



Appeal Decision

Inquiry Held on 22-25 October 2019

Site visit made on 25 October 2019

by Christopher Butler BA(Hons) PG Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th December 2019

Appeal Ref: APP/T0355/W/19/3225689

Land at Lodge Farm, Holyport

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Beaulieu Homes Southern Ltd against the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 17/03857/OUT, is dated 12 December 2017.
 - The development proposed is an outline application for 150 dwellings with new access off Holyport Road with emergency access only onto Ascot Road. Provision of a 667sq.m **Doctor's Surgery with 25 parking spaces. Change of use of agricultural land to** community park, open space, two grass football pitches, allotments and the change of use of an existing farm building to a community building. Ancillary landscaping and parking. All matters reserved except for access.
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary Matters

2. The proposal is in outline, with all matters reserved aside from the access to the site. The submitted draft layout plan and the landscape masterplan are for indicative purposes only and I have considered them accordingly.
3. Unilateral and Bi-lateral Planning Obligations¹ was submitted in draft form, discussed at the Inquiry. Other than some minor modifications agreed during the Inquiry, these Planning Obligations remain substantively as discussed during the Inquiry at the event. Final signed and dated agreements were submitted after the Inquiry. I have taken these documents into account.

Main Issue(s)

4. This appeal relates to the failure of the Council to give notice of a decision on this outline planning permission within the prescribed period. However, the Council has subsequently confirmed that had they been in a position to determine the submission, they would have refused outline planning permission citing five punitive reasons. However, the Council and the appellant (Main Parties) agreed² that punitive reasons 4 and 5, which relate to affordable housing and infrastructure provisions, respectively, could be dealt with by way

¹ Legal Agreements submitted pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended).

² Statement of Common Ground Section 6

of Planning Obligations under Section 106 of the Town and Country Planning Act 1990 (as amended) (the Act). The Main Parties also indicated that the Council's concerns related to highways, punitive reason 3, could potentially be mitigated through a proportionate contribution towards improvements to the Braywick roundabout and, if required, the Upper Bray and Windsor Road junction³. Planning Obligations, that cover these aspects, have been submitted by the appellant⁴. In these circumstances the Council has confirmed that it no longer wishes to pursue punitive reasons 3, 4 and 5.

5. Bearing the above in mind, the main issues are:
- Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan Policies;
 - The effect of the development on the spatial and visual openness of the Green Belt, the purposes of the Green Belt and the character and appearance of the area, including the setting of Holyport;
 - The effect of the development on the character / appearance and heritage significance of Holyport Conservation Area, including non-designated assets within it;
 - **The Council's housing land supply** position; and
 - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposal.

Reasons

6. The appeal site measures some 21.75 hectares (ha) in area and is made up of a series of open, and predominantly, agricultural fields. It lies within the Metropolitan Green Belt.
7. To the north-east of the appeal site is a housing estate known as Aysgarth Park and an area of public open space, whilst beyond these houses and the public open space, to the north, is the M4 motorway. A permissive footpath runs close to the north-eastern edge of the application site, within the Aysgarth Park housing estate.
8. To the south-eastern side of the site, on the opposite side of Holyport Road, are dwellinghouses. These properties are predominantly two storeys in height, whilst to the south-western side of the site lies the edge of Holyport Village and, in part, open fields. A Public Footpath (Public Footpath 38 Bray) (the Public Footpath) runs along a small part of the south-western side of the application site, from Holyport Street to Holyport Road, whilst a Public Bridleway (Byway 37 Bray) (the Bridleway) runs to the south-west of the footpath, but parallel to it.

³ Statement of Common Ground Paragraph 4.8

⁴ Document A.

9. To the north-western side of the site lies Ascot Road, which has in part a ribbon form of development running along it, together with open fields. The site is surrounded by residential properties of various sizes, design and age, but these properties are less prominent on the north-west and south western sides of the site.
10. Part of the appeal site, which adjoins Holyport Street and Blind Lane, lies within the Holyport Conservation Area and a number of listed buildings are located within the vicinity.
11. A property known as Philberds Lodge, is surrounded by the red line of the application site boundary as it is located within the centre of the site. However, this property does not form part of the development proposal as it lies outside of the red line site boundary. Elsewhere within the site are a number of agricultural buildings. These are scattered within the southern portion of the site, including a water tower, which whilst not listed is recognised as a non-designated heritage asset.
12. A number of trees are located within the site and these are the subject of a Tree Preservation Order⁵, which the Council advises covers all species of tree within the site.

Planning Policy background

13. The Development Plan includes The Royal Borough of Windsor and Maidenhead Local Plan (Adopted 1999)⁶ (LP).
14. The Council considers that the most important Policies in the LP for determining the appeal are Policies GB1 (Acceptable Uses and Development in the Green Belt), GB2 (Unacceptable Development), GB3 (New Residential Development), CA1 (Development in Conservation Areas), CA2 (Guidelines on Development affecting Conservation Areas) and T5 (New Development and Highways Design).
15. In so far as relevant to the circumstances in this case, Saved Policy GB1 reflects national Green Belt policy at a strategic level. Policy GB2 makes specific provisions for new development or the redevelopment, change of use, or replacement of existing buildings within the Green Belt, whilst Policy GB3 makes specific provisions for new residential development in the Green Belt. However, Policies GB2 and GB3 are more prescriptive than the National Planning Policy Framework (the Framework), thus only limited weight can be ascribed to Saved Policies GB2 and GB3.
16. Policy CA1 of the LP specifies that applications for new buildings in conservation areas should be submitted as fully detailed applications, whilst Policy CA2 sets **out the Council's criteria for assessing development affecting Conservation Areas**. The objectives of Policy CA1 go beyond the requirements of the Framework, therefore limiting the weight that can be ascribed to that saved Policy. Policy CA2 includes the statutory duty in Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 (as amended) (the PLBCA Act) which requires development to preserve or enhance the character or appearance of that area. However, Policy CA2 does not include the weighting set out in Section 16 of the Framework, nor does it require a weighting of less

⁵ Tree Preservation Order 09/2015

⁶ Incorporating Alterations (Adopted June 2003)

than substantial harm to be weighed against the public benefits of the proposal. Additionally, it is more prescriptive than the Framework, thus only limited weight can be ascribed to saved Policies CA2 of the LP.

17. In regard to saved Policy T5 of the LP, the Council has not pursued punitive reasons 3 or 5, which related to increased demand on the strategic highways network and related infrastructure contributions. As such I do not need to consider this matter further.
18. The Council draft Borough Local Plan Submission Version (BLPSV) was submitted to the Secretary of State for Examination in January 2018. Following Stage 1 hearings in June 2018, the Examining Inspector wrote to the Council in July 2018 raising a number of matters. The Council subsequently sought a pause in the Examination to enable those matters to be addressed. Proposed Changes to the BLPSV were approved by the Council on 23 October 2019 and the Council is currently consulting on these proposed changes. The Council and appellant consider that, having regard to paragraph 48 of the Framework, the Policies in the emerging BLPSV can only be attributed limited weight.⁷ I do not disagree with their assessment in this regard.

Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies.

19. The appeal site adjoins, but is outside, the urban area of Maidenhead, as defined in the adopted Development Plan. Additionally, the Development Plan shows that the appeal site partially borders the settlement boundary of Holyport Village on the south-western boundary of the appeal site. As such, the site is within the Metropolitan Green Belt and the open countryside.
20. Paragraph 143 of the Framework notes that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The Framework in paragraph 144 is clear that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. The Framework in paragraph 145 also sets out that a local planning authority should regard the construction of new buildings as inappropriate development in the Green Belt subject to certain exceptions.
21. It is accepted by the Main Parties that the proposed dwellings and the Doctors surgery would amount to inappropriate development in the Green Belt⁸. I acknowledge that the community park and related elements would meet one of the exceptions set out in paragraph 145, and would therefore not in principle amount to inappropriate development in the Green Belt.
22. Nevertheless, overall, the scheme would be inappropriate development in the Green Belt, which paragraph 143 of the Framework states is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 of the Framework states that in considering a planning application substantial weight should be given to any harm to the Green Belt. The proposal would also fail to comply with saved policy GB1 of the LP, which sets out the limited exceptions to the policy of not granting permission for new buildings in the Green Belt.

⁷ Paragraph 2.7 of Mr Fannon's Proof of Evidence and Paragraph 81 of the Council's Final Submissions.

⁸ Appellant's Closing submissions Paragraph 10 and Council's Final Submissions Paragraphs 1 and 2.

The effect of the development on the spatial and visual openness of the Green Belt, the purposes of the Green Belt and on the character and appearance of the area, including the setting of Holyport.

23. The appeal development comprises up to a maximum number of 150 dwellings, with new access off Holyport Road and an emergency access only onto Ascot Road. **It also seeks to provide a Doctor's Surgery of some 667sq.m with 25** associated parking spaces and a change of use of agricultural land to community park, open space, two grass football pitches, allotments, Etc. The appeal site is formed by a number of fields and, at the time of the accompanied site visit, some of the fields were in agricultural production. Whilst some buildings are on the site they are limited and generally of an agricultural nature and scale, with a utilitarian appearance. However, substantial space lies around them and this gave the site an uncluttered, agricultural character.
24. The appeal site is therefore readily distinguishable from the residential areas to the north-east (Aysgarth Park) and south-east (Holyport Road) where the adjoining buildings are domestic in scale and appearance, more closely and regularly spaced, with parking and domestic paraphernalia that reinforces the residential character of these areas. Indeed, the existing built form to the south-east is contained by the road itself.
25. The edge of the village of Holyport, is located to the south-west of the site. It is also distinguishable from the appeal site, as it has a rural village character. This village character is notable especially when looking from the site and adjoining roads towards Holyport Street and Blind Lane. As such the village of Holyport retains its own character and is clearly distinct from the other developments referred to above, as is the appeal site with its open rural character.

Openness

26. Impact on openness is a judgement. It has a spatial aspect as well as a visual aspect.
27. The number of dwellings proposed in the scheme would be significant, and whilst I appreciate that this application is in outline form, the indicative layout plan gives a reasonable idea of how the development site could be potentially constructed, showing illustrative road layouts and associated infrastructure. These details clearly show that the appeal proposals would introduce an urban character of built form which would present a significantly greater spread of development across the site, introducing development where there is currently none.
28. Whilst I appreciate residential development borders the site to the north-east and south-east and to a more limited degree on the south-west, the setting is rural in nature and a development of the scale proposed would result in a change to the character of this location, where openness can be appreciated within the landscape. The concentration of up to 150 dwellings, together with **the provision of a doctor's surgery, would present a significant impact on** openness of the Green Belt, resulting in its permanent loss and an unacceptable change to its character and nature.

Purposes of the Green Belt

29. The fundamental aim of the Green Belt Policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
30. The appellant disagrees with the Council as to how much harm would be caused to the Green Belt in terms of its five purposes⁹. However, it is clear to me that the development site, which forms part of the open countryside, does play an important role in protecting the openness and permanence of the Green Belt, by preventing the unrestricted sprawl of the existing large built up areas to the north-east and south-east of the appeal site, as well as assisting in the safeguarding of the countryside from encroachment.
31. The appellant acknowledges that encroachment into the countryside would occur, albeit they are suggesting such encroachment would be relatively limited due to the fact that some 78% of the site would be green space. However, I do not agree with this argument, as the development would still encroach. **Furthermore, I do not accept the appellant's argument that the proposed built development would not be unrestricted sprawl, as I consider the appeal site, as it currently exists, to make a positive contribution to the Green Belt as it prevents unrestricted sprawl of the existing large built-up areas, referred to above, and safeguards the countryside from encroachment.**

Character and appearance of the area

32. The description of the appeal site and the fact that it is distinguishable from the residential areas adjoining the site is set out above. However, it is clearly agricultural in nature comprising mostly agricultural fields and open land that separates the edge of the village of Holyport, from the more built up developments along the south-eastern side of Holyport Road and Aysgarth Park located to the north-east. When combined with the hedgerows and trees along the boundaries results in a spacious rural character.
33. Having considered the various view points and undertaken an accompanied site visit, I consider that the site plays a notable role in the transition from the built up area of Maidenhead (the existing dwellings along the south-eastern side of Holyport Road and Aysgarth Park located to the north-east) and the village of Holyport to the south-west. It was also notable in terms of the transition to the open countryside, of which it forms a part. As such, introducing the presence of considerable built form and associated domestic gardens and paraphernalia into this area, would considerably diminish the rural spaciousness and character currently provided by the appeal site.
34. In support of the proposal the appellant argues that the appeal site **"...is one of an agricultural landscape set within a suburban context, appearing as a mixture of agricultural fields in close proximity to areas of modern suburban housing and the historic core of Holyport village..."** with **"...limited amount of green infrastructure which is largely confined to its boundaries..."**¹⁰
35. It is also argued **that the appeal site is "...more closely associated with the suburban development that surrounds it to the north and east."**¹¹ and that with

⁹ Paragraph 134 of the National Planning Policy Framework

¹⁰ Appellant's Landscape and Visual Impact Assessment Paragraph 11.1.

¹¹ Ibid.

the residential element of the development being set back from the site boundaries this would limit visibility from along Holyport Road and Aysgarth Park.¹²

36. The appellant further suggests that careful massing of the built form would be used to limit the visibility of the development from Holyport Street, while the central band of vegetation would screen it from view, when approaching the village of Holyport from the west and that the development will be perceived as typical of the surrounding environment improving the overall visual quality of the surroundings.¹³
37. Whilst I have had regard to these submissions, the appeal relates to a proposal seeking outline planning permission and all matters, with the exception of access, are reserved for future consideration. As such layout, scale, appearance and landscaping are not matters that would be established, or secured as part of the outline planning permission, as they would be subject to a subsequent reserved matters submission. Whilst I acknowledge that an appropriately designed scheme could to a degree address issues of landscape impact and visual amenity, this would fail to overcome the harm I have found to the character and appearance of the rural area.

Summary of purpose of the Green Belt, Loss of Openness and Character and Appearance.

38. I have taken into account the illustrative layout plan, which shows the intention of providing a generous community park, with related open space, football pitches, allotments, etc., as well as indicating a significant degree of landscaping. However, the construction of the new buildings would harmfully diminish the rural character and appearance of the area. Additionally, the development would have a greater impact on the openness of the Green Belt and the development would be seen as an urban form increasing the sprawl of such built-up development across the site in the context of the wider open Green Belt setting.
39. As such the visual impact of the development would impinge on the character and nature of the Green Belt significantly diminishing the quality of its openness. This identified harm to the Green Belt should be given substantial weight in the balance of this decision.

The effect of the development on the character / appearance and heritage significance of Holyport Conservation Area, including non-designated assets within it.

40. Sections 66(1) and 72(1) of the PLBCA Act 1990 place statutory duties on decision-makers, when considering whether to grant planning permission for development which affects a listed building or its setting or any buildings or land in a Conservation Area, to have special regard to the desirability of preserving the listed building or its setting, and preserving or enhancing the character or appearance of the conservation area.
41. Holyport Conservation Area was designated in 1968. A Conservation Area statement was adopted in 1994, and reviewed in 2016. The Holyport Conservation Area Appraisal (HCAA) in the Summary of Significance states "the

¹² Ibid.

¹³ Ibid.

Conservation Area is a settlement preserving a mix of historic buildings". It also states, "the surrounding landscape of open fields is important in preserving the historic setting of the Conservation Area".

42. The Summary of Significance also makes it clear that there are a number of important views into and out of the Conservation Area stating, "There are important views along streets, between buildings and across open spaces". These views are identified within the HCAA by the map on Page 46.¹⁴ I return to these important views identified in the HCAA further below.
43. Paragraph 193 of the Framework sets out: "*When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.*"
44. As set out above the appeal site lies within the open countryside, which separates housing on three sides, with the Aysgarth Park located to the north-east, the housing running along the south-eastern side of Holyport Road to the south-east and the built edge of Holyport village bordering the site on the south-west. The appeal site is located between the above mentioned developments and is largely agricultural in use.
45. The housing to the north-east and south-east are largely 20th Century and the appeal site is seen against this backdrop when viewed from Ascot Road, the north eastern end of Holyport Street, the Bridleway that runs along Blind Lane and the Public Footpath within the site that runs parallel to the Bridleway. These houses have a number of urban/suburban features and are largely suburban in character.
46. However, notwithstanding the presence of these features and characteristics this area at large retains its generally rural feel due to the land uses, the largely undeveloped nature of the land and the existing planting along the majority of the field boundaries. This is especially the case within the appeal site itself due to its agricultural use, the hedgerows and trees.
47. The rural nature of the appeal site is readily visible and experienced from the Public Footpath that runs through the site from the end of Holyport Street and Holyport Road and the Bridleway that runs parallel to the Public Footpath to its south-west, along Blind Lane, which are included within the important views identified within the HCAA¹⁵. It is also discernible from Ascot Road. Any one travelling along the north-eastern end of Holyport Street or the Public Footpath / Bridleway, would be able to appreciate the historic context of Holyport Conservation Area and experience it in its wider setting surrounded by largely undeveloped fields, that are formed by the appeal site.
48. The current village fringe that forms part of the south-western boundary of the appeal site has largely retained an open, undeveloped rural / semi-rural character and appearance. The agricultural nature of the appeal site and the important views across the appeal site, as identified within the HCAA¹⁶, make an important contribution to the significance of the Holyport Conservation Area,

¹⁴ Holyport Conservation Area Appraisal – See Map on Page 46.

¹⁵ Holyport Conservation Area Appraisal – See Map on Page 46.

¹⁶ Ibid.

as well as the setting of the water tower, which is a non-designated heritage asset, and the setting of listed buildings within the north-eastern end of Holyport Street.

49. The appeal development, due to its scale and location, would very substantially and significantly diminish the current open, undeveloped character of the area and would affect views into and out of the conservation area. In particular, three of the important views identified within the HCAA¹⁷, the view across the open field beyond the turning circle, the views from the north-eastern end of Holyport Street where it joins the Public Footpath / Bridleway and the views from the junction of Holyport Road where it meets Blind Lane / the Bridleway. For the same reasons, the appeal development would also affect the character and setting of the Conservation Area itself, as well as the setting of the listed buildings within the north-eastern end of Holyport Street and the setting of the water tower which is located north-west of the north-eastern end of Holyport Street.
50. Bearing in mind the scale of the development and its impact on the non-designated and designated heritage assets, including the conservation area as a whole, I consider that the level of harm would be less than substantial. Accordingly, the appeal development would conflict with Policy CA2 of the LP, which amongst other aims seeks to ensure that development preserves or enhances the character of the conservation area, as well as seeking to protect views that contribute to the distinctive character of the conservation area. It would also be contrary to the objectives of the Framework, which amongst other aims seeks to conserve designated heritage assets in a manner appropriate to their significance.
51. Accordingly, in line with paragraph 196 of the Framework, this harm should be **weighed against the public benefits of the proposal. I consider this 'heritage balance' in the Other Considerations** and Overall Planning Balance sections of this decision letter.

The Council's housing land supply position.

52. It is common ground that the Council is not currently able to demonstrate a Five Year Housing Land Supply (5YHLS). However, the parties disagree as to the extent of the difference, with the Council indicating that it has 4.3 years of housing land supply, whilst the appellant argues the Council can only demonstrate 2.6 years housing land supply. The extent of the shortfall is relevant to this appeal, as it has a direct bearing on the weight to be given to the benefits or disbenefits of the proposed development.
53. In order for housing sites to be included in the 5YHLS, paragraph 73 of the Framework requires them to be deliverable. Annex 2 (Glossary) of the Framework defines 'deliverable' and states, amongst other matters, that to be considered as deliverable, housing sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years, stating ***"In particular:***
- a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be*

¹⁷ Ibid.

considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).

b) *where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will **begin on site within five years.***”

54. The appellant considers that the Council’s approach to defining the deliverability of sites was not in accordance with the definition, as set out above and that if sensibly read a) and b) above must be closed lists. However, there is nothing in the Framework or the National Planning Practice Guidance that suggests this is the case.
55. There is no doubt in my mind that the definition includes the need for clear evidence and that the 2019 Framework increased the requirements in regard to the test of deliverability, in comparison with earlier iterations of the Framework and other national advice. This is matter of judgment for the decision maker.
56. It is clear that the Council has sought to include sites **that either don’t yet have** a planning consent; or that have obtained a planning consent post base-date (i.e. after the 1 April 2019). These include Claremont House (Site 29), Grove Park Industrial Estate (Site 31), Bellman Hanger (Site 26) and Milestones (Site 32). I consider that the supply of deliverable sites should only include sites that fall within the definition of deliverable at the end of the period of assessment i.e. 31 March 2019. Sites that have not yet received a planning permission or have received a planning permission after the cut-off date, but prior to the publication of the annual review of deliverable housing sites within 5 years have therefore been included. However, the inclusion of sites beyond the cut-off date clearly distorts the data by overinflating the supply without a corresponding adjustment of need. Indeed, that is why there is a clear cut-off date set out in the annual review of deliverable housing sites within 5 years.
57. The appellant also **criticised some of the Council’s supply sites on the basis that** limited or vague information has been provided by the developer, planning agent or site promoters. Some of the terminology used in the responses from developers, planning agents and site promoters is unhelpful. Words such as **“hope”**, as contained in the developers e-mail related to Heatherwood Hospital (Site 23) does not lead me to conclude the evidence is clear that housing completions will begin on site within five years. Indeed, reference is made to beginning completions by 2023, some 4 years into the 5 year period.
58. In terms of windfall allowance, the **appellant’s** concerns are noted. However, the difference between the two parties is that the Council considers the windfall rate should apply to 3 years, whereas the appellant argues it should only apply to 2.5 years. From the evidence provided, I do not see why windfall sites **couldn’t become deliverable** and contribute to the windfall site allowance **within the Council’s** estimated timescales.
59. Irrespective of the above, the Council accepts that it cannot currently demonstrate a 5YHLS and that the Policies in its LP are out-of-date. It is solely the extent of the shortfall that is in question. Based on the evidence I have

seen, **I consider the Council's estimate of 4.3 years to be unrealistic.** However, the **appellant's arguments paint an overly bleak view of the supply at 2.6** years. From the evidence before me and bearing in mind the uncertainties that arises from the deliverability of certain sites, I am of the opinion that the true housing land supply figure is likely to fall somewhere around the midpoint between the Main Parties figures. Such a deficit represents a significant shortfall in the 5YHLS figure and as such I attach significant weight to this matter.

Affordable housing

60. The Main Parties agree that a minimum provision of 30% affordable housing would be required **by the Council's** Policies and that a legal agreement could ensure that this provision would be achieved by this application.¹⁸ Indeed such a legal agreement has been submitted.¹⁹ The applicant suggests that such a provision of affordable housing would be compliant with Policy H3 of the LP.²⁰
61. The appellant, **drawing from the Council's Affordable Housing Planning Practice Guidance Document** (December 2016), highlights that the Council considers **"the need for affordable housing in the Borough is significant"**. Indeed, the appellant suggests that in the last 3 years the delivery of affordable housing has been 55 affordable homes. Significantly below the net need for affordable homes over that period. However, the Council points out that there is not a linear or simple relationship between affordable housing delivery and affordable housing need. They also draw attention to various influencing factors and highlight how errors in such analysis occur.
62. Despite the above, the Council accepts that its recent performance in regard to this matter has been poor, but say that the affordability position in the borough is stable, and the current affordability ratio is taken into account in fixing the local housing need, which is then used to assess the 5YHLS position²¹.
63. Irrespective of the above, it is clear from the evidence provided that there is a considerable identified need for affordable housing and bearing in mind the proposal would be in compliance with the **Council's** Policy in regard to the delivery of affordable housing, I consider that the provision of affordable housing would be a clear benefit, which must be given significant weight in the overall balance of the decision.

If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, would be outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposal.

Other Considerations

64. A number of other considerations have been put forward by the appellant in support of the scheme. These benefits include, but are not limited to, the: delivery of needed homes when considered against the housing land supply shortfall; provision of affordable housing; provision of mainly houses rather than flats; **provision of a new doctor's surgery**; provision of a community park,

¹⁸ Statement of Common Ground – Paragraph 4.6

¹⁹ Document A.

²⁰ Appellants Closing Submissions – Paragraph 57.

²¹ **Council's Final Submissions** – Paragraph 77

- including allotments, sports pitches and changing facilities; heritage gains; economic gains; and environmental gains.
65. With regard to affordable housing and housing delivery, for the reasons set out above,²² I attach significant weight to these elements of the proposed development.
66. In terms of the provision of mainly houses rather than flats, the appellant refers to the Berkshire (including South Bucks) Strategic Housing Market Assessment Final Report (February 2016) (SHMA). They suggest that the overwhelming majority of dwellings being delivered are flats rather than houses and that a benefit to the proposal is that it is envisaged as predominantly comprising houses rather than flats. Indeed, the appellant suggests the development will provide 137 houses of the 150 homes proposed.
67. The SHMA covers a wider area than just the Royal Borough of Windsor and Maidenhead and does not express a mix for the borough, rather it expresses an "appropriate mix" for the Housing Market Areas (HMAs) over the period of 2013-2036. The SHMA also states at paragraph 10.78 "In applying policies on housing mix to individual development sites regard should be had to the nature of the development site and character of the area, and to up-to-date evidence of need as well as the existing mix and turnover of properties at the local level."
68. In this regard the appellant also considered completions by housing types, as **set out in Table 6 of the Council's Annual Monitoring Report 2018 (AMR)**. This shows that in the period 2013-2018 houses represented just over 35% of completions, whilst flats represented just under 65% of completions. Bearing in mind the different natures of these documents and the evidence in the AMR over the 5 year period between 2013-2018, I consider that, in this instance, the provision of mainly houses rather than flats does amount to a benefit provided by the development, although I do not consider the weight to be attributed to this matter is any more than moderate. As such I attach moderate weight in regard to the provision of mainly houses rather than flats.
69. In terms of the community parks provisions, **the Council's Open Space Study** (May 2019) (OSS) does not identify any particular deficiency for Holyport or Maidenhead. The OSS notes that standards across the borough were uniformly high, with good horticultural maintenance and high levels of provision²³, whilst noting more could be done to increase interpretative signage in some of the Parks and Gardens to **make them more welcoming, and to engender a "sense of place."** In terms of Parks and Gardens specific to Maidenhead, the OSS notes that **79% of these were "good."** and that "Any issues relate to a shortage of seating in some places, better signage, and the use of more informal landscapes."²⁴
70. The closest public park/garden to the appeal site is Gays Lane Field, Holyport and whilst this facility scored poorly in the qualitative rating²⁵, the OSS did not find quantitative need as there is a current oversupply across the Borough of

²² See paragraph 59 and 63 of this decision letter.

²³ Royal Borough of Windsor and Maidenhead Open Space Study (May 2019) – Paragraph 16.20.

²⁴ Ibid.

²⁵ Royal Borough of Windsor and Maidenhead Open Space Study (May 2019) – Table 8.1 and Appendix 1 that sets out the detailed results for the qualitative assessment.

some 73.88ha and a projected oversupply of some 60.04ha in 2033²⁶. Whilst I acknowledge that Recommendation 5 of the OSS recommends an "Increase Public Parks and Gardens provision in Maidenhead to take account of increased planned residential growth"²⁷, this related to planned growth and not speculative development proposals. Bearing the above factors in mind, I consider that no more than moderate weight should be attributed to the provision of the proposed community park.

71. Turning to allotment provisions, the OSS states that there is a surplus of allotment land, whilst noting demand is high.²⁸ The OSS also noted that waiting lists for plots typically ranges from 1 to 4 years.²⁹ However, during the Inquiry the Parish Council indicated that there was allotment availability within both Bray and Holyport. It is also worthy of note that the Council considered the development would only trigger an allotment requirement of 750 sq.m, whilst the appellant proposes an allotment provision of some 2,352 sq.m (some 28 Plots).³⁰ However, the Council also noted that whilst they currently have a surplus provision of allotment land (some 16.06 ha), when assessed against the projected population increase, the current provision would equate to a deficit in 2033 of about 12.60ha.³¹
72. In regard to the sports provision, the Council's Playing Pitch Strategy (dated April 2016) (PPS) highlights a 0.5 overplay of matches per week at Football Club Holyport (FCH). It also identifies a clash on Saturday afternoons due to the need to share changing facilities with the neighbouring cricket club. The PPS recommendations include ***"Improve pitch quality through improved maintenance in order to increase capacity and reduce level of overplay. Create required changing, shower and toilet provision on site to accommodate both junior and adult teams."***³² However, the PPS also promotes wider community use and shared facilities. It also seeks to improve the maintenance of existing pitches and to utilise existing spare capacity to cater for displaced and future demand, whilst noting playing pitches are currently being improved at nearby Braywick Park.³³ Furthermore, I note that FCH **have stated they "...would not support the application..." and "...shall not be endorsing the application."**³⁴
73. In terms of the proposed allotments and sports provisions, bearing the above points in mind, I consider that these elements of the proposal would amount to benefits, although the weight attributed to them should be no more than moderate.
74. Turning to economic benefits, the development would bring a contribution via the Community Infrastructure Levy (CIL) that would fund infrastructure needed to support the development.³⁵ Additionally there would be benefits provided through construction related employment, and investment in the local economy following occupation of the development. However, the benefits arising from the construction related employment would be modest and short lived and thus a matter of limited weight. The funding of infrastructure needed to support the

²⁶ Royal Borough of Windsor and Maidenhead Open Space Study (May 2019) – Table 8.2.

²⁷ Royal Borough of Windsor and Maidenhead Open Space Study (May 2019) – Page 77.

²⁸ Royal Borough of Windsor and Maidenhead Open Space Study (May 2019) – Paragraph 12.8.

²⁹ Ibid.

³⁰ Mr Fannon's - Proof of Evidence Paragraph 7.13

³¹ Ibid.

³² Mr Fannon's - Proof of Evidence Paragraph 7.10

³³ Ibid.

³⁴ Mr Fannon's - Proof of Evidence – Appendix 5.

³⁵ Mr Fannon's - Proof of Evidence – Paragraph 7.21

development and investment in the local economy following occupation of the development would in my view be a benefit attracting moderate weight.

75. In regard to ecological benefits, it is common ground that **"...sufficient information has been provided to demonstrate that protected wildlife can be safeguarded and a net gain for biodiversity can be achieved, subject to conditions."**³⁶ Additionally, I note that the appellant's **planning application was accompanied by a number of ecological studies and having undertaken an assessment using a biodiversity calculator they indicate a net gain of 35.13 biodiversity units would be provided through the proposed development.**³⁷
76. However, bearing in mind the existing use of the site, I am not persuaded by the evidence before me that the proposal would increase ecological / biodiversity benefits to any significant degree and as such I do not attribute anything more than limited weight to this benefit.
77. **In regard to the Doctor's Surgery, there is a lack of evidence** before me to demonstrate a need for such a facility or to show that such a facility would be supported by the local health care providers. Whilst I appreciate that the **Council's Infrastructure Delivery Plan (January 2018) (IDP) states "...raises issues in terms of the future requirements for healthcare..."**³⁸, the IDP does not specify how these requirements should be addressed³⁹. Furthermore, the Council indicate that the proposed new surgery is not supported by the existing surgery⁴⁰, **and that the Practice has advised "...following subsequent legal advice we informed the developer that we would not be in a position to progress the proposed scheme."**⁴¹ **Indeed, they go on to state "if the development were not to go forward we would not need new premises."**⁴² In the light of this evidence I afford **limited weight to the doctors' surgery as a benefit of the scheme.**
78. Turning to heritage issues, the approach in the Framework is that where the harm to the significance of a designated heritage asset is less than substantial, as in this case, it should be weighed against the public benefits of the proposal.
79. In addition to the public benefits I have outlined above, the appellant points to a number of specific heritage benefits. In summary these can be described as:
- the detailed layout of the country park paths and planting, being potentially based on or inspired by the historic layout of this area;
 - to better reveal the heritage values (architectural and historic) of the water tower and introducing new opportunities to experience it through increased public access and potentially interpretation;
 - the restoration of specific elements, such as the retention and enhancement of the orchard to reinforce its illustration of domestic garden provisions for the 19th century mansion and later collegiate institute, with a view to enhancing and better revealing their heritage values;
 - reuse and adaptation of the former Lodge Farm building;

³⁶ Statement of Common Ground – Paragraph 4.9

³⁷ Mr Cobbold's Proof of Evidence – Paragraph 1015.

³⁸ Mr Cobbold's Proof of Evidence – Paragraph 8.79.

³⁹ Ibid.

⁴⁰ Mr Fannon's Proof of Evidence – Paragraph 7.19

⁴¹ Mr Fannon's Proof of Evidence – Appendix 5

⁴² Ibid.

- the interpretation and dissemination of archaeological information to the public; and
- securing the structural condition and integrity of the water tower, a non-designated asset.⁴³

80. Against all the public benefits I have outlined above, is the harm I have identified to the character and appearance of the conservation area. It is clear from paragraph 193 of the Framework that great weight should be given to a **heritage asset's conservation, the more important the asset the greater the weight should be**. I consider that the public benefits set out above do not individually or cumulatively outweigh the identified harm.

Other matters

81. In terms of highways, the proposed access onto Holyport Road, the proposed emergency access from Ascot Road and the impact of vehicular movements in and out of the development on the surrounding highway network, whilst initially of concern, have been points of discussion between the Main Parties. Following negotiations revised access arrangements have not been the subject of objections by the Council or the Local Highway Authority. Additionally, the Main Parties have agreed a financial contribution towards improvements to the local highway network and these have been secured through a bi-lateral planning obligation.
82. **Residents'** expressed concerns, relating to highways and the impact on the surrounding highways network. However, from the evidence before me I am satisfied that the appeal scheme would provide a safe and suitable access resulting in no adverse impacts to highway safety.
83. With regard to flooding, I note that the Main Parties agree that the proposed residential element of the development is located within Flood Zone 1,⁴⁴ as defined by the Environment Agency and that mitigation has been proposed in the submitted Flood Risk Assessment.⁴⁵ I also note that the Environment Agency confirmed that they had no objections to the development, subject to the imposition of conditions.⁴⁶
84. I have noted third party concerns in regard to flooding. However, in light of the above, I am satisfied that the appeal scheme would be appropriately drained and not increase the risk of flooding.
85. Post Inquiry the appellant has drawn my attention to a further appeal decision⁴⁷, which was determined on 26 June 2019. Having reviewed the appeal decision, I do not consider it to be directly comparable to the development at the appeal site, bearing in mind the context of the development, described by the Planning Inspector at paragraph 24 of his decision letter, and his comments concerning views from available vantage points made in the same paragraph. Therefore, I have attributed limited weight to this decision in my determination

⁴³ The full list of heritage benefits identified by the appellant are contained in Jody O'Reilly's Proof of Evidence and specifically within paragraphs 5.46 to 5.51. The Heritage benefits are also summarised in Mr Cobbold's Proof of Evidence – Paragraph 8.100.

⁴⁴ Statement of Common Ground – Paragraph 4.10

⁴⁵ Ibid.

⁴⁶ Ibid.

⁴⁷ APP/G5180/W18/3206569.

of this appeal and I have determined the proposed development before me on its individual merits.

Planning Obligations

86. Two Planning Obligations⁴⁸ have been formally submitted. The first Planning Obligation is a unilateral agreement, which deals with a range of matters, including: **the provision of land for a doctor's surgery; heritage benefits; the provision of public open space that includes allotments, footpaths, football pitches and changing facilities; and provisions related to the future management and maintenance of public open space.** The second Planning Obligation is a bi-lateral agreement, which deals with a range of matters, including: the provision of affordable housing; highways works; the provision of locally equipped and neighbourhood equipped areas of play; the maintenance of common parts; sustainable transport contributions; a travel plan; a waste scheme; and the appointment of an appropriate body in regard to clean, maintain and repair the public facilities detailed in the bi-lateral Planning Obligation.
87. All of the above matters covered in the Planning Obligations are directly related to the proposal and are necessary to make the development acceptable in planning terms. Therefore, I consider that these Planning Obligations meet the requirements in paragraph 56 of the Framework and the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended). I have therefore taken account of them in my decision.

Overall Planning Balance and Conclusion.

88. Whilst the appeal site is located within the Green Belt, it is clear to me that Paragraph 11 d) i. of the Framework applies. However, I am conscious that in considering the weight to be ascribed to this deficiency, guidance says unmet need on its own is unlikely to be sufficient to represent the very special circumstances necessary to justify inappropriate development in the Green Belt.
89. I have found that proposed development amounts to inappropriate development in the Green Belt and would cause harm to openness. It would also conflict with more than one of the purposes of the Green Belt, including preventing encroachment into the countryside. The effect on openness and the effect of encroachment are further Green Belt harms in addition to the definitional harm of inappropriateness.
90. National policy is clear, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
91. I have found less than substantial harm to the significance of the Holywell Conservation Area and that this heritage harm is not outweighed by the public benefits of the scheme. This harm is another harm for Green Belt purposes. Whilst I have attributed significant weight to the provision of housing and affordable housing and this weighs in favour of the proposal, I only attribute

⁴⁸ Legal Agreements submitted pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended).

- moderate weight to the provision of mainly houses rather than flats, the provision of a community park, allotments, sports provision and economic benefits and limited weight to the provision of a doctor's surgery, and the ecological benefits. Even when taking these matters cumulatively, they do not clearly outweigh the totality of harm to the Green Belt and other harm.
92. As such very special circumstances to justify inappropriate development do not exist.
93. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. I have found conflict with saved policies GB1 and CA2 of the LP and therefore consider that the proposal conflicts with the development plan as a whole.
94. Overall, taking account of the Framework and the above considerations, including the benefits of the development, I find that material considerations do not indicate that planning permission should be granted for the development, which conflicts with the development plan.
95. The development is therefore unacceptable for the reasons set out above and the appeal is dismissed, and planning permission is refused.

Christopher Butler

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:	
Mr Guy Williams of Counsel	Instructed by Jennifer Jackson, Head of Planning, Royal Borough of Windsor and Maidenhead Council.
He called	
Mr John Fannon MA Regional & Urban Planning, MSc (Environmental Assessment & Management), RTPI	Town Planning Consultant appointed by the Royal Borough of Windsor and Maidenhead.
Mrs Jessica Angeline Stileman BA(Hons) Architecture, Affiliate Member IHBC.	Conservation Officer, Royal Borough of Windsor and Maidenhead.
Mr Paul McColgan	Director, GL Hearn appointed by the Royal Borough of Windsor and Maidenhead.

FOR THE APPELLANT:	
Mr Christopher Katkowski, QC	Instructed by Liz Alexander of Bell Cornwell
He called	
Nicholas Cobbold BSc DipTP MRTPI	Senior Associate, Bell Cornwell
Sue Illman	Managing Director, Illman Young Landscape Design Ltd
Jody O'Reilly CifA	Director, Heritage Collective
Mark Hewett	Senior Partner, Intelligent Land
Stewart Andrews	Director, Stuart Michael Associates

OTHER APPEARANCES

Mr Lerner MA, DipTP, MRTPI	On behalf of the Council for the Protection of Rural England (Berkshire) (Rule 6 Party)
Mr Lerner MA, DipTP, MRTPI	Bray Parish Council (Rule 6 Party)

INTERESTED PARTIES

Mr Roger Lewis	Local Resident
Mr Terry Knibbs MRTPI (Retired)	Local Resident
Councillor Leo Walters	Borough Councillor Bray Ward
Mr Jay Flynn	Local Resident
Mr Terence Novell	Local Resident
Mr David Howells	Local Resident
Mr Roger Nilsson	Local Resident

DOCUMENTS SUBMITTED AT THE INQUIRY

1	Details of Appellant's Council and witnesses to be called on behalf of the appellant – submitted by Christopher Katkowski QC, Landmark Chambers.
2	Appellants Opening Statement – submitted by Christopher Katkowski QC, Landmark Chambers.

3	Council's Opening Statement – submitted by Guy Williams, Landmark Chambers.
4	Rule 6 Parties opening Statement – Submitted by Mr. P Lerner, MA, DipTP, MRTPI.
5	Document marked 'Public Report Pack related to the Extraordinary meeting of the Council of the Royal Borough of Windsor and Maidenhead dated 23/10/2019 and Appendix A (Document entitled RBWM Borough Local Plan Submission Version – Proposed Changes (pages 3 - 408).
6	Copy of Joint Appeal Decision APP/T0355/W/18/3216170 and APP/T0355/W/18/3227886 – Land North of Coningby Lane Fifield, Maidenhead SL6 2PF – Submitted by Mr P. Lerner on behalf of Rule 6 Parties (CPRE Berkshire and Bray Parish Council).
7	Copy of Joint Appeal Decision APP/T0355/W/18/3231492 - Land South of Holyport Allotments, Lays Lane, Bray. Submitted by Mr P. Lerner on behalf of Rule 6 Parties (CPRE Berkshire and Bray Parish Council).
8	Statement prepared by Cllr Leo Walters.
9	Statement Prepared by Terry Knibbs (Local Resident) 29 Byland Drive, Holyport SL6 2HF.
10	Draft Unilateral and Bilateral Planning Obligations prepared under S.106 of the Town and Country Planning Act 1990 (as amended), which are unsigned and marked undated September 2019, but agreed between the Main Parties.
11	Document entitled 'Respective Position of RBWM and the Appellant – Table 1 Uncontested Sites.
12	Document entitled 'Respective Position of RBWM and the Appellant – Table 2 Contested Sites.
13	Document marked 'Plans for consideration as part of the appeal', provided by the Council, as agreed between the Council and the appellant.
14	Copy of Planning Permission 19/00628 – Change of use of the land to a temporary car park (sui generis) with associated works and access following the demolition of the existing building at Desborough Bowling Club, York Road, Maidenhead SL6 1SF. Issued 5 June 2019.
15	Extract and related map regarding site reference H00036 as set out in the Council's Brown Field Land Register and related map marked Windsor and Maidenhead Brown Field Site Register Reference 036.
16	Letter from RBWM dated 24 October 2019 setting out the position of the Borough Local Plan- Submission Version following an Extraordinary meeting of the Full Council on 23 October 2019.
17	Closing Statement of Mr Peter Lerner MA, DipTP, MRTPI on behalf of Bray Parish Council and the Campaign to Protect Rural England, Berkshire Branch.
18	Council's Final Submissions.
19	Appellant's Closing Submissions.

DOCUMENTS SUBMITTED AFTER THE INQUIRY

A	Finalised S.106 Agreement (signed and dated 1 November 2019).
B	Appeal Decision APP/G5180/W18/3206569.