



Department for Levelling Up,  
Housing & Communities

Mr Stephenson  
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Our ref: APP/N0410/W/22/3313350  
Your ref: PL/20/2020/OA

8 April 2024

*Sent by email only*

Dear Mr Stephenson,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL MADE BY MR ANDREW STEPHENSON IN RELATION TO LAND AT LAKE  
END ROAD, DORNEY, SLOUGH SL4 6QS  
APPLICATION REF: PL/20/2020/OA**

*This decision was made by the Minister for Housing and Homelessness, Felicity Buchan MP, on behalf of the Secretary of State.*

1. I am directed by the Secretary of State to say that consideration has been given to the report of Hayley Butcher BSc (Hons) MSc PGDip MRTPI who considered your appeal, including making a site visit on 20 June 2023 and 1 November 2023, against the decision of Buckinghamshire Council (the LPA) to refuse planning permission for an ultra-advanced multi-dimensional highly sustainable renewable energy park with high-capacity battery storage, 416 bedroom hotel, and two office units, extensive landscaping/planting and vertical foresting to buildings, bio gas waste digester energy unit, incorporating alternative and emerging transport solutions and an advanced educational facility in accordance with application Ref. PL/20/2020/OA, dated 25 June 2020.
2. On 12 April 2023, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act (TCPA) 1990.

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

3. The Inspector recommended that the appeal be dismissed.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, and agrees with her recommendation. He has decided to dismiss the appeal and refuse planning permission. The Inspector's Report (IR) is attached. All references to paragraph numbers, unless otherwise stated, are to that report.

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## **Procedural matters**

5. The Secretary of State notes that, as explained in IR6 that the proposed overhead gondola service crossing the M4 and use of Electric Vertical Take-Off and Landing aircraft elements have now been removed from the proposal following the LPA's consultation with National Highways (formerly Highways England). He also notes, as explained in IR10, that following a request from the Inspector a Heritage Statement was received which the LPA had opportunity to comment on. The Secretary of State does not consider that the proposal amendments nor the Heritage Statement submission raises any matters that would require him to refer back to the parties for further representations prior to reaching his decision on this appeal, and he is satisfied that no interests have thereby been prejudiced.

## **Matters arising since the appeal was recovered.**

6. Mandatory biodiversity net gain (BNG) has only been commenced for planning permissions granted in respect to an application made on or after 12 February 2024. Permissions granted for applications made before this date are not subject to mandatory BNG.
7. A revised version of the National Planning Policy Framework (the Framework) was published on 20 December 2023. The Secretary of State referred back to parties on 17 January 2024. At the same time the updated versions of National Policy Statements (NPS) EN-1 and EN-3 were referenced back to parties. Representations were received from Adveneco Ltd (the appellant) and the LPA. The appellant's response provided a supplementary statement regarding consistency with latest policy in support of their appeal and the LPA responded to the points raised in the statement. A list of representations received is at Annex A to this decision letter. Copies of the letters listed in Annex A may be obtained on request to the email address at the foot of the first page of this letter.
8. An application for a full award of costs was made by the Appellant against the LPA (IR4). This application is the subject of a separate decision letter.

## **Policy and statutory considerations**

9. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
10. In this case the development plan consists of the South Bucks District Local Plan (adopted 1999 and consolidated 2007 and 2011) (LP) and the South Bucks Local Development Framework Core Strategy (adopted February 2011) (CS). The Secretary of State considers that relevant development plan policies include those set out at IR18 to IR27.
11. Other material considerations which the Secretary of State has taken into account include the Framework and associated planning guidance (the Guidance).
12. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the proposals, or

their settings or any features of special architectural or historic interest which they may possess.

### *Emerging plan*

13. Buckinghamshire Council must produce a Local Plan by April 2025 (within 5 years of coming into being). Consultation on the Vision and Objectives for Development and Transport for Buckinghamshire closed on 4 June 2023. Paragraph 48 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework. However, as there are no emerging policies owing to the very early stages of plan production the Secretary of State gives very limited weight to the emerging plan.

### **Main issues**

14. The Secretary of State agrees with the Inspector that the main issues are as set out in IR103.

*Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies:*

15. For the reasons set out in IR106 to IR108 the Secretary of State agrees with the Inspector at IR109 that the proposed development would be inappropriate development in the Green Belt. The Secretary of State agrees with the Inspector that the proposal does not fall into any of the exceptions listed in paragraph 154 and 155 of the Framework (IR107). The Secretary of State agrees with the Inspector that the exception listed at 154 (g) of the Framework which relates to previously developed land does not apply in this case because the existing use of the site is unauthorised. The Secretary of State concludes that the proposal is in conflict with Policy GB1 of the LP, but notes that that policy is not entirely consistent with the current Framework.

*The effect of the proposal on the openness of the Green Belt;*

16. For the reasons set out in IR110 the Secretary of State agrees that the scale of development as described and illustrated in the supporting evidence would undoubtedly impact upon the openness of the Green Belt in both spatial and visual terms given the site's lawful agricultural use. Like the Inspector at IR168, he attaches substantial weight to the harm to the Green Belt.

*Whether the proposal would preserve the setting of surrounding listed buildings, and the effect of the development on the significance of nearby conservation areas;*

17. For the reasons set out in IR111 to IR113 the Secretary of State agrees with the Inspector that the impact of the proposed development on the significance of any designated heritage asset, which could include the setting of a Conservation Area, falls to be considered at outline stage.

18. The Secretary of State agrees with the Inspector's conclusions on the designated heritage assets and their settings most affected set out in IR114 and further agrees with the Inspector's analysis of the contribution of the appeal site to the setting of the identified heritage assets as set out in IR115 to 118.

19. The Secretary of State agrees with the Inspector at IR119 that the development would require substantial buildings which would profoundly change the character and appearance of the site resulting in the permanent loss of a significant element of the historic, rural, agricultural and open setting of the designated heritage assets.
20. For the reasons set out in IR120-123, the Secretary of State agrees with the Inspector that the proposal would not preserve the significance of either Huntercombe Conservation Area or Dorney Conservation Area through harm to their setting and would not preserve the setting of listed buildings: Lake End House, barn at Lake End House, two barns at Lake End Farm, and Lake End Farmhouse, and concludes that the proposal would conflict with Policy 8 of the CS.
21. The Secretary of State agrees with the Inspector's conclusion at IR125 that the harm found would be 'less than substantial' and at IR131 that great weight must be given to the conservation of designated heritage assets. He further finds, for the reasons given at IR126 that no harm would accrue to the settings of the other listed buildings in the vicinity of the appeal site.

*The effect of the proposal on the character and appearance of the surrounding area;*

22. For the reasons set out in IR132 to IR137 the Secretary of State agrees with the Inspector that the proposal would appear entirely out of character with its surroundings (IR134) and agrees with the Inspector's view at IR136 that the decision maker, in determining an application at outline stage, must be satisfied that an acceptable scheme is capable of being devised at the reserved matters state. He further agrees that on the evidence submitted he cannot be satisfied that the proposal could be brought forward on this site without causing significant harm to the character and appearance of the surrounding area. The Secretary of State attaches significant weight to this harm, and like the Inspector finds that the proposal would be in conflict with Policies EP3 of the LP and Policy 9 of the CS.

*The effect of the proposal on highway safety and the surrounding highway network;*

23. For the reasons set out in IR138 to 144 the Inspector finds that the submitted Transport Statement does not adequately assess the highway implications for the development on the local highway network or the access (IR140), and cannot be satisfied that the proposal would not have an unacceptable impact on highway safety or severe residual cumulative impacts on the surrounding highway network (IR144). He therefore agrees with the Inspector that there is conflict with LP and CS policies TR5 and 7 respectively, and that this carries moderate weight against the proposal.

*The effect of the development on flood risk and surface water drainage;*

24. The Secretary of State agrees with the Inspector's reasoning set out in IR145 to IR149 and conclusion set out at IR150 that the proposal does not adequately satisfy the requirements of the Framework and the PPG in respect of flood risk and therefore cannot be satisfied that the proposal would have an acceptable impact on flood risk, nor that surface water drainage can be satisfactorily dealt with on site, in conflict with Policies 6 and 13 of the CS. The Secretary of State gives significant weight to the potential impact on flood risk.

*The effect of the development on the vitality of town centres;*

25. For the reasons set out in IR151 to IR154 the Secretary of State agrees with the Inspector and finds that while he finds conflict with CS policies 10 and 11, given the Framework is a material consideration which carries significant weight, he finds no harm to the vitality of town centres (IR154).

*Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.*

26. The Secretary of State has concluded at paragraph 16 above that substantial weight should be given to the harm to the Green Belt. The Secretary of State deals with the harms and benefits identified and whether very special circumstances have been demonstrated in paragraph 37 of this letter.

#### *Other matters*

27. The Secretary of State notes the matters set out by the Inspector at IR155-167.

#### **Benefits**

28. The Secretary of State agrees with the Inspector at IR128 that development would provide clear economic benefits through job creation both short-term during construction jobs and also long-term employment in respect of the uses proposed on the appeal site and that there would also be some wider economic benefits to the area. The Secretary of State attaches significant weight to this benefit.

29. For the reasons given by the Inspector at IR129, the Secretary of State agrees that there is no substantive evidence that educational benefits and benefits to the local community as well as various renewable and low carbon energy infrastructure and low carbon measures which would provide wider environmental benefits could be achieved or there is any mechanism to secure them. The Secretary of State therefore gives educational benefits very limited weight and environmental benefits limited weight.

30. For the reasons given by the Inspector at IR130, the Secretary of State agrees that the redevelopment of the site and associated green landscaping would improve the immediate surroundings visually which would be a public benefit. He also agrees that as the current use of the site is unauthorised such a benefit carries minimal weight.

#### **Planning conditions**

31. The Secretary of State had regard to the Inspector's analysis at IR91 to IR102, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 56 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 56 of the Framework: However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing this appeal and refusing planning permission.

#### **Planning obligations**

32. The Secretary of State notes that the appellant proposes a Bond of Surety to cover any mitigation measures required as a result of highway safety impacts and that no such obligation was before the Inspector. For the reasons given at IR142, he agrees with the Inspector's conclusion any such obligation would need to comply with Regulation 122 of

the Community Infrastructure Levy Regulations 2010 and the tests at paragraph 57 of the Framework and that on the available evidence it remains unclear whether highway impacts can be mitigated in an acceptable manner. Therefore, the Secretary of State does not consider that the proposed Bond of Surety would overcome his reasons for dismissing this appeal and refusing planning permission.

### **Planning balance and overall conclusion**

33. For the reasons given above, the Secretary of State considers that the appeal scheme is not in accordance with Policies GB1, EP3, and TR5 of the LP and Policies 6, 7, 8, 9, 10, 11 and 13 of the CS. He considers that the scheme is not in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.
34. Weighing in favour of the proposal are the economic benefits including the creation of long and short term job creation which the Secretary of States gives significant weight. The Secretary of State gives educational benefits very limited weight and environmental benefits limited weight. The Secretary of State gives minimal weight to the visual improvements to the site as the current use of the site is unauthorised. Collectively the Secretary of State gives significant weight to the benefits of the proposal.
35. Weighing against the proposal is the harm to the Green Belt, which carries substantial weight, the potential harm to highway safety which carries moderate weight, the potential harm to flood risk which carries significant weight, the harm to the character and appearance of the area which carries significant weight, and the less than substantial harm to the setting of designated heritage assets which carries great weight.
36. In line with the heritage balance set out at paragraph 208 of the Framework, the Secretary of State has considered whether the identified 'less than substantial' harm to the significance of the designated heritage assets is outweighed by the public benefits of the proposal. Taking into the account the public benefits of the proposal as identified in this decision letter, overall, the Secretary of State concludes that the benefits of the appeal scheme are not collectively sufficient to outbalance the identified 'less than substantial' harm to the significance of the affected heritage assets. He considers that the balancing exercise under paragraph 208 of the Framework is therefore not favourable to the proposal.
37. In line with paragraph 153 of the Framework, the Secretary of State has considered whether the harm to the Green Belt by reason of inappropriateness, and the other harms he has identified, are clearly outweighed by other considerations. Overall, he considers that the considerations in this case do not clearly outweigh the harm to the Green Belt and the other identified harms. He therefore considers that very special circumstances do not exist to justify this development in the green belt.
38. Overall, in applying s.38(6) of the PCPA 2004, the Secretary of State considers that the conflict with the development plan and the material considerations in this case indicate that permission should be refused.
39. The Secretary of State therefore concludes that the appeal is dismissed, and planning permission is refused.

### **Formal decision**

40. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby dismisses your appeal and refuses planning permission for an ultra-advanced multi-dimensional highly sustainable renewable energy park with high-capacity battery storage, 416 bedroom hotel, and two office units, extensive landscaping/planting and vertical foresting to buildings, bio gas waste digester energy unit, incorporating alternative and emerging transport solutions and an advanced educational facility in accordance with application Ref. PL/20/2020/OA, dated 25 June 2020.

**Right to challenge the decision**

41. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the TCPA 1990.

42. A copy of this letter has been sent to Buckinghamshire Council, and notification has been sent to others who asked to be informed of the decision.

Yours faithfully



Decision officer

*This decision was made by Minister for Housing and Homelessness, Felicity Buchan MP on behalf of the Secretary of State, and signed on his behalf.*

## **Annex A Schedule of representations**

### **SCHEDULE OF REPRESENTATIONS**

#### **Representations received in response to the Secretary of State's letter dated 17 January**

<b>Party</b>	<b>Date</b>
Adveneco Ltd (the appellant)	31/01/2024
Buckinghamshire Council (the LPA)	5/02/2024
Buckinghamshire Council	13/02/2024





# Report to the Secretary of State for Levelling Up, Housing and Communities

by H Butcher BSc (Hons) MSc PGDip MRTPI

an Inspector appointed by the Secretary of State

Date 8 January 2024

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TOWN AND COUNTRY PLANNING ACT 1990

BUCKINGHAMSHIRE COUNCIL

APPEAL BY MR ANDREW STEPHENSON

Site visits made on 20 June 2023 and 1 November 2023

Lake End Road, Dorney, Slough SL4 6QS

File Ref: APP/N0410/W/22/3313350

File Ref: APP/N0410/W/22/3313350  
Lake End Road, Dorney, Slough SL4 6QS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr Andrew Stephenson against Buckinghamshire Council.
- The application Ref PL/20/2020/OA, dated 25 June 2020, was refused by notice dated 17 June 2022.
- The development proposed is an ultra-advanced multi-dimensional highly sustainable renewable energy park with high-capacity battery storage, 416 bedroom hotel, and two office units, extensive landscaping/planting and vertical foresting to buildings, bio gas waste digester energy unit, incorporating alternative and emerging transport solutions and an advanced educational facility.

Summary of Recommendation: The appeal be dismissed.

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### Procedural Matters

1. This appeal has been conducted under The Town and Country Planning (Appeals) (Written Representations Procedure) (England) Regulations 2009. This approach was requested by the appellant and the Council, and I find no reason to require an alternative procedure.
2. I conducted site visits on 20 June 2023 and 1 November 2023. At the latter I visited Lake View House on an "access only basis". The merits of the case were not discussed and therefore no party would be prejudiced as a result.
3. The appeal was recovered by the Secretary of State by letter dated 12 April 2023 for the following reasons:  
  
*"The appeal involves proposals which involve any main town centre use or uses where that use or uses comprise(s) over 9,000m<sup>2</sup> gross floorspace (either as a single proposal or as part of or in combination with other current proposals) and which are proposed on a site in an edge-of-centre or out-of-centre location that is not in accordance with an up-to-date development plan document, and proposals for significant development in the Green Belt."*
4. An application for costs was made by Mr Andrew Stephenson against Buckinghamshire Council. This application is the subject of a separate Report.
5. The application is made in outline with all matters reserved. Floorspace figures are provided for various uses totalling 19,400m<sup>2</sup> as set out on the application form. There are also floorplans and elevations of the proposed hotel and office buildings, and floorplans of a car park. Furthermore, a site layout is provided. Although these drawings are not marked as illustrative, given all matters are reserved, they can only be sensibly understood as being for illustrative purposes and I have treated them as such.
6. The application originally included an overhead gondola service crossing the M4 and use of Electric Vertical Take-Off and Landing aircraft (eVTOL). However, following **the Council's consultation** with Highways England and the concerns raised about the safety of users of the M4 it is understood that these elements have now been removed from the proposal. I have therefore considered the appeal on this basis.

7. Although a reserved matter, it is indicated in the submitted evidence that the site is to be accessed from Lake End Road as shown in drawing L019054-001.
8. The appeal was screened for an Environmental Impact Assessment (EIA) and found to not be EIA development.
9. The revised National Planning Policy Framework (December 2023) (the Framework) was published during the course of the appeal. The revisions to the Framework do not change the key areas of policy material in this case, therefore, the parties have not been consulted.
10. The appeal site is within close proximity of a number of designated heritage assets. As set out in the Framework at paragraph 200, in order to determine this application, the significance of any heritage asset affected, including any contribution made by their setting, should be described. As a minimum the relevant historic record should have been consulted and the heritage assets assessed using appropriate expertise. This had not been done at the time of the application or appeal. Consequently, I requested this was carried out and subsequently a Heritage Statement from the appellant was received. The Council have had the opportunity to comment on this. No party would be prejudiced by my consideration of this evidence in my report.

#### The Site and Surroundings

11. The appeal site is land located directly to the south of the M4 motorway and to the west of Lake End Road. It is 3.9 ha in size and is currently used for partial waste processing and recycling, and partial storage of vehicles.
12. For the purposes of the development plan the site falls outside of any defined settlement and as such is '**countryside**'. It is also located within the Green Belt. Furthermore, the site falls within Flood Zones 2 and 3. Finally, as noted previously, there are a number of designated heritage assets in the vicinity of the appeal site including listed buildings and conservation areas.

#### Planning History

13. The Council consider that the lawful use of the site is for agriculture. The only relevant planning history for the site is the change of use of land to an animal sanctuary and retention of outbuildings in connection with this use and this was refused planning permission (14/00520/FUL). The site is currently subject to enforcement action and the appellant does not dispute that the current use is unauthorised.

#### The Proposal

14. According to the application form outline permission is sought for shops, financial and professional services, restaurants and cafes, hot food takeaway, office, drinking establishment, research and development, educational facility, and, assembly and leisure, totalling 19,400m<sup>2</sup> of non-residential floorspace.
15. The evidence also indicates a wind turbine(s) is proposed and an on-site bio waste digester.
16. Based on the illustrative plans a hotel over 12 floors (lower ground, ground and then 10 further storeys) is proposed with a total of 416 rooms. Two office

buildings are also illustrated over six floors, as well as a carpark over two floors. Other parking areas in addition to the car park are also shown.

## Planning Policy

17. At the date of completing this report the development plan includes: the South Bucks District Local Plan (adopted 1999 and consolidated 2007 and 2011) (LP) and the South Bucks Local Development Framework Core Strategy (adopted February 2011). The relevant policies are detailed below:

### *The South Bucks District Local Plan (1999)*

18. Policy GB1 of the LP sets out what development will be permitted in the Green Belt. It is agreed, however that this Policy is not consistent with current guidance in the Framework on Green Belt in terms of its listed exceptions.
19. Policy EP3 seeks development which is of a scale, layout, siting, height, design, materials, and use which is compatible with the character and amenities of the site, adjoining development, and the locality in general.
20. Policy TR5 requires consideration of the effect of new development and any subsequent generation of additional traffic on safety, congestion, and the environment. Policy TR7 concerns the provision of adequate parking.
21. Although not referred to in the reasons for refusal Policy GB4 is referenced in **the Council's evidence**. This sets out that new employment generating, or other commercial sites will not be permitted in the Green Belt subject to certain exceptions.
22. Policy T2 of the LP, also not referenced in the reasons for refusal but relevant and referred to in the **Council's evidence**, sets out that new buildings in the Green Belt to provide a new hotel or other serviced accommodation will not be permitted.

### *The South Bucks Core Strategy (2011)*

23. Policy 7 seeks to actively manage the pattern of development in the interests of accessibility and transport provision and Core Policy 11 outlines that proposals for new main town centre uses such as offices should be located so as to enhance the vitality and viability of existing centres.
24. **Although not noted in the Council's reasons for refusal** but referenced in the evidence Policy 10 is also relevant as it sets out that new employment development will be accommodated in the District and Local Centres, on the Opportunity Sites, and through appropriate intensification on existing employment sites excluded from the Green Belt.
25. Policy 8 requires the protection and, where appropriate, enhancement of the **district's historic environment** and Policy 9 requires protection of the natural environment.
26. Policy 13 requires all new development to be water efficient and incorporate Sustainable Drainage Systems (SuDs) where feasible and to direct vulnerable development away from areas at risk of flooding.

27. Finally, Policy 6 relates to the requirement for necessary infrastructure to support new development.

#### The Case for the Appellant

28. The material points are:

##### *The Proposal*

29. The appellant describes the proposal as follows:

*"A unique, world leading, multi-dimensional, advanced concepts project of Renewable Energy and storage; integration, development and support of emerging alternative transport systems; incorporation of crucial pioneering restorative ecological systems and technologies, with continuing research, development, support and investment into these; hotel and office space, designed and constructed to the highest sustainable and holistic standards, saturated with extensive landscaping, indoor trees and shrubs and vertical forest external walls; utilising recycled materials where possible, integrated on-site bio waste digester processing unit; EV (Electric Vehicle) shuttle fleet and provision of EV charging, eVTOL emerging transport solutions<sup>1</sup>, complemented by an advance educational centre of excellence with state-of-the-art classroom facilities and technology to provide, at no cost, unparalleled opportunities for universities, colleges and schools to study the extensive leading-edge subject matter in this location."*

30. Specifically, the proposal would include:

- Combined wind/solar Photo Voltaic (PV) and thermal hybrid energy harvesting;
- A large Tesla power pack energy store to store all of the PV and wind energy generated with perhaps any excess supplied to the grid;
- A Tesla-type Supercharger station to provide recharging to EVs supplied by energy generated on site;
- A 416 bedroom, highly sustainable, hotel with helicopter landing on the roof designed to accommodate larger Asian weddings suitable for up to 800 guests;
- Infrastructure, support and specialist recharging facilities for electric helicopters, drones and eVTOL aircraft<sup>2</sup>;
- Lifts to have energy re-generation for all downward movements;
- A bio-gas digester and generation plant;
- All incoming packaging and material specified to be plastic free and bio-degradable;
- Two office blocks of highly advance ecological and sustainable design;

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<sup>1</sup> Now understood to be **removed as set out in 'Procedural Matters'**

<sup>2</sup> Now understood to be **removed as set out in 'Procedural Matters'**

- Green living balconies, green layering of office elevations, green walls around offices, vertical foresting, and tree planting and landscaping throughout the whole site;
  - Mycelium coating to be used for CO2 sequestration and air pollutant capture/enzyme orientated extirpation for efficient pollution eradication with oxygen generation;
  - Access road and trafficked areas to be paved with the latest recycled plastic surfacing;
  - Electric shuttle bus fleet, EV car hire, and E-bicycles to be provided;
  - Use of recycled materials during construction where possible;
  - An ultra-cutting edge educational facility;
  - Installation of EV charging points at all local residences and the local pub nearby at no cost. In addition to this it is proposed to install solar PV as part of a community scheme.
31. The appellant is keen to emphasise that the above is merely an outline of the fundamental features, principles, and concept of the development. There are to be many more aspects of highly advanced sustainable and ecological features which are to be incorporated.

#### *Green Belt*

32. **The proposal constitutes 'very special circumstances'**, and any harm is outweighed by the benefits of the proposal. It would, **in the appellant's words:**
33. ***"...exceed the best of any sustainable measures currently acknowledged in every way but also to audaciously incorporate every possible advanced technology and efficient futuristic design in a brilliant showcase development, within which exists a multitude of specialist research and development opportunities. Our goal is not only to develop and implement these but also to teach and broadcast them as far and as wide as possible and to surpass the government's initiatives and measures to combat the climate concerns and energy emergencies that are affecting everyone in the country."***

#### *Character and Appearance*

34. The application is in outline with all matters reserved. Consequently, size and scale fall to be determined at reserved matters stage. Policy EP3 of the LP which refers to the use, design, and layout of development is considered to be out of date. Extensive landscaping and planting would enhance the visual amenity of the development.

#### *Highway Safety*

35. The submitted TS concludes that there would be no material impact from the proposal on the local highway network. This is because people on site would be able to be largely self-sufficient and the site would score highly in terms of accessibility to non-car modes of transport and ability to motivate staff and visitors to travel sustainably. For instance, the office space would be marketed on the basis that only operational parking facilities would be provided and

most staff would be required to rely on travel to and from work by train and electric shuttle bus.

36. It also considers that reductions in traffic volumes following the Covid-19 pandemic mean that there will now be no significant impact from the project on the immediate road system when compared with pre-pandemic volumes and growth projections. However, it is not possible to undertake truly accurate **assessments until such time as 'new normal' traffic** conditions return outside of the determination period of the application.
37. Notwithstanding this the appellant is offering a Bond of Surety of a value sufficient to cover the cost of possible mitigation measures that might be required if the traffic generated by the development were to exceed a certain figure.
38. For these reasons the appellant submits no harm to highway safety or the highway network as a result of the proposal.

#### *Heritage*

39. The application is made in outline. Once the final size and scale are determined at reserved matters stage, consideration can be given to heritage. This is also a matter which can be conditioned and as such does not impact on the current outline application.
40. Notwithstanding this, at the request of the Inspector, the appellant has submitted a Heritage Statement. This concludes that most of the designated assets assessed would experience no harm to their significance. This is because they have a discrete and well-enclosed setting, such as Dorney Court, or their significance is derived from other heritage values not altered by the proposal.
41. The site is also relatively well enclosed by the presence of a motorway overbridge and mature vegetation. Whilst the proposed development, especially the upper storeys, may be visible in some views, these are not designed views or ones which enhance the significance of the assets.
42. The landscape changes produced by the creation of both the M4 and Jubilee River, and the associated schemes of screening, should provide a degree of embedded mitigation for the scheme. The level and low-lying nature of much of the landscape means that hedgerows and tree belts restrict long-range views from all but the most elevated of positions.
43. The redevelopment and associated green landscaping of the site may act to improve the immediate surroundings, especially on approaches toward the site from the north.
44. Due to the outline nature of the application it is considered that there is a degree of manoeuvrability in the design to ensure that landscaping provides sufficient screening, especially in light of the planned vertical foresting which will break up the built form of the development.

### *Flood Risk and Drainage*

45. The application is made in outline with all matters reserved. Once the final size and scale and precise locations of any buildings are determined studies can be undertaken in respect of hydraulic modelling.
46. Notwithstanding this, to support the application, a Flood Risk Assessment (FRA) has been submitted which demonstrates that the proposed development is not at significant flood risk and will not increase flood risk to others, subject to the recommended flood mitigation strategies being implemented. These include building above flood level. It is also suggested that ground investigations across the site be undertaken at reserved matters stage to establish the suitability and infiltration rate of the ground. If these tests prove positive, then a soakaway system will be proposed for the disposal of surface water. If not suitable, then an on-site above ground storage system will be proposed with the discharge to the Roundmoor Ditch and the runoff rate restricted to the greenfield Qbar rate.
47. A statement has also been provided setting out that foul drainage will be processed in multi-stage plant to the highest standards and all surface water runoff will be managed through extensive rainwater harvesting or internal soak-aways. A full SuDs scheme will support any reserved matters application which can be covered by a suitably worded condition.

### *Principle of Development*

48. It is not possible to find a suitable site of the size required in the centre of any town or city in this country. Even if it was, the cost would make the project unviable. A Main Town Centre Use Policy Assessment supports this position.

### *Other Matter*

49. In addition to the above the **appellant's case includes** a lengthy recounting of the application process **and criticism of the Council's handling of it.**

### *Benefits*

50. The appellant submits the following benefits in addition to those already noted:
  - Employment both in construction and in the longer term;
  - Economic benefits to the local economy e.g. local pub and tourist attractions;
  - Improved visual appearance of the site into a modern, ultra-highly sustainable use;
  - An example of how advanced sustainable development should be designed and implemented;
  - A reduction in CO2 emissions, and;
  - Pursuing Government policy towards vehicle electrification and the associated infrastructure.



### *Conclusion*

51. As set out in paragraph 38 of the Framework decision-makers at every level should seek to approve applications for sustainable development where possible. Sustainable development such as that proposed is of the utmost strategic national importance to rebuild the economy.

### The Case for the Council

#### *Green Belt*

52. The proposed development does not fall within any of the exceptions specified in Policy GB1 of the LP. It also conflicts with policies GB4 and T2 of the LP which respectively do not permit employment generating or commercial sites, or tourist accommodation in the Green Belt.
53. Furthermore, the proposed development does not fall within any of the exceptions set out in paragraphs 154 and 155 of the Framework. The appellant refers to the site being brownfield land, or previously developed land in terms of the Framework Green Belt policy. However, having regard to the planning history of the site, the current operations do not benefit from planning permission. Therefore, the lawful use of the site is agriculture which does not constitute previously developed land for planning purposes. It is therefore considered that the proposal would be inappropriate development in the Green Belt.
54. In addition to this, given the size and scale, and quantum of buildings and operations indicated on the submitted evidence, the development would not preserve the openness of the Green Belt in either spatial or visual terms.
55. Furthermore, having regard to the five purposes of Green Belt as set out in the Framework, the Council also consider, having regard to the substantial scale of permanent built form proposed, that the development would result in encroachment of the countryside.

#### *Character and Appearance*

56. The appeal site, although adjacent to the M4, is otherwise set within a predominantly rural landscape characterised by mixed farmland and dispersed rural settlements with a strong historic character.
57. The proposed development, whilst in outline, is presented as a hotel of 10 storeys in height and two office buildings at six storeys. Development of this nature would be unlike anything in the immediate surrounding area.
58. **Whilst the current use of the site could be described as 'visually unpleasant'**, there is no substantial built form on site meaning its visual impact is relatively localised. Notwithstanding this, the current operations on site are unlawful.
59. The appellant suggests various types of landscaping measures such as vertical foresting. Whilst this would provide some screening and softening of the buildings it would not satisfactorily mitigate the harm identified.
60. Having regard to paragraph 139b) of the Framework even if the development were considered to be of outstanding or innovative design which promoted

high levels of sustainability, this would not outweigh the harm to the character and appearance of the surrounding area.

61. The Council therefore find conflict with Policy EP3 of the LP and Policy 9 of the CS which seek to preserve local character.

#### *Highway Safety*

62. A TS has been submitted with the application. However, the Highway Authority (HA) consider it has not properly assessed the likely impacts of the development, which, in its view, has the potential to generate 2,125 vehicular movements across the day; substantially more than the number of vehicle movements assessed by the appellant in their submissions. The TS is therefore not sufficient to enable the HA to assess the development.
63. For example, insufficient information has been submitted to properly assess the distribution of traffic on the local highway network. Road junctions that would be impacted by the development should have been identified and junction modelling carried out. The HA identify specific concerns in respect of the roundabout junction of Lake End Road with Bath Road as the A4 corridor here experiences high levels of congestion at peak hours. The proposal therefore has the potential to have a significant impact at this junction, as well as others.
64. The appellant has also not provided sufficient information for the HA to assess the proposed site access. The development would represent a significant intensification of the use of this access and therefore it must be assessed with consideration of its width and visibility.
65. Without an accurate TS it is not possible to assess the likely impacts of the development. Only once this has been done can consideration be given to any conditions which might be appropriate to mitigate any impacts such as restricting parking provision but, in any event, no robust Travel Plan has been submitted to secure the suggested measures put forward by the appellant to encourage sustainable travel.
66. Furthermore, the site has very limited accessibility by existing public transport provision. Therefore, access to the site by modes other than the car would have to be provided by the appellant. Whilst the appellant has aspirations to do this some are emerging technologies and may take time before they can be fully utilised.
67. The Council therefore find that the proposal would fail to accord with Policies TR5 and TR7 of the LP and Policy 7 of the CS which require consideration of the effect of new development and any subsequent generation of additional traffic on safety, congestion and the environment as well as the provision of parking.

#### *Heritage*

68. The Council identify that Huntercombe Conservation Area (CA) is characterised by two main groups of buildings: Burnham Abbey and Huntercombe Manor. Both were built in response to the thriving agricultural community in Saxon times that existed in the area. The CA still retains much of its historic rural setting and this contributes to its significance. Whilst the M4 intercepts this the

rural context can still be appreciated and more modern development in the area is low in height.

69. In respect of Dorney Conservation Area (CA) the Council have identified that its setting comprises open pastureland with a tranquil and rural nature which forms its historic setting and therefore contributes to its significance.
70. Due to the illustrative scale and massing of the proposed buildings in this rural context, along with the associated noise and light pollution of the proposed uses, there is concern over the impact of the development on the setting of these CAs.
71. In respect of listed buildings the Council identify Lake End House (Grade II listed), Barn at Lake End House (Grade II listed) and Two Barns at Lake End Farm (Grade II listed). These form a typical historic farmstead with a farmhouse and associated farm buildings once known as Lake End Farm. Whilst the barns have now been converted to dwellings with a few modern infill dwellings also being constructed in the area their historic farmstead character is still legible. The Council consider that the setting of these listed buildings would have included the surrounding open, rural context to the east which includes the appeal site.
72. West Town Farmhouse (Grade II listed) has also been identified. Its wider setting includes retained fields but is some distance from the appeal site therefore only glimpsed views would be possible of the development within its wider setting.
73. The Pineapple Public House (Grade II), Rose Cottage (Grade II), Cypress Cottage (Grade II) and Lake End Farmhouse (Grade II) are located in a cluster to the south of the appeal site. Lake End Farmhouse in particular has uninterrupted views towards the site. Their settings include open countryside to the side or rear and their historic, rural location contributes to the significance of these listed buildings. The indicated scale and massing of the development and the associated light and noise pollution would have an adverse impact on their settings.
74. The Council also identify other Listed buildings within both the Huntercombe and Dorney Conservation Areas but are unable to provide a full assessment given the timeframe of the appeal. It is considered that intervisibility is likely to be limited but the Council are unable to definitively conclude that this is the case on the evidence provided.
75. The proposed development would therefore have a harmful impact on the significance of the aforementioned designated heritage assets. The proposal would consequently conflict with Policy 8 of the CS which seeks to protect the historic environment, and the Framework.

#### *Flood Risk and Drainage*

76. The Environment Agency (EA) have been consulted on the proposal a number of times and maintains two objections. The first objection is that the submitted FRA is unacceptable as it does not comply with the requirements for site-specific flood risk assessments. It does not, therefore, adequately assess the **development's flood risk. Specifically, it fails to provide hydraulic model data** of

sufficient quality in order to ascertain if the proposals at the site are deliverable.

77. There is a further objection to the proposed hotel, **classified as 'more vulnerable' in accordance with Table 1** of the flood risk tables of Planning Practice Guidance (PPG), being located partially in Flood Zone 3b. Table 2 of **the PPG shows that 'more vulnerable development'** is incompatible with Flood Zone 3b and should not, therefore, be permitted.
78. Whilst the submitted layout is illustrative only no alternative layout has been submitted to demonstrate the development could be accommodated in Flood Zone 1 only.
79. In respect of surface water drainage insufficient information has been submitted to demonstrate that the proposed discharge rates from the development would be acceptable, in spite of reliance on extensive rainwater harvesting and internal soakaways. The Council are therefore not satisfied that a suitable surface water drainage scheme can be achieved on site.
80. For these reasons the proposal conflicts with Policies 6 and 13 of the CS which relate to the provision of adequate drainage and infrastructure to support new development, and to direct vulnerable development away from areas at risk of flooding.

#### *Principle of Development*

81. Policy 10 of the CS is clear that new employment development will be accommodated in the District and Local Centres, on the Opportunities Sites, and through appropriate intensification on existing employment sites excluded from the Green Belt. The appeal site is not in such a location.
82. Whilst the Framework sets out that significant weight should be placed on the need to support economic growth and productivity, it also sets out that (paragraph 91) "*Local authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.*" Paragraph 92 also states that "*preference should be given to accessible sites which are well connected to the town centre.*"
83. The appellant has submitted a Main Town Centre Use Policy Assessment which concludes that, having reviewed a number of development sites within and to the edge of Slough, Maidenhead, and Windsor and Eton town centres none of the identified sites are available and suitable to accommodate the proposed development. However, there is no evidence that the appellant has positively engaged with the developers of the sites and it appears to be simply a desktop analysis. The assessment has also not been updated since June 2020.
84. The Council therefore find that it has not been demonstrated that there are no alternative sites available and suitable to accommodate the proposed development. The proposal therefore conflicts with Policies 10 and 11 of the CS.

*Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal*

85. The Council find that the proposal constitutes inappropriate development in the Green Belt. They also find harm to the openness of the Green Belt and conflict with one of the purposes of including land within it, namely safeguarding the countryside from encroachment. As set out in paragraph 153 of the Framework, substantial weight should be given to any harm to the Green Belt.
86. The Council have also found harm to the character and appearance of the surrounding area, highway safety, heritage, flood risk, and conflict with the development plan in terms of the principle of allowing this type of development in this location. They find that these matters weigh significantly against the proposal.
87. The Council have considered the benefits put forward by the appellant which include renewable energy generation, the incorporation of new and emerging advanced technologies, and economic benefits. However, they consider that the totality of harm identified is not clearly outweighed by these other considerations. Consequently, the very special circumstances required to justify the proposal do not exist.

#### Written Representations

88. A large number of representations were made on the original planning application consultation and a number of others in response to the appeal notification.
89. In addition to matters covered elsewhere in this report comments against the proposal included: the appellant not providing information requested by the Council; no demand for a hotel in this area; alternative sites are available; effective action should be taken to stop the current unlawful use of the site; increased traffic and impact on Dorney Court, Tudor mansion; impacts on the **public house The Pineapple's business**; lack of sufficient health facilities; dust and fumes; noise and disturbance; overshadowing/overbearing; merging of Taplow, Dorney and Burnham; inadequate access; interference with adjacent property; loss of privacy; loss of view; damage to trees; infrastructure deficiency; poor design; parking; office units not needed with people working from home; pollution from the anaerobic digester; traffic congestion; ecological concerns; jobs can be created elsewhere; helicopter flight path would conflict with Heathrow flight path; pollution; impact on access for emergency services; no vision for cyclists; habitat development should be encouraged; concern over helicopter pad in relation to wind turbine; concerns over the gondola over the M4; providing transport links to Heathrow is not eco-friendly; not brownfield land; disruption from construction works; increase in crime rates, and; the area has archaeological interest.
90. Comments received in support included: Perceived issues in the town planning system holding back national growth; negativity from the Council and consultees; the proposal is in the national interest; the importance of technology projects should score highly when considering planning applications; creation of new jobs; renewable energy at its core; ground breaking sustainable technology development; sustainable office buildings

reducing commute into London; educational facilities for local schools and abroad; high uptake of EVs in this area but not the infrastructure to support it; support from south Asian community for venue space; sustainable technology and green energy; good for local businesses; shortage of charging points for EVs; opportunity to charge cars for people visiting the area; visible from the M4 and a good advert for sustainability, and; good connections to Heathrow Airport.

## Conditions

91. The Council have provided a list of conditions recommended to be attached to the permission in the event the Secretary of State allows the appeal. The appellant also provided a list of conditions. I have considered these in line with the advice contained at paragraph 56 of the Framework i.e., that they are kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects. The recommended conditions are attached at Annex A
92. I have recommended conditions (1-3) in respect of the submission of reserved matters, when these must be submitted by, and when the development must be commenced by. I have also included a plans condition as this provides certainty (4). However, it is not necessary to condition any indicative plans as these are reserved for later consideration.
93. Condition 5 and 6 are necessary to set out the parameters of the permission as suggested by the appellant.
94. Condition 7 clarifies what should be submitted at reserved matters stage in terms of appearance in the interests of highway safety.
95. The following conditions are necessary to control matters that fall outside of the scope of the reserved matters:
96. To accord with Core Policy 12 of the CS I have included a condition requiring the development to secure 10% of its energy from decentralised and renewable or low-carbon sources (8). In the interests of preserving archaeological finds I have included conditions 9 and 10. Conditions 11-13 are also recommended to protect against any potential contamination which may be found on site.
97. To protect against flood risk conditions 14 and 15 are necessary. To ensure sufficient parking is provided to serve the development I have included condition 16. A condition requiring the submission and approval of a Construction Environmental Management Plan is also necessary to mitigate any adverse impact from the development on the M4 motorway, local highway network and the amenities of nearby local residents (17).
98. In order to protect existing trees I have included condition 18 in my recommendation. To ensure a Biodiversity Net Gain from the development I have also included condition 19. I have also recommended conditions 20 and 21 to ensure adequate drainage of the site.
99. To reduce single occupancy private car journeys and comply with national and local transport policy condition 22 requires the submission and implementation

of an approved Travel Plan. However, there is no reason before me to justify requiring an interim and a Framework Travel Plan separately.

100. I have included conditions ensuring any necessary water network reinforcement works can be provided to ensure a satisfactory water network for all users (23, 24). If Thames Water need to be consulted the Local Planning Authority are at liberty to do that in respect of these conditions but it does not, of itself, need to be conditioned as the Council are solely responsible for discharging conditions.
101. In the interest of highway safety a condition requiring the submission of details of any external lighting is necessary given the proximity of the M4 motorway (25). To ensure that the development makes provision for the charging of electric vehicles in accordance with paragraph 111e) of the Framework I have recommended condition 26. I have included a condition restricting access to the site by eVTOL for highway safety reasons (27). Given the specific nature of the proposed development in the Green Belt I have included a condition restricting future changes of use of the office element of the proposal (28). Finally, I have included a condition in respect of delivery and servicing to protect the living conditions of occupiers of neighbouring properties.
102. **A number of the appellant's** suggested conditions relate to reserved matters such as boundary treatments, external finishes, the design of various elements of the proposal, and landscaping. It is not necessary to include such conditions at this stage. There is no justification in the evidence for a condition requiring the provision of bat roosts. Similarly, there is no justification for conditions requiring management plans for access, car park, or shuttle buses, a waste collection scheme, or on-site pedestrian routing. I therefore find they do not meet the tests of necessity.

### **Inspector's Reasoning and Conclusions**

*From the evidence before me, the written representations, and my inspection of the application site and its surroundings, I have reached the following conclusions. The references in square brackets [ ] are to earlier paragraphs in this report.*

#### *Main considerations*

103. In light of the evidence the main considerations in this appeal are as follows:
  - (i) Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
  - (ii) The effect of the proposal on the openness of the Green Belt;
  - (iii) Whether the proposal would preserve the setting of surrounding listed buildings, and the effect of the development on the significance of nearby conservation areas;
  - (iv) The effect of the proposal on the character and appearance of the surrounding area;
  - (v) The effect of the proposal on highway safety and the surrounding highway network;

- (vi) The effect of the development on flood risk and surface water drainage;
- (vii) The effect of the development on the vitality of town centres; and,
- (viii) Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

#### *Existing Use of the Site*

104. On the evidence before me there is no greater than a theoretical possibility that the existing use of the site for vehicle storage and recycling may become lawful at some point in the future. It is currently subject to enforcement action and the appellant does not dispute that the existing use is unlawful nor the **Council's stated lawful use of the land as agriculture** [13]. Therefore, I find that any argument that the existing use justifies the development is not material in the determination of this case and my recommendations are made on this basis.

#### *Green Belt*

105. The proposal includes the creation of 19,400m<sup>2</sup> of non-residential floorspace. This would include a hotel and two office buildings. Also proposed, as shown on illustrative plans, are a two-storey carpark, wind turbine(s), an on-site bio-waste digester and area for a Tesla type supercharger station [14, 15, 16, 30].
106. Policy GB1 of the LP restricts new development in the Green Belt and only development which falls within the exceptions listed therein is permitted provided specific criteria are met. The proposal does not fall within any of these exceptions. Policy GB1, however, as accepted by the Council, is not entirely consistent with the current Framework [18].
107. The Framework, nevertheless, similarly advises that the construction of new buildings in the Green Belt is inappropriate. There are exceptions to this, as set out in paragraphs 154 and 155 but the proposal again does not fall into any of these. Specifically, paragraph 154g) which relates to the redevelopment of previously developed land does not apply in this case because the existing use of the site is currently unauthorised [13, 104].
108. I am also mindful of paragraph 156 of the Framework given this proposal incorporates renewable energy projects. Here, the Framework advises that many renewable energy projects will comprise inappropriate development.
109. It is my finding, therefore, that the proposal would be inappropriate development in the Green Belt.

#### *Openness*

110. The scale of development as described and illustrated in the supporting evidence would undoubtedly impact upon the openness of the Green Belt in both spatial and visual terms given the site's **lawful agricultural** use and disregarding development that has not been authorised [13]. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open and the essential characteristics of Green Belt are their openness and their permanence as set out in the Framework.



### *Heritage*

111. In the vicinity of the appeal site are a number of listed buildings and Dorney and Huntercombe Conservation Areas. The proposal, due to its size and scale, has the potential to affect the significance of these designated heritage assets by virtue of any contribution made to their significance through setting.
112. The appellant has stated that the application is made in outline and that heritage matters can be dealt with via conditions. However, the outline permission is the planning permission. With this in mind, The Planning (Listed Buildings and Conservation Areas) Act 1990 contains the following statutory duties in relation to designated heritage assets:

Section 66 (1) – “**In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving...its setting....**”

113. Furthermore, the impact of the proposed development on the significance of any designated heritage asset, which could include the setting of a Conservation Area, falls to be considered at outline stage.
114. Based on the evidence before me I consider the designated heritage assets and their settings most affected by the proposal are:
- Huntercombe Conservation Area (located to the north of the appeal site)
  - Dorney Conservation Area (Located to the south of the appeal site)
  - Lake End House, Barn at Lake End House, and Two Barns at Lake End Farm, (all Grade II listed and located immediately to the east of the appeal site)
  - Lake End Farmhouse (Grade II listed and located to the south of the appeal site)
115. The Burnham and Huntercombe Conservation Area Appraisal states that the area, generally, was a thriving agricultural community from as far back as Saxon times. Huntercombe is noted specifically as still retaining its rural setting within open fields dating from this period. The appeal site forms part of this setting.
116. The Dorney Conservation Area Document describes that it is surrounded by open pastureland and is characterised by its tranquil, rural nature. Specifically, it states that its character is defined by its setting within the floodplain of the River Thames and the transition from the enclosure of the settlement into the surrounding countryside is reinforced **by the landscape’s open nature**. Again the appeal site forms part of the setting of this conservation area.
117. The historic farming uses of Lake End House and the barns associated with it, along with Lake End Farmhouse, furthermore, all indicate a historic association between these listed buildings and the surrounding open and rural landscape of which the appeal site forms a part. The appeal site therefore also forms part of the setting of these listed buildings.

118. The lawful use of the site is open, undeveloped, agricultural land [13]. It forms part of the historic, rural, agricultural and open setting of the above designated heritage assets. I therefore find that it contributes to the significance of these heritage assets by enabling the historic functional relationship between them to be appreciated.
119. As shown on the submitted illustrative plans the development would require substantial buildings. This would profoundly change the character and appearance of the site by introducing substantial built forms onto it resulting in the permanent loss of a significant element of the historic, rural, agricultural and open setting of the designated heritage assets noted above.
120. The site is currently relatively well enclosed by the motorway overbridge and mature vegetation. Nevertheless, the development, based on the illustrative plans, would be visible above these, therefore, they would provide little mitigation from the effects of the development on the setting of the affected designated heritage assets. The same is true in respect of wider landscaping of hedgerows and tree belts, which, in any event, cannot be regarded as permanent and are likely subject to seasonal changes. Additional landscaping or vertical foresting would not adequately mitigate the harm to the setting of the numerous designated heritage assets that I have identified, the latter appearing as an alien feature in the area.
121. The presence of the M4, although a big intrusion into the landscape, is materially different to the proposal not least because it is nationally significant highway infrastructure. It therefore provides minimal justification for the large-scale development proposed as put forward in heritage evidence [42]. The creation of the Jubilee River for flood attenuation provides even less justification for the development [42] as this has been designed to have a natural appearance which fits with its flood plain location and is again materially different to the proposal.
122. The appellant's **Heritage Statement** makes the point that views of the development from the setting of various heritage assets are not designed views [41]. Whilst this may be the case, although views play an important part in considering the extent and importance of setting to heritage assets, the way in which we experience an asset in its setting is also influenced by other environmental factors such as our understanding of the historic relationship between places, and this is a key consideration in this case.
123. Taking the above points together I find that the proposal would not preserve the significance of either Huntercombe Conservation Area or Dorney Conservation Area through harm to their setting and would not preserve the setting of listed buildings: Lake End House, barn at Lake End House, two barns at Lake End Farm, and Lake End Farmhouse.
124. For these reasons the proposal would conflict with Policy 8 of the CS [25].
125. **The harm I have found would be 'less than substantial' in the terms of the Framework paragraph 208** as it would relate to only part of the setting of Huntercombe and Dorney Conservation Areas respectively and the relevant listed buildings.

126. The Heritage Statement and the Council refer to a number of other listed buildings in the vicinity of the appeal site such as West Town Farmhouse, The Pineapple Public House, Rose Cottage, and Cypress Cottage. It is unclear from the evidence how the setting of these designated heritage assets contributes to their significance or allow their significance to be appreciated. On the evidence before me I find no clear contribution. Therefore, I find no harm to their setting as a result of the proposal.

#### *Heritage Balance*

127. As set out in paragraph 208 of the Framework, where development would lead to **'less than substantial harm' to the significance of a designated heritage** asset this harm should be weighed against the public benefits of the proposal.
128. The public benefits in this case are set out by the appellant in their case [29-31, 50]. The development would provide clear economic benefits through job creation both short-term during construction jobs and also long-term employment in respect of the uses proposed on the appeal site. There would also be some wider economic benefits to the area.
129. Educational benefits are also cited and benefits to the local community as well as various renewable and low carbon energy infrastructure and low carbon measures which would provide wider environmental benefits. However, there is no substantive evidence before me to satisfy me that such benefits could be achieved or any mechanism to secure them. This therefore limits the weight to be afforded to these benefits.
130. **The appellant's Heritage Statement** suggests that the redevelopment of the site and associated green landscaping would improve the immediate surroundings visually [43] which would be a public benefit. However, as the current use of the site is unauthorised [13] such a benefit carries minimal weight.
131. Overall, I consider the benefits in this case attract significant weight. However, considerable importance and weight must be given to the desirability of preserving the setting of listed buildings. Great weight must also be given to the conservation of designated heritage assets. Given the various designated heritage assets I have found to be adversely affected in this case I find that this harm is not outweighed by the public benefits.

#### *Character and Appearance*

132. Although being adjacent to the M4 and the B3026, and the site itself being used for the storage of motor vehicles [13], the surrounding area to the appeal site has an overriding rural character which is interspersed with historic and modest sized settlements [56]. The lawful agricultural use of the site [13] would reflect this rural context. The surrounding land is also generally quite flat, particularly to the south of the appeal site where the Jubilee River is located, allowing for far reaching views.
133. The application form specifies the floorspace and uses for which the appellant seeks planning permission [14]. Based on the evidence before me a development of the scale and scope proposed would require substantial buildings and structures in terms of footprint and height, and this is reflected

in the submitted illustrative plans which show how a scheme such as that proposed might be brought forward.

134. In such an overwhelmingly rural area, devoid of any high rise, dense, urban development, the proposal [14-16, 30] would appear entirely out of character with its surroundings. Even with significant landscaping the harm arising would not be sufficiently mitigated.
135. Tall buildings, in an area devoid of them, and in a predominantly flat landscape, also have the potential to have far reaching visual effects which have not been fully explored by the appellant in their submitted evidence in the absence of Accurate Visual Representations of the proposal.
136. Although submitted in outline with all matters reserved the outline permission is the planning permission, therefore the decision maker, in determining an application at outline stage, must be satisfied that an acceptable scheme is capable of being devised at the reserved matters stage. On the evidence submitted I am not satisfied that the proposal could be brought forward on this site without causing significant harm to the character and appearance of the surrounding area.
137. For these reasons I find conflict with Policies EP3 of the LP and Policy 9 of the CS [19, 25]. I also find no reason to conclude Policy EP3 is out of date. [34].

#### *Highway Safety*

138. The development, given its scale, has the potential to generate a high volume of vehicle movements; in the HA's **view some 2,125** vehicular movements across the day [62]. Consequently, it has the potential to have significant impacts on the local highway network, specifically in terms of the distribution of traffic around local road junctions and the proposed access [63, 64]. The **appellant's TS**, however, is based on substantially less vehicle movements. This is because it envisages that future users of the site would use sustainable transport modes such as electric shuttle buses, detached gondolas and eVTOL shuttle craft rather than the private motor vehicle. However, the latter two are understood to have been removed from the proposal [6] so they cannot be considered.
139. Furthermore, the TS relies on daily commuting not being permitted for various users of the site. I have not been provided with any mechanism to secure this, but in any event, I am not satisfied that it would meet the relevant tests such as the test of reasonableness. Whilst there is a suggested condition in respect of submission of a Travel Plan no such plan has been provided to support the **appellant's assertions** made in the TS.
140. This all supports my concerns that the sustainable transport proposals relied upon in the TS may not materialise. The TS does not consider such an outcome and consequently does not adequately assess the highway implications of the development on the local highway network or the access. In addition to this the site has limited accessibility by existing public transport provision [66].
141. The TS **also relies on waiting for 'new normal' traffic conditions following the Covid 19 pandemic** [36]. However, this is a matter that needs to be considered

at outline stage and reliable up-to-date data beyond the pandemic has not been provided.

142. The appellant proposes a Bond of Surety [37] to cover any mitigation measures required as a result of highway safety impacts. No such obligation is before me and any such obligation would need to meet the relevant tests such as being fairly and reasonably related in scale and kind to the development. On the evidence before me it remains unclear whether highway impacts can be mitigated in an acceptable manner.
143. The appellant states that the development would include most of the elements necessary to enable persons' living, staying, and working to be self-sufficient [35]. However, I consider it is reasonable that such people would still travel off-site to meet their various needs.
144. Taking all of these points together I cannot be satisfied that the proposal would not have an unacceptable impact on highway safety or severe residual cumulative impacts on the surrounding highway network. I therefore find conflict with Policies TR5 of the LP and 7 of the CS [20, 23].

#### *Flood Risk and Surface Water Drainage*

145. The appeal site falls within Flood Zones 1, 2 and 3. The appellant has submitted an FRA which the EA have been consulted on a number of times. As set out in their most recent letter they maintain an objection based on an inadequate flood risk assessment. This is because they consider that it does **not adequately assess the development's flood risks. In particular** it fails to provide hydraulic model data of sufficient quality in order to ascertain if the proposal is deliverable [76].
146. The EA have also raised an objection to the FRA on the grounds that the submitted plans indicate that the proposed hotel would be located in Flood Zone 3b. Flood Zone **3b is only suitable for 'water compatible' development** as set out in Table 2 of the PPG [77].
147. The appellant suggests that the outstanding detail be resolved at reserved matters stage or by way of condition. However, there is no certainty, based on the submitted evidence, that these matters can be resolved and this falls to be determined at outline stage. Whilst the submitted layout is illustrative only no alternative layout has been submitted to demonstrate the development could be accommodated in Flood Zone 1 only. In any event, flood risk mapping is not an exact science, and it may be that the extent of flood risk is greater than shown.
148. Furthermore, although the Sequential Test is **mentioned in the appellant's FRA** it has not been undertaken. The Sequential Test should be applied when any part of a site is at risk of flooding as is the case here. To miss the Sequential Test negates the purpose of the Sequential Approach which is specifically designed to ensure that areas at little or no risk of flooding from any source are developed in preference to areas at higher risk. This approach has not been followed in this case.
149. Similarly, in respect of surface water drainage insufficient information has been submitted to demonstrate that the proposed discharge rates from the development would be acceptable, in spite of reliance on extensive rainwater

harvesting and internal soakaways [79]. I am therefore not satisfied that a satisfactory surface water drainage scheme can be achieved on site.

150. For these reasons the proposal does not adequately satisfy the requirements of the Framework and the PPG in respect of flood risk. I therefore cannot be satisfied that the proposal would have an acceptable impact on flood risk, nor that surface water drainage can be satisfactorily dealt with on site. The proposal would therefore conflict with Policies 6 and 13 of the CS [26, 27].

#### *Vitality of Town Centres*

151. In order to promote the health and vitality of town and village centres Policy 11 of the CS seeks to direct new retail, office and other main town centre uses to existing centres in South Bucks. Policy 10 of the CS similarly seeks to direct new employment development towards existing centres. The proposal's location conflicts with this [12].
152. The Framework at paragraph 91 sets out that a sequential test for planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan should be undertaken; it states that only if suitable sites are not available or expected to become available within a reasonable period should out of centre sites be considered.
153. The appellant has carried out a Main Town Centre Use Policy Assessment. This does not identify any potential development sites within or to the edge of Slough, Maidenhead, and Windsor and Eton Town Centres that would be capable of accommodating the development. To my mind this is not surprising given the scale and complexity of the proposal. I therefore consider that there are no suitable sites available to accommodate the development.
154. Consequently, whilst the proposal conflicts with Policies 10 and 11 of the CS the Framework is a material consideration of significant weight. Overall, therefore, I find no harm to the vitality of town centres in this case.

#### *General*

155. In respect of comments received in objection to the proposal and not dealt with elsewhere in this report:
156. Whether there is demand for this type of development in this location or any economic impact on other local businesses is not a matter on which this decision would turn. Land may be developed in any way which is acceptable for planning purposes by way of the planning system.
157. I have not been provided with any substantive detail in respect of suitable alternative sites available for the proposed development which would alter my recommendations above.
158. Current enforcement action at the site is a matter for the Local Planning Authority and does not fall for consideration under a s78 planning appeal.
159. There is no substantive evidence before me regarding a lack of sufficient infrastructure to support the development beyond those matters dealt with in my decision above.

160. I am satisfied that the site could be developed in such a way to ensure no harm occurred to the living conditions of occupiers of neighbouring properties. The private view from a window is not, of itself, regarded as a planning matter. Any disruption from construction works would be a temporary effect and could be dealt with by a suitable condition.
161. Design is principally a matter reserved for later consideration. A suitable condition has been recommended to ensure adequate parking could be provided.
162. Any onsite trees could be protected by condition. The ecology of the site has been considered on the evidence submitted and relevant conditions recommended in respect of this. Similarly, any archaeological finds can be protected by way of condition.
163. There is no evidence that the proposal would materially increase crime in the surrounding area.
164. In respect of comments in support of the application and not dealt with elsewhere in this report:
165. Debate on the town planning system is not a matter for consideration in this appeal. Any perceived negativity from any party **or the Council's handling of** the case would not be determinative, my recommendations being based purely on the planning merits of the proposal.

#### *Other Matters*

166. Whilst not raised in evidence directly from the Council, Highways England raised concern over a potential risk to users of the M4 from the proposed wind turbine(s). They advise that precise details of quantum and location would be required for a formal determination.
167. In a similar vein, although not addressed in the evidence before me, the proposed wind turbine(s) and helipad in close proximity of Heathrow Airport may also require additional consultations in respect of flight paths, not carried out, which the Secretary of State may wish to obtain and consider in the event they disagree with my recommendations.

#### *Overall Planning Balance*

168. Overall, I am not satisfied that the development could be accommodated on the site in accordance with the development plan. The proposal would be inappropriate development in the Green Belt and would have an adverse impact on openness. Substantial weight should be given to harm to the Green Belt. I have also found harm to the significance of a number of designated heritage assets which must be given great weight and this harm is not outweighed by the public benefits of the development [131]. Furthermore, I have found harm in respect of the character and appearance of the surrounding area, highway safety, and flood risk. Whilst I have found no harm to the vitality of town centres, the harms I have identified are not clearly outweighed by the other considerations [29-31, 33, 50], albeit I find them to be significant [128-131]. Consequently, very special circumstances have not been demonstrated. Accordingly, the proposal is contrary to the development

plan and the material considerations in this case do not indicate a decision otherwise.

Recommendation

169. I recommend that the appeal be dismissed.

*Hayley Butcher*

INSPECTOR



## Annex A – SCHEDULE OF CONDITIONS

- 1) Details of the means of access, appearance, landscaping, layout and scale (**hereinafter called 'the reserved matter'**) shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Any application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: LO19054-001.
- 5) The hotel shall not exceed ten storeys in height, the office six storeys in height, and the car park two storeys in height.
- 6) The wind turbine(s) shall not exceed two in number and 38m in height.
- 7) Any reserved matters application seeking to determine the matter of '**appearance'** shall include details as to the materials to be used in construction of the proposed buildings and how these materials will avoid glare to the users of the M4 motorway. Thereafter the development shall be carried out in accordance with the agreed materials.
- 8) Prior to the development being brought into use a scheme and measures to demonstrate how the development will secure at least 10% of its energy from decentralised and renewable or low-carbon sources shall be submitted to and approved in writing by the local planning authority and implemented on site. The agreed measures shall be maintained as approved in perpetuity.
- 9) No development shall commence until a Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions – and:
  - a) the programme and methodology of site investigation and recording;
  - b) the programme for post investigation assessment;
  - c) the provision to be made for analysis of the site investigation and recording;
  - d) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - e) the provision to be made for archive deposition of the analysis and records of the site investigation;
  - f) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

Development shall be carried out in accordance with the approved Written Scheme of Investigation.

- 10) Any historic or archaeological features not previously identified which are revealed when carrying out the development hereby permitted shall be retained in-situ and reported to the local planning authority in writing within 10 working days of their being revealed. Works shall be immediately halted in the area/part of the building affected until provision shall have been made for the retention and/or recording in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Development shall then continue in accordance with the approved details.
- 11) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice **and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11)** (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the local planning authority.
- 12) No development shall commence where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment until a detailed remediation scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before the development is brought into use.
- 13) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is continued.
- 14) No development shall commence until a revised Flood Risk Assessment has been submitted to and approved in writing by the local planning authority. In particular the submitted Flood Risk Assessment will need to provide hydraulic model data which addresses the concerns of the Environment Agency in their consultation response dated 29 July 2021.
- 15) Prior to the submission of any application for reserved matters a detailed site layout plan showing that only development compatible with Flood Zone 3b) (essential infrastructure or water compatible development as defined in the Planning Policy Guidance) is present within the Flood Zone 3b extent as defined in the local Strategic Flood Risk Assessment shall be submitted to

and approved in writing by the local planning authority. Any reserved matters application submitted shall be in accordance with the approved plan.

- 16) Prior to the submission of any reserved matters application a detailed parking layout plan shall be submitted to and approved in writing by the local planning authority. The plan will set out the layout and number of car parking spaces on site which will be no more than 325 spaces in total (225 for hotel, 100 for remainder of development). Thereafter the parking shall be provided prior to first use of the development and only be used for these purposes thereafter.
- 17) No development shall commence until a detailed Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP will include details regarding:
  - a) The proposed construction traffic routes to the site, to be identified on a plan;
  - b) Construction Traffic Management (to include the co-ordination of deliveries and plant and materials and the disposing of waste resulting from demolition and/or construction so as to avoid undue interference with the operation of the public highway, particularly during the Monday-Friday AM Peak (0800-0900) and PM Peak (1630-1800) periods);
  - c) An estimate of the daily movement of the construction traffic, profiled for each construction phase, identifying the peak level of vehicle movements for each day;
  - d) The hours of construction work and deliveries;
  - e) Area(s) for the parking of vehicles of site operatives and visitors;
  - f) Area(s) for the loading and unloading of plant and materials;
  - g) Area(s) for the storage of plant and materials used in constructing the development;
  - h) Details of wheel washing facilities;
  - i) The mitigation measures in respect of noise and disturbance during the construction phase including vibration and noise limits, monitoring methodology, screening, a detailed specification of plant and equipment to be used and construction traffic routes;
  - j) A scheme to minimise dust emissions arising from construction activities on the site. The scheme shall include details of all dust suppression measures and the methods to monitor emissions of dust arising from the development;
  - k) Details of waste management arrangements;
  - l) The storage of materials and construction waste, including waste recycling where possible;

- m) The storage and dispensing of fuels, chemicals, oils and any hazardous materials (including hazardous soils);
- n) The proposed maintenance and aftercare of the site;
- o) Measures to avoid impacts on the non-statutory designated sites and retained habitats;
- p) Details of drainage arrangements during the construction phase identifying how surface water run-off will be dealt with so as not to increase the risk of flooding to downstream areas as a result of the construction programme;
- q) Protection measures for hedgerows and grasslands;
- r) Risk Assessments and Method Statements for the works;
- s) Contact details of personnel responsible for the construction works;
- t) Soil movement, methods of tracking soil movement and details for demonstrating soil will be suitable for use; and
- u) Details of the size and location of the construction site compound to be established and the access arrangements to this.

Development shall be carried out in accordance with the approved CEMP.

- 18) No works or development (including for the avoidance of doubt any works of demolition) shall commence until a tree constraints plan and method statement (in accordance with British Standard 5837: 2012 'Trees in relation to design, demolition and construction' (or any replacement thereof or EU equivalent)) has been submitted to and approved in writing by the local planning authority. The approved method statement shall be complied with for the duration of construction works.
- 19) No development shall commence until a revised Biodiversity Net Gain Plan and associated Biodiversity Metric demonstrating that Biodiversity Net Gain (BNG) can be achieved on site, has been submitted to, and approved in writing by the local planning authority. The BNG Plan should adhere to best practice and include:
  - a) Introduction to the site, project, planning status, certainty of design and assumptions made, the aims and scope of the study and relevant policy and legislation;
  - b) Methods taken at each stage; desk study, approach to BNG and evidence of technical competence;
  - c) Baseline conditions of the site including; important ecological features and their influence on deliverability of BNG, baseline metric calculations and justifying evidence, and a baseline habitat plan that clearly shows each habitat type and the areas in hectares;
  - d) Justification of how each of the BNG Good Practice Principles has been applied;

- e) Proposed design to include a proposed habitat plan and details of what will be created. The plan should clearly show what existing habitat is being retained and what new habitat will be created. It should be easy to identify the different habitat types and show the areas in hectares of each habitat or habitat parcel;
- f) Biodiversity Metric spreadsheet, submitted in excel form that can be cross referenced with the appropriate plans;
- g) Implementation Plan including a timetable for implementation;

The development shall be carried out in accordance with the approved Biodiversity Net Gain Plan.

20) No development shall commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed. The scheme shall also include:

- a) Assessment of SuDS components as listed in the CIRIA SuDS Manual (C753) and provide justification for exclusion if necessary;
- b) Demonstrate that water quality, ecological and amenity benefits have been considered;
- c) Water quality assessment demonstrating that the total pollution mitigation index equals or exceeds the pollution hazard index; priority should be given to above ground SuDS components;
- d) Existing greenfield runoff rates and volumes;
- e) Proposed discharge rates and volumes with discharge rates being no greater than the greenfield runoff rate for the same return period;

Ground investigations including:

- f) Infiltration rate testing in accordance with BRE365;
- g) Groundwater level monitoring over the winter period (from the beginning of November until the end of April);
- h) Where required, floatation calculations based on groundwater levels encountered during winter monitoring (from the beginning of November until the end of April);
- i) Above ground SuDS components, including, but not limited to, ponds, wetlands, swales, tree pits and raingardens;
- j) No SuDS components to be located in an area of existing fluvial flood risk;
- k) Full construction details of all SuDS and drainage components;
- l) Detailed drainage layout with pipe numbers, gradients and pipe sizes complete, together with storage volumes of all SuDS components;

- m) Calculations to demonstrate that the proposed drainage system can contain up to the 1 in 30 storm event without flooding. Any onsite flooding between the 1 in 30 and the 1 in 100 plus climate change storm event should be safely contained on site;
  - n) Details of proposed overland flood flow routes in the event of system exceedance or failure, with demonstration that such flows can be appropriately managed on site without increasing flood risk to occupants, or to adjacent or downstream sites.
- 21) No development shall commence **until a "whole-life" maintenance plan for drainage system of the site has been submitted to and approved in writing by the local planning authority.** The plan shall set out how and when to maintain the full drainage system (e.g. a maintenance schedule for each drainage/SuDS component) during and following construction, with details of who is to be responsible for carrying out the maintenance. The plan shall subsequently be implemented for the lifetime of the development in accordance with the approved details.
- 22) Prior to the commencement of development a Travel Plan shall first have been submitted to and approved in writing by the local planning authority. The Travel Plan should make provision for an annual review. No part of the development shall be occupied until the Travel Plan is implemented. Any annually reviewed Travel Plan should also be submitted to and approved in writing by the local planning authority in accordance with a timetable set out in the original Travel Plan. Thereafter the development shall be operated in accordance with the approved Travel Plan or any subsequent reviewed Travel Plan, whichever is the most recent.
- 23) The development shall not be brought into use until confirmation has been submitted in writing to the local planning authority that all necessary wastewater network upgrades required to accommodate the additional flows from the development have been completed; or a development and infrastructure phasing plan has been submitted to and approved in writing by the local planning authority. Where a development and infrastructure phasing plan is approved, the development shall not be brought into use other than in accordance with the agreed development and infrastructure phasing plan.
- 24) The development shall not be brought into use until confirmation has been submitted to the local planning authority that either all water network upgrades required to accommodate the additional flows to serve the development have been completed; or a development and infrastructure phasing plan has been submitted to and approved in writing by the local planning authority. Where a development and infrastructure phasing plan is approved the development shall not be brought into use other than in accordance with the agreed development and infrastructure phasing plan.
- 25) No external lighting shall be installed on site until full details have been submitted to and approved in writing by the local planning authority. Any external lighting shall thereafter be installed in accordance with the approved details prior to the development being brought into use and retained in accordance with the agreed specification.

- 26) Prior to the development being brought into use a scheme for the provision of electric vehicle charging points within the site shall be submitted to and approved in writing by the local planning authority and implemented on site. Thereafter, the development shall be retained in accordance with the approved details.
- 27) The development hereby permitted shall not include access to the site by detachable gondolas or Electric Vertical Take-Off and Landing aircraft.
- 28) The office use hereby permitted shall be used only as offices and for no other purpose within Class E of the Town and Country Planning (Use Classes) Order 1987 (as amended).
- 29) No development shall commence until a Delivery and Servicing Management Plan has been submitted to and approved in writing by the local planning authority. Details shall include times and frequency of deliveries and collections, vehicle movements, silent reversing methods, location of loading bays, quiet loading/unloading measures, etc. Thereafter the operation of the development shall accord with the approved details.



# Department for Levelling Up, Housing & Communities

[www.gov.uk/dluhc](http://www.gov.uk/dluhc)

## 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 for permission 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

With the permission of the High Court 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. 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 for leave under this section must be made within six weeks from the day after the date of the decision.

### SECTION 2: ENFORCEMENT APPEALS

#### Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

### SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

### SECTION 4: 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 Inspector's report of the inquiry or hearing within 6 weeks of the day after 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.