IN THE MATTER OF

THE TOWN AND COUNTRY PLANNING ACT 1990, Section 77.

AND IN THE MATTER OF

LAND TO THE NORTH OF ASTON ROAD,

HADDENHAM.

CLOSING SUMBISSIONS ON BEHALF OF THE APPLICANT

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1. These submissions are made on behalf of the Applicant. The application is for up to 280 dwellings (including 35% affordable housing) and 35 retirement units, together with a new Burial Ground, Country Park, Nature Reserve and Community Sports Facilities on land to the north of Aston Road, Haddenham[1]. The site is part-allocated for residential purposes in the recently made Haddenham Neighbourhood Plan [HNP][2] (Policy HD5; 85 dwellings together with an aspiration for a new Burial Ground).

2. This is a s.77 'call-in' inquiry and, hence, there are no reasons for refusal to which to respond. The Local Planning Authority resolved to approve the scheme now before the Secretary of State not once, but twice, respectively in the context of the then emerging HNP and in the context of the now 'made' HNP[3]. The made HNP is materially different from the submission version[4] in that the examiner, Mr McGurk, expressly removed from the 'spatial strategy' policy HD1 any prohibition on developing outside the allocated sites, having found such a prohibition to fail the

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[1] SoCG, CD2, para. 2.9
[2] CD16
[3] CD7 and CD8
[4] CD17

'basic conditions' of having regard to national policy for 'positive planning', given the absence of any strategic housing figures to justify a cap or ceiling to housing numbers in Haddenham[5].

3. The Secretary of State's call-in letter[6] identified two matters on which he particularly wished to be informed: (i) the application's consistency with the development plan and the [then] emerging neighbourhood plan; and (ii) policies in the NPPF on delivering a wide choice of high quality homes, in particular those set out in paragraph 50 on delivering a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.

4. On the first day of the inquiry, the Inspector set out four main issues: (i) the extent to which the proposal is consistent with the development plan, including the HDP; (ii) the impact of the proposal on heritage assets, especially the nearby listed buildings and the Conservation Area; (iii) whether the development amounts to sustainable development; and (iv) the planning balance. These submissions are structured around those four topics.

Consistency with the development plan, including the HNP:

5. The relevant development plan consists of the saved policies of the Aylesbury Vale District Local Plan (2004)[7] and the HDP[8].

6. As regards the AVDLP, no strategic policies for housing supply were saved. The Applicant considered that, potentially, there was a conflict with policy RA14, but that by operation of para. 49 of the NPPF, in the acknowledged absence of a 5 year housing land supply, RA14 would be, in any event, rendered 'out of date'. The LPA, however, consider that RA14 is not a relevant policy for the purposes of the application and do not allege conflict with it. The Haddenham Parish Council do not argue that RA14 applies. The Applicant is content to rest on this matter that RA14 is

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[5] CD18, pp.19-20.
[6] CD1
[7] See SoCG, CD2, para's 5.2-5.4
[8] CD16

said by the other parties to be irrelevant. As such, there is no allegation by any party that this proposal is in conflict with the district-wide development plan. For the AVDLP, therefore, we are in the first bullet of the second half of para. 14 of the NPPF.

7. As regards the HDP, two policies need to be considered: the site specific allocation, HD5, and the 'spatial strategy' HD1.

8. HD5 allocates 2.8 ha of the site for 85 dwellings, subject to 5 development criteria including an aspiration for a burial ground. Thus, that part of the site covered by HD5 is expressly supported by the HDP. There is no conflict there. In addition, each and all of the 5 criteria either are delivered or can be at reserve matters stage. It should be noted that the aspiration of a burial ground could not sensibly be achieved at HD5 given its area of 2.8ha which renders 85 units a density of 30dph. This scheme, taking in the wider Glebe site, however, can and does deliver that much-needed facility for the village. It also provides significant community sports and open space and nature conservation area which the Parish Council recorded that it strongly wishes to adopt as its own[9].

9. As such, while the proposal before the Secretary of State goes beyond HD5, it is delivering HD5 and that part in the 2.8 ha allocation receives its express support for 85 units, as does the proposed burial ground. There is no policy objection to the provision of the country park, sports facilities or nature reserve; indeed, these are expressly welcomed by the HPC. It should further be noted that the proposal includes 35 retirement homes, which were, according to the HDP, to be provided on the Dollicot site, but which would not be provided under the application received for that site. Instead, that aspiration of the HDP will be delivered by these proposals.

10. Turning to HD1 'spatial strategy', it is important to recognise the alteration to this policy as a result of the Examination. As originally drafted[10], HD1 would have limited residential development in Haddenham to the 430 allocated in the five allocations HD2-HD6 plus windfalls and infills. Housing outside those allocations would have been prohibited except in 'exceptional circumstances'. Consequently, as against the

[9] Day 3, the s.106 session
[10] CD17

submission version of the HDP extant at the time of the Secretary of State's call-in letter, a proposal for 280 houses on the application site would have been contrary to that prohibition and, hence, in conflict with HD1[11].

11. However, since the call-in letter, HD1 has been altered so that in the 'made' HDP[12], the prohibition has been removed. Mr McGurk[13] identified, correctly, that in the absence of strategic housing numbers or distribution, it would be contrary to the NPPF imperative of 'positive planning' to cap or limit new housing developments to the 430 to which the HNP allocations were directed. He, therefore, sought to remove the prohibition and – as Mr Gilbert accepted[14] – successfully did so, by his substituted wording.

12. Events have amply justified Mr McGurk's wise amendment. The district-wide housing numbers to which the submission version HNP was working were approximately 19,000[15]. The HNP Consultation Response document acknowledged (indeed asserted) that it was appropriate for the HDP to base itself on the HEDNA evidence[16]. Since then, the HEDNA[17] and consequent distribution exercises have identified a strategic hosing need for 31,000 across the district, with between 1007 and 1094 coming to Haddenham[18]. Even Sir Roderick Floud's more modest appraisal[19] identifies 677 – all are very significantly more than the 430 to which the allocations were directed. Given Haddenham's place as a 'strategic settlement' along side Aylesbury, Buckingham, Wendover and Wilmslow at the top of the settlement hierarchy, this is only proper. It is one of the five most sustainable settlements in the District which are 'the main focus for growth'[20].

13. Following Mr McGurk's removal of the prohibition on developing outside the 5 allocations, HDP1 now supports 'sustainable growth'. Should, as the Local Planning

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[11] In the absence of a 5 year land supply, of course, para. 49 of the NPPF would have been engaged so as to deem HD1 out of date, and the scheme would then have fallen to determination by reference to the 'tilted scale' in NPPF para. 14, second bullet, first dagger.
[12] CD16
[13] CD18
[14] Gilbert XX, CB QC Day 1
[15] See Addendum SoCG
[16] CD52, p. 98, response 257.
[17] CD12, June 2015
[18] CD35
[19] CD36
[20] Weaver, Appx 14 and 15.

Authority believe it should be, this proposal be judged to be sustainable growth, HD1 expressly supports it. There is no conflict with HD1.

14. The HPC sought to argue[21] that the phrase in HD1 introducing the allocations 'To achieve this…' should be read to limit 'sustainable growth' to those allocations (plus windfalls and infill). But that is to re-impose the prohibition agreed to have been removed and makes no sense, given the purpose of Mr McGurk's amendment. Reference to the very different circumstances in Crane do not assist the HPC – there the Secretary of State (and judge) found that the policies in question set an upper acceptable limit for development, and then allocated sites to accommodate that limit. Here, while there are 5 sites identified as sustainable, the upper limit they had represented was expressly and deliberately removed by the Examiner. It is not 'pointless' then to allocate the 5 sites as suggested; it is positive planning. But, equally, to use them as a means to prohibit sustainable growth elsewhere is – in the absence of strategic housing numbers – not positive planning, not in accordance with the NPPF, would have therefore failed the 'basic condition' test and, so, was removed.

15. With the removal of the prohibition on development outside the allocations, HD1 is not a policy with which the proposals before the Secretary of State conflict.

16. As such, the proposal does not conflict with the development plan including the 'made' neighbourhood plan. NPPF Para. 14, first bullet of the second half, indicates permission should be granted without delay.

Impact of the proposals on designated heritage assets: nearby listed buildings and the Conservation Area:

17. The Burial Ground proposed abuts the Haddenham Conservation area. Between it and the proposed housing lies the nature conservation area and the community sports provision. There are three Grade II listed buildings whose curtilages share that boundary. In addition, No. 3 Aston Road is a Grade II* listed house reasonably proximate to the site and on the opposite side of the road, away from the site, lies

[21] Ie through its advocate, not its witness (who accepted that the prohibition had been successfully removed; Gilbert xx CBQC, Day1)

another, Church Farm House. The Grade I St Mary's Church lies at the centre of Church End, within the Conservation Area, its tower visible in certain views over the application site.

18. No works are proposed to listed buildings or in the Conservation Area[22]. As such, it is only 'setting' which can be alleged to be offended. Development or change within the setting of a heritage asset is not, of course, harm, unless it materially and adversely affects the contribution of the setting to the significance of the heritage asset itself.

19. As to the listed buildings, while the site is in the setting of the three Grade II houses and the Church, and the footway works are in the setting of the two Grade II* houses, there is no serious suggestion that the significance of those heritage assets derives substantially from the absence of development on the appeal site or the absence of footpaths on that part of Aston Road in question. Moreover, the part of the site nearest the assets is proposed to be kept open and undeveloped, indeed, Mr Bell considered their setting to be enhanced by the proposals. The design of the footway can be sympathetically considered as to positioning, extent and surface and edging treatment. Footways of varying widths in traditional materials and edging are a characteristic of the historic core of the village.

20. As to the Conservation Area, and the distant views of the Church, it is notable that no part of the Conservation Area appraisal identified important views across the application site. In addition, the southern half of the boundary with Stanbridge Road is bounded by a significant hedge and the more open northern section is itself the subject of the HDP allocation HD5 at 30 dph. At reserve matters stage, key views of the Church tower can be established and integrated into the layout. As the conservation officer recorded, the proposals will preserve setting of the listed buildings and the conservation area and will not harm the significance of the heritage assets in question[23]. Again, the footway on part of Aston Road can be designed to be in sympathy with, not detracting from, the setting of the Conservation Area.

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[22] NB the alternative illustrative footpath proposal on the southern side of Aston road need not proceed further west than the vehicular access to the primary school (it then aligns itself with the illustrative proposal for the northern side).

[23] CD7, para 8.11 of the main report.

21. As such, para. 134 of the NPPF is not engaged and the statutory requirements are met. Indeed, by para. 132 'great weight' should be given to the preservation of the significance of the heritage assets in question. However, if, for whatever reason, there is considered to be some 'less than substantial'[24] harm, para. 134 of the NPPF operates to set a test whereby that harm can be outweighed by the public benefits of the proposals. These are many and manifest and weighty. Indeed, even the HPC's witness, who had only looked at one of them (housing provision) attributed 'substantial positive weight' to the proposal. When one takes account of the other social benefits, the economic benefits and the environmental benefits brought by this scheme, it is respectfully submitted that this is a case where the 'less than substantial harm' is more than adequately outweighed by the very substantial weight properly to be accorded to the benefits of the scheme and, so, para. 134 of the NPPF would not indicate that permission should be refused.

Whether the proposal constitutes sustainable development:

22. The test for this matter is found in para. 14 of the NPPF[25]. Proposals which accord with the development plan (as this does) should be approved without delay (as this should). Where there is conflict, but the relevant polices are out of date, permission should be granted unless the harms significantly and demonstrably outweigh the benefits. Paragraph 198 of the NPPF was accepted[26] – and indeed as established as a matter of law[27] - not to elevate neighbourhood plans to any special status compared to other parts of the development plan, nor to alter the operation of s. 38(6), nor the applicability of para. 49 of the NPPF. Para. 198 is agreed[28], therefore, not to be a 'footnote 9' policy and the second dagger of the second bullet is not, thereby, engaged.

23. If, as the Applicant submits, there is no conflict with the HDP policies as they have emerged from Examination, s. 38(6) operates to indicate that permission should be

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[24] Noting, of course, the effect of the Barnwell Manor case.
[25] Although the written planning evidence for the HPC seemed to flirt with the '2 stage' heresy, this was not pursued in the inquiry by the HPC, and was, indeed, firmly rejected by the High Court in Dartford [CD32].
[26] Gilbert xx CBQC, Day 1; and conceded in questions by PSQC to Weaver, Day 3;
[27] Woodcock [CD13] at para's 21 and 24;
[28] See footnote [25] above;

granted, there being no material considerations which indicate otherwise, or not to the extent of disturbing the statutory presumption in favour of the development plan. Conversely, *if* conflict is found with either or both of HD1 and HD5, there are ample material considerations which indicate that permission should, none-the-less, be granted.

24. The most prominent of these is the fact that both policies are 'relevant policies for the supply of housing' within the meaning of para. 49 of the NPPF and, so, are deemed 'out of date'. That has two effects: it takes the decision-maker to para. 14 second bullet as the operative test for determination; and it reduces the weight which otherwise would have been given to the policy and any conflict with it. As Mr Gilbert acknowledged[29], the effect of finding a policy 'out of date' when judging its weight can only be a *downwards*[30].

25. It is necessary, therefore, to weigh the benefits and compare them with the alleged harms. That is not an exercise done by the HPC – or at least not one completed by them[31]. These benefits are set out and quantified and weight attributed to them in the evidence of Mr Weaver[32]. They are neither disputed nor challenged and the evidence there set out is commended to the Secretary of State. Mr Weaver analyses the matter by reference to the three 'dimensions' of sustainable development listed in para. 7 of the NPPF and records significant benefits across all three.

26. Against this the 'harms' are heritage, accessibility and conflict with the HNP. None of these, singly or together, persuaded the Local Planning Authority to refuse permission.

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[29] Gilbert xx CBQC, Day 1

[30] The lack of an explicit statement to this effect in Crane is perhaps the foundation of the HPC's devotion to that case. The Secretary of State's attribution of 'very substantial weight' to the conflict with the made NP in Broughton Astley is a planning judgement determined on the particular facts of that case, where the NP was 'overproviding' against the requirements of an adopted Core Strategy and no more housing was considered sustainable. The judge in Crane found that planning judgement a matter for the decision-maker (which is, of course, correct); he did not find that the decision-maker could ignore the fact that the policy was 'out of date', or avoid reflecting that in the weight to be given to it. When the decision maker ignored the operation of para. 49 when judging weight of a NP policy, the outcome was indeed quashed – see Woodcock .

[31] The only benefit taken into account by Mr Gilbert was the provision of housing (although, at least he attributed it 'substantial positive weight').

[32] Weaver, Section 7

27. As to the first, there is, properly, no harm, or – if there is – para. 134 of the NPPF allows such harm to be outweighed and the development to occur, *in accordance with policy.*

28. As to the second, as has already been noted, Haddenham is one of the 5 'strategic' settlements in the district which are the 'main focus' for growth. It has appropriate facilities, education, employment, bus services and a railway station. It is a sustainable settlement for additional housing development and the application site is a sustainably accessible location for such growth, as acknowledged in the Transport Statement of Common Ground and, not least, by its part allocation in the HNP itself. Sustainable transport improvements in the form of increasing a twice daily bus service to an hourly one will redound not only to the benefit of the application site's residents but to the settlement as a whole.

29. There is no credible argument that the site is not a sustainable one for development. Parcel 009A even on the HPCs unreliable scoring system (see below) was ranked in the top 5 of all sites in Haddenham. At 7.1 ha, that could accommodate 213 dwellings[33]. Indeed, the minutes of the HNP committee of 12th November 2014[34] record 'the Glebe land comes some way down the priority list but *no site was deemed unacceptable* by the site criteria assessment'[35].

30. That leaves the pure policy objection of alleged conflict with the HNP 'spatial strategy' policy HD1.

31. First, it should be noted that on a proper understanding of the policy, as amended by and for the reasons given by the Examiner, Mr McGurk, there is no conflict with policy HD1, the prohibition on developing outside the allocations having been successfully removed, as accepted by Mr Gilbert.

32. However, on the assumption that there is some conflict, as alleged, it is necessary to assess the degree of conflict and the weight to be attached thereto.

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[33] See very last page of CD2
[34] CD56, p. 3
[35] Emphasis added

33. As the HDP is a newly made plan, HD1, as a starting point, is accorded 'full' statutory s. 38(6) weight. However, it is a plan under pain of legal challenge, and so, although of legal force until quashed, it is legitimate to lessen the weight it might otherwise have[36].

34. Further, policies HD1-6 are 'relevant policies for the supply of housing' within the meaning of para. 49 of the NPPF and are, therefore, deemed out of date. As such, their weight will be reduced compared to up to date policies. Mr Weaver gave them, accordingly, very little weight.

35. There would have to be some compelling circumstances to justify re-elevating out of date policies to a level of determinative weight. Such circumstances may have been apparent in Broughton Astley and – at the time – in Winslow. They are not apparent here, where the housing need has gone from 19,000 to 31,000, that attributed to Haddenham has gone from 430 to between 677 and 1000+ and, as we have just seen, the Glebe site was assessed as not unacceptable in itself, although not yet needed[37]. Certainly, para. 198 of the NPPF does not as a matter of law amount to a reason to re-elevate the weight of an out of date NP housing policy[38].

36. It is noteworthy in this regard that the two reasons given in the HDP for limiting HD5 to one corner of site 009A are heritage impacts and accessibility. As the LPA has concluded that neither of these considerations amount to reasons to oppose 280 units on the application site, there is no further, free-standing objection by reason of the boundaries to HD5, or the non-allocation of the balance under HD1.

37. In addition, weight of any policy objection will be affected by the robustness of the process by which a policy has been arrived at, and the continuing validity of the evidence which underpinned it.

38. Much was made (at least early in the inquiry) of the HNP being the 'authentic voice of the local people'. We now know that the local people were systematically misled as to the proper priority ranking of the sites they were subsequently asked to vote upon.

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[36] Weaver xx PSQC, Day 3

[37] See CD56, supra

[38] See Woodcock [CD13] at para's 21 and 24.

39. It is a characteristic of the neighbourhood planning process that the decisions as to where and what to develop are made by a necessarily small group of people who drafted the plan who are close to the issues they are themselves deciding. As one devolves power downwards, the danger of losing objectivity inevitably rises. It is often a telling exercise, therefore, to plot the location of plan makers against proposed (or opposed) locations of development. The Government quite deliberately set out to devolve power downwards, and the Applicant neither has, nor could have, any complaint about that principle. But there is another vital and long standing principle of public law decision-making: *nemo iudex in sua causa*. With power comes responsibility; here, not least, the responsibility to be objective and evidentially and procedurally robust.

40. Given the 'light touch' of the examination process where, as here, there is not even an oral hearing session and no opportunity to ventilate and explore challenges to methodology, evidence and assumptions, it is particularly important that the process by which sites are identified and allocated is one that can be properly relied upon both by the Examiner and by the voting public. Both must take much of what they are given by the neighbourhood planning team on trust. The process followed by that team, therefore, must justify that trust. This has not been the case here.

41. The process was one of site scoring by two people both of whom are strongly opposed to development on the application site and both appeared to oppose it at the inquiry. It was conducted in a manner which ranked the sites in priority of their score and worked downwards down the list attributing housing to the sites until 430 had been distributed. The ranking was critical, therefore, to the allocation of housing to any given site. Although the site 009A at 7.1ha was able to accommodate 213 dwellings, it was initially given only 50[39] and then 85[40] when other high ranked sites dropped out or were reduced.

42. But that was at a score of 34, with the Airfield at 37 and the other three available sites at 35. In January, the Haddenham Village Society submitted representations

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[39] Appx 7 of CD2
[40] Appx 6 of CD2

challenging those scores[41]. By reference to distances, it scored 009A at 36, placing it second only to the Airfield. On the priority basis, that would have seen the 7.1 ha site be allocated for 130 units (ie: the 430 total -300 to the Airfield). But the HVS also scored the Airfield down from 37 to 34, which would have placed 009A at the top and eligible for its full 213 capacity.

43. The Consultation Response[42], a key document for the examiner's understanding of the process, recorded that the site assessments had been amended in the light of HVS's Appx 2[43] and that the score for 009A has been rated at 36 'only one point below' the Airfield[44]. That is indeed what the January Site Assessment showed: a score of 36 following a change in the 'distance to Parade' entry[45]. However, the accompanying submission version plan of January 2015 still recorded the site 009A as 34 and the Airfield as 37[46], seen by some[47] as a symptom of mistakes made in the unseemly hurry to submit the draft NP in time to adversely affect the determination of the current planning application (a motive rather disarmingly admitted to in the Consultation Response document itself[48]).

44. The Applicant warned the Local Planning Authority that the HPC may seek, ex post facto, to excuse the fact that the site assessment of 36 was not reflected in the priority ranking of 34 in the Annex C to the HNP[49]. Less than a month later, in August 2015, after both the examination and the referendum, the HPC came out with the first of its conflicting set of excuses: the 36 had been a digitisation error moving from manuscript to web[50].

45. The Applicants always knew that did not ring true as the 'error' was not one of erroneous transcription; the 36 arose from a (correctly) altered score for distance to the Parade. The distance to the Parade is less than 1000m. This gives a score of 2 to

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[41] CD51, Appx 2
[42] CD52
[43] CD52 p. 70, response 105
[44] Ibid p. 89, response 221
[45] See RF1/3, exhibit to Floud w/s to High Court, 18th November 2015
[46] Appx 6 to CD2
[47] Eg Dr Diprose, CD50
[48] CD53, p. 98, Response 255 – a clear and unequivocal example of neighbourhood planning being used as a tool to block development.
[49] CD54
[50] Revised Appx C, blue text, CD37

the 'Facilities' topic, weighted to 4, and totted up overall to 36. HVS was quite right in its reps and the Consultation Response was quite right in its recording that the 34 had been changed to 36 as a result, placing the 009A site one point below the Airfield. Moreover, the 'digitisation' had occurred not in January 2015, but in early December 2014. The change in January was a deliberate alteration to the contents of the document in four places, consciously – and correctly done.

46. It was this August explanation that Professor Sir Roderick Floud, D.Phil, FBA, FCGI, espoused in chief when he came to give his evidence. Yet as he said it, he knew that he had signed a witness statement just last week abandoning that 'digitisation' explanation and providing a wholly new one: incorrect recording of distances. He accepted in xx that the digitisation explanation did not fit the factual 'timeline'. Instead, his witness statement and his new, alternative, oral explanation was that there had been an error by the team checking the distances in January, and actually the correct distance was more than 1000m[51].

47. He could not produce either the 'erroneous' work of January, nor the 'correct' check said to have been undertaken in July. Indeed, it is worth noting that the inaccurate and now abandoned 'digitisation' excuse in August was made only about 20 days after the July meeting to discuss errors. It is, perhaps, noteworthy, then, that the signed witness statement does not actually say that the distances were measured in July, nor, if they were, that they showed a distance in excess of 1000m. The August explanation avoids such a claim.

48. Again, all this rings false to the Applicant as it had measured the distance from 009A and found, quite plainly, that it was less than 1000m. It was left until a day before the witness statement was signed for a Google screen print to be produced purporting to show a distance in excess of 1000m. The two exhibits [RF1/5], however, were not from the centre of the site 009A under assessment. While over 1000m, they are irrelevant to the scoring of 009A in December, January or August.

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[51] Plus or minus a few metres either side of 1km might seem, objectively, trivial, but such is the insensitivity of the chosen methodology that it makes the difference in scoring between 34 and 36, and the difference in ranking between 5th and 2nd (or 1st if the Airfield is properly scored).

49. We were then told that the exhibits presented to the High Court were in error, and the ones that should have been attached were indeed from the centre of 009A. Apologies were offered and the correct ones promised albeit that they were not immediately available.

50. The following morning, three Google plans were produced. Only one was relevant to the Parade. It showed 1.06km distance but only by taking into account three factors: (i) a perpendicular route from centre to road, rather than shortest route; (ii) a route taken along the highway to a junction, rather than following the footway; and (iii) approaching the Parade by going past it and then doubling back into the car park from the west, rather than using the footway into the Parade from the east.

51. Just altering (i) to a more realistic and fair basis renders the distance to less than 1000m (as asserted by HVS and as recorded in the January amendment and the Consultation Response, 221). That alone gives the lie to this 'error' assertion. Further, Mr Lock who had apparently created this plan – for Sir Roderick's witness statement – and done the January assessment could not provide any evidence that he had used a 'perpendicular' approach for other sites, including especially the Airfield. When the Applicant came to measure the distances from the Airfield for both the station and the nearest bus stop (both recorded as <500m), this did not accord with a perpendicular approach (indeed, it did not even accord with a crows-fly approach). This lack of parity demonstrates that the 009A site has not been treated on the same basis as other sites. The assessment is not fair, objective, or – ultimately – accurate.

52. But it is the explanation for the non-use of the pavement which really must finally explode any credibility on the site scoring system. Only by going *both* perpendicular out of the site *and* failing to follow the pavements has Mr Lock (and by extension Sir Roderick) managed to find the distance to the Parade in excess of 1000m and attempt retrospectively to justify claiming that Mr Lock's January assessment of 36 was 'in error'. And the explanation for not taking walk distances on the pavement? Lock: 'I treated it as if it was a journey by car.'

53. The scoring is to find accessibility of sites for sustainable transport modes. The three categories are green <500m, amber 500-1000m, red >1000m. The purpose is to try and judge the propensity to use modes such as walking and cycling rather than the car.

On Mr Lock's 'assume by car' method, a site from which one could walk to a facility under 500m, but from which would have to drive over 1000m would have an accessibility score not of green, but of *red.*

54. It is stretching credulity even of the 'amateur' status of the people engaged that this is what was done. The first time the suggestion was made was orally by Mr Lock after the production of his Google map which could only show 1.06km if this bizarre approach was taken. No evidence was brought forward to indicate that any other site had had its distances to shops measured as if one drove rather than walked. Indeed, if Airfield's scores could not possibly have been done on a 'by car' basis. And who drives to bus stops? The Applicant, which knew full well, the distances were under 1000m, could only wait to see what excuse the two men responsible for scoring the site down would come up with. Driving a walk distance was, to be fair, not one we had anticipated.

55. Ultimately, the Inspector must conclude whether these chicanes of explanation and 'evidence' demonstrate a conscious lack of objectivity in respect of the assessment of 009A or a crushing incompetence in the authors of the absolutely critical site assessment process. Understandably there is a very proper English preference to attribute matters to 'cock-up' rather than 'conspiracy'. But which it is matters not for the outcome as to the weight to be given to the allocation or non-allocation of the application site: on these shaky foundations ([redacted]) was the priority list built; on this were the allocations distributed; in this did the Examiner place his trust; and in this did the voting public place their reliance[52].

Withdrawn

56. Far from the neighbourhood plan setting out a 'spatial vision' of allocations which amounts to 'the authentic voice of the local community' in accordance with the Government's commitment to localism, the local community have been misled and misinformed ([redacted]) and there is no justification on the

Withdrawn

[52] There is a lesson, in this little tale, for those who write neighbourhood plans, those who are consulted upon in respect of them, those who are appointed to examine them and those whose task it is to apply and give weight to their policies. Extreme care must be taken that they are not formulated as part of the arsenal of interested parties determined to oppose certain development proposals. Neighbourhood plans are all about 'positive planning'. They are not tools to resist and prevent. They should not be allowed to fall into the hands of those who wish to use them for that purpose (see CD53, p. 98, Response 255).

basis of the robustness of process or endorsement of *vox populi* to elevate its weight beyond that of any other out of date development plan policy: ie; very little.

57. Thus, when we come to weigh, as we must, the benefits against the harms alleged, it will readily be seen that it harms do not outweigh the very substantial weight to be given to the sum of those benefits, either 'significantly' or at all. Paragraph 14 of the NPPF would direct that planning permission should be granted.

The Planning Balance:

58. The provision of 280 dwellings, comprising market and 35% affordable, of mixed tenure and sizes determined at reserve matters stage, together with 35 age-restricted houses, sustainably located in respect of one of Aylesbury Vale's strategic settlements, benefitting not least from a railway station, all set in extensive public open space, sports provision and accompanied by a much needed burial ground otherwise unlikely to be achieved: this is a proposal for sustainable development *par excellence*.

59. The HNP should have recognised this by a much larger allocation – and would have done so but for the peculiarities of its process [redacted] – but even it recognised that this is a location which was acceptable for housing if needed. Indeed, none of the sites assessed were considered 'unacceptable'[53]. It is now needed, and urgently so. The Council cannot demonstrate a 5 year housing land supply and its affordable need is significantly outpacing its affordable delivery. There is something in the order of 31,000 dwellings to find and Haddenham, as one of the 5 most sustainable settlements, must do its part.

withdrawn

60. The irony, of course, is that in 'doing its bit' to alleviate a national, district and local housing crisis, Haddenham will actually benefit as a settlement. It will have more residents to sustain its services and patronise its shops and cafes. There will be improved bus services to the benefit of all residents and improved footpaths and footways. There will be a significant increase in publically accessible open space, in

[53] CD56, p.3

ecological interest and in community sports provision. There will be a much needed burial ground to accept one end of the villages' demographic, and a wider range of market and affordable homes to accommodate the other.

61. The planning balance is, we would very respectfully suggest, very firmly in favour of the scheme.

Conclusion:

62. For all of the above reasons, the Inspector is respectfully requested to recommend to the Secretary of State, and the Secretary of State is respectfully urged to accede to the recommendation, that this application should be permitted, as resolved upon twice by the democratically elected members of the Local Planning Authority, and that this much needed, sustainable housing development should be allowed to make its due contribution to the economy, the social needs of the area and, indeed, its environmental well-being.

CHRISTOPHER BOYLE QC

27th November 2015

Landmark Chambers,

180 Fleet Street,

London, EC4A 2HG.