to be directly relevant.

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<sup>13</sup> Examples of such policies are given in Footnote 9 of the Framework

### *Emerging Policy*

22. The Vale of Aylesbury Plan was withdrawn by the Council in February 2014 on the advice of the Planning Inspector examining the Plan. A new plan, the Vale of Aylesbury Local Plan (VALP) is currently being prepared. A draft for consultation was published in July 2016. After this Inquiry closed, the Council published a Submission Draft.
23. The appellant considers the recently published Submission Draft should receive some weight in the determination of this appeal, particularly in terms of the housing requirement figure<sup>14</sup>. However, the VALP is still subject to further consultations and has various outstanding objections. Its policies may be subject to change. In due course, it will be the subject of full Examination but it is still some way from adoption. In these circumstances and given its evolving status, in accordance with 216 of the Framework, I cannot give the VALP significant weight in this appeal.

### *Effect on Character and Appearance - Landscape*

25. The irregularly shaped appeal site forms part of a flat field of semi-improved grassland. It is used as paddocks for horse grazing. It lies on the eastern edge of Quainton, a village with an attractive and distinctive character, with many historic buildings, a number of which are statutorily listed. The appeal site lies adjacent to the Quainton Conservation Area which covers much of the village. The appeal site's northern boundary abuts The Strand and is enclosed by an established hedgerow with a gap providing access. The western boundary abuts the garden of the Old Police House. Also to the west are the more modern properties in White Hart Field and Mallets End, along with a narrow area of green space adjacent to the site boundary. The southern boundary is demarcated by a hedgerow. The eastern edge is open and undefined by any vegetation.
26. The appeal site is not covered by any specific landscape designation in the adopted Local Plan. At the national level, the site is identified as falling within the 'Midvale Ridge National Character Area 109'. This comprises a band of low lying limestone hills giving extensive views across the countryside. The national profiles are necessarily broad in their descriptions. At a local level, the Aylesbury Vale Landscape Character Assessment (2008)<sup>15</sup> identifies the appeal site as lying at the interface of two Landscape Character Areas (LCAs), namely the 'Northern Vale LCA 8.5', and the 'Westcott Claylands LCA 5.9', which also includes Quainton Village. The appeal site itself falls exclusively within 'Northern Vale LCA 8.5' which is characterised by an open vale landscape and flat landform. The elevated area further to the north forms part of the 'Quainton Hill LCA 9.2' comprising a distinctive landscape of hills.
27. On the ground, there are rarely strict demarcations between character types, and areas where two types merge may display characteristics of both. It is also the case that national, county or district wide assessments do not necessarily reflect the more fine grained local analysis that is undertaken when faced with individual development proposals. Also, whilst individual proposals, because of their size, may not impact on broad character areas taken as a

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<sup>14</sup> Letter dated 24 October 2017, Walsingham Planning

<sup>15</sup> CD 5.14

whole, it does not follow that they cannot have a substantial impact in a more local context. Whatever character 'label' is attached, the character of the site and surroundings is clear from site inspection.

28. The appellant's assessment is that the overall landscape value for the area south east of Quainton is 'medium-high', although the appeal site itself is regarded as only 'medium'<sup>16</sup>. The lesser status accorded by the appellant is on the basis that it is perceived as a village fringe site, with fencing giving it a more utilitarian character. According to the appellant, this means its overall value is different to that of the wider landscape. The appellant applying the principles of the *Guidelines for Landscape and Visual Impact Assessment, Third Edition* (GLVIA3) concludes there would be a localised effect from the development on the rural character and setting of the village with a minor degree of harm after 15 years. It is also concluded that the development would not be overly prominent in wider views from public rights of way in the surrounding countryside<sup>17</sup>.
29. My own observations are that the site forms part of an attractive landscape, with open and expansive panoramic views across it. Although there is no "ridge and furrow"<sup>18</sup> present on the appeal site, it forms a field that merges with the wider sweep of rural land beyond the built-up confines of Quainton. The wider landscape is composed of relatively large fields, punctuated and peppered by intermittent deciduous mature tree cover and hedgerow boundaries. This creates a spacious and pleasing character. The landscape remains intact and unspoilt, and its elements are in good condition. The appeal site forms an intrinsic part of this landscape, and is important in terms of the setting of the village as well as the immediate setting of the Conservation Area.
30. The predominant impression when approaching the village from the east along The Strand is of being within an attractive rural area. The site with its associated hedgerow and mature trees along the boundary contribute to this rural character. These characteristics are fundamental to the immediate setting of the village. The new dwellings would be prominent features in this scene. The new access (along with the necessary visibility splays) would create a significantly wider gap in the hedgerow than exists at present. The introduction of up to 31 houses, along with associated infrastructure, new street lighting, together with a new footway along The Strand, would have a harmful suburbanising effect. The encroachment of new development on to this undeveloped area of open land would have significant and adverse repercussions for the rural landscape as well as for the setting of the village.
31. Turning to views in the wider landscape, I observed the site from various points in and beyond the village<sup>19</sup>, along public footpaths and from the Churchyard of Holy Cross and St Mary. From the Churchyard, there are open and framed views of the site, across the intervening designated Local Green Space (LGS 3), with the village edge visible in the middle distance, and the wider countryside beyond. The views are filtered to an extent by intervening vegetation, but there are nonetheless clear views out towards the site. From this vantage point, the site is seen at a distance and within the context of a larger

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<sup>16</sup> Mr Charsley's Proof, Paragraph 3.20

<sup>17</sup> Mr Charsley's Proof, Paragraphs 1.15 & 1.16

<sup>18</sup> Evidence of the medieval/pre-enclosure field system

<sup>19</sup> Including the viewpoints identified within both the Appellant's and Council's Landscape Proofs

- panorama. At present, the site is observed as part of the open pastoral landscape, and as providing a setting for the village. The development would be seen as expanding the urban edge of Quainton. The visual intrusion of built development, whilst more limited because of the benefit of distance, intervening vegetation and width of view, would still be harmful.
32. When viewed from the public footpath crossing Station Road Meadows to the south of the site, also identified as Local Green Space (LGS 4), the development would be conspicuous in the middle ground in northward views towards the Village. Although views directly into the site are currently obstructed to an extent by perimeter hedgerow, it is likely that that the roofs and upper facades of the dwellings would be visible above it, with the dwellings potentially forming the skyline, as one moves closer to the site. Although the existing modern properties of White Hart Field are visible in this view, the expansion of the urban edge would nevertheless harm the setting of the village.
33. The appeal site is promoted on the basis that it should be regarded as an area close to, and read in the context of the built development of Quainton, and especially the more modern residential development within White Hart Field and Mallets End. It is argued that the scheme would amount to a small extension to the village edge and that, with appropriate structural landscaping, the development would be well-contained, with limited views of it from the wider landscape. The appellant also mentions that the village has not been immune from modern housing development over the past few decades which, it is argued, has knitted into the urban grain without detriment to the village's overall character.
34. In my judgement, however, the proposal would project significantly into the open countryside. It would have a common boundary with the existing urban edge of Quainton along only one side: to the west, abutting the garden of the Old Police House, and the properties in White Hart Field and Mallets End. The proposal would not mark a natural rounding off of the settlement, nor would it be adequately assimilated with it. This scheme would result in a significant harmful intrusion into a currently open and undeveloped area.
35. I acknowledge that the scheme would retain as much of the hedgerow as possible, including existing trees. Additional structural planting would take place along the boundaries, including along the open eastern side, to supplement the existing vegetation and trees. However, I am not convinced that this, even once it has become fully established over time, would be fully effective in altering the perception of urban development behind the vegetative screening. Indeed, in the winter months when deciduous trees lose their leaves and vegetation dies down, the houses would inevitably be more obvious.
36. The site, as previously noted, is not identified within the adopted Local Plan as protected by any specific national or local landscape designation. On this basis, the appellant concludes that it cannot be regarded as a 'valued landscape' in terms of the Framework<sup>20</sup>, deserving of the highest protection<sup>21</sup>. That said, there is no definition within the Framework as to what a 'valued landscape'

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<sup>20</sup> Paragraph 109

<sup>21</sup> Mr Charsley's Proof, Paragraph 1.13 and 3.18

actually means. The *Guidelines for Landscape and Visual Impact Assessment, Third Edition (GLVIA3)* are clear that the fact that an area of landscape is not designated nationally or locally does not mean it does not have any value<sup>22</sup>.

37. This landscape is attractive and of significant value in the locality. It is particularly important to the setting of the Village, and as a consequence, the setting of the adjacent Conservation Area. It also contributes to the setting of listed buildings and non designated heritage assets<sup>23</sup>. Footpaths run across this landscape close to the appeal site, and it is located between designated Local Green Spaces. The landscape's attractive characteristics can be readily observed from these locations. So, whilst the area is not formally designated in landscape terms, it does not follow that the site is without merit or value. Indeed, the absence of a designation does not mean that a site cannot have significant local value. Nor does the absence of a formal designation prevent the scheme having a harmful effect.
38. Overall, I conclude that the encroachment of new development on to this undeveloped area of open land would have very significant and adverse effects for the rural landscape. The development would cause a serious incursion into the open countryside and materially harm the rural character of the locality, as well as the setting of the village. As such, the proposal would conflict with Policy GP.35 of the Local Plan. It would also conflict with the Framework which requires the planning system to contribute to protecting and enhancing the natural environment<sup>24</sup>, as well as recognising the intrinsic character and beauty of the countryside<sup>25</sup>. This weighs very heavily against the proposals.

#### *Effect on Heritage Assets*

39. The Quainton Conservation Area is of considerable significance in terms of historic buildings, with many statutorily listed buildings within it, dating from various periods. These include the Church of the Holy Cross and St Mary (Grade I), the associated Almshouses and the Rectory (Grade II\*), the Pyghtles Cottages (Grade II) and the Old Police House, a non-designated heritage asset adjacent to the appeal site, described as a 'building of local note'<sup>26</sup> within the Conservation Area Review. The Conservation Area Review notes that there are many aspects that make Quainton distinctive and worthy of Conservation Area status, but perhaps most fundamental is its setting, and the connection with the wider rural landscape, reinforcing its character as a former agricultural community<sup>27</sup>.
40. In my judgement, the appeal site makes a significant contribution to the setting of the Conservation Area, and is important in establishing a relationship with its expansive rural surroundings. The Strand is especially important because it forms one of the principal entrances into the village and Conservation Area. It is a road that has not been subject to any eastern extension since the Old Police House was built some time before 1880. The proposed development would erode the setting of the Conservation Area by

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<sup>22</sup> CD 5.19, Paragraph 5.26

<sup>23</sup> I deal with these matters below

<sup>24</sup> Paragraph 7

<sup>25</sup> Paragraph 17

<sup>26</sup> These are unlisted buildings but which nevertheless make a positive contribution to the Conservation Area

<sup>27</sup> CD 5.13, pages 7,10, 25 and 57

- creating a suburban character, and would disrupt the existing relationship between the village and the surrounding landscape.
41. Furthermore, the proposed housing would be directly adjacent to the Old Police House. This building retains much of its original character, with an original cell surviving within its garden. The building is prominently sited and currently marks the entrance to the Conservation Area on the eastern approach to the village. The proposal would result in it being surrounded on three sides by modern residential development, reducing and undermining its significance.
  42. Slightly further to the west, Pyghtles Cottages, on the northern side of The Strand, and set at right angles to the road, comprise two picturesque timber framed houses, dating from the late 17<sup>th</sup> and early 18<sup>th</sup> centuries, with brick chimneys and a thatch roof. These Cottages also mark the eastern entrance to the village. Although there is a greater degree of separation from the appeal site as compared with the Old Police House, the new dwellings would nonetheless impinge on the rural setting of these Cottages, harming their significance.
  43. At greater distance from the appeal site, and on higher ground to the north are the Grade I listed Church and its associated cluster of listed buildings, including the Almshouses and Rectory. Consequently, the effect of the proposal would be less direct. I agree with the appellant that the dominance and prominence of these buildings would not be affected to any significant degree by the scheme because of their elevated level and their distance from the site. Nonetheless, and importantly, there are sweeping vistas from the churchyard over land to the south, which include the appeal site.
  44. The Framework defines the setting of a heritage asset as the surroundings in which it is experienced and its extent is not fixed<sup>28</sup>. The appellant acknowledges the positive role of the appeal site and its contribution to the setting and significance of the church because it forms part of the rural hinterland that is visible in views from the churchyard<sup>29</sup>. Whilst I accept that the appeal site represents a relatively small component in the overall vista, the expansion of the settlement into open countryside would nevertheless harm panoramic views from the Churchyard. As a consequence, the new housing would not preserve the setting of the Church, but would rather detract from it.
  45. Both the appellant and the Council consider the overall degree of harm to heritage assets would be less than substantial in terms of the Framework, and I share that view. But there is a clear difference of opinion between the parties as to how the harm should be categorised. The appellant argues that the proposal would have only a tiny or even miniscule effect on the setting of the Conservation Area itself, and on the setting of the listed Church<sup>30</sup>. Thus, the appellant contends the harm to heritage assets should be at the bottom end of the 'less than substantial harm' spectrum.
  46. However, for the reasons above, I consider that the level of harm would sit materially higher than suggested by the appellant. In my judgement, the proposal would have a significantly harmful impact on the setting of the

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<sup>28</sup> Glossary

<sup>29</sup> Mr Froneman's Proof, Paragraph 7.3.

<sup>30</sup> Appellant's Closing Submissions, Section 10

Conservation Area, and therefore have a harmful effect on the significance of the Conservation Area itself. It follows, therefore, that the proposal would fail to preserve or enhance the character or appearance of the Conservation Area itself. It would also conflict with Policy GP.53 of the Local Plan, and Policies E1 and E2 of the Neighbourhood Development Plan.

47. In respect of the listed buildings, the relevant legislation requires that where considering whether to grant permission for development that affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or its setting<sup>31</sup>. For the reasons explained above, I find the proposal would adversely affect the setting of the Pyghtles Cottages and the Church. As such, I find that the proposal would fail to preserve the setting of these listed buildings, contrary to the relevant legislation. In accordance with the Framework, the harm to heritage assets, albeit less than substantial, needs to be weighed against the public benefits of the proposal.

### *Housing Land Supply*

48. The Council's Five Year Housing Land Supply Interim Position Statement, dated October 2016, is based on a housing requirement figure of 19,300 taken from the Full Objectively Assessed Need (FOAN) for Aylesbury Vale, set out in the Buckinghamshire Housing and Economic Needs Assessment Update of December 2016 (HEDNA). The appellant does not dispute that the Council is able to demonstrate a housing land supply equivalent to 5.73 years, based on a 20% buffer and using the FOAN for Aylesbury Vale<sup>32</sup>.
49. The main dispute between the parties regarding housing land supply relates to the issue of unmet housing need from neighbouring authorities. At the Inquiry, a formal 'Memorandum of Understanding' ('MoU')<sup>33</sup> was brought to my attention, between the Council, and three other districts – Wycombe, Chiltern and South Bucks, and the Thames Valley Local Enterprise Partnership. The MoU states that the level of unmet need that the Council will need to accommodate is 8,000 dwellings. Therefore, the appellant contends that the starting point for calculating supply should also include the unmet need from neighbouring authorities. Based on a 20% buffer, which the appellant says is appropriate, the Council can only demonstrate a 3.02 year supply<sup>34</sup>.
50. An updated Five Year Position Statement, published August 2017, was provided by the Council after the Inquiry had closed. This Statement concludes that the Council now has an improved supply, of some 9 years, based on a slightly higher requirement figure of 19,400, and applying a buffer of 5%. According to the Council, the lower 5% buffer is appropriate, rather than 20%, on the basis of improved delivery rates. Again, the calculation does not include any unmet need from neighbouring authorities.
51. The appellant's comments were sought on the latest Position Statement<sup>35</sup>. In summary, based on the Council's updated figures, and applying a 20% buffer, as well as including unmet need from neighbouring authorities, the appellant concludes that there is a supply of housing of 3.9 years. However, quite

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<sup>31</sup> S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

<sup>32</sup> Housing Statement of Common Ground, Table 4.5, page 11

<sup>33</sup> ID 19

<sup>34</sup> Housing Statement of Common Ground, Table 4.5, page 11

<sup>35</sup> Letter dated 6 September 2017, Walsingham Planning

understandably, the appellant noted it was not possible to undertake a detailed or proper review of the Council's latest figures in the limited time available. I acknowledge that testing the robustness of this evidence would have required the Inquiry to be re-opened. It is not practical to continually update evidence once an Inquiry has closed and there must be a 'cut-off' point. Any assessment of housing land supply can only represent a 'snapshot' of the position at the time of the Inquiry. For these reasons, I have not placed any weight on the Council's August 2017 Position Statement figures.

52. To sum up, I accept that it is highly likely that the Council will need to take substantial 'unmet need' from neighbouring authorities in the near future. Indeed, the VALP Submission Draft published after the close of the Inquiry identifies a housing requirement for the Plan period of 27,400 new homes. This includes the additional 8,000 dwellings as per the MoU. But as I have already noted, the Submission Draft VALP cannot be accorded significant weight because of its evolving status and the existence of unresolved objections.
53. Furthermore, the HEDNA on which the FOAN for Aylesbury Vale is based has not been tested at examination. It is my view that any future housing requirement figure will need to be fully tested through the local plan examination process, with the opportunity for a range of stakeholders and participants to comment. It is established case law that it is not part of my remit, in determining a planning appeal, to carry out a conscious redistribution of need from one local planning authority's area to another, or to conduct an examination into the housing land requirements of the emerging local plan<sup>36</sup>. Indeed to do so may prejudge the findings of the Local Plan Inspector. Such an approach has been confirmed in other appeal decisions in Aylesbury Vale<sup>37</sup>.
54. In these circumstances, and for this specific appeal, I consider the requirement of 19,300 with an annual requirement of 965 dwellings per annum is the most appropriate figure. On this basis, both the parties agree that the Council can demonstrate a five year supply, even applying a 20% buffer. Crucially, however, this finding does not alter the fact that the policies for the supply of housing in the Local Plan cannot be considered up to date. This is because the Local Plan does not make provision for new housing beyond 2011. Therefore, and importantly, the 'tilted balance' of Paragraph 14 of the Framework potentially still applies in favour of granting permission, subject to any dis-application.

### **Other Matters**

55. A planning obligation has been completed, dated 20 July 2017. The obligation secures the provision of affordable housing at a rate of 30%. Based on 31 dwellings, this would equate to 9 affordable units, as well as a part in-lieu financial contribution. It also secures financial contributions towards sport and leisure, a footpath linking the site to the adjacent White Hart Field development; and secondary education for facilities at Waddesdon Church of England School.

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<sup>36</sup> Oadby and Wigston BC v SSCLG [2016] EWCA Civ 1040

<sup>37</sup> For example, APP/J0405/W/16/3152120 [ID 4]

56. I have no reason to believe that the formulae and charges used by the Council and County Council to calculate the various contributions are other than soundly based. In this regard, the Council has produced a Compliance Statement<sup>38</sup> which explains how the obligations meet the relevant tests in the Framework<sup>39</sup> and the Community Infrastructure Levy Regulations<sup>40</sup>.
57. The development would enlarge the local population with a consequent effect on local services and facilities. I am satisfied that the provisions of the obligation are necessary to make the development acceptable in planning terms, that they directly relate to the development, and fairly and reasonably relate in scale and kind to the development, thereby meeting the relevant tests in the Framework and the Community Infrastructure Levy Regulations.

### **Planning Balance and Overall Conclusions**

58. The relevant legislation requires that the appeal be determined in accordance with the statutory development plan unless material considerations indicate otherwise. The Framework states that proposals should be considered in the context of the presumption in favour of sustainable development, which is defined by the economic, social, and environmental dimensions and the interrelated roles they perform. The Framework is clear that the economic, social and environmental roles should not be undertaken in isolation because they are mutually dependent, and that they should be sought jointly and simultaneously through the planning system.
59. Paragraph 14 of the Framework explains how the presumption in favour of sustainable development applies. Where the development plan is absent, silent or the relevant policies are out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Alternatively, specific policies in the Framework may indicate development should be restricted. Those relating to heritage assets are one such category. Paragraph 134 of the Framework requires the harm to the significance of designated heritage assets to be balanced against the public benefits of the proposal.
60. There is no doubt that the additional housing would be a weighty public benefit for the area, carrying substantial weight. The scheme would introduce much needed private and affordable housing for local people. It would provide 31 units, including 22 market units and 9 affordable units. Although submitted in outline, I understand that it is proposed the units would be two and three bedroom dwellings, and include bungalows, aimed at the specific housing needs of Quanton<sup>41</sup>. It would bring about additional housing choice and competition in the housing market.
61. The scheme would generate other economic and social benefits. It would create investment in the locality and increase spending in shops and services over the longer term. It would result in jobs during the construction phase and, according to the appellant, result in construction spending of around

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<sup>38</sup> ID 18

<sup>39</sup> Paragraph 204

<sup>40</sup> Regulations 122 & 123

<sup>41</sup> Mr Krassowski's Proof, Paragraph 5.73

- £4.25 million. The new homes bonus would bring additional resources to the Council, as well as additional Council tax payments.
62. I accept that the site is in a moderately sustainable location, within reasonable range of shops, services and facilities within Quainton. There are public transport services available. The scheme has other advantages, secured by a planning obligation, including financial contributions towards sport and leisure, contributions for a footpath linking the site to the adjacent White Hart Field development; and for secondary education for facilities at Waddesdon Church of England School. Although these are characterised as benefits by the appellant, they are primarily to make the development acceptable in planning terms. Nonetheless, I accept that the scheme would comply with the economic and social dimensions of sustainability.
63. However, in accordance with Paragraph 132 of the Framework, great weight must also be given to the failure of the scheme to preserve the setting of the Quainton Conservation Area, and the setting of statutorily listed buildings. These heritage assets are very important in the village, and the effects of the development would be irreversible. In this regard, I find that the harm to heritage assets is not outweighed by the scheme's public benefits. As a consequence, I consider that the 'tilted balance' of Paragraph 14 of the Framework does not apply because specific policies of the Framework indicate development should be restricted.
64. Furthermore, I have found the scheme would cause significant harm to the character and appearance of the area, including the landscape. This would conflict with Policy GP.35 of the Local Plan, as well as the requirements of the Framework to contribute to protecting and enhancing the natural environment<sup>42</sup> and to recognise the intrinsic character and beauty of the countryside<sup>43</sup>. This harm together with the harm to heritage assets means the proposal would have very serious and harmful consequences in terms of the environmental dimension of sustainability. As such I do not consider the scheme as a whole can be regarded as a sustainable form of development.
65. The proposal would also conflict with the recently made Neighbourhood Development Plan in terms of the proposed location of new development in Quainton. Policy H1 sets a presumption against development outside the settlement boundary, and specifically envisages new development on sites adjoining the settlement boundary along Station Road<sup>44</sup>. One of the core principles of the Framework is that planning should be genuinely plan-led, empowering local people to shape their surroundings<sup>45</sup>. I see no reason why in this instance the objectives of the recently made Neighbourhood Development Plan should be set aside.
66. Both parties accept that the Council can demonstrate a five year supply of housing, based on the FOAN for Aylesbury Vale. I acknowledge that as part of the emerging VALP, it is highly likely that the Council will need to accommodate substantial unmet need from neighbouring authorities, and that undeveloped greenfield sites will be required. However, any redistribution of need is a

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<sup>42</sup> Paragraph 7

<sup>43</sup> Paragraph 17

<sup>44</sup> The Submission Draft VALP also identifies sites along Station Road (pages 142-3)

<sup>45</sup> Paragraph 17

matter for the examination of the VALP. I acknowledge that this scheme would help in boosting the supply of housing in accordance with Paragraph 47 of the Framework. Although this attracts substantial weight in favour of granting permission for the proposal, the need to boost housing supply cannot override all other considerations.

67. Overall, I conclude that the appeal scheme would conflict with Policies GP.35 and GP.53 of the Local Plan, as well as Policies E1, E2 and H1 of the Neighbourhood Development Plan. The benefits of the scheme put forward by the appellant do not justify departure from the development plan. Hence I find there are no material considerations of sufficient weight that would warrant a decision other than in accordance with the development plan. Importantly, even had I come to a different view regarding the application of the Paragraph 14 'tilted balance', I consider that the adverse impacts of granting permission, would significantly and demonstrably outweigh the benefits of the scheme, when assessed against the policies in the Framework taken as a whole. Accordingly, for the reasons given, I conclude that the appeal should be dismissed.

*Matthew C J Nunn*

INSPECTOR

## **APPEARANCES**

### **FOR THE COUNCIL:**

Isabella Tafur of Counsel                      Instructed by Aylesbury Vale District Council

She called:

Peter Radmall                                      Independent Practitioner, Landscape & Visual  
Impact Assessments

Asher Ross    GL Hearn

Dr Valerie Scott                                      BEAMS Ltd

Simon Dunn-Lwin                                  Consultant Planner, Aylesbury Vale District Council

### **FOR THE APPELLANT:**

Sasha White of Queens Counsel Instructed by Walsingham Planning

He called:

Kevin Charsley                                      IDP

Daniel Sharp    Walsingham Planning

Ignus Froneman                                      Heritage Collective

Mark Krassowski                                      Walsingham Planning

### **INTERESTED PERSONS**

Kevin Hewson    Ward Councillor, Aylesbury Vale District Council

Arthur Evans    Chairman, Quainton Parish Council

Brian Fludgate    Clerk to Quainton Parish Council

Estelle Bartlett    Resident of Old Police House

### **DOCUMENTS SUBMITTED AT THE INQUIRY**

1. Schedule of Conditions
2. Appeal decision APP/L2820/W/16/3149835, Willowbrook Stud Farm, Desborough, Kettering
3. St Modwen Developments Ltd v SSCLG & East Riding of Yorkshire Council & Save Our Ferriby Action Group [2016] EWHC 968 (Admin)
4. Appeal decision APP/J0405/W/16/3152120, Littleton Manor Farm, Waddesdon Buckinghamshire
5. Appeal decision APP/Z1510/W/16/3160474, Land at West Street Coggeshall
6. Opening Statement on behalf of Aylesbury Vale District Council
7. Opening Statement on behalf of the Appellant

8. Final Signed Version of Legal Agreement, dated 20 July 2017 (superseding draft version).
9. Housing Schedule of Mr Sharp
10. Submissions of Mr Brian Floodgate
11. Submissions of Councillor Kevin Hewson
12. Appeal decision APP/J0405/V/16/3151297, Land West of Castlemilk, Moreton Road, Buckingham
13. Note from Louise Anderson (Aylesbury Vale District Council) regarding housing requirement figure
14. Executive Summary, House of Lords Select Committee – Economic Affairs
15. Email trail between Quainton Parish Council and PAG Ltd
16. Appeal decision APP/J0405/W/15/3002218, Land off Station Road, Ivinghoe, Buckinghamshire
17. Map showing conservation area boundary in relation to appeal site
18. Community Infrastructure Levy Regulations Compliance Statement by Aylesbury Vale District Council
19. Buckinghamshire Memorandum of Understanding between Aylesbury Vale District Council, Wycombe District Council, Chiltern District Council, South Bucks District Council and Buckinghamshire Thames Valley Local Partnership (July 2017)
20. Quainton Parish Council Submissions, dated 7 April 2016
21. Quainton Parish Council Final Comments, dated 25 July 2017
22. Closing Submissions on behalf of Aylesbury Vale District Council
23. Closing Submissions on behalf of the Appellant
24. Suggested Route for Site Visit

**DOCUMENTS SUBMITTED FOLLOWING INQUIRY CLOSING**

1. Council's Latest 5 Year Housing Land Supply Position Statement, dated August 2017
2. Appellant's Response to Council's Latest 5 Year Housing Land Supply Position Statement
3. Council's email dated 23 October 2017 regarding VALP Submission Draft
4. Appellant's letter dated 24 October 2017 regarding VALP Submission Draft
5. Quainton Parish Council letter dated 31 October 2017 regarding VALP Submission Draft

## **CORE DOCUMENTS**

### **CD1 Pre-Application Documents**

- CD1.1 Pre-Application Submission
- CD1.2 Pre-Application Response

### **CD2 Application Documents**

- CD2.1 Site Location Plan
- CD2.2 Topographical Survey Plan
- CD2.3 Highway Access Plan
- CD2.4 Design and Access Statement
- CD2.5 Planning Statement
- CD2.6 Landscape and Visual Assessment
- CD2.7 Transport Statement
- CD2.8 Flood Risk Assessment and Outline Drainage Strategy
- CD2.9 Tree Survey and Constraints Report
- CD2.10 Contaminated Land Report
- CD2.11 Ecological Appraisal
- CD2.12 Archaeological Assessment
- CD2.13 Statement of Community Involvement
- CD2.14 Amended LVIA
- CD2.15 Updated Ecological Assessment
- CD2.16 Revised Red Line
- CD2.17 Revised Illustrative Layout

### **CD3 Consultation Responses**

- CD3.1 Quainton Parish Council
- CD3.2 AVDC Community Spaces Team
- CD3.3 AVDC Housing Development Officer
- CD3.4 AVDC Biodiversity Officer
- CD3.5 Buckinghamshire County Council Highways
- CD3.6 Buckinghamshire County Council Education
- CD3.7 Buckinghamshire County Council Strategic Planning Team
- CD3.8 Environment Agency
- CD3.9 Crime Prevention Officer
- CD3.10 Buckinghamshire County Council Archaeological Services
- CD3.11 Buckinghamshire County Council Strategic Flood Management Team
- CD3.12 AVDC Environmental Health
- CD3.13 AVDC Heritage
- CD3.14 AVDC Landscape

### **CD4 Appeal Documents**

- CD4.1 Appellant Statement of Case
- CD4.2 AVDC Statement of Case
- CD4.3 AVDC Delegated Report
- CD4.4 General Statement of Common Ground
- CD4.5 Housing Statement of Common Ground

### **CD5 Policy Documents**

- CD5.1 Aylesbury Vale District Local Plan (2004)
- CD5.2 Quainton Neighbourhood Development Plan (2016)

- CD5.3 Examiner's Report into Draft QNDP
- CD5.4 Quainton Local Greenspace Report (2015)
- CD5.5 Draft Vale of Aylesbury Local Plan (Summer 2016 Consultation)
- CD5.6 AVDC Draft Settlement Hierarchy Review (October 2015)
- CD5.7 AVDC Draft Settlement Hierarchy Assessment (July 2016)
- CD5.8 AVDC Sports and Leisure Facilities SPG Companion Document: Ready Reckoner
- CD5.9 AVDC Affordable Housing Interim Position Statement (2014)
- CD5.10 AVDC Parking Guidelines (2000)
- CD5.11 Barwell Ministerial Statement (December 2016)
- CD5.12 Historic Environment Good Practice Advice in Planning Note 3: The Setting of Heritage Assets
- CD5.13 AVDC Quainton Conservation Area Review (November 2015)
- CD5.14 Aylesbury Vale Landscape Character Assessment (May 2008)
- CD5.15 Natural England National Character Area Profile 109: Midvale Ridge (2013)
- CD5.16 Defining the Special Qualities of Local Landscape Designations in Aylesbury Vale District, LUC (2015)
- CD5.17 National Planning Policy Framework (2012)
- CD5.18 AVDC LDS (May 2017)
- CD5.19 Guidelines for Landscape and Visual Impact Assessment (Third Edition, 2013)

**CD6 Housing Documents**

- CD6.1 AVDC Five Year Housing Land Supply Interim Position Statement (January 2016)
- CD6.2 AVDC Housing Position Statement (August 2016)
- CD6.3 AVDC Five Year Housing Land Supply Interim Position Statement (October 2016)
- CD6.4 AVDC Draft Housing and Economic Development Land Availability Report (May 2016)
- CD6.5 Buckinghamshire HEDNA: Updated Draft (October 2016)
- CD6.6 Buckinghamshire Housing and Economic Development Needs Assessment, Final Report (December 2016)
- CD6.7 AVDC HELAA (January 2017)

**CD7 Relevant Appeal Decisions**

- CD7.1 APP/J0405/W/16/3146817 Land at Valley Farm, Soulbury, Leighton Linlade, 5 January 2017
- CD7.2 APP/J0405/W/13/2205858 Land south of Verney Road, Winslow, 20 November 2014
- CD7.3 APP/J0405/W/14/2213924 East of Little Horwood Road, Winslow, February 2015
- CD7.4 APP/J0405/W/13/2210864 Land off Chapel Drive, Aston Clinton, October 2014
- CD7.5 APP/J0405/A/12/2181033, Fleet Marston Farm, APP/J0405/A/12/2189277, East of Wendover Road APP/J0405/A/12/2189387 & APP/J0405/A/13/2197073, North of Weedon Hill, 26 January 2015
- CD7.6 APP/L3245/W/16/3150475, Land opposite North Farm, Whitcliffe, Ludlow, November 2016

- CD7.7 APP/J0405/A/14/2219574, Buckingham Road, Aylesbury, 9 August 2016
- CD7.8 APP/D3125/W/16/3148400, Land adjacent to Hanborough Station, Long Hanborough, February 2017

**CD8**

**Relevant Judgements**

- CD8.1 Forest of Dean DC v SSCLG [2016] EWHC 2429 (Admin)
- CD8.2 Stroud District Council v SSCLG [2015] EWHC 488 (Admin)
- CD8.3 De Souza v SSCLG [2015] EWHC 2245 (Admin)
- CD8.4 17 March 2016 EWCA Civ 168 [2016]
- CD8.5 Suffolk Coastal District Council v Hopkins Homes Ltd & SSCLG and Richborough Estates Partnership LLP v Cheshire East Borough Council and SSCLG [2017] UKSC 37
- CD8.6 Gladman Developments Ltd v Daventry DC [2016] EWCA Civ 1146
- CD8.7 Oadby and Wigston Borough Council v SSCLG & Bloor Homes Ltd [2016] EWCA Civ 1040