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## Appeal Decisions

Inquiry held on 9 February 2016

Site visit made on 12 February 2016

**by S R G Baird BA (Hons) MRTPI**

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

**Decision date: 14 March 2016**

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### **Appeal A: APP/J3720/W/15/3017900**

#### **Land at Knights Lane, Tiddington**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Rosconn Group against the decision of Stratford-on-Avon District Council.
  - The application Ref 14/02766, dated 7 October 2014, was refused by notice dated 12 March 2015.
  - The development proposed is the erection of up to 100 dwellings, access infrastructure and public open space.
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### **Appeal B: APP/J3720/W/15/3132950**

#### **Land to the east of Knights Lane, Tiddington**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Rosconn Group against the decision of Stratford-on-Avon District Council.
  - The application Ref 15/00920/OUT, dated 24 March 2015, was refused by notice dated 10 August 2015.
  - The development proposed is the construction of up to 60 dwellings, access infrastructure and public open space.
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### **Preliminary Matters**

1. Both applications were made in outline with all matters other than access reserved.
2. In both cases reason for refusal (RfR) 2 refers to a lack of provision for off-site highway improvements necessary to mitigate the traffic movements generated. Both the appellant and the local planning authority (lpa) agree that with the approval in principle of the Meon Vale scheme and the grant of planning permission<sup>1</sup> at Arden Heath Farm (AHF) the mitigation measures would be secured. The lpa did not pursue this RfR.
3. RfR 3 in both cases refers to the absence of a legal agreement to secure appropriate planning obligations. At the inquiry, signed agreements made under S106 of the above Act between the appellant, Stratford-on-Avon District Council and Warwickshire County Council were submitted. The agreements relate to the provision of affordable housing and open space and financial contributions for highway/footpath improvements, education, library, health and community

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<sup>1</sup> APP/J3720/W/15/3004380

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facilities and the promotion of sustainable travel. The lpa confirmed that in both cases RfR 3 had been overcome<sup>2</sup>.

4. On housing land supply (HLS), both the appellant and the lpa produced evidence on the full objectively assessed need (FOAN) for market and affordable housing in the housing market area. The appellant does not accept the lpa's figure for the FOAN. However, on the basis that the lpa's figure represents the least that the FOAN is likely to be, the appellant agreed<sup>3</sup> that, in these cases, the HLS position can be judged against the interim conclusions of the Local Plan Inspector published in 2015. The evidence of the appellant and the lpa on the level of the FOAN was submitted as written statements.
5. In these cases, whilst there is a dispute as to the existence of a 5-year HLS, the lpa agreed that the second limb of paragraph 14 of the National Planning Policy Framework (Framework) is engaged. The lpa accepts that the development plan contains policies that are out-of-date and as such planning permission may be granted unless it can be shown that harm significantly and demonstrably outweighs the benefits of either scheme.
6. On the 2 March 2016 and following the close of the inquiry, the lpa submitted a further updated Interim 5-Year Housing Land Supply Calculation Summary. Annex B, paragraph B.2.2 of Procedural Guidance<sup>4</sup> makes it clear that new evidence will only be exceptionally accepted where it is clear that it would not have been possible for the party to have provided the evidence when they submitted their full statement of case. Whilst the information contained in the latest update would not have been available to the lpa at the time the statement of case was sent, the lpa's position at the inquiry is that a debate on the existence of a 5-year supply of land for housing is not determinative in this case. As I understand it that position has not changed. In these circumstances, I consider there are no exceptional reasons why the updated Interim 5-Year Housing Land Supply Calculation Summary should be accepted. Accordingly, I have not taken the contents of the lpa's email of the 2 March 2016 into account in coming to my conclusions.

## Decisions

7. Appeals A and B are dismissed.

## Main Issue – Appeals A and B

8. Whether the proposals would lead to the unacceptable coalescence of Tiddington and Stratford-on-Avon.

## Reasons

9. The development plan comprises saved policies of the Stratford-on-Avon District Local Plan Review 1996-2011 (LPR). Of the various policies referred to, Policy PR.1 is the most relevant. Policy PR.1 indicates that, *"proposals that would damage or destroy features which contribute to the distinctiveness of the local area will not be permitted unless significant public benefit would arise from the scheme"*. The parties agree that Policy PR.1 is consistent with the Framework core planning principle that account should be had to *"...the different roles and character of different areas"* and *"recognising the intrinsic character and beauty of the countryside..."*<sup>5</sup>.

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<sup>2</sup> Opening Submissions made by the local planning authority.

<sup>3</sup> Opening Submissions made by the appellant.

<sup>4</sup> Procedural Guidance Planning Appeals – England 31 July 2015, The Planning Inspectorate.

<sup>5</sup> Paragraph 17 4<sup>th</sup> Bullet Point of the National Planning Policy Framework.

10. Policy CS.5 of the emerging Core Strategy (CS) replicates LPR Policy PR.1 indicating that, amongst other things, *"...proposals should protect landscape character and avoid detrimental effects on features which make a significant contribution to the character, history and setting of a settlement area"*. Given the CS has reached an advanced stage of preparation and the consistency of CS Policy CS.5 with LPR Policy PR.1, I attach some weight to it.
11. The draft Stratford-upon-Avon Neighbourhood Development Plan 2015-2033 (NP) was published for consultation in May 2015. NP Policy H2 provides for a strategic gap between Stratford-on-Avon, Tiddington and Alveston. The NP has not been submitted for independent examination and as such little weight can be attached to its provisions.
12. Of the various landscape assessments covering the wider area, the Landscape Sensitivity Assessment<sup>6</sup> (LSA) produced by the lpa is the most relevant in these cases. The appeal sites are located in Zone St11 where sensitivity to housing development is assessed as being medium. Zone St11 is described as gentle rolling, mainly arable lowland that rises slightly to the south. Whilst the settlement edge is identified as poor with some opportunity for housing to enhance it, the LSA notes that openness is a sensitive characteristic. The Stratford-upon-Avon Design Statement (DS) reiterates the sensitivity of the area, identifying that, *"open spaces surrounding the entrances to the village should be maintained to preserve Tiddington's village setting to prevent creeping urbanisation, coalescence with the town and Alveston"*. The DS indicates that any addition to the Knights Lane area should be designed to improve the local village-scape and character.
13. Currently, the open gap between the southern built-up edge of Tiddington and the built-up edge of Stratford-on-Avon to the south-west is physically and visually significant. When observed from the edge of Tiddington, the public and permissive rights of way to the east and from Knights Lane to the south, there is a clear sense that Tiddington and Stratford-upon-Avon are 2 distinct settlements. The LSA and the DS do not act as bar to development on the southern edge of Tiddington. Indeed, in coming to my conclusions on these schemes, I have borne in mind that some development is seen as beneficial in terms of mitigating the visual impact of existing development on the settlement boundary. However, I am in no doubt that the sense of separation experienced by those entering or leaving Tiddington/Stratford-on-Avon on foot or by car is just as important as the degree of physical separation. Thus, in my view, the open land and sense of separation between Tiddington and Stratford-on-Avon are features that contribute to the distinctiveness of the local area.
14. The AHF scheme would extend the urban edge of Stratford-on-Avon eastwards on both sides of Loxley Road to the junction with Knights Lane and northwards towards Tiddington. Whilst the physical gap between Stratford-on-Avon and Tiddington would be diminished, there would still remain a clear appreciation of the 2 settlements as distinct entities along with a palpable sense of openness. That said the AHF scheme has materially altered the baseline of the LSA and the sensitivity of the open land to the south of Tiddington to development has increased.
15. The gap between the northern edge of the AHF scheme and the southern edge of either the 100 or 60-dwelling schemes would, at its narrowest, be some 170m. In this context there would be physical separation between Tiddington and

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<sup>6</sup> Stratford-on-Avon District Landscape Sensitivity Assessment – 2011.

Stratford-on-Avon. However, physical separation is only part of the equation in assessing the impact on coalescence.

16. Either of the appeal schemes, when viewed from (i) the south along Knights Lane, (ii) from Loxley Road to the east of the Knights Lane junction and (iii) from the southern end of Pimlico Lane, would be seen together with the AHF scheme and against the backdrop of the built-up edge of Tiddington albeit that the 60-dwelling scheme would have a lesser impact. In these approaches there would be little or no appreciation of a distinction between Stratford-on-Avon and Tiddington. On the approach to Tiddington along Knights Lane north of the Loxley Road junction, the AHF scheme and either of the appeal schemes would be seen together and in some views seen as an extension of each other.
17. Whilst there would be a physical gap between the AHF and Tiddington schemes, there would be a material loss of openness and a clear sense of the built-up areas of Tiddington and Stratford-on-Avon being joined. There would be no appreciable sense of leaving one settlement before entering the other and the sense of there being 2 distinct settlements would be lost. A similar impact would be experienced when leaving Tiddington and progressing south, again with the 60-dwelling scheme having a lesser impact. Users of the public footpath (SB 14), in particular those walking away from Tiddington, would experience similar effects, albeit mitigated by distance and existing hedgerow/tree planting. However, for a significant portion of this public footpath either of the appeal schemes and the AHF scheme would be seen together resulting in a strong sense of coalescence.
18. I conclude that through a significant loss of openness that either of the proposed housing schemes would result in the material and unacceptable coalescence of Stratford-on-Avon and Tiddington. As such there would be substantial harm to a feature that materially contributes to the distinctiveness of both settlements and conflict with LPR Policy PR.1 and emerging CS Policy CS5.

#### Other Considerations

##### Housing Land Supply

19. Lpas are required to identify and update annually a supply of specific deliverable sites sufficient to provide 5-years' worth of housing. The usual period for the HLS Annual Monitoring Report (AMR) is April to March. Planning Policy Guidance<sup>7</sup> (PPG) indicates that Lpas should ensure that the annual assessment is robust and based on up-to-date and sound evidence. Thus, once published, AMRs should not need to be updated for a full 12 months unless significant new evidence emerges or the Lpa wishes to update its assessment earlier.
20. Here, the last full AMR was for the period up to 31 March 2015, which identified that the Lpa had a HLS of some 3.85-years. The Lpa submitted an Interim 5-Year Housing Land Supply Calculation Summary as of the 31 December 2015 identifying a 5.2-year HLS, which at the inquiry it amended to show a 5.13-year HLS. Whilst PPG guidance allows an Lpa to update its AMR, the basis on which this exercise is to be done is clear i.e. it has to be full and robust. Here, the Lpa's interim position does not take account of completions and permissions granted under delegated powers between October and December 2015. I accept that if these gains were added they could only improve rather than diminish the supply position. However, the addition of gains is only part of the equation and for the interim position to be considered robust it should include losses through

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<sup>7</sup> Paragraph 033 Ref. ID: 3-033-20150327

demolitions and lapsed permissions. As far as I can ascertain, potential losses have not been accounted for. Thus, in a situation where the lpa's stated position on HLS is only just above (i.e. some 157 units) the Framework's minimum expectation, the interim HLS statement needs to be treated with caution.

21. On HLS, the difference between the appellant and the lpa is some 950 dwellings, which would reduce the HLS to some 4.37 years. The inquiry concentrated on 13 disputed sites, particularly on when these sites would begin to deliver houses and on the rate of delivery. Of the 13 sites in dispute, 2 sites, Long Marston Airfield Phase 1 and Land West of Shottery, stand out in that they account for some 55% of the difference between the appellant and the lpa (some 525 houses). Given that the lpa's claimed supply is just above the expected minimum, I have concentrated on these 2 sites.
22. Long Marston Airfield Phase 1 is the subject of a resolution to grant planning permission the issue of which is dependent on the signing of a S106 Agreement and the subsequent discharge of reserved matters. I understand that a draft Agreement has only been made available recently. It is anticipated that Phase 1 would provide some 400 dwellings and both the lpa and the appellant suggest that the site would start to deliver in 2017/2018. The lpa submits that in 2017/2018 there would be some 20 units and thereafter delivery would ramp up to 120 units in each of the subsequent years. The appellant's delivery estimate is 120 dwellings over the last 3 years of the supply period. The lpa and the appellant have agreed that the annual delivery rate per outlet from a single site would be 40 dwellings (40dpa). On this basis, the lpa appears to be assuming that in the years after 2017/18 there would be 3 sales outlets on this site ( $3 \times 40 = 120$ ). The site is controlled by a single house-builder and there is nothing to suggest that parts of this site would be released to other developers. In these circumstances, I consider the lpa's anticipated delivery rate is highly optimistic and I prefer the appellant's figure.
23. Whilst land west of Shottery has an outline planning permission, it is subject to some 60 planning conditions and, on the appellant's evidence, only 6 have been discharged in the last 18 months. Whilst I acknowledge that the lpa is committed to meeting its housing needs and there is evidence that the time taken to achieve planning permissions and approval of reserved matters is reducing, the progress on a site of this significance does not instil confidence in the anticipated delivery of 20 dwellings in 2016/17. On the evidence, I consider it is reasonable to assume that delivery would not commence until 2017. In subsequent years the lpa anticipates the delivery of 100 dwellings in each of the subsequent years. This is based on an assumption of there being at least 2 and possibly 3 sales outlets on this site. The appellant suggests that delivery would start in the last 3 years of the 5-year period providing some 120 dwellings i.e. one sales outlet. Again this is a site in the ownership of one developer and on the evidence before me there is nothing to support the lpa's assumption of 2 or possibly 3 sales outlets. Again, I consider the lpa's anticipated delivery rate is optimistic.
24. I conclude that the lpa's HLS should be reduced by at least 525 dwellings. Whilst the appellant suggests that the reduction should be larger based on an over optimistic assessments by the lpa on the other 11 disputed sites. I consider that exercise is unnecessary as my conclusions on the 2 largest sites would reduce the HLS to some 4.7 years. Accordingly, I consider that, at this time, the lpa cannot demonstrate a 5-year HLS as required by the Framework

#### Agricultural Land

25. Graded at 3A, the appeal sites comprise Best and Most Versatile (B&MV) agricultural land albeit at the bottom end of this scale. Framework paragraph 112 indicates that account should be had to the economic and other benefits of B&MV land. Where significant development of agricultural land is demonstrated to be necessary, the use of areas of poorer quality land should be sought in preference to higher quality land. The 100-dwelling scheme would result in the loss of some 9ha of land and the 60-dwelling scheme some 4.5ha. Both the lpa and the appellant acknowledge that whilst there would be the loss of B&MV land and that loss should be weighed in the planning balance it is not an issue that is determinative; I agree.

#### Highway Safety

26. Subject to the imposition of appropriate planning conditions and financial contributions to road safety improvements in the immediate vicinity, the highway authority has no objections to these developments. I have no reason to disagree with those conclusions.

#### Planning Balance

27. The lpa and the appellant agree that the starting point is the second limb of Framework paragraph 14. This indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The provision of affordable housing and the provision of market housing at a time when the lpa cannot demonstrate a 5-year HLS attract significant weight. These developments would bring both short and long-term economic benefits through investment in construction and contributions both to the local and national economy. The 100-dwelling scheme would provide formal sports provision and both schemes would provide accessible informal open space for the local and wider community. I attach moderate weight to these benefits.
28. Against the above is to be weighed the harm through a loss of B&MV agricultural land and the loss of openness and perceived the coalescence of Stratford-on-Avon and Tiddington. On the issue of agricultural land, as I understand it, the majority of agricultural land that surrounds Stratford-on-Avon is B&MV agricultural land and as such some loss of B&MV land would be an inevitable consequence of releasing land to meet the housing needs of the area. As such, I attach limited weight to this harm. I consider that the harm through loss of openness and the coalescence of Stratford-on-Avon and Tiddington are in conflict with LPR Policy PR.1 and emerging CS Policy CS5 would be substantial and would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As such, I conclude that these appeals should be dismissed.
29. A signed S106 Agreement for each scheme was submitted and the parties do not contest the issue of contributions. Given that I am dismissing these appeals for other reasons, it is unnecessary for me to reach a finding as to whether the obligations contained within these agreements accord with the tests set out at Framework paragraph 204 and CIL Regulation 122.

**Conclusion**

30. For the above reasons and having taken all other matters into consideration, I dismiss these appeals.

*George Baird*

Inspector

Richborough Estates

## **APPEARANCES**

### **FOR THE APPELLANT**

Paul Tucker QC, instructed by Mr Peter J Frampton, Director of Frampton Town Planning Limited.

He Called:

Julian Cooper BSc (Hons), Dip LD, FLI, AILA.  
Director of Landscape Architecture, SLR Consulting.

Peter J Frampton BSc (Hons) TP, MRICS, MRTPI.  
Director, Frampton Town Planning Limited.

Joanne Russell BA (Hons), DipTP, MRTPI.  
Director, Barton Willmore LLP.

### **FOR THE LOCAL PLANNING AUTHORITY**

Ian Ponter of Counsel, instructed by the Solicitor to the Council, Stratford-on-Avon District Council.

He Called:

James Holmes BA (Hons), MA, MRTPI.  
Associate Director, Aitchison Raffety Chartered Town Planning Consultants.

Carolyn Cox CMLI  
Rural Development Officer, Warwickshire County Council

John Careford BSc (Hons), Dip TP, Dip UD, MSC, MRTPI  
Policy Officer, Stratford-on-Avon District Council.

### **INTERESTED PERSONS**

Mr N Butler, Council for the Protection of Rural England.

Mrs S Taylor, Tiddington Residents Association.

Mrs H Wallis, Mencap

Mr P Tomlinson, Tiddington Scout Group.

Mrs J Day, Tiddington Community Centre

Cllr. K Rolfe.

Annabel Graham-Paul of Counsel, South Warwickshire NHS Foundation Trust.

Mrs J Blackley, South Warwickshire NHS Foundation Trust.

Mrs J Neale, Warwickshire County Council.

Mr B McDonald, Stratford-on-Avon Golf Club.

Mr P Halton, Stratford Town Colts Football Club.

Mrs M Rendell, Stratford Town Girls Football Club.

Mr Wreford.

Mr Hyatt.

Mr Dowler.

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

Doc 1 - Submissions by Tiddington Village Residents' Association.



Doc 2	-	Submissions by Cllr Rolfe.
Doc 3	-	Submissions by Mr Wreford.
Doc 4	-	Submissions by Mr Butler, CPRE.
Doc 5	-	Submissions by Mr Hyatt.
Doc 6	-	Submissions by Mr Dowler.
Doc 7	-	Submissions by Mrs Wallis, Mencap.
Doc 8	-	Submissions by Mrs Rendell, Stratford Town Girls.
Doc 9	-	Submissions by Mr Halton, Stratford Town Colts.
Doc 10	-	S106 Justification Statement, Alveston C of E Primary School.
Doc 11	-	S106 Justification Statement, Tiddington Community Centre.
Doc 12	-	S106 Justification Statement South Warwickshire NHS Foundation Trust.
Doc 13	-	High Court Judgement Millgate Developments & Wokingham Borough Council [2011] EWHC 6 (Admin).
Doc 14	-	Court of Appeal Judgement Millgate Developments & Wokingham Borough Council, [2011] EWCA Civ 1062.
Doc 15	-	Bundle of Appeal Decisions (3000690, 3007980, 3005148 & 2203282).
Doc 16	-	Email dated 2 February 2016 Knights Lane street lighting.
Doc 17	-	Appendix 2 Local Services Villages Methodology, Emerging Core Strategy.
Doc 18	-	Council's Statement on Compliance of Planning Obligations Pooling of Contributions CIL Regulation 123, 60 dwellings.
Doc 19	-	Council's Statement on Compliance of Planning Obligations Pooling of Contributions CIL Regulation 123, 100 dwellings.
Doc 20	-	Council's Statement on CIL Regulation 122, 60 dwellings.
Doc 21	-	Council's Statement on CIL Regulation 122, 100 dwellings.
Doc 22	-	Appendices to Council's Statement on CIL Regulation 122.
Doc 23	-	List of suggested planning conditions 100 dwelling scheme.
Doc 24	-	List of suggested planning conditions 60 dwelling scheme.
Doc 25	-	Stratford Golf Club, condition re Golf Ball Mitigation Strategy.
Doc 26	-	Bundle of documents submitted by appellant re Golf Ball Mitigation Strategy.
Doc 27	-	Design & Access Statement September 2014.
Doc 28	-	S106 Agreement 60 dwelling scheme.
Doc 29	-	S106 Agreement 100 dwelling scheme.
Doc 30	-	Aerial photograph showing extent of potential visual overlap with Arden Heath Farm development.
Doc 31	-	Bird's eye view of appeal schemes and Arden Heath Farm development.
Doc 32	-	Bundle of Photomontages 6 to 9.
Doc 33	-	Email dated 12/2/2016 from Mr Hyatt regarding the relationship of the proposed development to No. 12 Townsend Road and related emails.
Doc 34	-	Email 13/2/2016 from Mr Hyatt regarding stray golf balls.
Doc 35	-	Updated 5-Year Land Supply Positions 16/2/2016.
Doc 36	-	Notes of Round Table Session on Housing Land Supply.
Doc 37	-	Statement of Common Ground on Housing Land Supply Matters.