



Appeal Decision

Inquiry held on 24-27 November 2015

Site visit made on 26 November 2015

by **G D Jones BSc(Hons) DMS DipTP MRTPI**

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

Decision date: 15 January 2016

Appeal Ref: APP/U3935/W/15/3035660

Land at Berkeley Farm, Swindon Road, Wroughton SN4 9BZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Ainscough Strategic Land against the decision of Swindon Borough Council.
 - The application Ref S/OUT/14/1005/TB, dated 13 June 2014, was refused by notice dated 17 November 2014.
 - The development proposed is the residential development of up to 100 dwellings, vehicular access from Swindon Road, open space, landscaping and other associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for the residential development of up to 100 dwellings, vehicular access from Swindon Road, open space, landscaping and other associated infrastructure at Land at Berkeley Farm, Swindon Road, Wroughton SN4 9BZ in accordance with the terms of the application, S/OUT/14/1005/TB, dated 13 June 2014, subject to the conditions contained within the Schedule at the end of this decision.

Preliminary Matters

2. The Council maintained that it could demonstrate a National Planning Policy Framework compliant supply of housing land at the time of submitting its main evidence. However, during the course of the Inquiry it advised that for the purposes of this appeal it cannot demonstrate a five-year supply of housing land.
3. The two reasons for refusal of planning permission refer to policies of the 'saved Swindon Borough Local Plan 2011' and the 'Submission Swindon Local Plan 2026'. The Swindon Borough Local Plan 2026 (the Local Plan) has subsequently been adopted and consequently the *saved Swindon Borough Local Plan 2011* no longer forms part of the development plan.
4. The proposal is for outline planning permission with access only to be determined at this stage and with appearance, landscaping, layout and scale reserved for future approval. Whilst not formally part of the scheme, I have treated the details relating to these reserved matters submitted with the application as a guide as to how the site might be developed.

5. During the Inquiry the appellants and the Council submitted a signed Planning Obligation¹, dated 26 November 2015, pursuant to Section 106 of the Town and Country Planning Act 1990 (the S106 Agreement). In the event that planning permission is granted and implemented the S106 Agreement would secure the provision of affordable housing; financial contributions towards off-site works within the highway and open space and sports facilities; and on-site open space and play equipment long with its maintenance. I have had regard to the S106 Agreement during my consideration of the appeal.

Main Issues

6. The main issues are:
- The effect of the proposed scheme on the development strategy for the Borough;
 - Its effect in terms of landscape character and the setting of Wroughton; and
 - Whether any harm arising is outweighed by any other considerations, including the supply of housing land in the area.

Reasons

Background

7. The appeal site is located on the eastern edge of the village of Wroughton, beyond Swindon Road, the A4361. It has an area of some 5.9 hectares and largely comprises two agricultural fields used for grazing, which wrap around Berkeley Farm yard immediately to the west. The land also slopes reasonably gently from west to east.
8. There are allotments located to the south of the site beyond a track that serves Wood Farm, open farmland to the east, Artis Farm buildings and Wroughton Business Park to the north and to the west of Swindon Road there is an extensive area of residential development which forms part of the greater village. Swindon town centre is some 4 miles to the north of Wroughton; these settlements are separated by open countryside as well as by the M4 corridor.
9. The site lies outside but adjacent to the existing settlement boundary for Wroughton as defined in the development plan. It is situated in the Landscape Character Area (LCA) of Wroughton Vale as identified in the Council's Landscape Character Areas Supplementary Planning Guidance (SPG) December 2004² and some 830 metres north of the North Wessex Downs Area of Outstanding Natural Beauty (the AONB).
10. Wroughton has a range of services and infrastructure, which include education provision from pre-school to sixth form, several shops, places of worship, hot food takeaways, pubs, a library, a health centre, public open space, and sports and leisure facilities. Bus services run through the village along Swindon Road adjacent to the site, which provide links to Swindon and towns to the south.

¹ Document 13

² Core Document CD 35

Context

Policy Context

11. The National Planning Policy Framework (the Framework) outlines a presumption in favour of sustainable development, which it indicates has three dimensions – economic, social and environmental. Paragraph 14 sets out how this presumption is to be applied and indicates that development proposals which accord with the development plan should be approved without delay, while going on to say that where it is absent, silent or 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.
12. In broad terms the Framework also indicates that plans and decisions need to take local circumstances into account, so that they respond to the different opportunities for achieving sustainable development in different areas. Planning policies should aim for a balance of land uses within their area so that people can be encouraged to minimise journey lengths for employment, shopping, leisure, education and other activities. Design is part of sustainable development and this includes taking into consideration the effect of development on open spaces. Development should contribute to protecting and enhancing the natural and built environment, contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, and help to minimise pollution and mitigate/adapt to climate change including moving to a low carbon economy. The Framework adds that Neighbourhood planning gives communities direct power to develop a shared vision for their neighbourhood and deliver the sustainable development they need.
13. In respect to housing delivery, the Framework requires the Council to meet the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in the Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period. Applications for housing should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. The five-year supply of sites additionally requires a 5% buffer 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%. While the main parties agree that, for the purposes of this appeal at least, there is not a Framework compliant supply of housing land they have substantially divergent positions regarding the scale of the shortfall.
14. Although it is a weighty material consideration, the Framework does not change the statutory status of the development plan. Indeed there are regular reminders of this and the importance of a plan-led planning system within the Framework such as those at paragraphs 2, 11, 12, 17 and 196.
15. The development plan for this area includes the Local Plan, which was adopted in March 2015 and has a plan period that runs from 2011 to 2026. The Council's reasons for refusal indicate that the appeal development would be contrary to Policies SD2, RA2 and EN5 of the Local Plan. These are the most pertinent Local Plan policies to the appeal proposal.

16. Local Plan Policy SD2 details the development strategy for the Borough over the Plan period, which in broad terms is of urban concentration, strategic allocations on the edge of Swindon and restraint in the countryside. Part C of the Policy concerns areas, such as the appeal site, that are outside of Swindon. It states that rural development will be located primarily at Highworth and Wroughton, which (of all the rural settlements) are the most accessible and maintain the largest range of facilities. It goes on to state that development proposals in rural and countryside locations outside the rural settlement boundaries will be permitted where: local needs have been identified and allocated through a Neighbourhood Plan or Neighbourhood Development Order; and/or it supports the expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in a rural service centre; or it is in accordance with other policies in the Local Plan permitting specific development in the countryside. It also sets an amount of additional dwellings at Wroughton of at least 150 for the Plan period.
17. Policy RA2 of the Local Plan indicates that development at Wroughton should be in accordance with Policy SD2; and retain the village's independent identity from Swindon by maintaining separation, strengthen links between Wroughton and Swindon, strengthen the role of Wroughton Village Centre and the provision of further sports and play facilities. Among other things Local Plan Policy EN5 protects the intrinsic character, diversity and local distinctiveness of the landscape within the Borough.
18. The evidence refers to the emerging Wroughton Neighbourhood Plan 2015-2026 (the eWNP)³, which I note has been the subject of public consultation. However, it has yet to be examined and the evidence indicates that there are unresolved objections to it, including in respect to some of its seven proposed housing allocation sites. Consequently, I must be mindful that its contents and policies may change, and on that basis I am able to attribute only limited weight to the eWNP having regard to paragraph 216 of the Framework.

Housing Land Supply

19. It is common ground between the main parties that the housing requirement for the five-year period, 2015/16 to 2019/20, amounts to 9,498 homes including any shortfall carried over from previous years. The parties disagree, however, on other detailed aspects of housing land supply, including in respect to whether a 5% or 20% buffer should be applied and the pace at which homes will be delivered from the identified housing sites.
20. At the Inquiry the Council confirmed that, having reviewed its evidence, it had found that at best it can currently demonstrate a housing land supply of only 4.7 years⁴. This is based on using the Sedgfield method whereby the buffer is applied to the shortfall carried over from previous years, which the Council confirmed during the Inquiry it considered to be the appropriate approach. The appellant also considers that the Sedgfield method should be applied in this case and I have found no reason to disagree.
21. The Council's figure of 4.7 years is also based on the application of a 5% buffer and includes delivery of housing from two sites outside the Borough. During the course of the Inquiry, however, the Council's position altered a little in that

³ Core Document CD 40

⁴ Document 5 - Appendix 37a - to Mr Smith's evidence - Swindon Borough 5-year Housing Land Assessment (Oct 2015) (Errata)

its witness, Mr Smith, accepted that a component of its identified housing supply, amounting to some 287 units⁵, could not be assessed as 'deliverable' in the terms of Footnote 11 of the Framework. On this basis the Council's identified total supply over the five-year period would reduce from 9,422 to 9,135 homes. Applying the Council's preferred buffer of 5% this level of supply equates to a total shortfall of some 832 units across the five-year period or a housing land supply of some 4.6 years.

22. There is nothing in the Framework that expressly indicates that the bigger the shortfall, the bigger the presumption in favour of sustainable development. Even in the Council's best-case scenario the shortfall is significant and substantially exceeds the potential 100 dwellings proposed. Given the scale of the shortfall in any of the scenarios before me I have not found it necessary to conclude on whether a buffer of 5% or 20% should be applied or to draw any further conclusions on the pace at which the identified housing sites are likely to deliver new homes over the five-year period.
23. I do, nonetheless, note that during cross-examination Mr Smith accepted that some of his assumptions regarding delivery are 'optimistic'. From what I read and heard during the appeal process I agree, particularly bearing in mind the lead-in times that are likely to be required to make a start on some of the identified sites, particularly the larger sites currently without planning permission. On this basis the shortfall is likely to be greater than 832 units.
24. In respect to affordable housing the Local Plan indicates that there is an annual shortfall in the Borough of around 801 affordable homes. This figure appears to have been informed by the Swindon Strategic Housing Market Assessment 2012 (the SHMA)⁶. The SHMA also states that 7% of all Swindon households are deemed by the Council to be in need of affordable housing.
25. Therefore, the proposed development would make a valuable contribution to identified housing need. For the reasons outlined, I find that the need for both market and affordable housing carries weight in favour of the proposal.

Borough Development Strategy

26. The Council's development strategy is primarily embodied in Local Plan Policy SD2 and, in broad terms, seeks to direct most development to sites within or on the edge of Swindon and to restrain development in the countryside. The Policy states that rural development will be located primarily at Highworth and Wroughton. The appeal site is located adjacent to but beyond the settlement boundary of Wroughton as identified in the Local Plan. Policy SD2 also states that development proposed outside the rural settlement boundaries will be permitted subject to certain criteria including where local needs have been identified and allocated through a Neighbourhood Plan or Neighbourhood Development Order. Policy SD2 also states that at least 150 additional dwellings will be provided at Wroughton.
27. From what I have read and heard during the appeal process it is reasonable to conclude that not all of the 150 new dwellings required could be accommodated within the Wroughton settlement boundary, and this is consistent with the verbal evidence of the appellant's and the Council's witnesses at the Inquiry. It is also reflected in the eWNP in that of its seven proposed housing allocations

⁵ 48 'Planning Brief' units and 239 'SHLAA' units from Document 5

⁶ Mr Richards' Appendix JR28

two are, at least in part, located beyond the settlement boundary and those that are wholly or partly within the boundary account for no more than 80 of the 200 homes the eWNP seeks to plan for.

28. Indeed Local Plan Policy SD2 provides a mechanism for development, including housing, beyond the settlement boundary via the Neighbourhood Planning process. Although the appellant has and continues to pursue the allocation of the appeal site for development in the eWNP, it is not one of the preferred sites and is not proposed to be an allocation. Although the eWNP is progressing it remains some way from being adopted. There is no evidence before me to indicate that there are any plans to bring forward a Neighbourhood Development Order. Nor is there good reason to believe that the proposed development would fully meet the relevant exception criteria of Policy SD2.
29. In summary, therefore, the appeal scheme would result in development that is not Neighbourhood Plan led at an unallocated site in the countryside, beyond the Wroughton settlement boundary. Consequently, in those respects, the proposal is at odds with the Council's development strategy contrary to Policies SD2 and RA2 of the Local Plan.

Landscape Character and Setting of Wroughton

30. The Council is also concerned that the appeal development would harm the Wroughton Vale LCA, the character of the countryside and the setting of Wroughton. The site consists of reasonably large open fields used for grazing associated with the greater Berkeley Farm, which extends further to the east. The land falls gently eastwards across the site by up to some six metres, which to some extent opens the site to views, particularly from the east. The fields are bounded by low fences, hedges and ditches characteristic of field boundaries within the Wroughton Vale.
31. Other than the topography and hedges/trees the site has no significant features. Nor is it within a designated landscape, although the AONB lies on rising ground to the south and east, and stands some 830 metres away at its closest point. In the vicinity of the appeal site, the most recent residential development is concentrated on the opposite, western, side of Swindon Road, while on the eastern side it is limited and generally fronts directly on to the main road.
32. The LCA SPG sets out the key characteristics of the Wroughton Vale LCA which include that it is low lying and enclosed by the Scarp slope and Swindon Hill; the landscape is relatively open allowing moderate distance views east-west along the Vale floor and wide ranging views south towards the Scarp and north to Swindon Hill; several streams flow northwards across the valley; although there are several small woods, hedgerows and their trees provide the main vegetation; there are scattered houses and farms within the Vale, while Wroughton dominates the eastern end; and fields are generally of moderate size and enclosed by hedgerows with standard oak trees.
33. The LCA SPG goes on to say that within the Wroughton Vale LCA proposals should: ensure existing ponds and wildlife habitats, and sites that adjoin, abut or link these with other wildlife habitats, are conserved and where possible enhanced; reflect the existing pattern of buildings, be they on an individual basis or in small groups; maintain, and where possible enhance, the perception of separation between Swindon and Wroughton, through the use of planting;

- have regard to the area's close proximity to the AONB; be accompanied by planting, whether woodlands, tree lines or hedgerows; and retain the perception of distinctiveness and separation from Swindon.
34. The appellant produced a detailed Landscape and Visual Appraisal (the LVA) of the proposal⁷ as part of the details submitted in support of its planning application for the proposed development. It has also produced other supporting material in this regard as part of the appeal process, including a photomontage of the proposed development viewed from one of the view points identified within the LVA⁸. The Council has not produced its own LVA or photomontages but has produced evidence regarding this main issue, which is principally embodied in the evidence of its landscape witness, Miss Riggs.
35. During the Inquiry Miss Riggs confirmed that she does not dispute the methodology of the LVA or the accuracy of the photomontage. Indeed the Council's evidence does not directly challenge the LVA at large including its assessment of the value of landscape receptors, the sensitivity of visual receptors and the anticipated landscape and visual effects of the development. The LVA classifies the overall effect of the development on the Wroughton Vale LCA as 'minor/negligible' and on the AONB as 'moderate/minor', and also concludes that the proposal's visual impact would range from 'negligible' to 'moderate/minor' dependent on the view point.
36. I recognise that any development of the appeal site would extend the built form of the village into the countryside and Wroughton Vale and thereby influence its character, and also that what little residential develop there is to the east of Swindon Road has a substantially different form and pattern to that shown on the indicative details submitted with the appeal proposals. While all matters, except for access, would be reserved for future consideration I also acknowledge that any residential development of the scale proposed, and in this case as it would be served off a single point of vehicular access, would alter the pattern of the development in this area to the east of Swindon Road as well as the existing setting of the settlement. Furthermore, the development would be visible from the AONB, particularly from the elevated scarp to the south, for instance from within the vicinity of viewpoint VP5 as identified in the LVA.
37. However, notwithstanding the Council's evidence, nothing individually or collectively within the information before me has led me to disagree significantly with the conclusions of the LVA, such that on the evidence I am not persuaded that the appeal scheme would fail to protect, conserve and enhance the intrinsic character and diversity and distinctiveness of the local landscape. In coming to this position I have been mindful of a number of considerations. These include the effect of the proposed mitigation measures, including new planting, the retention of existing trees and hedges and the provision of open space to the eastern fringe of the site.
38. I have also taken into account that the proposed development would be seen largely against the backdrop of rising land and existing development when viewed from the east, while views into the site from the west are filtered by existing planting, which could be supplemented as part of the appeal scheme. Moreover, while the site and the AONB are intervisible they are a considerable

⁷ Core Document CD 14

⁸ VP1 looking north from the B4005 - Appendix 4 to Mr Cooper's Proof of Evidence

distance apart and the scarp slope of the AONB to the east and south of the site is already influenced by the settlements located on the lower land including Wroughton. The appeal site is also located to the eastern edge of the village such that its development would not significantly alter the space between Wroughton and Swindon or undermine their separate identities.

39. For these reasons, subject to careful consideration of the matters that are reserved for future determination, the proposed development would not have a significant effect in terms of landscape character and the setting of Wroughton. Consequently, in these respects, it would not conflict with Policies EN5 and SD2 of the Local Plan.

Other Issues, Housing Land Supply Policy and Planning Balance

40. Policy SD2 of the Local Plan sets out the development strategy for the Borough, including for housing. Consequently, it and by association Local Plan Policy RA2 are relevant policies for the supply of housing in the terms of paragraph 49 of the Framework. In the absence of a Framework compliant supply of housing land, therefore, they should not be considered up-to-date. In these circumstances, bearing in mind that I have not found any other conflict with the development plan, with reference to paragraph 14 of the Framework planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
41. Part of the evidence suggests that if planning permission were to be granted for the appeal development this could set a precedent for other development, including residential development on the fringes of Wroughton beyond the settlement boundary. I am mindful that there have been reasonably recent planning applications for such development, including that made by Hill Homes, a Rule Six Party at the Inquiry, at land to the rear of Woodland View and an earlier application for development at land east of Marlborough Road⁹ to the south of the appeal site. However, all proposals and sites differ and each application and appeal must be determined on their individual merits, such that concerns of this nature would not justify withholding permission in this case. Consequently, I give limited weight to concerns raised regarding the potential creation of a precedent for other development.
42. Some of the evidence also suggests that if the appeal were to be allowed, the Local Plan - including the significant investment in terms of time, resources and engagement with local people - would be undermined and that it should be allowed time to bed in having only recently been found sound. In these respects the Council has drawn to my attention to other appeal decisions where, in the context of a recently adopted Local Plan and, in some instances, in spite of the Council being unable to demonstrate a five-year housing land supply, the appeals were dismissed¹⁰. These included the 'Chard', 'Stafford' and 'Cricklade' decisions, which I refer to as such based on the names of the settlements where those appeal proposals were located. While there are some similarities between the current appeal and these other appeals there are nonetheless significant differences.
43. In the case of Chard the housing market was said to be 'soft' and the Inspector found that either of the appeal schemes would 'blow the Local Plan strategy off

⁹ Planning application reference Nos S/OUT/15/1750 and S/OUT/13/1862 respectively

¹⁰ Mr Smith's appendices 17 to 19: APP/R3325/A/13/2209680 & 2203867, APP/Y3425/A/14/2217578, and APP/Y3940/A/14/2223354

- course'. I note that during cross-examination Mr Smith accepted that neither of these scenarios applies to the current appeal. The Stafford decision turned, at least in part, on a development plan policy which allowed greenfield development but only if needs could not be met from previously developed land, whereas there is no directly comparable development plan policy in the case of the current appeal.
44. In the case of Cricklade the proposed development would have taken up 62% of the housing provision for the relevant area to 2026. The Inspector in that case concluded that the provision of such a high proportion of new dwellings on a single site in Cricklade would tend to skew provision away from other settlements in that area, whereas no such claim is made in this case. I also note that in the Stafford and the Cricklade cases there was found to be a Framework compliant supply of housing land. Therefore, these other cases are not directly comparable to the circumstances of the current appeal, such that they attract only limited weight.
45. Nonetheless, I recognise that the Swindon Local Plan Inspector resisted requests to increase the minimum number of dwellings to be provided at Wroughton as well as those to allocate the current appeal site for development. I also acknowledge that the Local Plan is recently adopted, since which there has been limited time to deliver on its objectives. Moreover, I accept that the investment by the community in the plan-making process is material to the determination of the appeal.
46. However, the Local Plan was adopted in the context of a Framework compliant supply of housing land and this is likely to have been on the understanding that housing would be delivered along the lines of the trajectory set out in Appendix 5 of the Plan. In practice, and in marked contrast, there has been significant slippage against the housing trajectory that was before the Local Plan Inspector such that there is now a substantial shortfall in housing delivery.
47. As outlined in the *Policy Context* sub-section above, I am able to attribute only limited weight to the eWNP. The Council clarified during the Inquiry that prematurity in respect to the eWNP does not form part of its case. In my view, if the appeal were to be allowed, this would not undermine the eWNP as a whole bearing in mind, among other things, that the housing figure of 150 dwellings for Wroughton identified in the Local Plan is a minimum and that the eWNP seeks to deal with wider considerations, not just housing.
48. The appeal development would offer a number of potential benefits. In terms of the social dimension of sustainable development, the scheme would increase the supply and choice of housing, including up to 30 affordable homes, in an area where the evidence indicates there is a significant need for both market and affordable housing. Given the site's location on the eastern fringes of Wroughton, as outlined in the *Background* sub-section, the appeal development would be in a reasonably sustainable location such that residents would have access to a good range of facilities, services and transport options.
49. In terms of the economic role, the development would contribute towards economic growth during the construction phase. The additional population would be likely to assist the local economy and help support the sustainability of facilities in the area.

50. Regarding the environmental dimension, the development offers potential for the incorporation of energy efficiency measures as well as additional planting and habitat enhancement. Due to its location and accessibility by alternative modes of transport the development would also be likely to reduce reliance on use of the private car. Although the development would result in the loss of countryside, I have also found that it need not have a significant effect in terms of landscape character and the setting of Wroughton.
51. I note the appellant's submissions regarding potential benefits resulting from other matters that would be secured via the S106 Agreement and conditions. I recognise that at least some of these may be of some benefit to the wider community. However, as they are primarily intended to respond to needs arising from the proposed development, any such benefit would be limited and as such attracts little weight.
52. In summary, the appeal scheme would conflict with the Council's recently adopted development strategy, which involved considerable community investment, contrary to Policies SD2 and RA2 of the Local Plan. However, in the current circumstances these important considerations, along with the other factors identified that weigh against the development, do not significantly and demonstrably outweigh the matters outlined above that are in its favour, particularly the delivery of housing. Overall, therefore, the appeal proposals would represent sustainable development in the terms of the Framework.

Other Matters

53. In the event that planning permission were to be granted and implemented the S106 Agreement would secure the provision of on-site affordable housing; financial contributions towards off-site works within the highway and open space and sports facilities; and on-site open space and play equipment long with its maintenance.
54. The Council has submitted a detailed statement (the S106 Justification Statement)¹¹, which addresses the application of statutory requirements to the planning obligations within the S106 Agreement and also sets out the relevant planning policy support/justification. I have considered the S106 Agreement in light of Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and government policy and guidance on the use of planning obligations.
55. Having done so, I am satisfied that the obligations of the S106 Agreement would be required by and accord with the Policies set out therein. The S106 Justification Statement also confirms that none of the obligations of the S106 Agreement would result in double charging with the Council's adopted CIL charging schedule and I have found no reason to disagree. Although the S106 Justification Statement does not directly address the point, during the Inquiry the Council also confirmed that none of the financial contributions that would be secured would result in the pooling of more than five obligations for that project or type of infrastructure projects. From the information before me I have no reason to disagree. Overall, I am satisfied that all of those obligations are directly related to the proposed development, fairly and reasonably related to it and necessary to make it acceptable in planning terms.

¹¹ Document 3

56. In addition to the foregoing matters, concern has been expressed, including by those who spoke at the Inquiry who included the local Member of Parliament, regarding a number of matters. These include the development's effect on highway safety and congestion and the adequacy of proposed parking; on light pollution in a rural area; on existing services, utilities and the adequacy of infrastructure/facilities, including schools, healthcare, water supply and sewerage, and the provisions of the S106 Agreement falling short of resolving these issues; on trees; on the living conditions of neighbouring occupiers, including in regard to privacy as well as noise and disturbance during construction; on wildlife and biodiversity; on flooding and drainage; and on the historic environment.
57. Other issues raised include that the scheme is contrary to the Parish Council's Policy document adopted December 2008 and updated November 2013; there are brownfield sites available that should be developed prior to green fields; the development conflicts with the eWNP and the adopted Local Plan and if approved it would prejudice the Neighbourhood Plan-making process; the development does not focus on the needs of the local housing market and would provide an inappropriate mix of dwelling types, including a lack of provision for people with disabilities; and that the site was considered and rejected as part of the SHLAA and wider plan-making process.
58. Concern has also been expressed regarding the effect of nearby commercial uses on the occupiers of the proposed development; ground conditions; traffic pollution and the smell of emissions; the proposal represents two-thirds of Wroughton's housing allocation; the development would also threaten Wroughton's status as a village; local residents should decide where new homes are to be built; and the adequacy of the appellant's response to comments received from the public consultation event.
59. These matters are largely identified and considered within the Council's Committee report on the appeal development. They were also before the Council when it prepared its evidence and when it submitted its case at the Inquiry. Other than as set out above, the Council did not conclude that they would amount to reasons to justify withholding planning permission. Subject to the identified obligations of the S106 Agreement and the imposition of planning conditions, I see no good reasons to disagree.
60. I note the evidence regarding the deliverability of housing development at the land that is the subject of both Policy DP2 of the eWNP and Hill Homes' planning application. However, as it has not proved to be determinative in this case, I have not found it necessary to conclude on this matter.

Conditions and Conclusion

61. The Council and the appellants jointly prepared a list of draft conditions, which include the standard time limit/implementation conditions. I have considered these in the light of government guidance on the use of conditions in planning permissions and made amendments accordingly. For the avoidance of doubt and in the interests of proper planning, a condition requiring that the development is carried out in accordance with the approved plans would be necessary insofar as they relate to details of access.
62. A condition controlling proposed finished floor levels would be necessary to safeguard the character and appearance of the area, as would a condition to

- control details of landscaping to be submitted as part of any reserved matters submissions. A condition would be necessary to ensure that features of archaeological interest are properly examined/recorded.
63. In the interests of highway safety conditions controlling details and implementation of on-site and off-site highways works, including alterations to the existing bus stops on Swindon Road and the provision to a pedestrian crossing, would be necessary. For that reason and to safeguard residents' living conditions, the submission and approval of a Construction Method Statement along with control over hours of working would also be necessary.
64. If the appeal development were not to commence within 18 months of any consent a condition that would require the completion of an updated desk study and Phase 1 habitat survey, including badger monitoring, along with any requisite mitigation or further surveys would be necessary in the interests of biodiversity. To ensure adequate water supply, a condition to secure impact studies of the existing water supply infrastructure and associated action would also be necessary.
65. Conditions to secure the installation of sustainable urban drainage as part of the development and foul water drainage would be necessary in the interests of flood prevention, to provide appropriate/adequate facilities and to protect the environment. As discussed during the Inquiry the three suggested conditions in respect to these matters could be rationalised into two conditions.
66. To ensure that two percent of the proposed dwellings would be built to a standard suitable to accommodate people with disabilities in line with the Council's adopted standards, a condition to this end would be necessary. Conditions to assess and, if necessary, mitigate noise would be necessary to secure acceptable living conditions for residents of the development. The approval and implementation of a scheme for the provision of fire hydrants would also be necessary in the interests of these residents' safety.
67. However, the two suggested conditions regarding the control of materials to be used on the proposed buildings and any areas of hard surfacing would be unnecessary as these would be controlled under the matters reserved for future consideration. The Council has also requested that an 'informative' regarding its CIL charging schedule be appended to any conditions. However, as the collection of any CIL contribution is undertaken by the relevant charging authority on service of a separate notice that planning permission has been granted in relation to chargeable development, this would not be necessary.
68. Overall, therefore, notwithstanding the identified policy conflict and its effect on the development strategy for the Borough, given the absence of a five-year housing land supply and the status of relevant policies of the development plan for the supply of housing, I find that the considerations that weigh against the development collectively do not significantly and demonstrably outweigh those matters that are in its favour, particularly the delivery of housing. On this basis the proposals would be sustainable development and, consequently, the appeal should be allowed subject to the identified conditions.

G D Jones

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Paul Cairnes, of Counsel	Instructed by the Head of Legal Services, Swindon Borough Council
He called	
Charlotte Riggs BSc(Hons) BLD CMLI	Senior Landscape Architect, Swindon Borough Council
Philip Smith BA(Hons) MSc	Planning Policy Service Manager, Swindon Borough Council
Tom Buxton BA MA MRTPI	Senior Planning Officer, Swindon Borough Council

FOR THE APPELLANT:

David Manley, of Queen's Counsel	Instructed by Turley
He called	
Julian Cooper BSc(Hons) DipLD FLI	Landscape Architecture Director, SLR Consulting
Jeffery Richards BA(Hons) MTP MRTPI	Planning Director, Turley

FOR HILLS HOMES UK:

Steven Smallman	Pro Vision Planning and Design
Stephen Young	Pro Vision Planning and Design

INTERESTED PERSONS:

Mr Stephen Harcourt	Wroughton Parish Council
Mr Chris Kennedy	Wroughton Parish Council
Mr Wayne Crabbe	Borough Councillor for the Ward
Ms Cathy Martyn	Borough Councillor for the Ward
Rt Hon Robert Buckland QC	Member of Parliament for the Constituency

DOCUMENTS submitted at the Inquiry

- 1 Draft Planning Obligation document pursuant to Section 106 of the Town and Country Planning Act 1990
- 2 Briefing Note for the Inspector on the Section 106 document, submitted by the appellant
- 3 Section 106 Justification Statement, submitted by the Council
- 4 Copy of the decision notice for planning permission ref 15940, submitted by the appellant
- 5 Appendix 37a - to Mr Smith's evidence - Swindon Borough 5-year Housing Land Assessment (Oct 2015) (Errata)
- 6 Comparative Supply Side Positions Table, submitted by the Council
- 7 Extract of the Ordinance Survey Six-inch map of Wroughton, Survey/Revision 1922, Publication 1925
- 8 Copy of Land Registry Register of Title Nos WT186294 & WT175533 and Plans
- 9 Erratum Note to Mr Richards' Proof of Evidence

- 10 Erratum to Mr Richards' Appendix JR35, Table 2: Swindon Borough Five Year Supply Table (2015 to 2020) – Buffer Also Applied to the Shortfall
- 11 Appeal Decision Ref APP/R3325/W/15/3018532
- 12 Appeal Decision Ref APP/R3325/A/14/2222697
- 13 Planning Obligation pursuant to Section 106 of the Town and Country Planning Act 1990 dated 26 November 2015

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SCHEDULE OF CONDITIONS FOR APPEAL REF APP/U3935/W/15/3035660:

- 1) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 2) Details of the appearance, landscaping, layout and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.
- 3) Application for the approval of the Reserved Matters referred to in Condition 2 above shall be submitted to the Local Planning Authority before the expiration of 3 years from the date of this permission.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans insofar as they relate to access:
Drawing No 1002 rev A; Drawing No 3202 rev B; Drawing No 4201 rev A;
Drawing No 5000.
- 5) No development comprising the erection of any dwelling shall take place until full details of the slab levels of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 6) The material submitted with the landscaping reserved matters shall include:
 - i) Details of the species, location, diameter, approximate height, and general state of health and stability, of every tree, bush or hedgerow on the site which is to be retained and of each tree, bush or hedgerow which is on land adjacent to the site and to which paragraphs ii), iii), iv) and v) below shall apply;
 - ii) No tree, bush or hedgerow which is to be retained and which has been identified in paragraph i) above, shall be topped, lopped, felled, destroyed or wilfully damaged, including any severance of its roots without the prior written consent of the Local Planning Authority;
 - iii) No materials, plant, soil or spoil shall be stored underneath, and no burning of materials shall take place, within the furthest extent of the canopy of any tree, bush or hedgerow, which is to be retained and which has been identified in paragraph i) above without the prior written consent of the Local Planning Authority;
 - iv) Details of the specification and position of fencing and of any other measures to be taken for the protection of any tree, bush or hedgerow, which is to be retained and which has been identified in paragraph i) above. Such fencing or any other measures shall be retained until the approved development has been completed or the Local Planning Authority has approved, in writing, that such fencing or any other measures may be removed;
 - v) All works to protect any tree, bush or hedgerow, which is to be retained and which has been identified in paragraph i) above shall be carried out in accordance with BS 5837(2012); and
 - vi) A planting plan and timetable of works for the soft landscaping of the site; all works shall be carried out in accordance with the approved plan and timetable; and any trees or plants, which within a period of five years from first being planted, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written approval to any variation.

- 7) No development shall commence on site until:
 - i) A written programme of archaeological investigation, which shall include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved in writing by the Local Planning Authority; and
 - ii) The approved programme of archaeological work has been carried out in accordance with the approved details.
- 8) No development shall take place until full details of the estate roads, footways, footpaths, verges, junctions, sewers, drains, retaining walls, service routes, surface water outfalls, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, driveway gradients, car parking and street furniture have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 9) The allocated private car parking spaces for each unit together with the visitor car parking space(s) on the highway in association with those units, as secured as part of Condition 8 above, shall be laid out and made available for use prior to the occupation of the each unit. These spaces shall thereafter be retained only for the parking of motor vehicles in connection with the development hereby permitted.
- 10) No dwelling hereby permitted shall be occupied unless or until it is served by a fully functioning highway, including access roads, footways and turning spaces, the hard surfaces of which have been constructed to at least base course level before each dwelling is occupied.
- 11) Prior to the commencement of works on site, details of all works to be carried out on the public highway within the vicinity of the site, including the setting back of the southbound bus stop and the provision of a pedestrian crossing shall be submitted to and approved in writing by the Local Planning Authority and shall be fully implemented prior to the occupation of the development.
- 12) All private accesses within the development shall be by means of a dropped kerb crossing.
- 13) No development shall take place or any works of site preparation until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) A temporary access to the site;
 - ii) The parking of vehicles of site operatives, construction traffic and visitors;
 - iii) Loading and unloading of plant and materials;
 - iv) storage of plant and materials used in constructing the development; and
 - v) Wheel washing facilities.
- 14) Construction works associated with the development hereby permitted shall only take place between 0800 hours to 1800 hours on Mondays to Fridays and 0800 hours to 1300 hours on Saturdays and at no time on Sundays or Bank Holidays.
- 15) In the event that development does not commence within 18 months of the date of this decision, no development shall take place until an updated desk study and Phase 1 habitat survey (including badger monitoring) have been undertaken and have been submitted to and approved in writing by the Local

- Planning Authority. Where appropriate, mitigation measures and provision for further update surveys shall be included in the development if required by the Local Planning Authority.
- 16) No development shall take place until impact studies of the existing water supply infrastructure including any requisite mitigation along with a timetable for its implementation have been submitted to and approved in writing by the Local Planning Authority. The studies shall determine the magnitude of any new additional capacity required in the system and a suitable connection point. Any requisite mitigation shall be fully implemented in accordance with the approved timetable.
 - 17) Development shall not commence until a foul water drainage strategy detailing any on and/or off site drainage works, has been submitted to and approved in writing by the Local Planning Authority. The strategy shall also include a timetable for the implementation of the approved works. No discharge of foul water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed and these shall be fully implemented in accordance with the approved implementation timetable.
 - 18) Development shall not commence until a surface water drainage strategy, which details any on and/or off site drainage work and incorporates sustainable urban drainage principles, based on the approved Flood Risk Assessment (AECOM ref. 60316553-FRA-GW-001-1 Rev B dated September 2014) has been submitted to and approved in writing by the Local Planning Authority. The strategy shall also include a timetable for the implementation of the approved works. No discharge of surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed and these shall be fully implemented in accordance with approved implementation timetable.
 - 19) Not less than 2% of the total residential development shall provide ramped access with flush thresholds into all doorways, doorway widths, space for internal circulation and for through-the-floor lift vertical circulation, and for use of a bathroom, toilet and kitchen at entry level designed to provide for wheelchair user occupiers in accordance with a plan or schedule, which shall have been submitted to and approved in writing by the Local Planning Authority. These design features and provisions shall be retained for so long as the buildings hereby permitted remain in use as dwelling houses.
 - 20) The proposed residential units shall be designed to meet the minimum indoor ambient noise levels contained in British Standard 8233:2014 (or later versions) which currently require:
Resting 35 dB LAeq,16 hour (07:00 – 23:00)
Dining 40 dB LAeq,16 hour (07:00 – 23:00)
Sleeping 30 dB LAeq, 8 hour (23:00 – 07:00)
45dB LAFmax between the hours of 23:00 and 07:00
 - 21) Where the BS 8233 guidance on sound insulation and noise reduction for buildings standards cannot be met with windows open, a scheme of noise insulation (to the standard laid down in the Noise Insulation Regulations 1975 or, any equivalent standard approved by the Local Planning Authority) shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented before occupation of any building so

affected. This may include the use of acoustic double glazing with sound attenuated means of ventilation where considered necessary.

- 22) No development above ground level shall take place until a scheme and specification for the provision and location of fire hydrants, has been submitted to and approved in writing by the Local Planning Authority. No development shall take place other than in accordance with the approved scheme.

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