



Appeal Decision

Site visit made on 6 February 2025

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 April 2025

Appeal Ref: APP/Y3940/W/24/3348191

Land West of Sand's Lane, Rowde, Nr Devizes, Wiltshire SN10 2QW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
- The appeal is made by Rowde LVA LLP against the decision of Wiltshire Council.
- The application Ref is PL/2023/00386.
- The development proposed is outline planning application for up to 50 dwellings, new community building and associated car park, public open space and associated infrastructure with all matters reserved for future consideration except for access.

Decision

1. The appeal is dismissed.

Application for costs

2. The appellant made an application for costs. This application for costs has been dealt with in a separate decision.

Preliminary Matters

3. WSP UK Limited's letter of 7 October 2024 referred to the red line shown on the submitted plans as spanning into the highway. Whether or not this constitutes an error, it is clear from the representations received that the Highways Department is aware of the full extent of the proposed works. I therefore consider that adequate notification has occurred, and that the appeal is valid.
4. This appeal follows an outline application, where the only matter to be considered is access. Matters of appearance, landscaping, layout, and scale are reserved for later consideration. I have treated the details on the Parameter Plan¹ and the Illustrative Masterplan² relating to appearance, landscaping, layout, and scale, as indicative only.
5. Following changes to the National Planning Policy Framework (the Framework) in December 2024, the Council provided an update on their housing land supply position. The appellant was provided with an opportunity to comment, and I have taken the comments received into account.

Main Issues

6. The main issues are:

¹ Drawing No. 3501A

² Drawing No. 4002A

- whether or not the appeal site is a suitable location for the proposed development, having particular regard to the spatial strategy in the development plan and the accessibility of services and facilities;
- the effect of the proposed development on landscape character and the character and appearance of the area; and
- whether or not the proposed development would make adequate provision for necessary on-site and off-site infrastructure.

Reasons

Location

7. The appeal site comprises part of a large field, bounded on 3 sides by hedgerow and trees. Part of the wider field, to the north of the site, is not included within the boundaries of the site. The site is located on the western edge of Rowde, opposite housing which fronts Sand's Lane.
8. Core Policy 12 of the Wiltshire Core Strategy (adopted 2015) (Core Strategy) lists Rowde as a 'Large Village', and specifies that development in the Devizes Community Area should be in accordance with the Settlement Strategy set out in Core Policy 1 of the Core Strategy. Core Policy 1 provides that, amongst other things, development at Large Villages will be limited to that needed to help meet the housing needs of settlements and to improve employment opportunities, services and facilities.
9. Core Policy 1 states 'at' Large Villages, rather than 'within' Large Villages, but paragraph 4.15 of the Core Strategy clarifies that the intention is that at Large Villages settlement boundaries are retained and development will predominantly take the form of small housing and employment sites within the settlement boundaries.
10. Core Policy 2 of the Core Strategy supports the delivery of the settlement strategy and provides that, amongst other things, other than in circumstances as permitted by other policies within the Core Strategy, identified in paragraph 4.25 of the Core Strategy, development will not be permitted outside the limits of development. The site is situated outside of the settlement boundary for Rowde, and does not fall within the remit of any of the exception policies referred to at paragraph 4.25 of the Core Strategy. It follows that the site does not comply with the spatial strategy in the development plan. The proposed development is accordingly unacceptable in principle.
11. Large Villages are defined in Core Policy 1 as settlements with a limited range of employment, services and facilities. Within approximately 800 metres from the centre of the site is a primary school, a church, a village hall, 2 public houses, and 2 commercial premises. It can be seen, then, that employment opportunities in Rowde are very limited, and that Rowde does not have a mainstream secondary school, nor any healthcare facilities. The future occupiers of the proposed dwellings would accordingly need to travel beyond Rowde to access many facilities and services required to meet their day-to-day living requirements.
12. I have had regard to the submitted Transport Assessment Report in assessing this issue. It lacks detail pertaining to the quality of the walking, cycling, and bus routes available from the site. In particular, it does not recognise that the walking routes

to Devizes are difficult to navigate on foot, due to the footway often being narrow, and in some places being broken, uneven, and overgrown with vegetation.

13. Devizes can be accessed via Marsh Lane which connects to both National Cycle Route 4 and The Locks, but the lack of any dedicated cycle lanes and intermittent street lighting along Marsh Lane, and that a 50 mph speed limit exists along much of Marsh Lane leading to The Locks, makes these routes considerably less than attractive for use other than recreation, including commuting by bicycle for employment purposes. Similar circumstances prevail on the route to and from Devizes via Dunkirk Hill, which poses additional challenges for cyclists due to it being situated on a hill. Given these circumstances, the future occupiers of the proposed development would be unlikely to choose walking or cycling to access Devizes, particularly in the winter and / or during inclement weather.
14. The site is within walking distance of bus stops on the High Street. The bus service provides links to Chippenham and Devizes. However, whilst it has been stated that these services run on an approximately hourly basis, no timetables have been provided to illustrate the frequency of these services specifically in the morning and evening, when bus services would likely be particularly needed by future residents to access employment destinations.
15. Moreover, local residents have mentioned that there is no bus going to Devizes that arrives between 08:30 and 09:00, and that the bus services are limited to 8 buses in each direction each day. It has also been mentioned that bus services are unreliable, very costly, and rarely run according to their schedule. I have not been provided with evidence which counters the experiences of local residents in these respects. This limits the likelihood of bus services being used to access Devizes, including to access employment.
16. I acknowledge the principle expressed in appeal decision Ref APP/P0119/W/22/3303905 that short journeys are generally better than longer journeys to access the same sort of facilities and services. Devizes would fall within this category of short journeys. Devizes is classed in the Core Strategy as a Market Town, which are defined as settlements that have the ability to support sustainable patterns of living in Wiltshire through their current levels of facilities, services and employment opportunities.
17. Nevertheless, apart from references to supermarkets and employment facilities in general terms, and to a number of GP surgeries and a surgical centre, few details have been provided to illustrate the particular range of services and facilities available at Devizes, including those relating to employment, retail, and education. As such, it cannot be presumed that Devizes would necessarily cater for the majority of future residents' day-to-day needs.
18. Due to the issues with the bus services, mentioned above, the future occupiers would likely predominantly use private vehicles to access the train services at Chippenham railway station, which being approximately 10 miles away from the site, cannot be considered to be a short journey.
19. On this basis, whilst recognising that paragraph 110 of the Framework highlights that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, the future occupiers of the proposed dwellings would be heavily reliant on the use of private vehicles to access day-to-day services,

including for journeys to and beyond Devizes. For those individuals without access to a vehicle, everyday services and facilities would not be easily accessible.

20. Consequently, although the emerging Local Plan identifies a requirement for 47 additional dwellings (taking account of completions and commitments) to be delivered at Rowde, this specific proposed development in this particular location within Rowde would be a largely car-dependent scheme, with future occupiers potentially using private vehicles to travel beyond Devizes on a regular basis. Electric vehicle charging points could be provided on site (secured through a planning condition), but whilst there is an increasing trend towards electric vehicles, the use of electric vehicles cannot be mandated at this time.
21. This would be contrary to paragraph 110 of the Framework which provides that, amongst other things, significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. Hence, the proposed development would not help to reduce emissions, which is also a consideration referred to in paragraph 110 of the Framework.
22. I have had regard to the submitted Unilateral Undertaking (dated 21 October 2024) (UU) which seeks to ensure that a Travel Plan is submitted to and approved in writing by the Council, in line with paragraph 6.161 of the Core Strategy and the Council's Development Related Travel Plans Supplementary Planning Document. The Travel Plan proposed would provide information for future residents concerning the availability of transport options (including details regarding a Green Travel Voucher scheme). However, the options detailed within it would be very much subject to personal choice, and considering the inherent limitations of the site with regards to available sustainable modes of transport, it would not adequately mitigate the concerns identified.
23. As such, it has not been demonstrated that the UU is necessary to make the development acceptable in planning terms, with regards to the tests found at Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended) (CIL Regulations) and paragraph 58 of the Framework. The UU has therefore been given little weight. It does not change my findings on this main issue.
24. I therefore find that the site is not a suitable location for the proposed development, having particular regard to the spatial strategy in the development plan and the accessibility of services and facilities. It would conflict with Core Policies 1, 2, and 12 of the Core Strategy which together set out the spatial development strategy for the area. It would conflict with part i. of Core Policy 60 of the Core Strategy which provides that the Council's sustainable transport strategy will be achieved by, amongst other things, planning developments in accessible locations, and with Core Policy 61 of the Core Strategy which provides that, amongst other things, new development should be located and designed to reduce the need to travel particularly by private car, and to encourage the use of sustainable transport alternatives.
25. The proposed development would also conflict with paragraph 110 of the Framework which provides that, amongst other things, significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes.

26. Considering the poor accessibility of the site to essential services and facilities, the likely heavy reliance on the use of private vehicles by the future occupiers of the proposed new dwellings, and the quantum of development proposed (which is not insignificant), the harm identified on this main issue in relation to sustainable transport has been given significant weight in opposition to the proposed development.

Landscape character & character and appearance

27. Sand's Lane marks the western edge of Rowde, beyond which lie large expanses of open fields. The mature hedgerow which stretches along the east of the site clearly denotes both the termination of the residential area and the beginnings of the open countryside. Due to the long views from within the site towards the surrounding countryside, the site has a strong visual connection with the open countryside found beyond its boundaries.
28. The site forms part of the wider area of predominantly pastoral landscape referred to in the submitted Landscape and Visual Appraisal (LVA). Nevertheless, the site is not subject to any landscape designations, and due to the low-lying nature of the site, the effect of the proposed development on the wider landscape would mainly be confined to a partial filtering of the views of the surrounding countryside when seen from Sand's Lane and Cock Road.
29. Considering this, and noting the screening effects of the existing and proposed vegetation around the site, the proposed development would not appear prominent in the wider landscape found beyond the site. As such, I concur with the findings given in part 6 of the LVA that its adverse affect on the character of the wider rural landscape would be indirect and minor. However, as explained in detail below, its effect on the character and appearance of the area would be much more pronounced.
30. The submitted Illustrative Masterplan is indicative only, but it does demonstrate that whatever layout is chosen, much of the site would be taken up with buildings, streets and shared surfaces / private drives. This would be inevitable on a site of this size, considering the maximum quantum of development proposed, of up to 50 dwellings. This would still be the case if planning conditions were imposed restricting the proposed dwellings to 2 storeys in height and restricting the extent of the development to the submitted Parameter Plan. As such, the proposed development would represent a substantial incursion into a large area of green space to the west of Sand's Lane.
31. I am mindful that, as explained in the National Design Guide, the character of a place is not just about the buildings or how a place looks, but how it engages with all of the senses. In this regard, the representations from local residents indicate that historically the site has been used extensively for recreation, and that presently the existing Public Right of Way³ (PROW) (which runs through the site) is well-used by runners, dog-walkers, ramblers, and nature lovers, including older people. The site, which is described by some local residents as being an accessible and tranquil open space, thereby facilitates social connection between residents and fosters their mental health and physical well-being. These aspects contribute to the distinctive identity of this edge-of-settlement location.

³ ROWD27

32. Part 7 of the LVA recognises that views to the new housing would result in a clear change to views at the northern end of Sand's Lane. I observed that this would also likely be the case when the site is viewed from near the junction between Sand's Lane and Rowde Court Road, whatever layout is chosen for the proposed development. Contrary to the findings of the LVA, I consider that the view from the end of Rowde Court Road across the site is particularly sensitive in visual terms, due to the transition from a semi-rural to rural character being clearly apparent here.
33. The proposed development would be separated from nearby residential development by Sand's Lane and the mature hedgerow which lines Sand's Lane on the eastern boundary of the site. It would be largely surrounded by green space in all other directions. Whilst not physically remote from residential areas, rather than complementing the existing residential land uses within the western part of Rowde (as contemplated by the LVA), the proposed development would not be well-integrated with the existing residential development to the east of the site. Rather, it would appear as piecemeal development in views from the PROW and Sand's Lane.
34. The LVA refers to a number of factors which it is said would mitigate the adverse impacts of the proposed development on the visual amenity of the area. These include additional tree planting on the eastern side of the site, sensitively-designed buildings, and the proposed incorporation of a large area of open space within the site.
35. Considering the quantum of dwellings proposed across the site as a whole, these factors would do little to alter the piecemeal appearance of the proposed development in its context, and they would not adequately off-set the erosion of much of the sense of openness that prevails when presently viewing the site from Sand's Lane and Cock Road, and particularly from near Rowde Court Road. Even taking account of these proposed mitigation measures, the amount of built form on site and the levels of activity within it would likely severely compromise the existing sense of spaciousness and fairly tranquil experience which local residents presently experience when using the PROW.
36. The proposed development would accordingly irrevocably compromise the distinctive identity of the local area referred to above. Harm to the character and appearance of the area would result.
37. I therefore find that the proposed development would have an unacceptable and harmful effect on the character and appearance of the area. It would conflict with part i. of Core Policy 57 of the Core Strategy which provides that, amongst other things, applications for new development must demonstrate how the proposal will make a positive contribution to the character of Wiltshire through enhancing local distinctiveness by responding to the value of the natural environment.
38. The proposed development would also conflict with paragraph 135 c) of the Framework which provides that, amongst other things, planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).
39. The harm identified to the character and appearance of the area would persist irrespective of the ability of the Council to accommodate its pressing housing

needs on previously developed land. I have not been referred to any particular policy requirement which suggests that such harm should be given reduced weight in these circumstances. Considering the irreversible harm that would be caused to the character and appearance of the area (including the harm caused to the enjoyment of the PROW as presently experienced by local residents), the harm identified on this main issue has been given significant weight in opposition to the proposed development.

Infrastructure

40. Core Policy 3 of the Core Strategy provides that, amongst other things, all new development will be required to provide for the necessary on-site and, where appropriate, off-site infrastructure requirements arising from the proposal.
41. I have had regard to the submitted planning obligation (deed dated 21 October 2024), which aims to ensure that affordable housing is provided (including an appropriate affordable housing mix), that financial contributions are made to the Council relating to the Marsh Road highway crossing and waste and recycling, and to secure the provision of open space and community building land.
42. It is common ground between the main parties that the obligations contained within the planning obligation relating to affordable housing and the Marsh Road highway crossing and waste and recycling, are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development. I have no substantive evidence which indicates otherwise. Accordingly, these particular obligations meet the tests set out at Regulation 122(2) of the CIL Regulations and paragraph 58 of the Framework.
43. Contrary to the appellant's assertion that a desire exists in the local community to deliver a new community building to complement the playing fields that lie to the south of the site, a large number of local residents have strongly indicated that the proposed open space and community building land are not needed in Rowde. Specifically, local residents have mentioned that suitable provision for dedicated public open space already exists, and have cited the presence of an existing well-maintained village hall and other halls at the primary school and at Furlong Close. I have not been provided with evidence which counters these statements from local residents. Few details have been provided to demonstrate that car parking to serve the playing fields, additional allotments, or a community orchard are needed in Rowde, should the community building not come forward.
44. I therefore consider that the obligations relating to the provision of open space and community building land are not needed in the terms of Core Policy 1 of the Core Strategy, which provides that, amongst other things, development at Large Villages will be limited to that needed to improve services and facilities. Consequently, these particular obligations are not necessary to make the development acceptable in planning terms, with regards to Regulation 122(2) of the CIL Regulations and paragraph 58 of the Framework.
45. The copies of the planning obligation submitted incorporates a relatively small amount of hand-written text relating to a monitoring fee and administrative legal costs, whereas the remainder of the obligation is in printed type. In relation to this, part 3 of the Planning obligations: good practice advice advises that any manuscript alterations to the text must be initialled by all the parties. This has not

occurred. Instead, the hand-written text has only been initialled by one party, rather than all of the parties to the deed. Considering this, and as the hand-written text is not dated, it is presently unclear whether all of the parties to the deed have agreed to that text.

46. Furthermore, the document contains a number of other errors. The contents page incorrectly numbers 'Delivery' and 'Dispute Provisions' as clauses 16 and 17 respectively, rather than clauses 15 and 16. The document itself jumps from clauses 16 to 18, without 17. The contents refers to 'Community Hall Land', whereas the document itself refers to 'Community Building Land'. The contents also refers to 'Plans', whereas only one plan is included in the document.
47. The definition of 'Affordable Housing Requirement' found at page 3 of the document refers to paragraph 1.3 of Part 1 of Schedule 1, but this paragraph does not exist in the document. The definition of 'Community Building Land' found at page 4 of the document refers to Schedule 4, Part 2, but that schedule and part refers to the Council's obligations with respect to inspecting the open space, not to the community building land.
48. The definition of 'Rent Charge/Management Charge' found at page 11 of the document states, '... in accordance with XXX of this Deed', rather than specifying a particular clause / paragraph. Clause 4.1 refers to clause 1.7.1, whereas the latter clause does not exist in the document. Paragraph 1 of Part 3 of Schedule 1 of the document states, 'Pursuant to paragraph Error! Reference source not found. of Part 1 of this Schedule 1...', meaning that the intended paragraph is unclear. Paragraph 1 of Part 2 of Schedule 4 refers to paragraph 1.2 of Part 1 of Schedule 4, but the latter paragraph does not exist in the document.
49. Taking account of the numerous errors identified above (some of which may render the document ineffective or at the very least render its effect ambiguous), and that the hand-written text referred to has not been initialled by all relevant parties, it is unclear whether the document would achieve its intended effect and whether it would be legally enforceable.
50. I therefore find that the proposed development would not make adequate provision for necessary on-site and off-site infrastructure. It would conflict with Core Policy 3 of the Core Strategy, which has been summarised above. As the concerns with the planning obligation relate to whether the document could be considered to be legally sound, little weight has been given to the obligations contained within it which relate to affordable housing and the financial contributions mentioned above.

Other Matters

51. Had my findings in relation to the main issues been more favourable, it would have been necessary to address the representations on the other issues raised by local residents in more detail. As following my conclusion below, the appeal is being dismissed for other reasons, I make no further comments on these matters.
52. The proposed development could result in benefits to the Council in relation to Council tax, and to central government via national-level taxes. The Planning Practice Guidance however makes it clear that it would not be appropriate to make a decision based on the potential for a development to raise money for a local

authority or other government body⁴. This is a neutral matter, which does not weigh in favour of the proposed development.

Other Considerations and Planning Balance

Whether the most important policies are out-of-date

53. Whilst I note the age of the relevant settlement boundary, and that it has not been amended in recent years, in determining this appeal it is beyond my remit to attempt to judge whether it is out-of-date and / or should be altered. Such matters are more properly considered as part of the strategic planning cycle. I am required to have regard to the adopted development plan as it stands, including the settlement boundaries referred to within it.
54. Paragraph 11 d) of the Framework is engaged. However, it does not automatically follow that the policies which are most important for determining the appeal are out-of-date in substance. Neither does the Framework prescribe the weight which should be given to development plan policies. Rather, paragraph 232 of the Framework provides that, amongst other things, due weight should be given to policies, according to their degree of consistency with the Framework. In this case, the development plan policies relevant to the main issues above are not inconsistent with the Framework, meaning that the weight attached to the proposed development's conflict with those policies is not to be reduced on this ground alone.

Other considerations in favour of the proposed development

55. As the affordable housing and financial contributions have not been adequately secured, the main benefit of the proposed development would be the provision of up to 50 dwellings. The latest evidence before me indicates that the Council cannot demonstrate the requisite 5-year housing land supply as required by the Framework and can only demonstrate approximately a 2.03 years supply. The proposed development would accordingly provide a modest contribution to addressing this considerable shortfall, which includes the housing needs specific to the Devizes Community Area. Moderate weight has been given to this matter in support of the proposed development.
56. As the application for planning permission was made before 14 February 2024, the statutory 10% requirement for biodiversity net gain is not applicable. The latest submitted Ecological Impact Assessment concludes that the proposed development could result in a net gain for biodiversity both in terms of hedgerows (approximately +26.70%) and habitats (approximately +48.21%), which could be secured via a planning condition. These percentage increases must be seen in the context of the existing site baseline, which is low (at approximately 9.28 habitat units and approximately 5.20 hedgerow / linear units). The absolute sizes of the increases (approximately +4.47 habitat units and approximately +1.39 hedgerow / linear units) would not be significant. Little weight is given to this matter in support of the proposed development.
57. Paragraphs 60 to 61 of *NRS Saredon Aggregates Ltd v Worcestershire CC*⁵ form part of the judge's reasoning with respect to whether or not the error identified in the Inspector's decision meant that the overall outcome might have been different.

⁴ Paragraph 21b-011-20140612

⁵ [2023] EWHC 2795

It does not prescribe the likely weight to be attributed to any net gain in biodiversity. As a result, this case does not change my findings as to the weight accorded to the biodiversity net gain proposed.

58. The Wiltshire Local Plan 2020 – 2038 has been submitted for Examination. The emerging Local Plan adopts a similar spatial strategy to the Core Strategy and identifies a requirement for 47 additional dwellings (taking account of completions and commitments) to be delivered at Rowde in the 2020 – 2038 period. The appellant has mentioned that the emerging plan proposes development of a scale directly comparable with the proposed development. The Examination is currently at an early stage, meaning that it is presently unclear whether any objections will be raised to the relevant policies and whether any modifications will be required to them. Little weight has therefore been given to the relevant policies of the emerging Local Plan, in support of the proposed development.
59. Mention has been made of community and environmental benefits arising from the use of a sustainable drainage system (which could be secured via planning conditions). The submitted Flood Risk Assessment makes reference to benefits in relation to landscape, biodiversity and water quality, but few details have been provided to illustrate the scale of any such benefits to the local community and / or to local environmental conditions. As a result, little weight has been given to this matter in support of the proposed development.
60. The proposed development would provide work for construction professionals, and in the supporting supply chains. The appellant has calculated, based on Lichfields Start to Finish report, that the proposed development would generate between approximately 120 and 155 jobs during the construction phase. As this work would be limited to the construction phase, it attracts little weight in support of the proposed development.
61. The proposed development would also generate economic activity from the spending of the future occupiers of the proposed development. However, given the very limited range of services and facilities available within Rowde, such spending would be unlikely to significantly benefit the local community. This matter attracts little weight in support of the proposed development.
62. The significant weight afforded to economic benefits given in appeal decision Ref APP/Y3940/W/24/3340811 related to a scheme comprising up to 200 dwellings. Appeal decision Ref APP/Y3940/W/24/3343787 related to a site in Melksham, which has a much broader range of services and facilities than Rowde. As these appeal decisions are not directly comparable with the proposed development, they do not change my findings.

Balancing of considerations

63. In totality, the benefits in support of the proposed development, particularly in light of the Council's shortfall in housing land supply, result in moderate weight in favour of it.
64. Paragraph 4.11 of the Core Strategy lists 4 tiers of settlements. Rowde is in the lowest tier. As mentioned above, paragraph 4.15 of the Core Strategy emphasises that at Large Villages settlement boundaries are retained and development will predominantly take the form of small housing and employment sites within the settlement boundaries. The proposed new dwellings would be situated beyond the

clearly-defined edge of Rowde. Even so, as the Inspector noted in appeal decision Ref APP/Y3940/W/24/3345598, the overall position indicates that the development plan is failing to meet its strategic challenges, and that its settlement strategy and limits of development are not working effectively. I therefore give little weight to the proposed development's conflict with Core Policies 1, 2, and 12 of the Core Strategy.

65. Nevertheless, the proposed development would conflict with a number of other development plan policies. Significant weight has been given to the harms identified on the first and second main issues in relation to sustainable transport and the character and appearance of the area. These findings indicate that the proposed development would not deliver a sustainable pattern of development, including reducing the need to travel, in conflict with Strategic objective 2 (addressing climate change) of the Core Strategy. Nor would it add to local distinctiveness, in conflict with Strategic objective 5 (protecting and enhancing the natural, historic and built environment) of the Core Strategy. Overall, very significant weight has been given to the proposed development's conflict with the relevant development plan policies in relation to these issues.
66. Hence, the proposed development would conflict with the development plan when considered as a whole. In this regard, paragraph 12 of the Framework emphasises that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. This is a matter which weighs strongly against the proposed development.
67. As explained in detail above, the proposed development would conflict with paragraph 135 of the Framework. This is a key policy for the purposes of paragraph 11 d) ii. of the Framework. Even though the proposed development would contribute towards the Government's objective of significantly boosting the supply of homes (which is supported by paragraph 61 of the Framework), its contribution in this respect would be tempered by the fact that it would not contribute towards the creation of high quality places, which paragraph 131 of the Framework states is fundamental to what the planning and development process should achieve.
68. It follows from my findings on the 2nd main issue above that the proposed development would not comply with paragraph 129 e) of the Framework, which provides that, amongst other things, planning decisions should support development that makes efficient use of land, taking into account the importance of securing well-designed places. Paragraph 129 of the Framework is a key policy for the purposes of paragraph 11 d) ii., as is paragraph 110 of the Framework, which the proposed development would also conflict with.
69. Taking account of the range of adverse impacts identified and the very significant weight given to the combined adverse impacts, resulting in conflict with several of the key policies relating to paragraph 11 d) ii. of the Framework, I consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination. The proposed development would not benefit from the presumption in favour of sustainable development, found at paragraph 11 of the Framework.

70. Tables 4 and 5 found in the appellant's Full Statement of Case are predicated on the basis that affordable housing and financial contributions would come forward. However, for the reasons given above, little weight has been given to the obligations contained within the planning obligation which relate to affordable housing and financial contributions. Therefore, the assessments contained within Tables 4 and 5 do not change my findings with respect to the planning balance.
71. The proposed development would conflict with the development plan when considered as a whole. None of the other considerations material to the proposed development indicate that this appeal decision should be taken otherwise than in accordance with the development plan.

Conclusion

72. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR

Richborough



Costs Decision

Site visit made on 6 February 2025

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 April 2025

Costs application in relation to Appeal Ref: APP/Y3940/W/24/3348191 Land West of Sand's Lane, Rowde, Nr Devizes, Wiltshire SN10 2QW

- The application is made under the Town and Country Planning Act 1990 (as amended), sections 78, 322 and Schedule 6, and the Local Government Act 1972 (as amended), section 250(5).
- The application is made by Rowde LVA LLP for a full award of costs against Wiltshire Council.
- The appeal was against the refusal of outline planning permission for outline planning application for up to 50 dwellings, new community building and associated car park, public open space and associated infrastructure with all matters reserved for future consideration except for access.

Decision

1. The application for an award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The Council's Officer's Report explained in detail why the proposed development was considered to be unacceptable with regards to the principle of the proposed development and its effect on the locally distinctive character of the transitional edge of the settlement. The Officer's Report also assessed the necessary infrastructure requirements for the proposed development, including affordable housing. All these matters were carried through into the Council's decision notice.
4. The Council's decision notice mentioned that the proposed development would constitute unsustainable development, but it did not specifically refer to the concerns raised in the Officer's Report that the occupiers of the new dwellings would likely be reliant on the use of private vehicles for access to day-to-day employment, facilities and services.
5. Nevertheless, the reasoning in the Officer's Report was detailed enough to enable the appellant to consider this matter in-depth at the appeal stage. This reasoning included an analysis of the range of employment, services and facilities available at Rowde, which took account of the representations of local residents on this matter. Analysis of the availability of bus services in the area was also provided. All of this fed into the Officer's finding that the site cannot be considered sustainable.
6. Moreover, even if I were to find that the lack of a specific mention of sustainable transport (rather than sustainability in general) in the Council's decision notice constituted unreasonable behaviour, if that behaviour had not occurred and this specific matter had been included in the Council's decision notice, it would still have been required to be contested at the appeal stage, as in fact occurred. This means

that no unnecessary or wasted expense in the appeal process has occurred in relation to this matter.

7. As explained in detail in the associated appeal decision, the site is not a suitable location for the proposed development, having particular regard to the spatial strategy in the development plan and the accessibility of services and facilities, the proposed development would have an unacceptable and harmful effect on the character and appearance of the area, and it would not make adequate provision for necessary on-site and off-site infrastructure.
8. As explained in detail in the associated appeal decision, whilst paragraph 11 d) ii. of the National Planning Policy Framework (the Framework) is engaged, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
9. Taking all of the above into account, it is clear that the Council did not fail to produce evidence to substantiate each reason for refusal on appeal, and did not make vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.
10. Although the Council's Officer's Report found that paragraph 11 d) ii. of the Framework was not engaged at that time, the associated appeal decision explains that, even taking account of paragraph 11 d) ii. of the Framework and the Council's shortfall in housing land supply of approximately 2.03 years, the proposed development is unacceptable. The Council's reasons for refusal given in the Council's decision notice reflect the harm identified at the appeal stage, and that the proposed development would not make adequate provision for necessary on-site and off-site infrastructure. As such, it follows that the Council did not prevent or delay development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations.
11. Given the range of adverse impacts arising from the proposed development as identified in the associated appeal decision, this is not a case where the appeal could have been avoided altogether, or the issues to be considered could have been narrowed. As explained in detail in the associated appeal decision, a Travel Plan and a planning condition requiring electric vehicle charging points to be provided on site would not adequately mitigate the concerns identified with respect to sustainable transport. Hence, the Council did not refuse planning permission on a planning ground capable of being dealt with by conditions.
12. The Council's appeal statement recognised that paragraph 11 d) ii. of the Framework is engaged and assessed the proposed development in this light. Upon publication of the revised Framework in December 2024, the Council again reviewed their case, as shown by their e-mail of 20 January 2025 to the appellant. This e-mail demonstrated that the Council took account of the shortfall in housing land supply, but maintained their position that the proposed development is the wrong development in the wrong location. Considering my overall conclusion in the associated appeal decision that planning permission should not be granted for the proposed development, the Council's stance was not unreasonable. I therefore

consider that the Council did properly review their case following the lodging of the appeal.

Conclusion

13. Therefore, unreasonable behaviour resulting in unnecessary or wasted expense in the appeal process has not occurred and an award of costs is not warranted.

Alexander O'Doherty

INSPECTOR

Richborough