



Appeal Decision

Inquiry opened on 11 October 2016

Accompanied site visit made on 14 October 2016

by Philip Major BA(Hons) DipTP MRTPI

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

Decision date: 04 November 2016

Appeal Ref: APP/Y3940/W/15/3139183

Land north and east of Barrow Farm, Langley Burrell, Chippenham, Wiltshire SN15 5LL.

- 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 Robert Hitchins Limited against Wiltshire Council.
 - The application Ref: 14/10433/OUT, is dated 31 October 2014.
 - The development proposed is residential development of up to 500 dwellings (C3), new roundabout access and ancillary emergency access from the B4069 Maud Heath's Causeway/Swindon Road, a 2 form entry primary school (D1), up to 2500m² of employment (B1), up to 200m² assembly and leisure (D2), up to 200m² retail uses (A1), play areas, open space, landscaping, drainage works and ancillary works.
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Decision

1. The appeal is dismissed and planning permission for residential development of up to 500 dwellings (C3), new roundabout access and ancillary emergency access from the B4069 Maud Heath's Causeway/Swindon Road, a 2 form entry primary school (D1), up to 2500m² of employment (B1), up to 200m² assembly and leisure (D2), up to 200m² retail uses (A1), play areas, open space, landscaping, drainage works and ancillary works is refused.

Preliminary and Procedural Matters

2. The application was made in outline with all matters except access reserved for future determination. After submission the application was amended by altering access details and other matters, and this is reflected in the revised development description set out above. The agreed plans are the red line plan (35381-Shr06g, dated July 2014) and the revised southern access point drawing (35381-Shr135p, dated July 2015). All other plans and drawings are for illustrative purposes, including the revised indicative masterplan (35381-Shr167c.dwg).
3. The day before the inquiry opened an appeal decision¹ was issued which indicated that the Council could demonstrate a 4.25 year supply of deliverable housing land in the North and West Housing Market Area, which includes the appeal site in the case before me. Although previously the Council and Appellant had argued different positions on the quantum of shortfall (there

¹ APP/Y3940/W/15/3132915 – land to the west of A365 Shurnhold, Melksham, Wiltshire

being agreement that a 5 year supply could not be demonstrated) it was helpfully agreed that the figure of 4.25 years should be adopted as the accepted position in this case. In line with paragraph 49 of the National Planning Policy Framework (NPPF) this means that policies for the supply of housing must be considered to be out of date and the balancing exercise established by paragraph 14 of the NPPF is then engaged if the development is sustainable in NPPF terms. It is worth reiterating, however, the agreed position that out of date policies are not to be ignored or given no weight. In this case the relevant parts of the development plan are made up of the Wiltshire Core Strategy (CS) adopted in January 2015, and the saved policies of the North Wiltshire Local Plan (LP) adopted in June 2006 (the cited LP Policy being relevant in respect of the current settlement boundary).

4. Following the decision to pursue this appeal the Council has prepared putative reasons for refusing planning permission. The parties continued dialogue and some of the issues between the Council and Appellant were agreed and form the basis of Statements of Common Ground. As a result the contested issues have been greatly narrowed and are concentrated in putative reasons for refusal Nos 1 and 5, which relate to the principle of development on this site in relation to the Core Strategy settlement strategy policies, and the impact on landscape and heritage assets. The Langley Burrell Parish Council and Residents Association (LBPC) were granted Rule 6 status and have slightly wider concerns than the Council and this is reflected in the main issues set out below.

Main Issues

5. The main issues in the appeal are:
 - (a) The impact of the proposed development on the character, visual qualities, green space and amenity of the surrounding area;
 - (b) The impact of the proposal on heritage assets;
 - (c) The impact of the proposal on the identity of Langley Burrell;
 - (d) The impact of the proposal on highway congestion and safety;
 - (e) In light of the findings in relation to the preceding issues, whether the proposal on this site is acceptable (the planning balance).

Reasons

Policy Background

6. The Core Strategy settlement strategy identifies Chippenham as a principal settlement and a primary focus for development. The strategy seeks to support better self-containment by providing jobs, homes and supporting community facilities and infrastructure. This is explained in Policy CP1, which carries forward settlement boundaries from the LP until such time as they are replaced by the Chippenham Site Allocations Development Plan Document (CSAP). CSAP is at an advanced stage but has unresolved objections (including in relation to the appeal site) and this limits the weight attaching to it. The Appellant has criticised the fact that the CSAP has not been brought forward more speedily, but I am not persuaded that this is a fair criticism as it is apparent that the Council is working hard to bring forward the CSAP and ensure that it meets its housing obligations. This matter does not add weight to the Appellant's case in my judgement.

7. It is clear that Policy CP1, and Policy CP2 (which sets out the expected number of homes to be provided) are policies relevant to the supply of housing and pursuant to NPPF paragraph 49 cannot be regarded as being up to date. But the strategies and objectives set out in those policies follow the principles of sustainable development in the NPPF. Policy CP10 sets out the spatial strategy for Chippenham, and requires accordance with the settlement strategy of CP1, whilst reiterating that allocations will be identified in the CSAP, guided by defined criteria.
8. Amongst other things CS Policies CP51 and CP52, taken together, seek to protect, conserve and where possible enhance landscape character; to mitigate any negative impacts; and to make provision for the retention and enhancement of green infrastructure. To the extent that these policies might restrict the supply of housing they could be deemed to be out of date, but in any event they follow the thrust of the NPPF in seeking to protect the countryside and conserve and enhance the natural environment. CS Policy CP58 is in line with the NPPF objectives which seek to give effect to the statutory duty to preserve or enhance the historic environment and that policy is of substantial weight.
9. The Appellant has brought to my attention a number of other development plan policies with which it is asserted the proposal is in compliance. These include CP3 (Infrastructure Requirements) CP61 (Transport and New Development) CP62 (Development Impacts on the Transport Network) and CP66 (Strategic Transport Network). Given the evidence I heard at the inquiry and that provided in writing I have no reason to reach a different view, but will expand on my reasons for this conclusion below where necessary.

Character, Visual Qualities and Green Space

10. The appeal site does not sit within any formally designated landscape, and nor do I consider that it can be seen as being analogous to Green Belt as suggested by LBPC. But that does not mean that the appeal site is without merit.
11. The site lies within the Hullavington Rolling Lowland landscape character area (LCA) as identified in the North Wiltshire Landscape Character Assessment of 2004. I recognise some of the key characteristics described in that document, which I noted at my site visit. These include the gently rolling topography, mixed field sizes, hedgerow boundaries, mature hedgerow trees, medium sized woodlands, fine stone villages and dispersed farms. Fields at the appeal site are in arable cultivation and some are of significant size, being the result of amalgamation following hedgerow removal. Even so I do not agree that they can be described as prairie like. Management guidelines for this LCA include that new development respects the grain of the dispersed settlement in the area and that there should be minimisation of the landscape and visual effects of the expansion of Chippenham.
12. Sitting alongside the North Wiltshire study is the Chippenham Landscape Setting Assessment of 2014 (LSA). It is intended to inform the preparation of the Chippenham Sites Allocation Development Plan Document (CSAP) which is currently awaiting the Inspector's report. Amongst its objectives is the identification of the key sensitivities and capacity of Chippenham's landscape setting and the setting to some outlying villages.

13. The LSA has identified several strategic areas, and the appeal site falls within Area A1. Within this area the assessment identifies features which have much commonality with the characteristics identified in the LCA, such as being well vegetated with trees and hedgerows. Its quality is assessed as attractive countryside, with some key characteristics present (of the LCA) and some interruption to remoteness and tranquillity. The visual quality is assessed as being low to moderate prominence, with some attractive features or views, and some public views. I note that in the general description of visual quality the area to the east is described as being enclosed by woodland, but with a more open character created by the larger field patterns, which enables longer views to north, east and south.
14. Qualities of the area which the assessment identifies for safeguarding include the prominence of Bird's Marsh Woodland, the network of mature hedgerows, visual separation of Chippenham and Kington Langley provided by the landform around Bird's Marsh, and the rural character and presence of a wooded backdrop to the properties along Maud Heath's Causeway. The land is also identified as providing separation between Langley Burrell and Chippenham.
15. The LSA subsequently seeks to define development capacity of the area. It splits the area into 2 parts, and the appeal site falls into that area which is assessed as having a moderate to high development capacity. The reasons given are that the area is less sensitive because of its location on the edge of Chippenham, and the fact that if developed it would not contribute to intervisibility between Chippenham and Kington Langley.
16. However I do not think that can be the end of the matter. The LSA has assessed a great deal of the area around Chippenham and has identified broad and strategic areas where there is greater or lesser sensitivity to development. That is a comparative exercise taking into account the surroundings of Chippenham but it does not seek to be prescriptive in the sense that each area identified as being less sensitive to development should inevitably be developed. The LSA is clear that it seeks to provide capacity recommendations on how and where new development might (my emphasis) best be accommodated in the potential strategic areas. The next stage is clearly to make choices based on the LSA and other factors, which the CSAP seeks to achieve. But I must assess the suitability of this appeal site in isolation and the LSA findings are a single part of the evidence base.
17. Furthermore the LSA assumes the development of approximately 750 to 1200 homes in any one strategic area, with a density of between 30 to 40 dwellings per hectare. It is not contested that in Area A1 that quantum of development is already provided for and that in any case the capacity recommendations are not 'set in stone'. It is self-evident that the identified strategic area of A1 could accommodate a great deal more homes, but the exercise was clearly designed to identify potential and not actual locations for those homes.
18. Before and during the inquiry I spent some time on and around the site. I was struck by the fact that when crossing the site on one of the many public footpaths there is a distinct sense of being in a deeply rural location. The field sizes do not seem to me to detract from that. This is helped by the presence of hedgerows and the many mature and protected trees which are within and around the site. Road noise is heard from the B4069 in the eastern part of the site, but this is close to and includes part of the area generally regarded as

most sensitive to development in the LSA, and where it recommends preserving the character of the approach to Chippenham. Moving westwards into the appeal site tranquillity increases markedly. I note the tranquillity mapping data but my observations suggest that this relatively blunt tool does not accurately reflect what is felt on the ground. In moving towards Bird's Marsh the levels of tranquillity are very different to the area close to the B4069.

19. Taking all of this background into account it seems to me that the overriding characteristics across the majority, northern part, of the appeal site are attractive, gently undulating fields separated primarily by hedgerows, notable stands of woodland, many mature and impressive trees along field margins, and a sense of being in a deeply rural location. Although it is possible to glimpse development to the south at the edge of Chippenham this is not a significant detractor from the character of the site in its northern part. Nor do the low level overhead lines crossing the site detract greatly from the overall character. Although I understand that in a Chippenham wide context the whole site has been assessed as being less sensitive to development it is my judgement that the site nonetheless does exhibit key characteristics which would be significantly affected by the proposed development.
20. To the south of the appeal site is the area known as the North Chippenham Consortium (NCC) land. As and when this is developed the baseline would change, and the southern part of the appeal site would be its immediate neighbour. In those circumstances the character of the southern part of the appeal site would be less sensitive to development and any change would be of a lesser magnitude. However I still consider that the northern part of the site would, because of the configuration of field boundaries and topography, relate more to land to the north than to the margins of Chippenham. Hence, even assuming that the NCC land has been developed it is my judgement that the character of the appeal site overall would be significantly and adversely affected by the proposal.
21. In reaching this finding I recognise that the illustrative material submitted indicates that many of the hedgerows and trees could be included in any future development. But that does not affect the fact that the character of the land would be changed from its current predominant rural ambience, with a high degree of tranquillity in parts, to a predominantly urban character.
22. LBPC and local residents afford value to the land including the appeal site as a buffer of green space between the village and Chippenham. I accept that the separation of the settlements by open land is significant for residents, and that it is appreciated for its offer of recreational opportunities. The presence of Bird's Marsh woodland (a County Wildlife Site) is clearly important to local people, as indicated in the LBPC's surveys of residents and I have no reason to doubt that it is much used by them. Whilst access to areas of countryside and Bird's Marsh would be retained in any development, the landscape immediately to the west of the village core would become a great deal more urban in character.
23. The Appellant has indicated that an extension to Bird's Marsh could be introduced, in the form of extensive tree planting on land within the same ownership (and provided and managed under the auspices of a s106 Agreement). That is undoubtedly the case, but I do not regard that as a

benefit of the scheme in terms of landscape and green space, but a means of reducing the likelihood of impact on Bird's Marsh from the location of population in close proximity. It is more properly regarded as a method of mitigation for anticipated adverse effects on the County Wildlife Site. I give the proposed extended woodland little weight in the overall balance here.

24. Paragraph 109 of the NPPF seeks to protect and enhance valued landscapes, though offers no definition of what such a landscape is. That it is valued by local people could apply almost anywhere, and would not be a suitable definition. But such circumstances may form a part of any definition of value. In this case I accept the value of the land to local people but cannot conclude that the land in itself should fall within the NPPF definition of valued landscape.
25. Turning to visual impact, I have referred above to the footpaths crossing the site. From evidence submitted orally and in writing, and my own observations, it is clear that the appeal site is well used by local residents and others. The majority are likely to be using the area for leisure pursuits and are rightly regarded as sensitive receptors. It cannot be denied that the visual impact on users of the footpath network would be particularly significant. In place of paths across fields with varying and distant glimpses of the edge of Chippenham and hills beyond there would be either close range views of the urban edge (albeit that mitigation in the form of planting could soften that edge) or the viewer would be within an urban environment. These impacts would be at their most intense when closest to or within the site and, because of the fact that rural views would be replaced with urban views, can only be fairly regarded as adverse even allowing for the best possible design standards.
26. The development would necessitate the removal of a significant stretch of hedgerow adjacent to the B4069 in order to provide access, and an as yet unknown length of hedgerow at the proposed emergency access point. Although hedgerows can be replaced on the line of visibility splays the physical impact of the access points themselves would detract from the rural nature of the highway boundary. The rural nature of the B4069 is indicated as a feature which it is desirable to safeguard in the LSA and this would be lost in part.
27. The degree of harm would reduce with distance, and I accept that there are locations from which the development would be of limited impact. However I consider that the visibility from the edge of Langley Burrell and from the environs of Kington Langley has been understated by the Appellant. There may be limited appreciation of the buildings on site if surrounded by heavily planted screening belts, but I am not persuaded that the inevitable introduction of lighting would be capable of being mitigated effectively. There would therefore be a likelihood of intervisibility between Langley Burrell and Chippenham being materially increased as a result of the proposal, and to a lesser extent the same applies to Kington Langley and its relationship with Chippenham.
28. I am therefore satisfied that the proposed development would be significantly harmful to the character of the rural area surrounding Chippenham, particularly the northern part of the appeal site. I also find that there would be significant but localised harm to the visual qualities of the area, again concentrated in the northern part of the site which does not experience the same level of influence from the edge of the town as does the part of the site closest to the NCC land.

29. Core Strategy (CS) Policy CP51 seeks to ensure that development protects, conserves and where possible enhances landscape character, offering mitigation where necessary through sensitive design and landscape measures. As I have noted above it is my judgement that this proposal would be harmful to character, though I recognise that mitigation would be likely to be offered at any reserved matters stage, including an extension to Bird's Marsh woodland. But the landscape setting of Langley Burrell would be unlikely to be adequately mitigated, and visual amenity would be compromised. I therefore find that the proposal would be in conflict with CS Policy CP51.
30. CS Policy CP52 sets the objective of ensuring that new development makes provision for the retention and enhancement of the green infrastructure network. In this case it would be inevitable that there would be interference with the existing green infrastructure on site because of the amount of building proposed. On the other hand the potential for inclusion of green spaces within any development, and the opportunity to retain access through the site means that there is limited harm. Outside the site, as noted above, green infrastructure could be supplemented in order to mitigate the potential for adverse impact. Overall it seems to me that there would be no significant conflict with this policy.

Heritage

31. My duty under S.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving or enhancing a listed building or its setting or any features of special architectural or historic interest which it possesses.
32. There is agreement that the proposed development would not have a direct impact on any heritage assets, but that there would be an impact on the settings of 4 listed buildings. These are Barrow Farmhouse, Barrow Farm Cottage, Pound House and the Old School. The impact is agreed as being less than substantial in each case, but the degree of impact on the scale of less than substantial is not agreed. In the opinion of the Council and the LBPC the settings of other designated and non-designated heritage assets are affected and I deal with those later.
33. Barrow Farmhouse is very close to the appeal site, which wraps around it to the north and east. Although the Appellant has argued that the significance of the links with the surrounding farmland has been overestimated I do not agree. The fact that hedgerows have been removed does not in my judgement make any material difference to the appreciation of the setting of the building. It is clear that the house has historic links to the surrounding land, as would be expected with any farmhouse, and the principal eastern elevation looks out over the land. The farmland setting is an important part of the significance of the building and enables the clear understanding of the function of the building in its surroundings. I recognise that any future design could provide some open space around Barrow Farm, but that open space and/or planting would be a poor replacement for the open land to east and north (even allowing for the existing vegetation). The significance of the agricultural setting in the historic development and use of Barrow Farm would be heavily diluted. Whilst I accept that the harm to the setting would be less than substantial, in terms of the policy set out in the NPPF it would have a material negative impact on the

- significance of Barrow Farmhouse, and would be at the high end of less than substantial.
34. Barrow Farm Cottage is close to Barrow Farm and was formerly 2 cottages, no doubt associated with the working of the land. Its setting is for that reason similar to the setting of Barrow Farmhouse, though the main elevations do not face farmland to the same extent. Hence I judge the setting to be more restricted, but nonetheless significant to the understanding of the cottage as being closely related to the agricultural land around it. The proposed development would impinge on the extent of the setting because of the likely introduction of urban development close by to the east. This would interrupt the link between the cottage and its setting, hindering the understanding of the link between the two. This would result in less than substantial harm to the significance of the heritage asset of a moderate degree.
35. To the east of the appeal site, close to the B4069 Swindon Road lie Pound Cottage and the Old School. Pound Cottage is associated with The Pound which sits between it and the B4079 (I deal with The Pound later). The curtilage of Pound Cottage abuts the appeal site and its boundaries are well vegetated. Views into and out of the garden are restricted. Even so the setting extends beyond the curtilage, especially as there are historic links with the surrounding land (formerly common) in that stray animals were collected by occupants of the building and kept in the associated pound. But the setting has changed over time with the amalgamation of three cottages into one and the establishment of a mature domestic garden. Hence the significance of the cottage now lies more in its relationship with The Pound than with the surrounding land (which is no longer common). Even so the erection of dwellings on the land to the west of the cottage would reduce the historic link with the surrounding land to a degree, and therefore would remove an element of the significance of the wider setting. This would entail minor harm to the setting of the building, which would be less than significant.
36. The Old School was probably erected for the benefit of the Parish as a whole and it is located at a point where access would have been possible from all directions. Whilst it may well be the case that the majority of pupils came from the main centre of population of the Parish to the east, I accept the probability that there would have been some children approaching from elsewhere. The link between the school and the surrounding land becomes obvious, and the setting at that time would have been much of the Parish in all directions, with the school as a focal point. However the setting of the Old School has changed with its conversion to a dwelling and the establishment of a domestic curtilage. But the historic links with the surroundings can be understood by reference to maps, although those links are less clear on the ground, where the building reads as a converted school with the principal elevation and access to the road and a second elevation to the garden. In this context the development of land to the west would cut off some of the historic link with the approach to the school from the west. Whilst this link is of some weight in the historic understanding of the purpose and function of the school, the change over time has rendered the link weaker. So whilst the proposed development would loosen the ability to understand the Old School in relation to its original setting it would not be of great harm in that respect. There would be some harm, but at the less than substantial level.

37. I can deal with the contested locations relatively shortly. The Pound is isolated from the site by Pound Cottage. Although it has significance historically its current location and use mean that the proposed development would not impede the ability to understand its significance. I do not find any harm to its restricted setting. The Church of St Peter, Langley House, and the stable block at Langley House are all set within heavily vegetated grounds. Any visibility between the appeal site and those properties is minimal. The setting of the Church is constrained by its immediate wooded surroundings and the B4069. Langley House and the stable block are more open in the context of their curtilage, but likewise insulated from any material intervisibility with the appeal site by mature vegetation. Although I cannot discount there being some glimpses between these assets and the appeal site in winter, they would be so small as to be immaterial and not harmful to the setting of those assets. If anything Kilvert's Parsonage is even more isolated in its setting by vegetation, and less susceptible to any harm; I do not find that any would occur. Common Farmhouse on the edge of Langley Burrell is some distance from the site, and whilst there would be glimpses of the development from that property across open land, the setting of the asset comprises the fields around it, and parts of the village. These would be unaffected by development and the understanding of the significance of the property in its setting would not be compromised.
38. A number of non-designated heritage assets in the form of dwellings are located on the western side of the B4069. These properties seem to me to have settings which closely follow their curtilages, though with views out over farmland in places, reflecting their agricultural origins. I am not satisfied that it has been demonstrated that the setting of any of the non-designated assets would be harmed in such a way that it should weigh against the proposed development.
39. My attention was drawn to the situation at Rawlings Farm, a development site supported by the Council to the south-east. Rawlings Farm itself is a listed building and sits centrally in the site. I was invited to visit the location of Rawlings Farm, and I visited its environs unaccompanied. The Appellant's argument that this listed building would be significantly impacted by development, exposing inconsistency in the Council's approach to development, is not something on which I can comment in detail. I do not doubt that there would be an impact on that heritage asset. However, I am not in possession of the full facts of the case or the important issues in decision making other than by reference to Council reports. It is clear that the Council took a view having balanced the issues in play, and reached its decision on that basis. I cannot make any realistic comparison with the case before me and do not afford any weight to this matter in determining this appeal.
40. Langley Burrell includes a Conservation Area covering the older part of the settlement. The setting of such areas is not protected by statute. There would be no direct harm to the Conservation Area, and given the relatively tightly drawn boundaries I do not consider that the immediate surroundings would suffer any detriment. I find no harm to this heritage asset from the proposal.
41. I heard at the inquiry that the area around Langley Burrell is renowned for its association with the diarist Francis Kilvert (Kilvert Country) and that Barrow Farmhouse, for example, is mentioned in those diaries. This cultural association has interest, and the surroundings experienced by Kilvert would clearly be adversely affected by the proposal to a degree. However I do not

consider that such harm would be of more than minor impact, and would not of itself be determinative in the appeal.

42. Taking this issue in the round it is my judgement that the proposed development would inflict less than substantial harm on the setting of Barrow Farmhouse. That harm would nonetheless be significant. The harm to the setting of Barrow Cottage would be moderate, and the harm to the settings of Pound Cottage and The Old School would be slightly less. As set out in the NPPF great weight must be given to the conservation of these assets. Any harm requires clear and convincing justification. There is conflict with CS Policy CP58.

Impact on the Village Identity

43. Langley Burrell is seen by its residents as a coherent community which encompasses all the dwellings in the village core as well as more distant parts of the Parish. This includes the hamlets of Peckingell and Kellaways in addition to outlying dwellings such as Barrow Farmhouse and Barrow Farm Cottage.
44. The proposed development would include a great deal of the land located immediately between Chippenham and Langley Burrell village. The area developed would be of greater extent as and when the NCC land is developed. I understand the fears that there would be coalescence between the town and village. Although there would be some open land between the main village and the development in this appeal, and a small area of land to the west of some of the properties fronting the B4069, I agree that to all intents and purposes Langley Burrell would come to be perceived as a pleasant outlier to Chippenham, and that the village identity would be significantly diluted.
45. I take on board that there would be likely to be scope for buffer zones of planting to the east of the development land, but the very fact that such buffers are shown on illustrative material seems to me to demonstrate the uncomfortable relationship between the site and Langley Burrell. I accept that development could be disguised to an extent, but I am not persuaded that planting and recessive lighting schemes could adequately reduce the perception of large scale urban development infilling the space between the village and Chippenham.
46. Langley Burrell is in the process of preparing a Neighbourhood Plan, though this is at an early stage and carries little weight. But I do give credence to the concerns in relation to this extensive proposal that the village identity would be harmed by the encroachment of urban development. I agree that the village would lose a significant part of its identity as a rural settlement, and that this would be harmful to the character of the village and the interests of the community. This is a negative impact which must be added to the planning balance.

Highway Congestion and Safety

47. Local residents have expressed concerns in relation to the extra traffic that would be generated as a result of the proposed development. Modelling carried out shows that the impact would be acceptable in a variety of scenarios.
48. I took time during the inquiry process to visit the area at various times, and my own observations confirm that the B4069 carries mixed traffic which at times is fast moving and relatively heavy. However, although only a snapshot

in time, my observations also concur with the expert highways evidence that traffic is free flowing and that delays and congestion are minimal. As a result the expert evidence before me is compelling, and it has not been demonstrated that the proposal would increase traffic to the degree which would result in residual impact being severe. This matter does not weigh against the proposal.

Other Matters

49. It is acknowledged that the appeal site is best and most versatile (BMV) land, probably for the most part Grade 2. The NPPF requires that the economic and other benefits of such land are taken into account, and that where possible the use of lower grade land should be encouraged. In this case, though, I am satisfied that the area around Chippenham is unlikely to be able to provide sufficient lower grade land, and that the use of BMV has been shown to be necessary. This is not a matter which weighs against the development.
50. Local people question whether the information supplied in relation to biodiversity is reliable. However, I have no substantive evidence to show otherwise, and I bear in mind that the majority of the site is arable land. I was handed photographs of newts present at a property bordering the appeal site, but no evidence of newts or other protected species on the site. The Council has not alleged any harm in this respect, and I am not persuaded that the development would result in any long term material harm to biodiversity or biodiversity networks. In reaching this position I take note of the fact that the development would be capable of providing replacement and new vegetation and green space.
51. There is clear concern from those who live close to the site that development would affect their living conditions. I wholly understand those concerns. However, I am satisfied that it would be possible to design a scheme which would not unacceptably impact on outlook or privacy, and would retain satisfactory living conditions at all properties.
52. I heard evidence at the inquiry about other sites which are expected to come on stream in the Chippenham area, such as Rowden Park, amongst others. Sites have variously been granted planning permission or have resolutions to grant planning permission. Whilst it would not be right to include those sites in the 5 year housing land supply calculation in advance of the next annual monitoring review, it seems to me that these sites are an indication of the efforts being made by the Council to bring sufficient land on stream in the near future. However I cannot give weight to these sites in the matter of housing supply at this stage.

The Planning Balance

53. There are a number of important aspects in this case which require to be balanced individually and collectively.
54. There are undoubted benefits from the proposal. Both market and affordable homes would be provided, with the proportion of affordable housing at 40%. These are important and significant benefits. Land would be provided for a new primary school. Employment land and a new local centre would also be provided. These too are important. As I have noted above I do not regard the extension to Bird's Marsh as a benefit but rather as mitigation. Other matters

- of mitigation, and factors which would be required of any development do not count on the positive side of the balance.
55. The proposal would follow the broad thrust of development plan policy which seeks to concentrate development in principal settlements, but that is subject to the development being sustainable. I indicate below why I do not consider this proposal to fall into the category of sustainable development, and therefore the proposal conflicts with CS Policy CP1 and CP10. However, as I have indicated earlier I do not find that the proposal would conflict with development plan policies relating to transport and infrastructure.
56. On the negative side of the balance I have found that there would be significant harm to the character and visual qualities of the area, and conflict with CS Policy CP51 in this respect. I also find less than substantial harm to heritage assets and conflict with CS Policy CP58. This harm carries substantial importance and weight.
57. For the enhanced weight in the balance indicated in paragraph 14 of the NPPF to be engaged I must first find the proposal to be sustainable development. This has 3 dimensions.
58. Economically there can be little doubt that the development would offer benefit, in the provision of employment land, the provision of direct employment in building and allied trades, and in the increased spending power brought to the locality.
59. Socially there would be important gains from the provision of both market and affordable housing. In addition the provision of land for a primary school would be of benefit. However, the dilution of the village identity of Langley Burrell would be harmful.
60. Turning to the environmental dimension, it is my judgement that there would be significant environmental harm to landscape and visual quality. There would also be harm to heritage assets. The degree to which the separation between Chippenham and Langley Burrell would be eroded would also be harmful to the local environment.
61. Footnote 9 of the Framework indicates that the 'weighted balance' in favour of development would not apply if specific policies in the Framework indicate development should be restricted. This includes policies relating to designated heritage assets. In carrying out the balancing exercise required by paragraph 134 of the NPPF I do not find that the harm to heritage assets is such that by itself it should result in the appeal being dismissed and planning permission being refused, but it is clear that the weighted balance of paragraph 14 cannot apply in this case because there is identified harm which, in combination with other environmental harm, renders the scheme unsustainable in Framework terms. A straightforward planning balance is therefore required.
62. I give great weight to the benefits of the scheme as set out. On the other hand I give great weight to the combination of harmful impacts I have found. The development plan pulls in different directions in that the proposal is in accordance with some policies and in conflict with others. Notwithstanding that some policies are out of date by reason of there being no 5 year housing land supply, it is my judgement that the harmful impacts identified are material considerations sufficient to outweigh all other matters. The proposal does not

accord with the development plan as a whole and cannot be regarded as sustainable development.

63. An Agreement pursuant to s106 of the 1990 Act has been executed and deals with some of the matters which were originally at issue between the Appellant and the Council, whilst also making provision for affordable housing, green space provision and management, and other matters. However, in view of the fact that the appeal is to be dismissed I do not need to consider that Agreement further. Neither it, nor the suggested conditions discussed at the inquiry, would overcome the harm identified.
64. For the reasons given above I conclude that the appeal should be dismissed.

Philip Major

INSPECTOR

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr D Manley	Queen's Counsel
He called	
Miss A Kenworthy BSc(Hons) DipLD CMLI	Landscape and Design Officer, Wiltshire Council
Miss C Ridgwell MBC IHBC	Senior Conservation Officer, Wiltshire Council
Miss C Gibson BA(Hons)	Spatial Planning Team Leader, Wiltshire Council

FOR THE APPELLANT:

Mr A Crean	Queen's Counsel
He called	
Mr I Gates BA(Hons) MLD CMLI	Associate Director, Amec Foster Wheeler Environment and Infrastructure UK Limited
Dr C Constable BA(Hons) MA PGDip PHD MCIFA FSA	Principal Consultant, Amec Foster Wheeler Environment and Infrastructure UK Limited
Mr N Hall BA(Hons) BTP MRTPI	Technical Director, Amec Foster Wheeler Environment and Infrastructure UK Limited
Miss B Coupe BA DipTP MSc MRTPI	Technical Director, Amec Foster Wheeler Environment and Infrastructure UK Limited. (Appeared for clarification of highways matters only)

FOR LANGLEY BURRELL PARISH COUNCIL AND RESIDENTS ASSOCIATION (Rule 6 PARTY)

Dr R Hooper BSc(Hons) MSt PHD MBA	Resident of Langley Burrell
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INTERESTED PERSONS:

Mr R Walker	Resident of Langley Burrell
Mr E Barham	Resident of Langley Burrell

DOCUMENTS SUBMITTED AT AND AFTER THE INQUIRY

- 1 Opening submissions of Mr Crean
- 2 Opening submissions of Dr Hooper
- 3 Bundle of documents from Dr Hooper
- 4 Strategic Planning Committee report on Rowden Park
- 5 Appeal decision APP/P1615/A/14/2228466
- 6 Non Technical Summary of Environmental Statement Addendum
- 7 Appeal decision APP/Y3940/W/16/3132915, issued 10 October 2016

- 8 Statement of Mr Walker
- 9 List of suggested planning conditions
- 10 Photographs of newts at the property of Mr Barham
- 11 Community Infrastructure Compliance Statement
- 12 Planning Agreement pursuant to s106 of the 1990 Act
- 13 Closing address of Dr Hooper
- 14 Closing notes from Mr Manley
- 15 Closing submissions of Mr Crean

Richborough Estates