



Appeal Decision

Inquiry held on 15-17 & 21-24 March 2017

Site visits made on 21 March 2017, 25 & 26 April 2017

by **Lesley Coffey BA Hons BTP MRTPI**

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

Decision date: 22 June 2017

Appeal Ref: APP/Y3940/W/16/3150514

Land at Forest Farm, Chippenham, South of Pewsham Way and west of A4 London Road, SN15 3RP

- 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 Gleeson Developments Limited against Wiltshire Council.
 - The application Ref 15/11153/OUT is dated 9 November 2015.
 - The development proposed is a mixed use development including the construction of up to 200 dwellings including affordable housing, B1 employment floorspace (up to 4,645 square metres), a community building (Class D1 up to 465 square metres floorspace), the creation of a new vehicular access with footways, cycleways and a new bus stop lay-bys, ancillary road infrastructure, car parking, footpaths cyclepaths, public open space, children's play areas, landscape planting, pumping station and surface water attenuation facilities.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Inquiry opened on 15 March 2017 and sat for 7 days. An accompanied site visit took place on 21 March 2017. I carried out further unaccompanied site visits on 25 and 26 April 2017.
 3. The appeal relates to an outline planning application with all matters except access reserved for future determination. The details of the access into the site (including its location and junction arrangements) were submitted for approval. The precise positioning and treatment of the internal circulation route, and pedestrian and cycle links form part of the reserved matters relating to layout, although the latter are indicated on the plans appended to the transport statement of common ground.
 4. Shortly before the commencement of the Inquiry, the Inspector's report in relation to the Chippenham Site Allocations Plan (CSAP) was published. On 14 March 2017 the Council's Cabinet resolved to recommend that the CSAP, as modified by the Inspector, should be adopted by the full Council as part of the development plan. The CSAP was subsequently adopted on 16 May 2017.
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5. The appeal is against the failure of the Council to determine the application within the prescribed period. The Council resolved on 14 September 2016 that had it been in a position to determine the application, it would have refused planning permission for the proposal. There were four putative reasons for refusal.
6. The first putative reason for refusal is that the proposal is considered to conflict with the principles of Core Policy 1(CP1) and Core Policy 2(CP2) of the Wiltshire Core Strategy, policy H4 of the North Wiltshire Local Plan 2011 and the principles of the National Planning Policy Framework (the Framework). The second reason was the effect of the proposal on the landscape character of the rural area and the reduced separation between individual settlements. The third putative reason for refusal was the harm to the setting of a number of heritage assets due to the erosion of the rural character. The Council withdrew this reason for refusal prior to the Inquiry, and I have considered the appeal accordingly. The fourth purported reason for refusal was the failure of the proposal to make adequate provision for on-site and off-site infrastructure.
7. The parties agree that the fourth reason for refusal could be overcome by the imposition of conditions, a s106 obligation and Community Infrastructure Levy payments. Based on the submitted evidence I have no reason to reach a different view. A completed s106 agreement was submitted during the course of the inquiry. It covenants to provide affordable housing, provide for the management of the open space and landscape, various highway works, waste and recycling contributions.
8. Statements of common ground in relation to planning matters and the five year housing land supply were submitted. Two transport statements of common ground were also submitted, one with the Highway Authority (Wiltshire Council), and the other with Highways England.

Main Issues

9. In light of the forgoing, I consider the main issues to be:
 - Whether the proposal would be in an acceptable location having regard to development plan and national policies;
 - The effect of the proposal on the character and appearance of the surrounding rural area; and
 - The current position in relation to the 5 year housing land supply.

Reasons

Development Plan and Emerging Plan

10. The development plan includes the Wiltshire Core Strategy (adopted January 2015), the saved policies of the North Wiltshire Local Plan 2011 (adopted 2006) and the CSAP (adopted May 2017). There are a number of other development plan documents, mainly in relation to minerals and waste, but these are not relevant to this appeal.
11. Whilst the Core Strategy identified strategic sites elsewhere in Wiltshire, due to concerns raised by the examining inspector, Core Policy 10 (CP10) provides that strategic allocations within Chippenham are to be identified by the CSAP. The purpose of the CSAP is to identify the strategic sites that will best support the town's future growth and which are the most environmentally appropriate

in accordance with the overarching policies of the Wiltshire Core Strategy. It does not reconsider the overall level of housing need or the broad spatial strategy within the Core Strategy.

12. The Wiltshire Site Allocations Development Plan Document (the Site Allocations DPD) is currently being prepared and will allocate future housing sites. I understand that the Council intends to publish a pre-submission version of the DPD in June this year. Nonetheless, it remains at a very early stage and I am unable to accord it any significant weight.

Whether the proposal would be in an acceptable location

13. Together policies CP1 and CP2 of the Core Strategy set out the settlement hierarchy and delivery strategy for Wiltshire. CP1 identifies four tiers of settlements. As a principal settlement Chippenham is one of the primary focuses for growth within the North and West Wiltshire Housing Market Area (NWHMA). It is intended that the principal settlements will provide significant levels of jobs and homes, together with supporting community facilities and infrastructure, and meet their economic potential in the most sustainable way to support better self-containment and limit the need for development on Greenfield sites.
14. Policy CP2 aims to deliver at least 42,000 homes in Wiltshire between 2006 and 2026. Of these, 24,740 are to be provided within the NWHMA. CP2 also provides indicative requirements for each principal settlement, market town and community area within Wiltshire. Within the Chippenham Community Area it expects the provision of approximately 5,090 new homes of which at least 4,510 should occur at Chippenham over the plan period.
15. CP2 states that outside the defined limits of development, only development falling within the exception policies will be permitted. As acknowledged by the appellant, the appeal site lies outside of the limits to built development and does not come within the exception policies listed at policy CP2, nor is it a site that has been identified by the CSAP. It is therefore contrary to the development plan.
16. Although policy CP2 acknowledges that some greenfield sites will be necessary in order to deliver the housing required by the Core Strategy. The appellant suggests that since it is inevitable that the settlement boundaries would need to be breached in order to deliver the necessary housing, the weight to be afforded to these boundaries should be reduced. However, such an approach would undermine the plan-led process at the heart of the Framework.
17. At the time of the Inquiry the settlement boundaries were established by policy H4 of the North Wiltshire Local Plan and were tightly drawn around the urban area as it existed in 2006. They were not altered to accommodate more recent development, or allocated sites at the time the Core Strategy was adopted. However they have now been revised as part of the CSAP adoption process.
18. The revised boundaries exclude sites with outline planning applications and proposed site allocations. Paragraph 4.30 of the CSAP explains that these areas may include extensive areas of natural greenspace or country park to provide a transition from developed area to open countryside. The Council considers that the inclusion of these sites within the settlement boundary infers that development may be permitted within them, therefore they have been excluded until such time as they might be developed. The CSAP Inspector

found this approach to be sound, noting that the Council had applied a consistent approach to the identification of settlement boundaries across the county.

19. Whilst greenfield land will be necessary to deliver the Core Strategy housing requirement, policy CP2 is clear that sites for development should be identified through site allocation DPDs and the neighbourhood planning process. In the case of Chippenham, the CSAP provides for a total of 2,050 dwellings, 270 more than the residual requirement at April 2015. Of these 1,925 will be deliverable by 2026, the end of the Plan period. Therefore the CSAP identifies sufficient land to meet the housing and employment requirements for Chippenham within the Core Strategy, together with an element of flexibility. Consequently, there is no basis for considering that the settlement boundaries are not now up-to-date, and greenfield sites in addition to the CSAP allocations are not now required.
20. CP10 sets out the spatial strategy for the Chippenham. It states that the allocations at Chippenham will be identified in the CSAP. Whilst CP10 does not stipulate that the allocations must all be strategic allocations, it is clear that areas for growth should be identified within the CSAP. The appeal site was considered as part of a larger site for the provision of up to 700 dwellings and areas of employment land by the CSAP Inspector. He concluded that there were better locations for large scale development and that it was not an appropriate location for a strategic site allocation.
21. The CSAP identifies six criteria to guide areas for growth and site allocations. The accompanying text to the policy explains that these criteria, and all other policies of the Plan, will focus first on the areas best able to deliver growth.
22. The appellant believes that the appeal site would comply with the criteria at CP10. However the purpose of these criteria is to guide the selection of strategic sites. They are not intended as a basis for assessing individual planning applications. The role of the CSAP is to plan positively for the most appropriate and sustainable large mixed use land opportunities needed to deliver the necessary growth. In addition to the planned growth in housing and employment, the CSAP also seeks to provide enhanced health and emergency services, and additional education facilities to cater for the level of growth envisaged.
23. The proposal could be considered to comply with policy CP1 in that it is situated adjacent to Chippenham. Nonetheless, it would fail to comply with the delivery strategy of the Core Strategy and would not be in an acceptable location having regard to the relevant development plan policies. Policies CP1, CP2 and CP10 together with the CSAP provide sufficient land to meet the development requirements of the Core Strategy.

Landscape

24. The appeal site is located close to Pewsham Way, which forms a bypass around the edge of the Pewsham estate and the A4 London Road. Pewsham Way has a verdant character with a substantial green buffer separating the dwellings from the road. Consequently, few of the dwellings on the Pewsham estate are noticeable from Pewsham Way. On the southern side, where the appeal site is located, there are views of open fields which provide a pastoral character. The

- boundary to the appeal site is enclosed by belts of trees which limit views into the site.
25. There are a number of houses on London Road near the junction with Pewsham Way. Further to the south development is more sporadic, and includes Stanley Park Sports Centre, two car dealerships, a public house and Forest Gate Employment Centre, which comprises converted farm buildings. The appellant considers some of these uses to be detracting features which reduce the sensitivity of the site to change. However, they generally take the form of sporadic development of a nature that is not uncommon adjacent to rural roads. In my view, due to their scale and sporadic nature, that the existing dispersed development does not significantly dilute the rural character of the locality.
26. The appeal site is currently in agricultural use and extends to about 16 hectares in area. The field boundaries are generally defined by hedges interspersed with some hedgerow trees. The south western boundary adjoins a block of deciduous woodland which extends to Pewsham Way. Overhead electricity pylons cross the site in a north-east to south-west direction. A public footpath (CHIP16) from Pewsham Way crosses the western part of the site and connects with public footpath (CALW83) to Pewsham Locks. The Avon Valley Walk passes approximately 0.2km south of the south western boundary of the site.
27. The site lies within the broad, gently undulating vale of the River Avon. The land rises up towards Stanley Lane situated approximately 0.75km to the north of the site. South of the site the land falls very gradually towards the Cocklemore Brook, west of Old Derry Hill, beyond which it rises gradually, and then more steeply, towards the limestone ridge at Naish Hill which forms part of the distinctive local limestone ridge. To the south east the land rises very gradually for approximately 1km before rising steeply up to Derry Hill.
28. The site is not subject to any landscape designation at national, regional or local level. The Council does not consider it to be a valued landscape for the purposes of paragraph 109 of the Framework. The site lies within National Joint Character Area 117, Avon Vales and the Wiltshire Landscape 'Avon Open Clay Vale' Character Area. The undulating clay vale, mixture of arable land and pasture, as well as the small and medium sized fields with hedgerow boundaries including hedgerow trees, are characteristic of this typology. The wide open skies and views to ridges and downs, as well as the major transport corridors are also typical of this character area.
29. In addition to the proposed dwellings and employment space, the proposal includes a community building, public open space, children's play areas, landscape planting, pumping station and surface water attenuation facilities. The illustrative plan shows the employment use being located close to the south eastern boundary. The area to the south east of the pylons would provide a landscape buffer between the site and the rising land to the south. It is proposed that it would incorporate structural planting and the SUDS drainage ponds. There would be a further landscape area adjacent to the existing woodland. Vehicular access to the site would be from a new junction opposite Stanley Park Sports Centre. This would serve the dwellings, the employment use, and the community use.

30. Core Policy 51 (CP51) requires development proposals to protect, conserve, and where possible, enhance landscape character. It confirms that any negative impacts must be mitigated as far as possible. It sets out nine criteria against which proposals should be assessed. At national level, the Framework seeks to ensure that the intrinsic character and beauty of the countryside is recognised.
31. The appeal site is part of a larger site that was assessed within the Chippenham Landscape Setting Assessment Report undertaken by TEP on behalf of the Council to inform the CSAP. The aim was to identify key landscape and visual characteristics of land around Chippenham and the key sensitivities and capacity of the settlement's landscape setting. The appellant has also assessed the effect of the proposal on the surrounding landscape by way of a Landscape and Visual Impact Assessment (LVIA). Since the LVIA specifically focusses on the appeal site, it provides a more useful basis against which to assess the proposal.
32. The LVIA acknowledges that the proposal would have significant adverse effects on the character of the landscape. Most notably, the character of the site would change from predominantly rural pasture to a suburban/commercial landscape, with the associated infrastructure and activity including street lighting, play areas and vehicular movements. The landscape features within the site, such as the hedgerows, would lose their setting and become contained within development. Accordingly, the proposal would significantly harm the character and tranquillity of the surrounding rural area.
33. The site is visible in both local and more distant views, including views from some properties on the northern boundary. There are also some more distant open and elevated views from local roads and footpaths. There would be elevated views of the site from the footpath west of Derry Hill (viewpoint 7). These would be distant views through gaps in the vegetation, and would be seen against the backdrop of existing development in Chippenham. I therefore agree that although the proposal would have a significant effect on these views initially, once the landscaping matures, the extent of the harm would reduce.
34. Viewed from the footpath on the northern edge of Hazel Copse (viewpoint 9), the proposed new development and associated lighting would occupy what is currently an open green area. The appellant suggests that the proposal would be seen as an extension of Pewsham. However, views of the existing housing at Pewsham are substantially screened by the tree belt on either side of Pewsham Way and are not particularly prominent. I consider that although the view would be a distant view, it would nevertheless appear as an intrusion into the rural landscape, and this impact would not significantly diminish as the landscaping matured.
35. In views from footpath CHIP16 as it crosses the site (viewpoints 11 and 12), there would be a complete change from an agricultural landscape to a lit suburban landscape. Views towards the ridgeline to the south east and east, including Hazel Copse, would be limited both by the proposed dwellings and the structural planting. The LVIA identifies these effects as significant adverse, even at year 15. I share this view.
36. From footpath CALW83, south of Forest Farm (viewpoint 13) the existing pastoral landscape would be replaced with a developed landscape. However, over time, as the landscaping matures, views from this location would be

- mitigated to some extent by the proposed structural landscaping. I therefore agree that by year 15 the effect would diminish to slightly significant.
37. There would also be views from properties on the south west side of the A4, adjoining the northern site boundary. The previously open agricultural landscape would be replaced by a substantial residential and commercial development. The proposed structural landscaping would screen the views across the vale towards the hills beyond. Due to the proximity of the proposed dwellings to these properties, the scope to screen them by way of planting would be limited. In views from Forest Farmhouse and bungalow, there would be a complete change with the development and associated lighting forming a prominent developed edge in a previously open green area. However, the loss of these private views would not add to the harm to the character of the area.
38. I also viewed the site from Bencroft Hill (viewpoint 16). Whilst the proposal would be discernible from this viewpoint, due to its distance (2.3Km) from the site the proposal would have a negligible effect on this view.
39. Aside from the views from the public footpaths, the most noticeable change would be in views from London Road in the vicinity of the site. Not only the proposed dwellings, but also the access and associated highway works, would fundamentally change the character and appearance of this stretch of London Road. Due to the low lying nature of this part of the site and the lack of any substantial vegetation along the boundary there are currently extensive views across the agricultural land. These views would be replaced by the development, including the proposed employment buildings, which together with the proposed structural planting would also obscure the distant views to the hills.
40. The Council consider that the proposal would reduce the separation between Chippenham and Derry Hill to the south east. The two areas are linked by London Road and Old Derry Hill. There is some sporadic development along this stretch of London Road and a cluster of dwellings in the vicinity of the junction between London Road and Old Derry Hill. Whilst this area has a distinctly rural character, there would remain sufficient separation to prevent any coalescence of the two settlements.
41. The loss of the existing rural character would reduce the tranquillity of the surrounding rural landscape. This would be especially noticeable to those using the footpaths for recreational purposes. Whilst the impact of the proposal would not extend over the entire length of the footpaths, it would affect the part of the footpaths closest the adjacent residential area.
42. The proposed landscape strategy could mitigate the harm to some extent through the provision of structural planting and the retention and enhancement of the hedgerows. However, as noted above, the hedgerows would for the most part be seen within the context of a suburban housing estate as opposed to the pastoral fields that they currently enclose. Much of this harm would be localised, and the appellant's landscape strategy would in time provide some mitigation. However, even the localised harm would be significant, in that it would affect the public rights of way across the site and detract from the tranquil rural character of the site and its surroundings, as well as its appearance. I therefore conclude that the proposal would cause significant harm to the character and appearance of the surrounding rural area and would fail to comply with policy CP51.

43. The appellant referred me to a recently permitted scheme for fishing lakes and earth bunds at Wedmore Farm close to the appeal site. Whilst I acknowledge that the creation of earth bunds would have some effect on the landscape, the Wedmore Farm proposal is not comparable with the scale or nature of the appeal scheme and does not weigh in favour of the current proposal.

Five Year Housing Land Supply

Requirement

44. The Framework seeks to boost significantly the supply of housing and requires local authorities to identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements.
45. The Core Strategy identifies three Housing Market Areas (HMAs) in Wiltshire. The appeal site is located within the NWHMA, where there is a requirement for 24,740 dwellings over the period of the Core Strategy (1,237 units per annum). The parties agree that this should be the starting point for the assessment of the housing land supply, but disagree as to the extent of the residual housing requirement. The Council include 120 gypsy and traveller pitches within its completion figure, giving a residual requirement of 12,984. The appellant considers that gypsy and traveller pitches should be excluded from housing completions and that the residual requirement is 13,104 dwellings.
46. Clearly if the pitches are to be off-set against the housing requirement they should have also formed part of the housing needs assessment. The evidence submitted to the Core Strategy examination included Topic paper 15; Housing Requirement Technical Paper and the Wiltshire Council Strategic Housing market Assessment 2011 (the Fordham SHMA). Footnote 11 to Topic paper 15 is clear that the definition of a home includes gypsy and traveller pitches. The Fordham SHMA is not explicit in respect of this matter, but does state that it conforms to the now cancelled Planning Policy Statement 3:Housing, which included the requirement to consider "different types of households" arising over the plan period. Paragraph 21 expressly included the need to accommodate gypsies and travellers in within that mix.
47. In addition to addressing the overall housing requirement, the Core Strategy Inspector's report also considered a number of individual components of the requirement, including affordable housing, rural exception sites, homes for vulnerable and older people, as well as gypsy and travellers. The Inspector concluded that the modified Core Strategy would be effective in meeting the varied housing needs of the county over the plan period. The Council produced a separate topic paper, Topic Paper 16, in relation to gypsy and traveller sites. This provides further detail as to how the requirement for such sites was assessed. Although it does not refer to the inclusion of such sites within the OAN, this was not its intended purpose.
48. The explanatory text at paragraph 4.25 of the Core Strategy refers to exception policies which are considered represent additional sources of supply, and include "Specialist accommodation provision (Core Policies 46 and 47)". The latter relates to the provision of gypsy and traveller pitches.
49. The Fordham SHMA sets out that its purpose was to identify market and affordable housing needs, and aside from the reference to conformity with

PPS3 there is limited evidence that it included gypsy and traveller pitches. However the Fordham SHMA was part of a wider evidence base that informed the housing requirement within the Core Strategy.

50. In my view, the specific reference to gypsy and traveller sites at footnote 11 of Topic Paper 15 and the reference at paragraph 4.25 of the Core Strategy weigh in favour of the inclusion of these pitches. Whilst the forthcoming gypsy and traveller DPD may have implications for future pitch requirements, this does not mean that the requirement for pitches at the time of the Core Strategy examination did not form part of the housing requirement. Based on the evidence submitted to the Inquiry, I am satisfied that gypsy and traveller pitches formed part of the Core Strategy housing requirement.
51. I therefore conclude that the inclusion of gypsy and traveller pitches as part of the housing completions is reasonable. Consequently there is a residual housing requirement for 12,984 dwellings (some 1298 dpa over the remainder of the plan period).

The Appropriate Buffer

52. In addition to a five year supply of housing land, paragraph 47 of the Framework requires local planning authorities to provide an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.
53. Both parties assessed previous housing delivery against the ten year period from 2006. This relates to the start of the Core Strategy plan period. It also includes the economic downturn from 2008 onwards. I consider it represents an appropriate period against which to assess previous delivery in accordance with the advice in PPG paragraph ID 3-035-20140306, which states that the assessment of a local delivery record is likely to be more robust if a longer term view is taken.
54. The appropriate buffer was considered by both the Core Strategy Inspector and the Inspector in respect of the Shurnhold appeal to which I was referred¹. Both concluded that there was no persistent under delivery whether assessed against the annualised requirements applied by the Council at the time, or the requirement of the adopted Core Strategy. Since the Shurnhold decision, there has been a further year of completions, and two additional years since the matter was considered by the Core Strategy Inspector.
55. As noted by the Shurnhold Inspector, there are a number of different ways of analysing the annual housing delivery figures. In order to establish whether there has been a record of under delivery, there needs to be some measure of what the housing requirements were, and then a record of any failure to deliver that amount of housing persistently. There have been a number of development plans and emerging development plans over the plan period. The changing housing requirements and various geographical areas are a reflection of these plans and the changes to administrative boundaries.

¹ Appeal Ref: APP/Y3940/W/15/3132915

56. When assessed against the Core Strategy, the annualised requirement was not met in 7 out of 10 years, although the shortfall in 2010/11 was only 19 dwellings. The Council calculates that about 95% of the total Core Strategy requirement has been delivered to date, with a shortfall of 614 dwellings, against an annualised target of 1,237. This compares to 97% at the time of the Shurnhold Inquiry.
57. The housing requirement within the Core Strategy was increased to 42,000 in response to a letter dated December 2013 from the Core Strategy Inspector. Therefore assessing delivery over the entire period against the Core Strategy requirement would mean that any under delivery for the period prior to 2014 would be assessed against a housing requirement that had not only not been adopted, but had not yet emerged.
58. The Council's assessment relies on the targets within the Wiltshire and Swindon Structure Plan 2016 (published April 2006) for the period up to 2010/11, and relates solely to Chippenham Town. For the period 2011/2012 it uses the housing requirement within the emerging Core Strategy (37,000). For the remainder of the period (2013/14 and 2014/15) it uses the higher requirement within the now adopted Core Strategy. When assessed against these requirements the Council has met the annualised targets for 5 out of the ten years.
59. The AMRs for the period 2007/8 and 2008/9 acknowledge that the period of transition between the adopted Structure Plan and the emerging RSS resulted in two sets of housing targets co-existing. Both AMRs were based on the assumption that the RSS would become the operational plan and applied the targets within it from 2006. The AMR for 2007/8 notes, the target of 685 dpa for North Wiltshire may include an allowance of 150 dwellings per annum, as part of the extension to the Swindon urban area which was not anticipated to commence before 2011. It notes that the annualised average for the period prior to 2011 may not provide a true reflection of delivery rates.
60. The AMRs (referred to as Housing Land Supply Statements from 2010 onwards) use the housing requirement within the emerging RSS for the period up to 2009/10, the figure within the emerging Core Strategy for the period 2010/11 to April 2014, and the adopted Core Strategy requirement for the remainder of the period. When assessed against these requirements the annualised targets were met in 4 of the 10 years. In each of the years where the delivery figure was met, there was significant over delivery.
61. For the period from 2006 up to and including March 2014, 101% of the requirement was delivered even when assessed against the higher requirement of the Core Strategy. Although in some years the annualised targets were not met, having regard to the considerable fluctuations in delivery, as well as the changing housing requirements over the past ten years, I do not consider that there has been a persistent record of under-delivery. Therefore, on the basis of the evidence before me, a 20% buffer is not justified in this instance. In reaching this conclusion I have had regard to the various appeal decisions which have been brought to my attention. As these decisions demonstrate, the judgment as to whether or not there has been a persistent under-delivery falls to be determined on the particular facts of each case having regard to the information available.

62. The appellant referred to the Malmesbury decision² where the Inspector assessed the delivery rate against the adopted Core Strategy requirement over the plan period. For the reasons given above I have adopted a different approach, which I consider to be consistent with the Cotswold judgement³. This confirms that, in assessing previous performance, a decision maker is entitled to take the figures in the previous development plans as a measurement of what the housing requirement was in order to assess whether there has been a record of persistent under delivery of housing.

The Shortfall

63. The appellant suggests that the housing shortfall should be made up in the next five years of the plan period (the Sedgefield method), whereas the Council believed that it should be spread over the remainder of the plan period (the Liverpool method). Both the Core Strategy and the Shurnhold Inspectors accepted that the Liverpool method was appropriate in Wiltshire.

64. Paragraph ID 3-035-20140306 of PPG advises that any shortfall should be dealt with within the first five years of the plan period where possible. This approach is generally favoured and would be consistent with the aim of the Framework to significantly boost the supply of housing. It is also favoured by the Secretary of State in most appeal decisions, because it deals with the issue of past delivery failures promptly over the short-term.

65. Whilst it would be preferable to make good past deficiencies as soon as possible, the Core Strategy Inspector found that the measured delivery of housing over the plan period does not necessitate undue 'frontloading' in the early years of the plan. In reaching this view, he had regard to the extent of the shortfall and the Council's intention to produce a new SHMA which may revise the objectively assessed needs for the relevant HMAs affecting the county and which will inform its plan-making processes. I am aware that the timetable for the SHMA has slipped since the time of the Core Strategy examination and, in addition, the extent of the shortfall has increased.

66. The delivery of housing in the NWHMA is dependent upon a number of strategic allocations which the Council anticipates will be delivered towards the latter part of the five year period and beyond. To aim to address the shortfall in the next five years of the plan period would require the identification of many additional sites in the short term. This would undermine the spatial strategy for Wiltshire which seeks to provide jobs and homes, together with supporting community facilities and infrastructure, in the most sustainable way.

67. In these circumstances I conclude that a 5% buffer remains appropriate and that the Liverpool method is still an acceptable means of dealing with the shortfall. On this basis, I consider there to be a 5 year housing land requirement for 6,817 homes across the NWHMA as put forward by the Council.

Housing Land Supply

68. At the time the appeal application was determined the Council was unable to demonstrate a five year housing land supply. Following the publication of the

² APP/Y3940/A/13/2200503

³ *Cotswold District Council V SSCLG, Fay & Son Ltd* [[2013] EWHC 3719 (Admin)]

CSAP inspector's report, which endorsed the strategic sites at Rawlings Green and South West Chippenham, it revised its housing land supply position for 2015/16 to include the housing due to be delivered by these sites and also made a number of amendments to the previous document. None of these amendments/corrections are disputed by the appellant. The Council believes that it now has sufficient land to deliver 7,446 dwellings which equates to a 5.46 year supply of housing land.

Rawlings Green

69. Rawlings Green is a strategic allocation within the CSAP. In September 2016, the Council resolved to grant outline planning permission for up to 700 dwellings, 4.5 hectares of employment land and associated infrastructure at Rawlings Green. At the time of the Inquiry, this application had not been determined. Up to 200 homes could be constructed on the site before a new link road is needed to connect the site by way of a new railway bridge to the distributor road provided as part of the North Chippenham development.
70. The Council consider that Rawlings Green will deliver 180 dwellings within the next 5 years with the first 20 delivered in 2018/19, whereas the appellant believes it will only deliver 20 due to the requirement for the Rawlings Green development to fund a bridge over the railway line to provide a second point of access.
71. The bridge is necessary in order to avoid any additional strain on existing traffic corridors, parts of which are already congested. The CSAP inspector explained that initially there were doubts about the ability of Rawlings Green to fund the infrastructure requirements, including the railway bridge, whilst providing a policy compliant 40% affordable housing. There were also concerns that the cost of the bridge was significantly under estimated. However, the costs of the strategic transport links, which included the bridge, were recalculated to provide more detailed estimates and were the subject of discussion at the hearings. Detailed evidence was submitted to the examination regarding the delivery and viability of the bridge. The CSAP inspector concluded that a revised Strategic Sites Viability Assessment had shown the development to be viable with 40% affordable housing.
72. Therefore whilst I acknowledge that a developer might wish to apportion the cost of the bridge across the whole strategic allocation, including the initial 200 dwellings, it would seem, based on the evidence submitted to the CSAP examination that there is a reasonably robust evidence base, including a viability assessment, to allow this to happen.
73. The appellant also referred to a land dispute between the Council and adjacent landowner, Wavin Plastics in relation to a small area of land between the built section of Parsonage Way which ends in a short spur adjacent to the top of the railway embankment. Whilst accepting that the dispute was not a matter for the examination to resolve, the CSAP Inspector noted that this could have implications for the deliverability of the rail bridge and therefore the completion of the Rawlings Green site.
74. Having regard to legal opinions submitted to the examination, including the possibility that Wiltshire Council could exercise compulsory purchase powers to acquire the land, he concluded that there did not appear to be insurmountable problems which would prevent the construction of the rail bridge or otherwise prevent the development coming forward in a timely and coordinated fashion.

No additional evidence was submitted to the Inquiry to suggest that the position has changed since it was considered by the CSAP inspector. I therefore do not consider that the trajectory put forward by the Council to be unachievable.

South West Chippenham

75. South West Chippenham is a strategic allocation within the CSAP. In addition to the 1,000 dwellings at Rowden Park, Policy CH1 identifies a further 11 hectares of land to provide 400 additional dwellings over the plan period.
76. The 1,000 unit site is to be built out by Crest and Redcliffe Homes. The Council anticipates that it will deliver 560 dwellings by 2020/21 whereas the appellant suggests that it would only deliver 410 dwellings. The Council's figures accord with the trajectory within the CSAP which was considered by the Inspector as part of the evidence base. This suggests that 60 dwellings would be delivered in 2017/18. In subsequent years Crest Nicholson is expected to deliver 80 dpa, whilst Redcliffe anticipates 70 dpa.
77. The appellant considers these figures to be unrealistic. The Council has resolved to grant outline planning permission for a mixed-use urban extension to the south west of Chippenham comprising residential development, a local centre, primary school, and associated infrastructure including a riverside park and allotments. Crest Nicholson state that the S106 and conditions in relation to the outline application are almost resolved and expect the planning permission to be issued by the end of March 2017. It also confirmed that work had commenced on the submission of the reserved matters applications.
78. Crest Nicholson confirmed that the completion of 60 dwellings by April 2018 is doubtful, but that 30 units is a possibility. However, both Redcliffe and Crest Nicholson confirm that they anticipate delivery rates in subsequent years to accord with the agreed CSAP trajectory.
79. Evidence submitted by the appellant indicates that the average delivery rate for Crest Nicholson is about 60 dpa. At Tadpole Farm, Swindon 125 dwellings have been delivered during the first two years of building. The appellant also points out that none of the schemes that Redcliffe Homes is currently marketing via their website has delivered 70 homes per year. However, construction rates will inevitably vary from site to site, with some sites delivering an above average number of dwellings and others below.
80. Recent evidence indicates that both housebuilders anticipate that construction will start this year, and their views on future delivery rates will be informed by matters that have arisen during the course of the application. Therefore there is no compelling evidence to indicate that this site would not deliver the anticipated number of dwellings in future years. Indeed Redcliffe states that delivery in future years is 'unproblematic'. I therefore consider that the supply from this site should be reduced by 30 dwellings in the light of the recent slippage, but the trajectory for future years should be unchanged.

Ashton Park, South East Trowbridge

81. This is a strategic site allocated in the Core Strategy for the development of 15 hectares of employment land and 2,600 dwellings. The Council suggests that 350 dwellings will be completed in the next five years, whereas the appellant submits that no dwellings will be delivered.

82. An outline planning application, submitted in May 2015, proposed a mixed use development, including two local centres, two primary schools, a secondary school, ecological visitor facilities, public open space, landscaping and associated highway works. Concerns were raised in relation to the application by Natural England, the Environment Agency and Network Rail. Network Rail is concerned about the increased usage of two footpath level crossings, and suggest that some mitigation may be required in order to address safety concerns.
83. The most significant concern was from Natural England in relation to the effect of the proposal on bats. The presence of bats and the potential to impact on the Bath and Bradford on Avon Bats SAC was taken into account at the time the site was allocated. Notwithstanding this, it has been necessary to produce a revised masterplan in order to secure adequate protection for the bats. The case officer advises that feedback on the revised masterplan from Natural England is reasonably positive, and that the final appropriate assessment is imminent. It is intended that the revised masterplan would be submitted in the near future and that the application would be submitted to committee in August/September this year.
84. An ecologist engaged on behalf of the appellant suggests that further bat surveys will be required due to the age of the previous data. Whilst there was no specific evidence submitted to the inquiry, it seems improbable that updated surveys have not been carried out given the significance of bats on this site, the consultations with Natural England, and the case officer's view that the final appropriate assessment is imminent.
85. The Council's housing trajectory accords with that submitted by the landowner in May 2016. I appreciate that the need to prepare a revised masterplan, may have introduced some delay, but even using the appellant's lead in times for major developments it is possible that the Council's trajectory could be realised, particularly since the site is already owned by a housebuilder.
86. The viability of the site may need to be reviewed in the light of the changes necessary to accommodate the bats, but there is no substantive evidence to indicate that the site would no longer be viable. Indeed the presence of bats, including the potential effects upon the SAC and the Bechstein bats maternity roosts were all considered by the Core Strategy inspector. I therefore do not consider that the Council's trajectory needs to be amended in this regard.

Foundry Lane/Langley Park

87. The site is allocated in the North Wiltshire Local Plan 2011 for a mixed use development including 250 dwellings. Outline planning permission was granted in January 2017 for up to 400 dwellings, a hotel, cafe, a discount foodstore, B1, B2 & B8 floorspace and highway improvements. Full planning permission was also granted for a 69 bed hotel with cafe and 22 residential units. The Council believes the site will deliver a total of 250 dwellings over the plan period, whereas the appellant considers a total of 162 to be more realistic.
88. The necessary highway works and Phase 1 of the development are due to commence shortly. The appellant states that the current owners of the site are not residential developers and intend to commence the hotel and foodstore this spring. The site is subject to contamination and the owner is undecided whether to remediate the residential land and service the plots prior to selling them or to build the units out themselves.

89. It is agreed that the 22 dwellings that form part of the detailed application will be delivered in 2018/19. If MAS (the site owner) decides to build the dwellings they conclude that the delivery of 138 flats between April 2019 and March 2020 would be a viable proposition, but if the site is sold, delivery would be delayed while the site is remediated. Due to the uncertainty as to how the owner intends to market the site the appellant suggests that future delivery rates will be lower than put forward by the Council.
90. There is no clear evidence to indicate that the site is not viable and footnote 11 to the Framework states that 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. Whilst the manner in which the site owner chooses to develop the site may introduce some delay, there is no substantive evidence that this will be the case, and it is clearly feasible that the Council's trajectory will be achieved. Therefore having regard to footnote 11 I do not consider that the supply from this site should be reduced.

RAF Yatesbury

91. RAF Yatesbury is a former military airfield. Since being sold by the MOD, the site has remained largely unused and unoccupied. There are approximately 40 buildings on the site, several of which are listed.
92. Planning permission was first granted in 2006 for the change of use of existing buildings to provide 33 new residential units and seven new live/work units and the erection of twelve new dwellings, together with listed building consent and conservation area consent. Further planning permissions were granted in 2008 and 2015. The latter included five new detached dwellings comprising enabling development, with their construction and sale financing the restoration and re-use of hangar 2, a Grade II* listed building.
93. In January 2017 planning and listed building consent applications were submitted for alterations to some of the buildings. It is apparent that there have been significant financial and viability limitations on the development of this site. The case officer states that a work is proceeding on the Deed of Variation in respect of the previous s106. It is also evident that work on site is proceeding although the conditions have not been discharged. The case officer anticipates that the first four units will be completed by the start of 2018, but that delivery will be slower than anticipated in the Council's Housing Land Supply document.
94. The Council expects a total of 46 dwellings to be delivered over the next five years, however, the appellant suggests that none will be delivered. There is an extant permission for the site, and despite the delays, the recently submitted applications would indicate that the owner remains committed to its development. Nevertheless, it is a complicated site where the impact on heritage assets needs to be balanced against viability issues. Therefore in the light of the previous history of the site I consider the figures within the Council's housing land supply to be overly optimistic for 2018/19. However, the trajectory shows only 2 dwellings due to be delivered in 2020/21, therefore even if there is slippage in the early years it is entirely feasible that the 46 dwellings are delivered by 2020/21.

Backbridge Farm, Malmesbury

95. Backbridge Farm is a greenfield site allocated for 170 homes in the Malmesbury Neighbourhood Plan. In July 2016, Persimmon Homes (Wessex) submitted a planning application to Wiltshire Council seeking full permission for a proposed residential development comprising 231 dwellings and the provision of land for the potential expansion of Malmesbury Primary School. At the Inquiry the Council suggested that the application may be approved. However, the level of development proposed clearly exceeds that within the Neighbourhood Plan allocation.
96. The Council suggest that the site will deliver 20 houses in 2018/19 and 50 in the following 2 years. The appellant suggests that delivery will not commence until at least 2019/20 given that there is no certainty that the proposal will be approved due to the conflict with the adopted Neighbourhood Plan. The current application is subject to objections from the surrounding parish councils. I consider that there is a genuine possibility that the current application might not be approved in its present form. Consequently a further application and/or appeal would be necessary and this would delay the delivery of housing on this site. I therefore consider the trajectory put forward by the appellant to be more realistic. Therefore the contribution of this site to housing land supply should be reduced by 50 dwellings.

Conclusion on Housing Land Supply

97. I have concluded that the requirement is for some 6,817 homes within the relevant 5 year period. For the reasons given above, the Council's housing supply figure of 7,446 dwellings should be reduced by 80 dwellings, giving a housing land supply sufficient for 7,366 dwellings. Accordingly, I am satisfied that the Council is able to demonstrate in excess of a 5 year supply of housing land.

Other Matters

98. The appellant submits that paragraph 14 of the Framework is engaged because the development plan is silent in respect of potential sites for non-strategic development within the Chippenham Community Area. At the Inquiry, Ms Mulliner explained that the CSAP only considers strategic allocations, and whilst it was originally intended that non-strategic allocations would be considered in the context of the Housing Site Allocations DPD, the Local Development Scheme published in December 2016 indicates that it is no longer intended that sites within the Chippenham Community Area will be considered as part of the Housing DPD.
99. The absence of non-strategic allocations does not prevent either the Core Strategy or the CSAP from delivering the identified growth within Chippenham. The CSAP Inspector confirmed that it would provide an adequate supply of land for the plan period and that there was no overriding justification for the allocation of additional sites. In the remainder of the Chippenham Community Area, it is intended that any residual housing requirement will be met within the large and small villages listed at policy CP10 and through sites identified by the neighbourhood planning process in accordance with policy CP2. This approach is consistent with the Framework, which states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Non-strategic proposals which accord with policy CP2 will generally be permitted. Therefore, the

exclusion of non-strategic allocations at Chippenham from the Housing Site Allocation DPD does not mean that the development plan is silent in relation to the housing needs within the Chippenham Community Area.

100. At the Inquiry the appellant confirmed that the proposed dwellings could be delivered in the next five years. In addition, the scheme has been viability tested and the level of affordable housing proposed would also be deliverable. The proposal would therefore help meet the needs of present and future generations for housing, and would contribute to the social dimension of sustainability. Indeed, the provision in particular of affordable housing is a consideration to which I afford substantial weight.
101. Economically, the development would bring short-term advantages in respect of jobs during the construction period. Evidence submitted by the appellant, from a local commercial property advisor, states that the commercial market in Chippenham is currently undersupplied with office and light industrial building stock, concluding that the proposal is a viable proposition. Accordingly, having regard to the other small scale commercial uses along London Road, I do not consider the location to be unsuitable for the scale of employment floorspace proposed and the proposal would help to meet the need for employment floorspace identified by policy CP10. It would also support economic growth through the creation of jobs in local services to meet the additional demands arising from the development.
102. The proposal would also provide some benefits in terms of biodiversity through the provision of a greater range of habitats, including the drainage ponds. The proposal would provide a number of transport improvements for both motorised and non-motorised modes of travel. These include improved pedestrian and cycleway links between the Pewsham estate and the countryside surrounding the appeal site. There would also be improvements to the footways on London Road. Improvements are also proposed to the A4 on the approach to the Pewsham Way / London Road roundabout. These works will not only mitigate the effects of traffic from the proposed development, but would also provide additional capacity which would benefit other highway users in the area. The proposal also makes provision for new bus stops on London Road.
103. The parties agree that the site is within reasonable walking distance of the shops and services at Pewsham, as well as primary and secondary schools. Therefore future residents would not necessarily be dependant on the use of a car to access those services and facilities. Nevertheless, although the appeal site is situated close to the shops and services at Pewsham, it would be separated from them by Pewsham Way which acts as a bypass around Pewsham. I acknowledge that it is proposed to provide a pedestrian refuge to assist in crossing the road, however, I consider due to the speed and volume of traffic using Pewsham Way the use of these links could be unattractive to many pedestrians.

Planning Balance

104. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The proposal would not accord with the spatial strategy within the development plan. It would also harm the character

and appearance of the surrounding rural area and would be contrary to the development plan as a whole.

105. The appellant submits that paragraph 14 of the Framework is engaged. This states that where the development plan is absent, silent, or the relevant policies are out-of-date, 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.
106. I have found above that the Council is able to demonstrate a five year supply of housing land, and that the settlement boundaries on which the relevant development plan policies rely are up-to-date. Therefore the relevant policies can also be considered as up-to-date in the terms of paragraph 49 of the Framework. Although the appellant considers that the development plan is silent in respect of development outside of the Chippenham settlement boundary, for the reasons given above I disagree. Therefore the development plan is not absent, silent or out-of-date.
107. The proposal would provide a number of benefits, including the delivery of affordable and market housing, employment and an increase in economic spending. It would also deliver some biodiversity benefits and the transport improvements identified above. To be weighed against these benefits, is the significant harm to the character and appearance of the landscape that I have identified, which would also be contrary to paragraph 17 of the Framework due to the intrinsic harm to the countryside and the failure of the development to take account of the different roles and character of different areas. In this regard the proposal would not be environmentally sustainable. Due to its failure to comply with the delivery strategy of the Core Strategy and the CSAP it would conflict with the plan-led approach promoted by the Framework.
108. Overall the proposal would not represent sustainable development and would be contrary to the development plan as a whole. The benefits of the proposal and other material considerations do not outweigh the harm that would arise from the proposal, or justify a decision other than in accordance with the development plan. Therefore the appeal should be dismissed.

Conclusion

109. For the reasons given above, and taking account of all material considerations. I conclude that the appeal should be dismissed.

Lesley Coffey

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Zack Simons	Of Counsel Instructed by Frank Cain, Head of Legal Services Wiltshire Council
He called	
Chris Roe MSC MRTPI	Senior Planning Officer, Wiltshire Council
Samuel Croft BSc MSc MRTPI	Principal Planner Willis & Co
Will Harley BSc(Hons)CMLI	WH Landscape Consultancy Ltd

FOR THE APPELLANT:

Mary Cook	Of Counsel
She called	
Martin Miller BA MPHIL MRTPI	Terence O'Rourke Limited
Jacqueline Mulliner BA(Hons)BTP (Dist) MRTPI	Terence O'Rourke Limited Enderby Associates Limited
Chris Enderby DipLa CMLI	Terence O'Rourke Limited
John Trehy BA MCIfA	

INTERESTED PERSONS:

Mr Parry	Local resident
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DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Housing Land Supply Statement of Common Ground submitted by the Council
- 2 Various 5 year housing land supply scenarios submitted by the appellant
- 3 Land South of Filands, Malmesbury Appeal decision (Ref APP/Y3940/A/12/2183526) submitted by the appellant
- 4 Land off Sandpit Road, Calne Appeal Decision (Ref APP/Y3940/A/09/2108716) submitted by the appellant
- 5 Chippenham Site Allocations Plan – Chippenham Settlement Boundary Review (Jan 2015) submitted by the Council
- 6 Chippenham Site Allocations Plan position on Matter 11 – Settlement Boundary (October 2015) submitted by the Council
- 7 Chippenham Site Allocations Plan Inspector's Report submitted by

- the Council
- 8 Hunston properties Ltd v SSCLG [2013] EWCA Civ 1610 submitted by the Council
- 9 Barker Mills Estates v Test valley Borough Council and SSCLG [2016]EWHC 3028 submitted by the Council
- 10 Mark Wenman v SSCLG and Waverley Borough Council [2015] EWHC 925 submitted by the Council
- 11 Email dated 13 March 2017 from Redcliffe Homes submitted by the Council
- 12 Opening submission on behalf of the Appellant
- 13 Opening Submissions on behalf of Wiltshire Council
- 14 Submission on behalf of Mr Parry
- 15 Strategic Housing Market Assessment (December 2011) submitted by the Council
- 16 Topic Paper 15: Housing Requirement technical paper (2012) submitted by the Council
- 17 Extract from Planning Policy Statement 3 submitted by the Council
- 18 Malmesbury Neighbourhood Plan adoption submitted by the Council
- 19 Secretary of State decision letter and Inspector's Report on appeal relating to Land East of Ditchling Road, Wivelsfield, East Sussex (Ref APP/P1425/W/16/3145053) submitted by the appellant
- 20 Draft Planning Conditions submitted by the appellant
- 21 Summary of key planning obligations within the s106 Agreement submitted by the appellant
- 22 Draft s106 Agreement submitted by the appellant
- 23 CIL Compliance Statement submitted by the appellant
- 24 Appellants submission to Chippenham Site Allocations Plan Examination submitted by the appellant
- 25 Status of Neighbourhood Plans in the Chippenham Community Area submitted by the Council
- 26 Signed S106 Agreement