



Appeal Decision

Inquiry held on 11 April 2012 and 21-23 August 2012

Site visit made on 23 August 2012

by Mike Robins MSc BSc (Hons) MRTPI

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

Decision date: 5 October 2012

Appeal Ref: APP/Y3940/A/11/2165449

Land at Widham Farm / Widham Grove, Station Road, Purton, Swindon, Wiltshire SN5 4EW

- 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 Mr C R Cornell against Wiltshire Council.
 - The application Ref N/11/02574/OUT, is dated 28 July 2011.
 - The development proposed is up to 50 dwellings and associated works following demolition of two dwellings (Kilmayne and Perying, Station Road).
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Decision

1. The appeal is dismissed.

Application for costs

2. At the Inquiry an application for costs was made by Mr C R Cornell against Wiltshire Council. This application is the subject of a separate Decision.

Procedural Matters

3. The proposal for fifty houses is in outline with the matter of access to be determined at this stage. Appearance, landscaping, scale and layout are therefore reserved for future determination.
4. The National Planning Policy Framework (the Framework) was published on 27 March 2012. Following this, the Council reassessed the housing land supply and presented their revised figures to the Inquiry. In the interests of fairness it was necessary to adjourn the Inquiry to allow time for the appellant to consider the revised data. Subsequently the main parties agreed a Statement of Common Ground on housing supply matters, (HSSoCG), signed 15 August 2012, and a second Statement of Common Ground for the proposal, (SoCG), signed 22 August 2012.
5. A Unilateral Undertaking, signed and dated 22 August 2012, was submitted by the appellant under the provisions of the Town and Country Planning Act 1990. This was to address contributions sought by the Council, albeit some remain contested by the appellant. I have considered this later in my decision.
6. The Council set out in a delegated report that they were minded to refuse the application and cited eight initial reasons. Of these the Council confirmed that following the submission of further information and consultation, those relating to ecology, layout and highways had been overcome. Matters relating to planning

obligations, reason for refusal 8, have been addressed through the submission of the S106 Unilateral Undertaking.

Main Issues

7. In light of this I consider that the main issues in this case are firstly, whether or not there are material considerations that would outweigh the development plan presumption against development in the countryside, and secondly, whether or not planning permission should be withheld on the grounds that the proposed development would be premature in relation to the adoption of emerging Development Plan Documents.

Reasons

Background

8. The appeal site is an area of open grazing land to the north of the settlement of Purton. It is outside of the currently identified settlement framework boundary. Purton is an elongated settlement with the majority of houses set along High Street and Station Road, from which the proposed development would take its access. The southern boundary of the site adjoins Pear Tree Close and Glevum Close, both of which are within the framework boundary. To the west lies Locks Lane while beyond the adjoining fields to the north is a railway line with more housing beyond, albeit these lie outside the framework boundary.
9. The proposal would introduce up to 50 houses with a dedicated bus turning area, identified public open space and ponds associated with both ecological mitigation and surface water management. A previous application for 136 dwellings was submitted, which was subsequently dismissed on appeal in 2009¹.
10. The development plan for the area includes the adopted Regional Strategy, (RPG10), the Wiltshire and Swindon Structure Plan, (WSSP), and the North Wiltshire Local Plan, adopted 2006 (the Local Plan), whose relevant policies have been saved. The Local Plan designates the settlement framework boundary and in Policy H4 sets out that new dwellings in the countryside will be permitted outside the boundary provided they are in connection with the essential needs of agriculture, forestry or other rural based enterprise.
11. In terms of housing supply both main parties accepted that the data and projections found in the adopted development plan are out of date. In this respect revised housing requirements were promoted during the development of the draft Regional Spatial Strategy, (dRSS). This was subject to Examination in Public, incorporation of proposed changes and a version was published for consultation in July 2008. Although reaching an advanced stage, the likelihood of this plan being adopted is considered extremely low in light of the Secretary of State's avowed intention to revoke Regional Strategies, and the enactment of the Localism Act, which prevents further Regional Strategies from being created.
12. In response to the Government's position on Regional Strategies, the Council indicated that they moved to reconsider the housing requirements for Wiltshire to inform an emerging Core Strategy, (eWCS). This document has now reached a relatively advanced stage with a resolution by the Council and its submission for examination. The Council's ambitions for this plan to be adopted by the end of

¹ APP/Y3940/A/09/2107373

2012 or early 2013 may, however, be questioned in light of recent concerns and a need to re-consult.

13. Notwithstanding this the Council point to an extensive consultation process involved in the development of the evidence base and suggest that the eWCS is preferable, both in terms of the housing requirement and the strategic approach to delivery, to either the out of date WSSP or the figures promoted in the dRSS.
14. The appellant raised concerns over the weight that should be afforded to the eWCS in light of objections to proposed housing numbers, declaring a preference for the publicly tested dRSS. However, the appellant goes further, suggesting an additional proposition that irrespective of the housing land supply position, the proposal represents a sustainable development. As such it should benefit from the Frameworks' presumption in its favour, in light of a contention that the development plan policies are out of date.
15. While this proposition raises other concerns, which I address later, in light of my first main issue it is necessary to consider the housing land supply issue on the basis of the evidence available at the time of this Inquiry.

The 5-year housing land supply

16. The main parties agreed the HSSoCG, which reflected on areas of agreement, including dates, calculation methodology and some elements of available sites. Areas of disagreement and implications in terms of three broad scenarios associated with the WSSP, the dRSS and the eWCS were set out. On the face of it, the Council's projections suggest that a 5-year housing supply is available for all scenarios except the dRSS requirement for North Wiltshire. The appellant's projections, however, suggest that a 5-year supply is not present for any of the remaining scenarios, except that of the dRSS requirement for the Rest of North Wiltshire, (RoNW), and even then they consider this insufficient when assessed against the Framework requirements for a buffer.
17. The Framework has changed the way housing supply can be looked at in terms of what allowances can be made, the inclusion of sites and the introduction of a 5 or 20 percent buffer, depending on past performance. There also remain fundamental differences between the main parties with regard to included sites, the preferred area of assessment and the preferred housing demand figures. I will address each in turn.

Sites

18. The Council case relied on data from its Annual Monitoring Report (AMR) but presented updated figures which included changes they identified in the Framework, notably in paragraphs 47 and 48. This included permitted sites, previously discounted in absence of evidence in the AMR, and windfalls. The agreed methodology separates the housing supply into eight components. Although the HSSoCG presents the data across a number of different areas, as an example, if Wiltshire is considered as whole then the parties differences with these components are as follows: small sites, 68 dwellings; large permitted sites, 134 dwellings; sites subject to S106, 193 dwellings; outstanding local plan sites, 69 dwellings; Vision Sites, 150 dwellings; strategic sites, 2047 dwellings; previously discounted permitted sites, 704 dwellings and windfalls, 678 dwellings.
19. Thus the appellant suggests a difference between the Council's housing supply and their own of some 4,045 dwellings, made up in part by site specific

differences and in part by a disagreement over which elements should be included. Some 80% of the difference relates to the strategic sites, the Vision Sites, windfalls and previously discounted sites.

20. The Council refer to paragraph 47 of the Framework and its footnote regarding the inclusion of strategic sites, specifically allocations in the eWCS. This paragraph seeks to significantly boost the supply of housing and requires that local planning authorities should *'use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area'*. It specifically includes *"key sites critical to the delivery of the strategy over the plan period"*.
21. The footnote sets out a definition for specific, deliverable sites: that they should be available now, offer a suitable location for development now, and be achievable with a realistic prospect of delivery within five years. While on the face of it the requirement for sites to be available now would appear to preclude sites without permission, the definition continues by addressing permitted sites directly. In order for strategic plans to be put in place to address the housing supply, I consider that allocated sites can be included, including those within emerging plans, subject to the weight that can be given to that plan and its evidence base and the submission of information indicating a reasonable likelihood of them progressing within the five year period.
22. I accept that where there are outstanding objections to sites, such matters need to be addressed and resolved, however, it is not for me to prejudge the outcome of the eWCS examination. I must decide on what weight I can give to the Council's assertion that these allocations should be included. In doing this it is necessary to separate the weight that can be given to the emerging plan from that associated with the evidence base associated with that plan. While I have been given examples from East Northampton² and from Preston³ where draft allocations have not been included, the relevant weight must be ascribed based on the specific stage of preparation of the evidence base and the evidence supporting deliverability.
23. In this case I consider that exclusion of all the draft allocations is not appropriate. The Council have identified the sites following public consultation and they report that they have been subject to a Sustainability Appraisal. The sites are included within the AMR. While I note the appellant's concern over the recent appeal decision in Malmsbury⁴ the Inspector in that case also accepted the principle of including strategic sites. The Council relied on this decision to support their position that the sites were available and deliverable. The appellant referred me to a slightly earlier decision by the same Inspector⁵ which discounted draft Local Plan sites, however, it strikes me that this differs in the progress of the emerging plan and the evidence therefore available to the Inspector. The decision clearly refers to the need for consultation and representations on the emerging plan.
24. I accept that until planning permission is secured and the sites are built out, the housing supply from the sites cannot be guaranteed. Nonetheless to exclude such sites risks Councils having to plan to meet housing supply in a dynamic market on the basis of only sites with planning permission or from relatively old plans. This would risk devaluing the process of strategic planning. While full weight cannot be

² APP/G2815/A/09/2108495

³ APP/N2345/A/11/2145837

⁴ APP/Y3940/A/11/2159115

⁵ APP/Q4625/A/11/2157515

given to the precise numbers put forward by the Council, I consider it reasonable to include these sites in absence of specific evidence that they cannot be delivered.

25. Turning to Vision Sites similar arguments apply, albeit that they are not formally proposed as allocations. They are included in the AMR and the eWCS sets out a specific policy for their delivery. The Council presented evidence that two sites, Foundary Lane and Hygrade Factory, while not currently having permission, are likely to be delivered within the five year period. While there may be some matters to be resolved on these sites, and the appellant points to part of the Foundary Lane site and the Hygrade site as being still partly occupied, this does not mean they cannot be delivered. On balance I consider that the dwellings associated with these sites can be included.
26. The Council have included windfall sites in their 5-year housing supply figures for the first time following the publication of the Framework. Paragraph 48 identifies that windfalls may be allowed for in the 5-year supply subject to compelling evidence. While initially a significant additional element was introduced to the Inquiry in response to the Framework, this has subsequently been altered. The Council have provided evidence of their methodology which I consider show that they have correctly excluded residential gardens from their assessment. The remaining figure has been accepted by the appellant in evidence as being reasonable, however, its use in meeting housing demand has not been accepted.
27. It was argued that as windfalls have not been previously relied on, to do so now would alter the strategic fit of demand and supply previously planned for, thus they should be added instead to the housing requirement. To rely on them now would, the appellant contends, reduce the allocations and impact on the delivery of affordable housing.
28. To my mind this is contrary to the Framework's acceptance of their inclusion in the 5-year supply. The debate over whether the strategic approach would still meet the affordable housing need must be had at the eWCS Examination. I am satisfied that the Council has provided evidence that windfalls will continue to offer a reliable supply and their approach has been conservative. Consequently I consider that in this case they should be included in the assessment.
29. Turning to site specific elements, the Council have included dwellings associated with sites which have planning permission but were previously excluded from the AMR in the absence of evidence. This has been done in response to the footnote to paragraph 47 of the Framework, which says "*Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within five years,..*"
30. In cross examination the Council accepted that Royal Arthur Park was not for market housing but for C2 use and should not be included for WSSP or dRSS calculations. While this may meet a defined need in the emerging plan going forward I am not convinced on the evidence before me that it is acceptable to include this within the housing supply calculations. Furthermore I note the inclusion of a number of dwellings associated with small sites which previously had been excluded from the AMR. While I accept that there is no specific evidence that these sites will not be delivered, their exclusion previously was in light of historic trends and an assessment of the likely delivery of such sites. Although generic in its approach, I still consider that it is reasonable to conclude that this

would represent clear evidence that a similar level of small sites will not be delivered going forward. These should be excluded from the assessment.

31. Of the remaining contested sites, Gerard Buxton Sports Ground was set out as delivering 168 dwellings but the appellant suggested that this should be excluded as the sports ground remains in use. The AMR identifies that the development is phased and this was supported in evidence from the Council, who reported recent confirmation from the developer that the relocation of the sports ground would be phased with the development and the expected development rate would be met. I am satisfied that this should remain in the assessment.
32. The former Bath and Portland Stoneworks has a long planning history but in light of a recent application to extend the 2008 permission I see no reason why this should not be included in the assessment in accordance with the Framework definition. The Custom Transformers site was suggested to have consistently not delivered, however the Council evidence confirms that construction is underway; this site should be included. In relation to the Brynards Hill site, while it is apparent that at the base date for the assessment permission only existed for 100 dwellings, the additional 26 are confirmed to be deliverable within the five years in the AMR, which identifies 150 dwellings in total. On the evidence before me it appears likely that the additional dwellings were identified in the housing trajectory and could legitimately have been included.
33. The site south east of Woodmand was reported by the appellant as unlikely to commence but was confirmed by a Council officer visit in February 2012, as being under development. Similarly, the site at Blue Hills, was confirmed as underway although only for 36 dwellings. For the sites at Quemerford House and Rudlow Manor, the appellant suggests there is no certainty on delivery, however, I have no specific evidence that the dwellings will not be delivered and therefore they should be included.
34. A small reduction was made by the appellants to the delivery of dwellings at Rylands Sports Ground, but no evidence given to support this. Finally, the Chicken Factory site was confirmed to now have outline permission and a conservative estimate of delivery put forward by the Council. I consider that these also should be included.
35. Box Wharf was acknowledged as C2 use by the Council and should be excluded. To understand the implications of these changes to the proposed figures the other matters of contention between the main parties now need to be considered.

Housing Requirements

36. The HSSoCG provides agreed housing requirement figures for the various scenarios. While the appellant prefers the dRSS figures, the Council consider that those developed as part of the evidence base for the eWCS should be preferred.
37. While the future adoption of the dRSS is considered extremely unlikely, the evidence base that underpins the housing requirements is capable of being a material consideration. The weight that can be given must, over time, erode as more recent growth projections, housing needs and community planning initiatives influence the understanding of housing requirements, however, the dRSS remains the only publicly tested figures before me.
38. The Council have outlined the stages they have gone through in preparing their eWCS. While the process of community involvement, capacity analysis,

consultation and review are acknowledged, the headline figure of 37,000 and the underpinning strategic distribution are the subject of outstanding objections, specific elements of which have been detailed in evidence. While I have nothing to suggest that the plan is unsound, I can not give significant weight to it in accordance with paragraph 216 of the Framework. Furthermore it is clear that there are likely to be delays in the Examination and therefore subsequent adoption of the Strategy.

39. This is not therefore, as the Council set out, a simple case of 'a stark choice' between the dRSS and the eWCS. Although I favour the dRSS figures at this stage, which furthermore provide a conservative approach to ensuring the adequate provision of housing, I must give some weight to the emerging evidence base in light of its more up to date projections and the extent of more local engagement in assessment of needs.
40. I do not consider that the Council's case is weakened in any way by their previous reliance on the dRSS over the eWCS in earlier appeal decisions. I consider this entirely appropriate in light of the relatively early stage of the process the strategy would have been at. Furthermore while my approach on this is less supportive of the eWCS than that reached by the Inspector in the Malmesbury decision, I am not aware of the evidence that was presented at that time in relation to possible objections to the strategy.
41. The Framework has introduced a requirement that housing supply is considered in light of a buffer to ensure choice and competition in the market. The Council suggested that this should only be applied for forward planning and plan making purposes and should not apply for decisions on housing applications. They draw on the reference to the buffer only being set out under paragraph 47 and not 49. On the evidence before me I do not consider that this would provide the robust support necessary for the significant boost in housing supply sought by the Framework.
42. Consequently I must consider whether there has been a record of persistent under delivery which would indicate a need for this buffer to be 20% rather than 5%. The appellant suggested that the Council have failed to meet the requirements, when assessed against the dRSS, for at least three of the last five years. However, I support the Council in their view that this is too simplistic an approach to under delivery. The Council showed that over the period they achieved in excess of 80% of the requirement at a time when the dRSS introduced a significant step change in housing delivery. Housing delivery must, by its nature, be variable and a steady year on year delivery is unlikely to be achievable. On balance I consider that the evidence before me does not indicate a persistent level of under delivery and the 5% buffer should be applied.

Area of Assessment

43. As the strategic planning approach has changed, different areas have been identified against which to assess housing. The WSSP, acknowledging the predominance of Swindon and Chippenham, promoted a disaggregation approach, with the appeal site and Purton lying within the Rest of North Wiltshire (RoNW). This was in effect continued in the dRSS where housing requirements for the former North Wiltshire District (NWD) were addressed, and a similar remainder area excluding Chippenham and the west of Swindon, could be inferred. The eWCS redefines new Housing Market Areas, HMAs, and a tier below these of

Community Areas (CAs). Purton and the appeal site would lie within the North and West HMA, and within the Royal Wootton Bassett and Cricklade CA.

44. The previous appeal decision on this site, which referred to two other decisions in the area, supported the principle of the disaggregation approach, noting it was reasonable given the way targets were being set in the dRSS. However, the appellant pointed to later appeal decisions where the approach was not considered valid. These include Sandpit Road, Calne,⁶ and appeals at Brynards Hill, Royal Wootton Bassett⁷. These, however, all appeared to consider both the former NWD as well as the RoNW. At Brynards Hill the decisions focussed on the RoNW and the Council's inability at that time to confirm a 5-year housing supply.
45. At Sandpit Road, the supply against both the areas was debated. In light of what was identified at that time as a serious shortfall in the NWD, only 2.7 years, the Inspector considered the scheme necessary to respond to this and support longer term delivery in the RoNW area. While this led to a High Court case⁸, the Council's challenge against that decision was not upheld, but the judgement was confined to deciding only whether the Inspector's decision was irrational and not whether it was right or wrong.
46. All these decisions were taken at a time when the eWCS was at a very early stage and significant weight was given to the dRSS. The dRSS set out its spatial strategy as follows: *"To accommodate and manage growth in the most sustainable way, most new development will be provided for at Strategically Significant Cities and Towns (SSCTs). Provision for more limited development will be made at market and coastal towns and in small towns and villages where this will increase self-containment and promote stronger communities."*
47. To my mind this approach is relatively consistent across the development plan, through to the eWCS, with increased acknowledgement of the need for some growth in the rural areas which responds to and meets the needs of the local community, and an acceptance that there needs to be some measure of flexibility to assist in delivery. The Council suggest that this is what is achieved in relation to the eWCS and the HMA and CA approach.
48. Purton lies in relatively close proximity to Swindon but remains a settlement in its own right. It is a somewhat dispersed settlement and has a limited range of shops and facilities other than the school. I visited the other centres locally of Cricklade and Royal Wootton Bassett. Cricklade was more clearly a market town with a well defined centre and range of shops, while Royal Wootton Bassett was a settlement of a notably higher order in terms of size and facilities.
49. Purton's acknowledged vulnerability as a settlement providing a dormitory function for Swindon is clear, and irrespective of which strategic approach to housing delivery is considered, it does not lend itself as a location which would meet the wider needs of the district, in the same way that Calne and Royal Wootton Bassett could.
50. Albeit the eWCS strategic approach of HMAs responds to the Framework, the weight I can give is significantly limited by the fact that it has yet to go to formal Examination. Accordingly I consider that an assessment based on the RoNW remains a material consideration of some weight.

⁶ APP/Y3940/A/09/2108716

⁷ APP/Y3940/A/09 215331/2 and APP/Y3940/A/10/2141906

⁸ CO/2683/2010

Conclusions on the 5-Year Housing Supply

51. It has been necessary to carefully consider the housing requirement and supply situation in Wiltshire as a result of the changes being introduced at both national and local level. My conclusions are by necessity based on the evidence put before me and can in no way prejudice the outcome of the eWCS Examination in Public which may take place later in this year or early 2013.
52. I consider that the principal assessment should be made between the housing requirement for the RoNW and the housing supply presented by the Council, amended in response to the evidence provided at the Inquiry. This must be further considered in light of the housing demand across North Wiltshire and the emerging strategic approach for the North and West HMA. I have summarised this in the following table:

Plan / Policy	Housing Requirement	5-year Housing Requirement	Housing supply ⁹	Assessment (years)*
dRSS Rest of North Wiltshire	3,024	1,008	1522	7.5
dRSS North Wiltshire	10,684	3,549	3052	4.3
eWCS North and West HMA	15,249	5,083	6292	6.2

*5.25 years required to meet the 5% buffer

53. This indicates that the appellant's proposition that even using the eWCS figures the Council cannot demonstrate a 5-year housing supply is not well founded. The Council have shown a 5-year housing supply relative to the RoNW dRSS figures and the eWCS North and West HMA, but have failed to demonstrate adequate supply for the dRSS North Wiltshire area. As set out above, I consider that the weight that can be given to the dRSS figures is somewhat lessened by the length of time since their preparation and examination, but also that the weight I can give to the emerging figures is similarly limited.
54. Nonetheless, although the exact numbers cannot be relied on, I am satisfied that the resulting figures indicate that within the context of a strategic approach focussing sites on larger settlements or a housing market area that responds to the existing settlement pattern rather than political boundaries, the Council have demonstrated a 5-year housing supply. Furthermore I do not consider that the 4.3 years, set against an expectation of 5.25 years, represent a serious shortfall in the former North Wiltshire District, such that there is an overwhelming need for development to meet this specific demand.
55. In such circumstances I consider that there is sufficient evidence to support that, for this location, a 5-year housing supply has been shown.

⁹ Revised in light of my finding on sites above.

Presumption in Favour of Sustainable Development

56. The Framework introduced a presumption in favour of sustainable development; that proposals should be approved without delay where they accord with the development plan or where the plan is considered out of date. Two propositions were put forward by the appellant, firstly, that in absence of a 5-year housing supply the housing strategy policies of the development plan were out of date, and secondly, that the settlement framework boundary that informed Policy H4 of the Local Plan was out of date.
57. My findings on the 5-year supply set aside the first proposition, and two tests need to be passed for the second; whether the site is sustainable and whether the plan policy is out of date. The Council agreed that the original boundaries were set some 15 to 20 years ago, however, despite the appellant's suggestion that their use was for meeting a housing demand that has been significantly increased since, I consider this too simplistic. The boundaries define settlements, not just to allow for their expansion, but to ensure their containment and protection of the surrounding countryside, an element that remains strongly supported in the Framework and a key element in the assessment of wider sustainability issues.
58. My reading of the previous appeal decision on this site suggests that the boundaries were considered in both the preparation and Examination of the Local Plan in 2006, and while they do not appear to have been assessed against the significant increase in supply sought by the dRSS, they have been against the large increase currently promoted in the eWCS. This process has not led to a redrawing of the boundaries, consequently I do not consider that Policy H4, which they inform, is out of date or fails to conform with the Framework.
59. Sustainability needs to be considered on a spectrum, informed by the accessibility of a site, its relationship to the environment and infrastructure and its delivery against a wider spatial vision. I am satisfied that the site represents opportunities for future residents to access the services and facilities within Purton, albeit the nature of the settlement means that they are some distance away. I also accept that the proposal would strengthen the public transport options. However, its relationship to Swindon and the relative lack of employment provision in Purton would be likely to lead to an increased reliance on the car.
60. On balance I consider that this is a reasonably sustainable site, but one which does not accord with the existing and emerging housing strategy. Despite mitigation to address ecological impacts, it would nonetheless extend the built-up area into the countryside that forms a setting for the settlement. Overall I do not consider that the presumption, as set out in the Framework, applies to this site.

Other material considerations

61. The appellant identifies that there is an unmet need in Purton for affordable housing and that such a need can only be met by larger scale housing schemes that trigger an affordable component. This is accepted in principle by the Council although the Parish Council points out that other development in the parish is bringing forward affordable housing.
62. Notwithstanding this I consider that the provision of 15 affordable houses as part of this scheme represents weight in favour of the proposal.

63. The proposal would contribute to economic growth and the appellant confirmed interest from housing developers which suggests the site would be developed. I also consider that this weighs in favour of the proposal.
64. The proposal also offered an element of highway and footpath improvement and contributions to address Council concerns over infrastructure impacts. The local road improvements would have a limited benefit to the community although the infrastructure contributions, which I consider below, only meet or address perceived direct impacts and should therefore be considered as neutral.

Conclusion on the First Main Issue

65. I have found that the Local Plan presumption against development outside of settlement framework boundaries remains a relevant policy consideration. The proposal conflicts directly with this policy. The Council has demonstrated a 5-year housing supply relative to this location and no support is found for this development in the spatial strategies, either existing or emerging. While I note the benefit that will arise from the scheme in terms of affordable housing I do not consider that this outweighs the policy presumption. The proposal therefore fails to comply with Policy H4 of the Local Plan.

Prematurity

66. The Council consider that the proposed development would not conform with the emerging settlement strategy, and in particular the strategic approach to development within the Royal Wootton Bassett and Cricklade CA. In this, Purton is identified as a Large Village. Core Policy 1 and 2 of the eWCS sets out this strategy, stating that development at Large Villages will be limited to that needed to help meet the housing needs of settlements and to improve employment opportunities, services and facilities. Core Policy 2 considers that proposals outside of the identified limits of development will only be permitted where it has been identified through community-led planning policy documents.
67. This position was reinforced by the Parish Council, the local Unitary Councillor and the representative of Ps and Qs, a local community group, who reflected on the positive work underway on both Parish and neighbourhood planning within Purton. It was identified that the CA Neighbourhood Plan is part of the Front Runners pilot. In this context a need for only 115 additional houses was identified for the CA; as such the proposal was considered to represent a significant proportion of that being brought forward, and was against the wishes of the community and prior to a community led consensus on appropriate locations for development.
68. The Framework does not address prematurity, but a prior national guidance document, The Planning System: General Principles, 2005, does and remains in force. The position this sets out is that prematurity in terms of an emerging development plan document (DPD) may be justified, but only where the proposed development is so substantial, or its cumulative effect would be so significant that granting permission could prejudice the DPD.
69. In terms of the scale of the development, fifty houses would not be a significant additional number in relation to the size of Purton, nor would it be significant when considering the housing requirement or current supply proposed for the wider area, either the RoNW or the North and West HMA. The CA definition and housing requirements are part of the eWCS and I have already noted that this awaits Examination and the weight that can be given to it is limited. In particular a flexible delivery against a minimum housing demand figure suggests that a

direct comparison of the 50 houses against the 115 identified is not a valid comparison at present.

70. I acknowledge the work being carried out in the community to further the Neighbourhood Plan, and the production of the Joint Strategic Assessment for the CA and the initiative of the Parish Council in carrying out surveys, strongly support this. At this time, however, there is no Neighbourhood Plan in place and any that comes through must be in general conformity with the strategic policies in the development plan. While I have considered the impact of the scheme in relation to emerging strategies in the overall balance, at present I do not consider that the proposal could be considered as premature in planning terms.

Other Matters

71. I note there are very real concerns expressed by local residents and interested parties with regard to traffic impacts and flood risk. In terms of traffic, the proposal has been discussed extensively with the local Highway Authority. A traffic assessment using nationally recognised approaches with agreed comparative data was prepared which was specific to the size of the proposal. The scheme is not criticised by the authority or by the Council on this matter.

72. Three issues appear to be of concern: firstly, the access onto Station Road; secondly, traffic through the village, particularly at a pinch point near the Angel Inn and near the parish church to the south east; and thirdly, impacts on the wider area from this and other larger development taking place on the outskirts of Swindon. I drove around the area and can envisage some traffic delays associated with the narrowing of the High Street in the centre of the village, and I noted the poor alignment past the church, albeit this is leading into the country lanes surrounding the area.

73. Current road closures may well have effected my appreciation of the traffic associated with the Swindon development, however, I can understand that while there are more obvious routes for connecting to the major road network, when congested these may be bypassed utilising the minor routes, through Cross Lanes junction, for example, and indeed through Purton. Nonetheless I do not consider that the traffic associated with this scheme can be considered to significantly impact on the wider network. It will add only marginally to existing delays in the centre of Purton, but not to a significant extent sufficient to justify refusal on this matter alone. Regarding the access out onto Station Road, I noted there are a number of other entrances, but the access has been designed with both a suitable form and visibility. I can see no reason to consider that its use would compromise, or increase the risk associated with the use of the other entrances close to the site or indeed present along the road.

74. Turning to flood risk the site is not identified as lying within an area at risk of fluvial flooding. The site is crossed by a small watercourse and some highway drains. At times of significant rainfall, and in light of the underlying geology, I understand that there would be some pooling of water on the site; it is relatively flat and slightly lower than surrounding areas. The development, however, has been accompanied by a flood risk assessment and a surface water management proposal that would use water storage on site in retention ponds and controlled discharge to the watercourse. The discharge would be managed to respond to the equivalent of a 1 in 2 year rainfall event. In effect the site would hold back more water than the run off that may be experienced currently.

75. While I completely understand that neighbouring residents who have also experienced pluvial flooding or the back up of drainage systems would be concerned, I am satisfied that with suitable conditions the proposal could effectively manage surface water drainage with no significant impact on local properties. The control of the discharge of the site should also address the pressure that may occur on downstream culverts associated with the railway and beyond.
76. Such sustainable drainage systems are increasingly common and this proposal has been assessed and accepted in principle by the Environment Agency. While I understand its long term maintenance may be a concern, the systems are for the most part passive and recent legislation properly addressed the responsible authority for longer term control.
77. One other matter was raised related to the 'Inclosure Act', however, this is not a matter that I consider can be addressed through the planning process.

Infrastructure

78. The Council sought contribution for education, libraries, public art, waste collection, cemeteries, transport and public open space. These were based on their Local Plan Policy, forecast impacts and guidance notes or emerging documents.
79. I note that the appellant, although setting out all the requested contributions in a Unilateral Undertaking, challenged a number with respect to the policy basis for their inclusion and their necessity, and the Council itself had concerns over the introduction of a viability assessment clause. Furthermore, the undertaking sought to restrict its terms such that they would only come into effect if they were accepted as necessary in this decision. However, if an appellant submits an executed obligation then it has legal effect, it does not cease to have legal effect simply by including a clause to that effect in the Deed.
80. Such contributions need to be assessed against the statutory tests of Regulation 122 of The Community Infrastructure Levy (CIL) Regulations, 2010. In this case, however, in light of my conclusions on the first main issue, it is not necessary to apply these tests as the Regulation only applies where a relevant determination is made which results in planning permission being granted.

Conclusion

81. This proposal would conflict with the extant Local Plan as it would represent development outside of an identified settlement framework boundary. I have found the development plan to be in accordance with the Framework and that the Council in this case has demonstrated a 5-year housing supply for this location. I do not consider that the weight afforded to the benefits of the scheme particularly in terms of affordable housing, nor my overall conclusions on prematurity and the other matters, serve to outweigh this conflict.
82. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Mike Robins

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Richard Benwell, of Counsel Instructed by I Gibbons, Solicitor to Wiltshire Council

He called:

Mrs T Smith BSc(Hons) Wiltshire Planning Officer
MRTPI

Mr N Tiley BSc(Hons) Wiltshire, Monitoring and Evidence

Mr Glass, Mr Moore, Mrs Morgan, Mr Ibbetson, Mr Litherland assisted in the discussion about the S106 contributions.

FOR THE APPELLANT:

Mr David Manley QC Instructed by Mr S Harris, Emery Planning Partnership

He called:

Mr M Packer BSc(Hons) Consultant – PFA Consulting
CEng MICE

Mr S Harris BSc(Hons) Associate Director – Emery Planning Partnership
MRTPI

INTERESTED PERSONS:

Councillor Jacqui Lay Wiltshire Unitary Councillor

Mike Bell Chair of Purton Parish Council

Dr Richard Pagett Chair – Ps and Qs

DOCUMENTS

- 1 Council's Notification Letter – dated 29 December 2011
- 2 Council's Notification Letter – dated 29 December 2011
- 3 Statement of Common Ground – Housing Supply
- 4 E-mail correspondence – N Tiley to Wigan
- 5 E-mail correspondence – Cllr Lay to T Smith
- 6 Extract Proof of Evidence – Salford APP/U4230/A/2162115/2103
- 7 Council Opening Statement
- 8 Statement - Councillor Lay
- 9 Statement – Mike Bell – Purton Parish council
- 10 Joint Strategic Assessment – Royal Wootton Bassett and Cricklade
- 11 Cross reference for sites evidence
- 12 Copy of press statement – wind farm policy, 21 August 2012
- 13 Extract – South Wiltshire CS report
- 14 Statement of Common Ground
- 15 Signed and Dated Unilateral Undertaking
- 16 Statement - Dr Pagett – Ps and Qs
- 17 Conditions
- 18 Justification for Section 106 obligations
- 19 Comment on Unilateral Undertaking – Wiltshire Council
- 20 Closing Submission – Wiltshire Council
- 21 Closing Submission – Appellant

Richborough Estates