



Appeal Decision

Inquiry opened on 11 July 2017

Site visit made on 14 July 2017

by Kenneth Stone BSc Hons DipTP MRTPI

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

Decision date: 17 August 2017

Appeal Ref: APP/Y3940/W/16/3162581

Land to the south east of South View and north of Webbs Court, South View, Lyneham, Wiltshire SN15 4PG

- 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 Gleeson Developments Limited against the decision of Wiltshire Council.
 - The application Ref 16/05959/OUT, dated 17 June 2016, was refused by notice dated 26 October 2016.
 - The development proposed is a residential development of up to 60 dwellings, including the creation of new vehicular access, public open space, children's play area, landscape planting, pumping station, surface water attenuation and associated infrastructure (outline application with all matters reserved except means of access only in relation to a new point of access into the site).
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Decision

1. The appeal is dismissed.

Application for costs

2. At the Inquiry an application for costs was made by Wiltshire Council against Gleeson Developments Limited. This application is the subject of a separate Decision.

Preliminary matters

3. The Inquiry sat for 5 days on the 11-14 and the 18 July 2017. The site is readily visible from surrounding roads and public footpaths passing through it; I carried out an unaccompanied visit to the site and surrounding area before the Inquiry opened and a formal accompanied visit during the Inquiry on the 14th July 2017.
4. The application was submitted in outline with all matters, except the means of access in relation to a new point of access into the site, reserved. The matters of appearance, landscaping, layout and scale are therefore reserved for future consideration. The application was supported by a site location plan, 11189.01, and a site access plan ITB10092-GA-006 rev B and these are the plans on which the Council took its decision and on which I have considered this appeal. Two illustrative plans were submitted with the application; firstly, an illustrative site layout plan drwg 11189.03; and secondly, an illustrative site layout plan (coloured) 11189.03c. These were

submitted for illustrative purposes only to demonstrate one way in which the scheme could be developed and I have considered them in that way.

5. On the last day of the Inquiry I was provided with a signed and executed legal agreement under section 106 of the Town and Country Planning Act (in counterparts). The agreement provides for 40% of the dwellings in the development to be provided as affordable housing, the provision, maintenance and management of open space(s) and a play area, an education contribution towards improvements to provide additional secondary school places/capacity at Royal Wotton Bassett Academy School and a financial contribution towards the provision of waste and recycling containers for the residential units. I return to these matters and the section 106 agreement further below.
6. I received further correspondence from the appellant after the Inquiry closed to confirm that the challenge papers in respect of the Forest Farm Chippenham decision, APP/Y3940/W/16/3150514, were filed with the Court on 28 July 2017.

Main Issues

7. The main issues in this appeal are:
 - (1) whether the Council can demonstrate a five year supply of housing land;
 - (2) whether or not the proposal would contribute to a sustainable pattern of development;
 - (3) the effect of the proposed development on the character and appearance of the area;
 - (4) the effect of the proposed development on the setting of the Grade II listed building known as the Old Rectory; and
 - (5) whether the proposal makes adequate provision for any additional infrastructure need for affordable housing, education and open space arising from the development.

Reasons

Policy background and context

8. The development plan for the area includes the saved policies of the North Wiltshire Local Plan 2011 (adopted 2006)(NWLP), the Wiltshire Core Strategy (adopted January 2015)(WCS) and the Chippenham Site Allocations Plan (adopted May 2017)(CSAP). The CSAP was adopted following the Council's determination of this application in October 2016 but now forms part of the development plan for the area. These documents together set out the relevant policies against which to consider the proposals before me.
9. The draft Wiltshire Housing Site Allocations Plan (WHSAP) is an emerging plan. A Pre-submission draft was published for public consultation commencing on 14 July 2017. Given the very early stage of plan preparation and that public consultation has only just commenced I cannot afford this plan any significant weight.

10. The WCS provides the Council's spatial strategy for the whole of its administrative area over the plan period from 2006 to 2026. The area is divided up into three Housing Market Areas: 1 North and West, 2 East, and 3 South and into some 20 Community Areas. The WCS sets out a settlement strategy (Core Policy 1 (CP1)) that categorises settlements in terms of the scale of development that may be accommodated in the settlement in a hierarchy with Principal Settlements being at the top moving down through Market Towns, Local Service Centres and down to Large and small villages. The scale of acceptable development is set out for each category as one moves down through the tiers. The individual settlements are identified in CP1 for the higher order settlement tiers, but those for large and small villages are identified in the Community Area strategies.
11. Core Policy 2 (CP2) sets a delivery strategy for the area identifying the housing requirement for the whole area and for each Housing Market Area. A more detailed distribution is set out in the Community Area Strategies with policies for each area including the identification of indicative levels of housing provision.
12. The Appeal site is located in the North and West Housing Market Area (NWHMA) and in the Royal Wootton Bassett and Cricklade Community Area (RWBCCA), which is covered by Core Policy 19 (CP19).
13. The WCS states that the settlement boundaries, which are identified for all settlements from larger villages upwards in the hierarchy, are taken forward from the NWLP until such time as they have been reviewed. The recent adoption of the CSAP provides specific site allocations and boundary reviews for the Chippenham Area and the remainder of the Plan area site specific allocations and boundary reviews are to be addressed in the recently emerging WHSAP.

Five year supply of housing land

14. The WCS sets a housing requirement for the plan period (2006 -2026) of 42,000 dwellings for the whole of the plan area. The NWHMA has a requirement for 24,740 over the plan period equating to an average annualised requirement of 1,237. These are expressed as minimum in the policy. These matters are agreed in a Housing Statement of Common Ground (HSoCG).
15. The parties also note in the HSoCG that the Objectively Assessed Need (OAN) in the plan was higher than the requirement. I note that the requirement in the WCS was increased at the request of the examining inspector from that originally identified in the submission version of the Core Strategy, which had identified a requirement of 37, 000 over the plan period. The overall requirement agreed in the adopted WCS remained below the OAN for the area, which was in the region of 44, 000, but reduced to ensure environmental quality was not compromised.
16. The parties also agree that the Liverpool approach to spread any shortfall over the plan period is appropriate and that any buffer should be applied to both shortfall and forward requirement.
17. Where the parties disagree are in three main areas. Firstly the Council have included Gypsy and Traveller pitches within its completions total, the

appellant disputes these should be included; secondly the parties disagree on the appropriate buffer to apply; and thirdly the parties are in dispute regarding likely supply trajectories for a limited number of strategic sites.

18. These matters were addressed in a recently issued appeal decision in respect of Forest Farm¹. The decision was issued on 22 June 2017 after the date of submission for the proofs of evidence, but before the Inquiry commenced. The appellants have provided an updated Position Statement, at the request of the Council, given that the Inspector had concluded on many of these matters on the basis of similar evidence. The appellant has also confirmed that they have now challenged that decision. I have had regard to that Position Statement and the evidence I heard at the Inquiry in reaching my conclusions.

19. I will deal with each of these matters in turn.

Gypsy and Traveller

20. The issue revolves around the inclusion of some 120 Gypsy and Traveller pitch completions included in the Council's overall completions count. According to the HSoCG the Council identifies 11,756 completions in the NWHMA between April 2006-March 2016, which includes 120 Gypsy and Traveller pitches. Removing the Gypsy and Traveller pitches would reduce the completions over the period to 11,636. The residual requirement for the NWHMA for the remaining ten years would therefore be either 12,984 (Council) or 13,104 (appellant), against which I should calculate the five year housing land supply.

21. If Gypsy and Traveller accommodation formed part of the housing need in the Core Strategy, which was the basis to arrive at an overall requirement figure, then it would be appropriate to discount the completions against that requirement. The Council rely on Topic Paper 15: Housing Requirement Technical Paper which formed part of the evidence base for the WCS and which in Footnote 11 makes clear that 'The definition of a home is not confined to C3 dwellings, but includes all self-contained civilian accommodation, including Gypsy and Traveller pitches,'. The Wiltshire Council Strategic Housing Market Assessment 2011 (by Fordham) provided further evidence to support the WCS and the Council contend, in that it was compliant with the now revoked PPS3, it included consideration of different types of households including Gypsies and Travellers.

22. However, the examining Inspector for the WCS, at paragraph 75 of his report, did not accept these documents as representing the objectively assessed housing need for the area, as the appellant points out. However, his concerns were that Topic Paper 15 was used to support the Council's preferred quantum of housing not an objectively assessed need and, based on the Fordham work, the Office for National Statistics (ONS) population projections and alternative assessments of housing need, the overall need was greater, in the region of around 44,000. His concern was with the overall level of need and he does not here identify concerns related to individual groups, either being included or excluded from the overall figure.

¹ APP/Y3940/W/16/3150514

23. The Fordham SHMA is not explicit in its treatment of Gypsies and Travellers. Whilst there are various references to compliance with guidance in PPS3, this is not clearly directed towards this issue. Although PPS3 at paragraph 21 refers to Regional Spatial Strategies it further advises Local Planning Authorities to plan for a mix of housing and at bullet point three expressly refers to Gypsies and Travellers.
24. The WCS's delivery Strategy is explained at pages 44 to 55 culminating in CP2. The Council contend that at paragraph 4.25 there are additional sources of supply set out that include Gypsies and Travellers under specialist accommodation provision and thereby indicate the policy was reliant on such provision to address its requirement. The appellant highlights that these are identified as 'additional sources of supply'. However, these are set in the context of the preceding paragraphs and are additional sources of supply to those referred to at paragraphs 4.22 and 4.24. Together these set out the sources of supply that will contribute to the council's provision of housing and employment land. Further, at paragraph 4.24 it states the sources of supply are set out at appendix C to the WCS and within this appendix Gypsy and Traveller accommodation is also addressed.
25. The appellant contends that on the basis of the Technical Adjustment to the Framework the inclusion of Gypsy and Traveller accommodation within the overall requirement is incompatible with the latest advice. However, the Technical Adjustment was issued by way of a Written Ministerial Statement on the 22 July 2015, the WCS was adopted in January 2015 and thus could not have been expected to take account of that advice.
26. Overall from the information before me it would appear a reasonable conclusion that the WCS did include Gypsy and Traveller accommodation within its overall requirement. This is confirmed by footnote 11 and the structure of the delivery strategy and preceding justification paragraphs and accompanying appendix. The WCS at the time of its drafting and adoption did include Gypsies and Travellers in the overall requirement. It then has a separate policy CP47 to specifically address that subset of the overall requirement as is seen with the other 'additional sources of supply'.
27. Where these do not contribute to the requirement these are expressly referred to, such as for military establishments. Although included in the list of additional sources of housing supply and having its own policy CP37, paragraph 6.23 endnote 76 makes clear that provision of new housing during the plan period as a result of Army Rebasing on Salisbury Plain will be in addition to the housing requirement in CP2. There is no equivalent in relation to Gypsy and Traveller Core Policy 47, or other policies associated with the other 'additional sources of housing supply'.
28. I also consider the approach of the examining Inspector in addressing his matter 4 – housing. Here his approach was to consider the overall requirement, how any surplus should be addressed and the approach to the appropriate buffer before going on to consider specific subsets of the requirement and how these were dealt with. These subsets included affordable housing, rural exception sites, vulnerable and older people and Gypsies and Travellers. At no point does he suggest any of these are not to be treated as separate from the overall requirement. Indeed his assessment addresses how each element is addressed in the context of its own policy

and whether that addresses the national policy advice, at the time, and provides for an appropriate policy framework for that specific subset. In the end he concludes that the Core Strategy's approach to housing provision is justified and when considered as a whole is sufficiently consistent with national policy and that it will be effective in meeting the varied housing needs of the County over the plan period.

29. The WCS was found sound by the examining Inspector. Given that I have concluded the Gypsy and Traveller figures were included in the requirement it is also reasonable that the completions for their pitches are then included in terms of concluding on the residual requirement. Whilst the latest national advice is that Gypsy and Traveller needs should not rely on the overall five year housing land assessment and that a separate assessment is to be undertaken, that does not conflict with the issue before me which relates to general housing and the consideration of those matters that went to establishing the overall requirement at the time it was set, at the adoption of the WCS.
30. I therefore conclude that the inclusion of Gypsy and Traveller pitches in the completions figure, in the circumstances of this case, is reasonable. On that basis the residual housing requirement would be 12, 984 for the remainder of the plan period to 2026 (as the base date is 2016 for this appeal that equates to an annualised average requirement of 1,298).

Appropriate Buffer

31. Paragraph 47 of the Framework has its main aim to boost significantly the supply of housing. In order to achieve this it advises that local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirement. The advice goes on to require an additional buffer of 5% to ensure choice and competition in the market for land, but where there has been a persistent record of under delivery this should be increased to 20% to provide a realistic prospect of achieving the planned supply.
32. There is no definition of what persistent under delivery may be and the advice in the Planning Practice Guidance (PPG) confirms this involves questions of judgement for the decision maker in order to determine whether or not a particular degree of under delivery of housing triggers the requirement to bring forward an additional supply of housing. There is no universally applicable test or definition of the term. An assessment of the delivery record is required to establish whether there has been a record of under delivery. This will need to be measured against an appropriate requirement. The extent or period of time over which such an assessment is to be considered is also important and the PPG advises that this is likely to be more robust if a longer term view is taken, as this can take account of peaks and troughs in the housing market. Then consideration will need to be given as to whether any failure amounts to a persistent record of under delivery.
33. Both parties have referred me to comments from a number of Inspectors on the issue of the buffer including those from the examining Inspector into the WCS and to other appeal decisions in the locality including, most notably,

those at Forest Farm and Malmesbury². What is clear from the way in which the Inspectors have dealt with the issue is that there is a judgement that is required, that the matter needs to be considered in the round and that a balanced decision should be made.

34. The Council provide figures from 2006 to 2016 across a ten year period for the NWHMA or an appropriate area within which the appeal site is located in the preceding structure plan (The Wiltshire and Swindon Structure Plan (WSSP)). The appellant has also considered this ten year period but in addition has further considered figures back to 1990/1991 to create what they see as a longer term view.
35. Within the periods assessed by each party there were a number of requirements that delivery could be considered against including the adopted WCS (Adopted January 2015) requirement figure, the submission draft WCS requirement figure, the WSSP (adopted April 2006) requirement figure, the earlier Wiltshire Structure Plan 2001 alterations (adopted April 1991) and the Wiltshire Structure Plan 2011 (adopted January 2001). With each of the differing plans there are also different geographic areas assessed including North Wiltshire, West Wiltshire, Wiltshire (excluding Swindon) etc and at various points different controlling local authorities and different development plans in operation. Whilst the PPG advises a longer term view takes account of the movements in the housing market, the use of historical data can also create issues regarding the compatibility and comparability of data and therefore needs to be treated with caution.
36. The period 2006 - 2016 is a compatible time scale assessed by both parties and covers the period of the current WCS (2006 -2026). The WCS was adopted in January 2015 and therefore has only one full year of data since its adoption presented 2015/16. This demonstrates the Council did not achieve its delivery target against the annualised requirement. In the preceding year, the year 2014/15 the Council did not achieve the delivery against the annualised target on the basis of the 42, 000 requirement, but in 2013/14 it did meet the target. Indeed the appellant contends that if the ten years back to 2006 are considered against this annualised target it is only meet 30% of the time. However the 42,000 requirement figure was not requested by the examining Inspector until during 2013 when examining the WCS which had been published for consultation in Feb 2012 with a requirement of 37, 000. When considered against an annualised target based on that requirement the Council demonstrate that the target is met in the NWHMA in 2013/14, 2010/11, 2007/08 and 2006/07.
37. In considering the early part of this period, when the WSSP had set the requirement and before the WCS had been published, the Council's figures demonstrate that the Former North Wiltshire remainder achieved its delivery against that requirement in 3 out of the 5 years between 2006/07 and 2010/11. The appellant's figures also show that during that period, against the WSSP target, delivery was achieved in 4 out of the 5 years.
38. Taken together in the round across that ten year period these facts lead me to conclude that there was not persistent under delivery when delivery is considered against the available requirement figure during that ten year

² APP/Y3940/A/13/2200503

period. However, there are other factors that need to be considered before an overall conclusion can be reached.

39. Looking at the NWHMA specifically, the appellant's figures show that over the ten year period delivery is achieved only 3 out of the ten years and that only 2013/14 has recently achieved the target with the other two years when delivery was achieved being in 2006/07 and 2007/08. Overall in the ten year period since 2006 the delivery of housing has not been strong with significant times of under provision. Since the adoption of the WCS there also appears to be a falling delivery with under delivery in the last two years and (although figures are not yet confirmed) potential under delivery in 2016/17.
40. Taking the longer term view, as presented by the appellant, this appears to confirm a 30% delivery rate against the annualised target in place at the time. However, I have some concerns about the historic data as this relates to other geographic areas and that the local planning authority is not the same. Furthermore, whilst the breakdown of the separate north and west Wiltshire figures would support the 30% delivery rate, if disaggregated, they appear to show delivery in the areas being achieved against their respective targets in different years, so that they are achieved in the north area when not in the south and vice versa. It is only in ten out of the 23 years assessed that the target is not met in both areas in the same year.
41. Much of this information has been considered before by other Inspectors. In Malemsbury the Inspector concluded the information led to persistent under delivery. However, following this decision the WCS examining Inspector and two other Inspectors have considered that there has not been persistent under delivery. In those cases where they have considered that under delivery has not been persistent they have been careful to leave it open to other Inspectors to arrive at their own conclusions given the passage of time, the information that maybe in front of them and by raising concerns that if continuing under delivery occurs there may be a point at which this becomes persistent. They were also aware of the Malemsbury decision at the time of their decisions.
42. I am conscious that the Council has recently adopted the CSAP, published its WHSAP for public consultation and is in the process of producing a SHMA jointly with Swindon, which I was informed is in effect the start of the process for the early review of the WCS. In this regard whilst they maybe a little behind the expectations of the WCS examining Inspector, they are moving towards those factors he had regard to.
43. I note that Topic Paper 4 to the WHSAP includes reference to aiming towards a figure that includes a 20% buffer. The appellant sought to suggest this reflected a concern by the Council that it may indeed become such a Council. That is not my reading of the resilience testing to which the paper refers, but is an aim to protect the Council as a matter of prudence so that if achieving a delivery at that level there would never be a question of its plan being undermined through a determination that it was persistently under delivering.
44. Overall whilst I acknowledge performance is not strong in housing delivery and there are worrying signs that the Council needs to address, particularly in the more recent years since adoption of the WCS where delivery has not

met requirements, I do not conclude that under delivery at this point has been persistent in the context of the Framework. On that basis I conclude that the appropriate buffer to adopt is 5%. This would result in the residual requirement (including the 120 Gypsy and Traveller completions) with a 5% buffer for the 5 year period equating to 6, 817.

Disputed sites

45. An amended Housing Statement of Common Ground HSoCG dated 7 July 2017 was provided to be me on the morning of the first day of the Inquiry. This followed Wiltshire Council's updated position reflecting advice from Persimmon in relation to Ashton Park and which resulted in the removal of 300 units from the Council's trajectory for that site. The figure in paragraph 1.19 of that HSoCG needs therefore to be reduced by 300 to give 7, 066 deliverable 5 years supply for the Council. The HSoCG therefore agrees that the base position for supply is as set out in the Housing Land Supply Statement dated 1 April 2016 published 3 March 2017 (CD33). It further agrees that following adjustments after the Forest Farm decision (and following Persimmon's latest advice) that the Council's deliverable 5 year supply is 7, 066 dwellings. The parties have identified three strategic sites where there is dispute concerning the delivery trajectory wherein the appellant considers that a further 330 units should be removed from the Council's supply. This was amended during the Inquiry, to ensure consistency between the HSoCG and Mr Miller's evidence for the appellant whereby the trajectory for South West Chippenham was amended, increasing the difference to 385. The three sites are South East Trowbridge (known as Ashton Park), South West Chippenham and Rawlings Green. I will deal with each in turn below.
46. Ashton Park is a development allocated in CP2 of the WCS for 15 hectares of employment land and 2, 600 dwellings. Up until the day before the Inquiry the Council had a trajectory which identified up to 350 dwellings being provided in the 5 year period with 100 units being provided in 19/20 and 250 units being provided in 20/21. Following correspondence with the developer, Persimmon, the Council amended this on the day of the Inquiry to provide only 50 units in 20/21. The appellant suggests that no dwellings should be counted in the 5 year period.
47. This is an allocated site. There is an extant planning application with the Council which was submitted in May 2015. There are outstanding concerns regarding the master planning of the site and in particular significant concerns raised by Natural England regarding bats. These are however not new issues and I was informed that matters were being progressed. I understand similar evidence was presented to the Forest Farm Inquiry. Since then time has moved on and the land owner has significantly reduced the housing delivery trajectory in the forthcoming 5 year period. The Council are suggesting that 50 dwellings should still be realised on the back of the developer's advice. The site is an allocated site, there is a developer in place, there is an application being considered and amendments / re-planning is underway. There is some 4 years before the first units are to be provided and then only 50 in that year. This does not appear an unrealistic position in my view and is within the time scale that Mr Miller suggests housing units on large sites would become available, i.e. two and a half years after determination of the outline. On that basis I conclude that the

site is available and deliverable. Whilst the late change in the trajectory adds doubt, it does not provide clear evidence that the scheme will not be implemented within 5 years. I therefore retain the 50 units for Ashton Park

48. Moving to South West Chippenham. This again is an allocated site, this time in the CSAP where policy CH1 identifies approximately 171 ha of land at South West Chippenham for a mixed use development to include 1,000 dwellings amongst other matters. The difference between the parties refers to the 1,000 units and which are to be built out by Crest and Redcliffe.
49. Here the Council suggest some 530 units could be provided in the forthcoming 5 year period with 30 units to be provided in 17/18 (reduced from a previous estimate following the Forest Farm Inquiry), 150 units in 18/19 and 175 units in each of the two remaining years 19/20 and 20/21. The appellant revised the figures in the HSoCG to reflect those in Mr Miller's proof and suggest that 85 units would be provided in 18/19 and 135 units in each of the remaining years 19/20 and 20/21 producing a total of 355.
50. The appellant provided evidence, ID11, to suggest that Redcliffe would not be putting a spade in the ground until 2018 which to my mind calls into doubt the 30 remaining units in the Council's trajectory for 2017/18. It also adds pressure as to the level of delivery in the following year 18/19 if the developer is only commencing development in that year. This is likely to have a significant impact on the level of provision over that year, thus meaning the small reduction to 150 that is suggested by the Council is likely to be excessively optimistic even if accepting that 175 units a year are provided in full subsequent years. The 85 proposed by the appellant for 18/19, when the spade in the ground is at the start of the reporting year seems a more reasonable figure with reference to the 175 yearly total for subsequent years.
51. As to the subsequent years 19/20 and 20/21, the Council relies on the evidence gathered from the developers who suggest that there are no significant concerns for those years delivery. Whilst this may be optimistic assurance by the developer there has to be a degree of pragmatism and realism within their suggested figures or it would affect their credibility for future monitoring. The PPG requires clear evidence that schemes will not be implemented within the five year period not the other way round.
52. The appellant has provided average delivery figures for the developers and sought to suggest that the delivery for this site would be significantly above those delivery rates. However, as pointed out by the Council, these are averages by way of a mean. There are no indications of maximum numbers of units that Crest are capable of delivering or what they normally achieve as a modal average. The exercise has limitations and is of little relevance to site specific considerations where national averages, comparative data and lack of detail on site constraints and infrastructure requirements may have significant implications on the figures. I see no reason to therefore reduce the final two years of the Council's trajectory for this site.
53. Overall for South West Chippenham I remove 95 units from the Council's figure (30 from 17/18 and $150 - 85 = 65$ from 18/19) the total supply for this site would therefore be 435 dwellings

54. Finally, in terms of disputed sites, I turn to Rawlings Green. This again is a strategic site allocation in CSAP, policy CH2, for approximately 50 hectares of land for a mixed use development to include no more than 650 dwellings, including a first phase of no more than 200 dwellings.
55. The Council have suggested that this site would provide a total of 180 units with 20 in 18/19 and 80 in each of the following two years 19/20 and 20/21. The appellant on the other hand suggests that the site would only deliver 20 units, in the year 20/21.
56. In September 2016 Wiltshire Council's Strategic Planning Committee endorsed an officer recommendation to grant planning permission for development of up to 700 dwellings, 4.5 hectares of employment land and associated infrastructure. The resolution was subject to the signing of a section 106 agreement. The decision has not yet been issued, although the Secretary of State has confirmed that the application will not be called in and the Council is free to issue the decision when the 106 is complete.
57. A separate planning application for a bridge over the railway line to provide a second access into the site has also been submitted to the Council. At the Inquiry I was provided with a copy of a committee report, ID12, in respect of the railway bridge, which is to be considered by Committee on the 16 August 2017. The Officer recommendation is to grant planning permission subject to conditions.
58. There are a number of outstanding issues including matters related to the bridge across the railway line. I was informed at the Inquiry that matters were progressing with Network Rail and that a window to carry out the works to cross the rail line had been agreed.
59. The site was considered by the CSAP examining Inspector in a fair degree of detail from paragraphs 72 to 99 of his report. He considered the issue of deliverability in his reasoning and in particular addressed the question of the bridge and land ownership matters. These are the matters that are raised here. In his reasoning the Inspector concluded on the basis of the evidence before him that there did not appear insurmountable problems which would prevent the construction of the bridge. The CSAP report was published in February 2017 and the CSAP was adopted in May 2017. These matters were further considered in the Forest Farm appeal where the Inspector accepted the Council's trajectory in respect of this site.
60. The site is an allocated site in a very recently adopted plan. The issues raised in terms of matters which may delay delivery were considered at that time and I have been provided with no significant evidence that would lead me to a different conclusion to the CSAP Inspector. This is also the conclusion reached by the Inspector in respect of Forest Farm. Whilst we have moved on in time the Council has before it an officer report with a recommendation for the approval of the bridge and I have been informed that a window for the construction of the bridge has been identified by Network Rail. Matters are therefore progressing.
61. Even if I were to accept the appellants concerns that the Council are being unrealistic in its timescales there is a reasonable prospect that the outline permission will be issued in the near future, I have no evidence to suggest it will not. Given the two and a half year timescale before units are produced

suggested by Mr Miller this would suggest that the first units would be delivered towards the end of 19/20 rather than 20/21. That could reduce the contribution of this site at most by 80 units not the 160 suggested by the appellants.

Conclusion on five Year Housing Land Supply

62. The residual requirement plus a 5% buffer is 6, 817. The Council's supply is 7, 066 from which I deduct 95 units from South West Chippenham producing a supply of 6971, equating to a 5.11 years supply. Even if I deduct the further 80 units that are potentially at risk at Rawlings Green the supply would fall to 6891, still equating to a 5.05 years supply. On this basis I am satisfied that the Council can demonstrate a 5 year supply of housing land.

Sustainable pattern of development

63. The purpose of the planning system is to contribute to the achievement of sustainable development³. Paragraph 8 of the Framework confirms that the planning system should play an active role in guiding development to sustainable locations. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is a material consideration in determining applications and appeals. The starting point is therefore the development plan before consideration is given as to whether material considerations might indicate a decision otherwise than the development plan was appropriate.
64. The WCS sets out a spatial strategy for the County consisting of three key elements, a settlement strategy (CP1), a delivery Strategy (CP2) and infrastructure requirements (CP3). The settlement strategy identifies a hierarchy of settlements in four tiers with the delivery strategy then identifying the level of growth and the way these settlements will develop in the future. As noted previously, the County is divided into Housing Market Areas and then further divided into Community Areas. CP2 identifies a minimum housing requirement for Wiltshire of 42, 000 dwellings with 24, 740 to be provided in the NWHMA in the plan period. The policy notes this will be delivered in a sustainable way including to limit the need for development on Greenfield sites and that sites for development in line with the area strategies will be identified in forthcoming DPDs and Neighbourhood Plans. The policy confirms that there is a presumption in favour of sustainable development within the limits of development at each of the settlements in the tiers. Outside the limits of development it confirms that development will not be permitted other than by other policies in the plan. The limits of development are set by the settlement boundaries established by policy H4 of the NWLP, which are to be reviewed in forthcoming allocation plans. WCS CP19 sets the spatial strategy for the Royal Wotton Bassett and Cricklade Community Area (RWBCCA) which amongst other matters identifies 1,445 homes to be built in the area of which some 385 would be provided in the rest of the community area outside Royal Wotton Bassett.
65. Lyneham is located within the NWHMA and within the RWBCCA. It is identified as a larger village, in CP19, within the fourth tier of the settlement strategy, 'large and small villages' of CP1. The parties agree that the site is

³ National Planning Policy Framework paragraph 6.

located outside the settlement boundary, although the appellant contends that the boundary is out of date, which is a matter I return to below. Furthermore, the appeal site is not identified in an Allocations DPD or Neighbourhood Plan and does not fall within one of the exception policies as listed at paragraph 4.25 of the WCS. On a plain reading the proposed development of this site would conflict with the spatial strategy of the WCS and would be contrary to the development plan.

66. The appellant however contends that the settlement boundaries are out of date as they were set in respect of a plan with a different, lower, housing requirement to the core strategy and the Council cannot demonstrate a five year housing land supply; therefore any conflict with the settlement boundaries should be given limited weight. It is further contended that aside from the settlement boundary the development is located adjacent to a larger village and would meet the needs of the village, is of a proportionate scale given the size of the village, is not in an unsustainable location and would not harm any other identifiable characteristic of the village. It would in the appellant's contention thereby not harm the objectives of CP1 or CP2.
67. The settlement boundaries have been brought forward from the NWLP and were tightly drawn around the settlements at a time when there was a different housing requirement. The WCS was found sound on the basis of a requirement for 42, 000 units and on the basis of an early review and site allocations documents to be produced. At this point the early review is only in its early stages, the CSAP has been brought forward and reviewed settlement boundaries around Chippenham, but the site allocations document for the rest of the County has not yet emerged. The WHSAP addresses settlement boundaries in the rest of the County but this has only just been published for consultation and given its early stage in plan preparation I cannot give it significant weight. Age of itself is not a reason to find a policy out of date and the fact that the settlement boundaries are brought forward from an earlier period does not of itself mean they are out of date.
68. The provision of additional housing, given the Framework's aim to significantly boost housing delivery is a positive benefit of the scheme. The WCS requirement and disaggregated requirements for the NWHMA and RWBCCA are also set as minimum. However, this needs to be viewed in the context of the Core Strategy's housing requirement, delivery strategy and strategy for the community area and my conclusion that the Council can demonstrate a five year supply of housing land. In this regard the WCS notes that the remainder of the RWBCCA has a requirement for 385 homes. Of this some 248 had been provided in completions at the time of the examination leaving a remainder of 113 units to be identified in the area. The latest Housing Land Supply Statement, CD33 appendix 6, demonstrates that in the remainder of the Community Area the requirement has now already been exceeded. This would suggest that the existing settlement boundary in this location is not constraining development and that development in this area is positively contributing to the wider NWHMA and for Wiltshire as a whole with the plan period only approximately half way through.
69. The emerging WHSAP does not identify any alterations to the settlement boundary in the vicinity of the site or further allocations for the village of

Lyneham. Whilst I do not give this significant weight it represents a direction of travel consistent with the conclusions that the settlement boundary is not constraining or restricting development in the area such that would undermine policies CP1 and CP2. The fact that the Council can demonstrate a five year supply of housing land to meet its requirement and that housing supply is, at this point, exceeded in this Community Area adds weight to the conclusion that the settlement boundary in this location is not out of date.

70. The settlement boundaries are an important component of the overall delivery strategy and they have an additional function in seeking to protect the countryside, a matter consistent with the Framework. Therefore, overall I conclude that, at this point in time, the settlement boundaries are not constraining development and the policies to which they are associated are consequently not out of date. The size of the development at 60 units outside the settlement boundary is of a scale that is not supported by policy. CP2 seeks to have a more restrictive approach to development than within the settlement boundaries where there is an indicative threshold of 10 units. The parties agreed this was not an upper limit but an indication of an appropriate level. I accept the point that as the site is outside the settlement boundary the threshold is not directly applicable. However, with a more restrictive position outside the boundary it would not be unreasonable to expect acceptable development outside the boundary to be of a lower threshold. This is the case in the other exception policies.
71. The question of whether the development is considered to sit one side of the settlement boundary or the other is therefore irrelevant if the scale of the development is considered. In this regard whether inside or out, 60 units is far in excess of the level or quantum of development that would be expected by CP2 or the exception policies at this location in the settlement hierarchy.
72. The appellant also suggested that Lyneham was a large Larger village with a good range of services and facilities, including community facilities. This was further supported by the representations from a number of local residents who gave evidence to the Inquiry. My attention was also drawn to the fact that in Topic Paper 3 to the WCS, CD9, Lyneham has a self-containment index of 63%, which is by far the highest in the Community Area. Suggesting that this small proportionate population increase would not dramatically change the function or characteristics of the centre and would not undermine that self-containment.
73. However, this goes to the question of the role and function of the village in the settlement hierarchy. Topic paper 3 recognised that Lyneham had the potential to be a higher order settlement given its population and facilities but decided against this because of the relationship with the wider rural area and proximity to other higher order settlements including Wotton Bassett. The comparative judgement being that given the proximity of higher order settlements with a greater range of services and facilities this would increase the propensity of people to travel to those higher order centres. In effect in setting a sustainable settlement hierarchy the Council, with the benefit of its wider evidence base, made decisions about which were in effect the more sustainable settlements and how those would be used. This sustainable settlement strategy is the basis of the core strategy and spatial strategy and which was found sound.

74. It is not for a section 78 appeal to go behind the strategy in this way. The WCS is recently adopted sets a settlement strategy which had regard to the comparative positions of various settlements across the whole County and determined an appropriate hierarchy and delivery strategy aligned to that which was found sound. I do not have the information to make a fully informed assessment in the same way as an examination and it would not be right for me to do so in the circumstances of an individual case; that would undermine the plan making process.
75. The appellant further suggested that given the scale of Lyneham the proposed development was a very modest increase and was not as great, in terms of a proportionate increase, as those that had been agreed in other larger villages, such as Bratton and Crudwell, which were proposed for allocations in the WHSAP. The scale of development in terms of overall numbers is far in excess of what the plan envisages for a settlement at this position in the hierarchy. Whilst the increase in proportionate terms may be less than other larger villages that does not overcome that fact. Moreover the rationale behind those other allocations includes a concern that those villages were situated in Community Areas that had not yet met their identified requirement and the allocations were aimed at delivering that requirement, therefore seeking to underpin the housing provision in the Community Area and wider plan. Whilst the assessment process for considering the acceptability of such allocations did include the proportionate size of the allocation to the village, it has to be considered in the context of the allocations plan seeking to provide a planned response to meet the requirement for housing delivery in the area in the context of the spatial strategy.
76. The additional population that would occupy the new development would require access to services and facilities to meet their everyday needs. This would include access to schools, higher order shops, employment etc. The Council's spatial strategy identifies higher order settlements where such facilities are concentrated and the delivery strategy expects larger scale developments to be directed towards those higher order settlements. Whilst there is a comparatively high self-containment index related to the proportion of people who live and work in the village there will always be a spread of such indices against different settlements and this does not reduce the concern that many of the new residents would be likely to have to travel to work given the level of the settlement in the hierarchy. The development proposes a contribution to the Wootton Bassett Academy to accommodate increases in the school age population again demonstrating the need for travel outside the village to access schools. I accept that there are various facilities social, recreational and shops that would serve a more local need but given the scale of the development there will be a significant drive to travel for a number of the residents to access day to day services and facilities. It is this very issue that the sustainable spatial strategy is aimed at seeking to minimise and by providing for such a large quantum of housing at such a low tier settlement the proposal would undermine, thereby increasing the necessity for travel to access those needs.
77. The Council accept that the scheme will provide affordable homes for the village and wider area and that this is a significant positive benefit of the scheme, given the need for affordable housing across the County and in the Community Area, ID13 identifies 188 households in the Community Area.

This is a positive benefit of the scheme to which I give significant weight. There is also a positive benefit to be considered in that the development would provide for additional housing given the advice in the Framework to boost significantly the supply of housing.

78. Drawing these themes together I have found that the settlement boundaries are not out of date, that they fulfil an important function in protecting the countryside and in the context of the interpretation of the spatial strategy. In this latter regard they need to be considered flexibly and given the delivery of housing in the RWBCCA to date they do not appear to be restricting development such that is limiting achievement of the requirements of the plan. The proposed development at 60 units is a scheme which in the context of the delivery strategy, CP2, is above what might reasonably be expected in areas outside this settlement, or even within it. The settlement is in a Community Area that has already met its planned housing requirements for the plan period and the direction of travel is not to amend the settlement boundary in this location. Whilst the Framework seeks to boost significantly the delivery of housing the Council can demonstrate a 5 year housing land supply, the Community Area is meeting its requirement level and the proposed development is not in accordance with the spatial strategy of the development plan.
79. Overall I conclude that the proposal would result in an increased demand for travel to access the services and facilities required for future residents to meet their day to day needs which would be provided for in higher order settlements it would therefore fail to comply with policies CP1, CP2 and CP19 of the WCS. As such the proposal would not contribute to a sustainable pattern of development in the County. Given that the planning system seeks to positively plan for development, undermining the development plan would result in material harm to the achievement of sustainable development in the County which is to be achieved through the spatial strategy.

Character and appearance

80. The site comprises two fields at the edge of Lyneham supporting pasture and arable cropping. They are sub divided by a mature hedge row for part of the boundary and in the wider area there are hedge and tree boundaries to the north east and east containing the site from the wider landscape. To the north the site abuts South View, the A3102, which has a relatively open boundary demarked by open fencing and loosely spaced trees. To the south and west the site abuts the edge of Lyneham where the boundary is primarily demarked by residential curtilages enclosed by standard fences, producing a relatively stark and unmediated urban edge.
81. The application is submitted in outline with only the access into the site being a matter for consideration at this stage. There has been illustrative material provided which gives an indication of one way in which the site could be developed but which is not determinative.
82. The site has no landscape designation and it is not argued by the Council that it is a valued landscape in terms of paragraph 109 of the Framework. Both parties accept that what harm there would be would be localised. The landscape harm would result from a presently undeveloped area of land being developed with a housing estate. The harm would be permanent and irreversible and would result in a complete change to the character of the

application site. However in the context of the wider landscape the site is located at the edge of the village. The village edge would in effect be moved outwards. There would be little significant difference to the appearance of the edge of Lyneham as seen across the remaining fields and with a hard urban edge. There would however be, as the appellant contends, an opportunity to improve the village edge, softening and landscaping it. The redline boundary ensures there are fields beyond the site across which the development would be viewed and the illustrative material includes landscape buffer zones and a density of development that would enable reasonably extensive landscaping at the periphery of the site.

83. The site is relatively contained by wider landscape features to the north and north east including the Old Rectory and the adjacent field boundaries with substantial trees. The site is not conspicuous or readily visible in longer distance views.
84. On this basis I conclude that whilst there would be a loss of open land, the end result would be a more coherent better assimilated and much improved village edge with enhanced landscaping. In my view this would be a positive benefit of the scheme and improve the landscape character and appearance of the area.
85. There are a number of public rights of way that pass through the site, in particular Lyne 4 and Lyne 5. The development of the site would affect Lyne 4, which runs west east from Pound Close across field 2 to meet with Lyne 1 and head south towards Lancaster Square. The illustrative layout has the alignment retained but adjacent to residential plots and along footpaths in the estate. This would change the character of the experience for footpath users who would not get into the countryside until the south eastern site boundary and the remainder of field 2. This would affect a short section of the footpath but would be a negative effect on the users of it.
86. In terms of Lyne 5, which runs roughly north eastwards from where Lyne 4 exits Pound Close up to the boundary with The Old Rectory and South View, again the alignment is proposed to be retained and much of it accommodated within a landscaped area that seeks to also incorporate the existing drainage ditch. Whilst this is an illustrative layout it does suggest that there is room to accommodate a more rural setting for the right of way and only limited sections would need to be directly adjacent to residential curtilages. The change in character could be moderated and would not be as significant as in respect of Lyne 4.
87. Policy CP51 of the WSC requires developments to protect, conserve and where possible enhance landscape character and not have a harmful impact on landscape character. Any negative impacts must be mitigated as far as possible through sensitive design and landscape measures. The Framework seeks to ensure that the intrinsic character and beauty of the countryside is recognised.
88. Given the limited localised effect of the development and the positive benefit of the potential landscaping improving the landscape structure and village edge I am satisfied that the scheme does address the identity of the village, its transition between man-made and natural landscapes, the locally distinctive character of Lyneham and the landscape features of value in the area. There is a negative effect on Lyne 4 and a lesser but still negative

effect on Lyne 5 however these can be mitigated, particularly in respect of Lyne 5 by appropriate landscaping which could be the subject of an appropriate condition.

89. On balance and for the reasons given above I conclude that the proposal would not result in material harm to the character and appearance of the area. The proposal would therefore not conflict with policy CP51 of the WCS which seeks to protect and conserve landscape character and appearance.

Setting of Listed Building

90. The Old Rectory is a Grade II listed building located to the north east of the appeal site.
91. I have a statutory duty to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Core Policy 58 in the WCS addresses the conservation of the historic environment and requires that development should protect, conserve and where possible enhance the historic environment. It further states that designated heritage assets and their settings will be conserved and where appropriate enhanced in a manner appropriate to their significance. The Framework in Section 12, paragraphs 126 through to 141, sets out policies for conservation and enhancement of the historic environment.
92. There is some uncertainty as to when the property was originally built, with suggestions that it could be 18th century. The property is for the most part red brick laid in English bond with a slate roof covering. The front elevation has a gothic front in ashlar limestone and brick gables with a natural stone roof. This was added in the 1870s and most likely associated with the property becoming a vicarage, which I was informed was in 1874.
93. The property consists of the detached building and its gardens which are contained within a walled boundary. The parties accept that this demarks the extent of the property's curtilage. Beyond the curtilage is open countryside with the village of Lyneham set to the south west across open fields. Again both parties accept that the appeal site which includes the fields between the village edge and the curtilage of the Old Rectory form part of the setting of the designated heritage asset.
94. The setting of a heritage asset is defined in the Framework as the surroundings in which an asset is experienced. It is not fixed and may change as the asset and its surroundings evolve. The Framework further advises that elements of the setting may make a positive or negative contribution to the significance of the asset, may affect the ability to appreciate its significance or may be neutral.
95. The significance of the Old Rectory is derived from: its aesthetic value, in terms of the appearance and architectural quality of the building; its communal value, in terms of its use as a rectory and its association with the village; in evidential value, identifying the historic associations with the parish church and Lyneham; and its historical value, as an illustrative remnant of Lyneham. The parties agree that the development would not directly impact on the building itself or indeed on its curtilage.

96. The fact the setting contributes to the significance of the asset and that the site is located within that setting is not a substantive point of issue; rather the issue revolves around the importance of that contribution. Both parties referred to Historic England's Historic Environment Good Practice Advice in Planning: 3 'The Setting of Historic Assets' in respect of assessing the setting of the building and its contribution to significance and I have had regard to it. The wider setting for the asset is the rural countryside and proximity to the village of Lyneham with which it has a close association. The footpath links in the area connect the site to the village and the proximity of the site to the village is such that there is a degree of visibility of the site from the village. However, that visibility is of an enclosed curtilage heavily treed with the property well screened. There are very limited views of the property itself which sits in a dip in the landscape and the substantial trees on the property boundary and within its curtilage, further obscure views of the building. In this regard therefore it is not the view of the property and its appearance that is important, but the view of the site and an understanding of its relationship with the village, which are in my view those elements of the setting that contribute to its significance.
97. The Council suggest that the function of the rectory as a place of refuge and sanctuary are important qualities in this regard. The Council suggest that the position of the rectory in relation to the village provided a degree of separation, with the walled perimeter adding to that sense of security, but the walls not being of such height as to discourage or exclude potential visitors. There is little evidence presented for this conclusion and indeed many rectories and vicarages provided a focal point for villagers to seek counsel, advice and sanctuary but did not have such a degree of separation or isolation from villages often being more closely related, physically, to the church they were associated with. I give this contribution to significance only limited weight.
98. In terms of the physical relationship between the proposed built form of the development and the Old Rectory the illustrative layout provides for the retention of an open landscaped area between the closest residential properties and the boundary of the asset. There are also indicative landscape proposals to strengthen the tree screening on the boundary. Whilst this is illustrative a condition was agreed between the properties setting a minimum distance between the asset and the closest residential property. To this extent the proposals would retain an area of open space between the asset and the village maintaining a sense of separation from the village. But at the same time maintaining the associative link with the village in terms of proximity and retaining the alignments of the existing footpaths.
99. The development of the site will close the gap between the village and the asset this will to some extent reduce the rural setting of the asset and would therefore reduce its separation and detachment. This potential has the effect of disrupting the understanding of the associative link that historically existed and thereby harm the setting of the asset. I note that the Council suggest that there is a cumulative addition of development on this side of Lyneham which adds to the effect on that relationship. However, Ms Ridgwell in her proof⁴ states the late C20th housing development can be seen across the field from the listed building but is set far enough away so

⁴ Page 5 Paragraph 2.2

as not to harm the setting of the heritage asset. If there is no harm to the setting presently there is not a cumulative impact.

100. Therefore on the basis of the above I accept that there would be some harm to the setting of the listed building by development in the intervening space between the village and the asset. This does not however directly affect the asset or its curtilage and affects only a small proportion of the wider setting of the building and has a limited effect on the contribution the setting has to the significance of the asset, in terms of its effect on the associative relationship and physical separation between the village and the asset. I conclude that the harm would in the context of the Framework to be less than substantial and that this would be at the lower end of that harm. I give this harm considerable importance and weight.
101. For the reasons given above I therefore conclude that the proposal would result in less than substantial harm to the Old Rectory, a Grade II listed building. As harm arises to the setting of this building of special architectural or historic interest the proposals would conflict with Core Policy 58 of the WCS which seeks to conserve the setting of such buildings.
102. Paragraph 134 of the Framework requires that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including securing its optimum viable use. The proposal would make provision for affordable housing, some 40% of the units, the development would also provide for a total of 60 new homes, there would be landscape enhancements to the village edge which would improve the character and appearance of the area, and the proposal proposes additional open space above the requirements of the development plan. These are significant public benefits of the scheme to which I give significant weight and in my view they outweigh the less than substantial harm that would arise from the development, to which I have given considerable importance and weight. Given this conclusion of the 134 balance I therefore also conclude that the proposal is not one that should be restricted in the terms of paragraph 14 of the Framework.

Infrastructure provision and Planning Obligation

103. The Council's evidence confirmed that the parties were working together to secure various contributions through a legal agreement and that if a signed agreement was presented to the Inspector that the Council would no longer resist the proposals on this basis. I was provided with a fully signed an executed agreement on the final day of the Inquiry.
104. Concerns were originally expressed that the proposed development would require: the provision of affordable housing, there is an identified shortfall in public open space in the area and therefore the development would need to make adequate provision for open space for the future residents, that the management of that open space would need to be appropriately provided for, given that there would be additional demands resultant from the increase in school age children, particularly with regard to pressures in secondary education, a financial contribution would be required to make adequate provision, and. finally that there would be additional resource demands in terms of the infrastructure required to support the Council's waste and recycling collection service.

105. With the provision of the executed agreement all of these matters were addressed to the satisfaction of the Council and they no longer sought to resist the development in terms of the impact on infrastructure.
106. However, I must also satisfy myself that the matters secured are in compliance with the Community Infrastructure Regulations, the Framework and in accordance with the development plan.
107. In terms of affordable housing there is a demonstrable need both in the County and the Community Area. The evidence presented in ID13 demonstrates that there were some 188 households seeking affordable housing in the RWBCC. The proposal makes provision for 40% of the dwellings to be provided as affordable housing in line with Policy CP43 of the WCS. The proposal fulfils a planning function which is reasonable and in keeping with the scale and kind of the development and therefore meets the appropriate tests. I give the provision of affordable housing significant weight in my overall balance.
108. The Public open space secured by the development is compliant with policy CP52 which relates the provision to the scale of development. In this regard it is in keeping with the scale and kind of the development. There is an identified shortfall in open space and the future residents would benefit from the open space. It is therefore reasonable and related to the development and planning. Policy CP52 requires suitable management arrangements to be put in place and these are secured by the agreement. I am satisfied that these matters are in keeping with the tests and that I should give them weight in my decision. However, they secure open space for the future occupiers of the development a need which would not otherwise arise if not for the development. As such this is not a positive benefit of the scheme but addresses or mitigates an impact of the development and I do not therefore attribute it positive weight in the overall balance.
109. The education contribution is based on a calculation method set out in 'Developers Contributions – Education Infrastructure Policy approved 2014, revised 2017'. The nature of the calculation takes account of the nature size and scale of the development resulting from a pupil product figure per specified number of dwellings. The Council have identified that the money would be spent at Royal Wotton Bassett Academy and that there had only been two other contributions in respect of any such works. It was further confirmed⁵ with this third contribution there would be sufficient funds to progress the extension and this would be progressed within the timescales of the development. On this basis I am satisfied this is a reasonable contribution that would mitigate the impact of the development on educational infrastructure. However, as mitigation it is not a positive benefit.
110. Finally the Council have a financial calculation to ensure adequate infrastructure can be provided to future residents for waste and recycling, ie the provision of bins. The standardised charge is per property and is proportionate. Again this is not a positive benefit.

⁵ ID23

111. For the reasons given above I conclude that the development would make adequate provision for any additional infrastructure need for affordable housing, education and open space arising from the development. The proposals would therefore accord with policy CP3, CP43 and CP52 of the WCS which require developments to make provision for the necessary onsite and offsite infrastructure requirements of the development.

Overall conclusions

112. Overall I have concluded that the Council can demonstrate a 5 year supply of housing land. I am satisfied that the plan is not absent or silent in respect of policies that affect the development and against which it can adequately be considered. I have also found that the settlement boundaries are not out of date and nor are the associated policies. As relevant policies in the plan are not absent, silent or out of date paragraph 14 of the Framework is not engaged I am therefore in the position of carrying out a straight balance in my decision making this means determining the application in accordance with the development plan unless material considerations indicate otherwise and as advised at paragraph 12 of the Framework development that accords with the development plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

113. In undertaking the balance I first identify the development plan position. In particular my conclusions that adverse impacts would arise from the granting of permission that would conflict with the development plan as a whole; it would conflict with the general spatial strategy including the settlement hierarchy and delivery strategy, CP1 and CP2 and that for the community area, CP19. In doing so to grant permission would undermine the development plan and the sustainable pattern of development that it seeks to achieve across the County and would lead to additional travel patterns to meet future residents' everyday needs for access to services and facilities. This is of substantial importance in the plan led system, given section 38(6) and the advice in the Framework. Added to this there is less than substantial harm to a heritage asset which further conflicts with policy CP58, notwithstanding that by itself the benefits of the scheme may outweigh that specific harm, when added to the overall balance it contributes to the overall adverse impacts which must be taken into account.

114. The other material consideration that I have had regard to that may indicate that a decision otherwise than the development plan would be appropriate include the following.. The provision of affordable housing, to which I give significant weight, and the provision of 60 new dwellings in the light of the need to significantly boost housing delivery in the Framework, to which I give significant weight. There would also be the positive benefit to the improved landscape and visual effect on the village edge, to which I attach moderate weight. The appellant has as part of the scheme identified additional open space and landscaping, over and above that secured through the planning obligation and required through policy, which would be secured by way of condition. Given the shortfall in open space provision in the area I attach moderate weight to this as a positive benefit. The appellant also suggests economic benefits would accrue from the development in terms of economic benefits arising through construction activity, a net increase in expenditure from future residents and increases in Council tax receipts.

These are benefits that would accrue with any development of this nature in the wider area and I only attach them limited positive weight.

115. Considering these matters in the round I am satisfied that these material considerations are not of sufficient weight to out-weigh the harm I have identified. A conclusion that a decision otherwise than the development plan, which the scheme conflicts with, would therefore not be appropriate

116. Those factors that contribute to the mitigation of development or where I have found do not result in material harm are a consequence of the development and would not arise if the development did not take place. As such they have a neutral effect on the overall balance exercise.

117. For the reasons given above I conclude that the appeal should be dismissed.

Kenneth Stone

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Zack Simmons Of Counsel, instructed by Frank Cain Head of
legal Services Wiltshire Council

He called

Mark Henderson Manager Monitoring and Evidence Team,
BSc(Hons), MA, MRTPI Wiltshire Council

Caroline Ridgewell Senior Conservation Officer, Wiltshire Council
BSc(Hons), MSC, IHBC

Mark Staincliffe MPLAN Senior Planning Officer (Development
MRTPI Management), Wiltshire Council

FOR THE APPELLANT:

Rupert Warren Queen's Counsel, instructed by Jacqueline
Mulliner, Terence O'Rourke Ltd

He called

Martin Miller BA MPhil Technical Director Terence O'Rourke Ltd
MRTPI

Chris Enderby DipLA Enderby Associates
CMLI

Alan Ford MCifA Senior Heritage Consultant, Cotswold
Archaeology

Jacqueline Mulliner Director and National Head of Planning, Terence
O'Rourke Ltd.

INTERESTED PERSONS:

Mr Richard Marshall Local Resident
Mr R Gill Local Resident (and Parish Councillor)
Ms L Thrussell Local Resident (and Parish Councillor)

Documents submitted during Inquiry (Inquiry Documents (ID))

- | ID | Description |
|----|--|
| 1 | Appellants list of appearances and opening comments |
| 2 | Wiltshire Council's list of appearances |
| 3 | Extract from Written Ministerial Statement HLWS167 providing technical adjustment to paragraphs 49 and 159 of the National Planning Policy Framework. |
| 4 | Court of Appeal Decision [2017] EWCA Civ427 |
| 5 | High Court Decision [2015] EWHC 539 (Admin) |
| 6 | Wiltshire Council's opening statement |
| 7 | Signed Statement of Common Ground Housing Land Supply Matters dated 2017 |
| 8 | Copy of comments made orally to the Inquiry by Mr R Marshall |
| 9 | Plan 1189.003LB identifying distances between the closest locations of the proposed dwellings (illustrative) and the Old Rectory and its curtilage submitted by appellant. |
| 10 | Appendix One to Topic Paper 2 (CD74), not previously included, submitted by appellant |
| 11 | Web page from Redcliffe Homes website regarding Rowden Park, Chippenham submitted by appellant. |
| 12 | Council report for area planning committee on application 15/11886/Ful Bridge at Rawlings Green submitted by Wiltshire Council |
| 13 | e-mail from Housing-services Development & Enabling Team Wiltshire Council confirming affordable housing requirement submitted by the appellant. |
| 14 | Table of cumulative total of housing completions in the North and West Housing Market Area 2006-2016 submitted by the appellant. |
| 15 | List of suggested conditions submitted by Wiltshire Council |
| 16 | a) Itinerary for site visit
b) Plan of site visit route associated with itinerary
Submitted by appellant in agreement with Wiltshire Council at Inspector's request |
| 17 | Wiltshire Council's closing submissions |
| 18 | Appellant's closing submissions |
| 19 | Wiltshire Council's cost application against the appellant |
| 20 | Appellant's response to Wiltshire Council's costs application |
| 21 | Wiltshire Council's reply to appellant's response to costs claim |
| 22 | a) Counterpart certified copy of section 106 agreement dated 18 July 2017 (Signed and sealed by the Council and signed by David Edmund James Webb, Timothy David Webb and Frances Irene Skull)
b) Counterpart certified copy of section 106 agreement dated 18 July 2017 (signed and sealed by the Council and signed by Lloyds Bank PLC) |
| 23 | Email from Head of school place commissioning regarding the use of the education contribution secured in 106 agreement submitted by the Council. |

END