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Wiltshire Council
Planning Appeals
Monkton Park Office
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Your Ref:
Our Ref: APP/Y3940/W/17/3187915
Further appeal references at foot of letter

28 January 2019

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeals by Leda Properties Limited, Leda Properties Ltd And Lidl GmbH UK
Site Addresses: Land North of Malmesbury Road, Royal Wootton Bassett, SN4 8AY and Land at Marsh Farm, Royal Wootton Bassett, Wiltshire, SN4 8ER

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at <https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure>.

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The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

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Thank you in advance for taking the time to provide us with valuable feedback.

Yours faithfully,

Holly Dutton
Holly Dutton

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Linked cases: APP/Y3940/W/17/3179795



Appeal Decisions

Inquiry Held on 17 September and 3-6 December 2018

Site visit made on 6 December 2018

by Melvyn Middleton BA(Econ) DipTP Dip Mgmt MRTPI

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

Decision date: 28th January 2019

Appeal A Ref: APP/Y3940/W/17/3187915

Land at Marsh Farm, Royal Wootton Bassett, Wiltshire

- 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 Leda Properties Ltd against the decision of Wiltshire Council.
 - The application Ref 14/08060/OUT, dated 14 August 2014, was refused by notice dated 26 April 2017.
 - The development proposed was comprehensive mixed development of up to 320 dwellings, a community hub comprising up to 500 square metres of A1/A2/A3/A4/A5/D1 and D2 uses, public open space, landscape work, extension to approved sports 'hub' and access.
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Appeal B Ref: APP/Y3940/W/17/3179795

Land at Marsh Farm, Royal Wootton Bassett, Wiltshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Leda Properties Ltd and Lidl GMBH UK against the decision of Wiltshire Council.
 - The application Ref 16/06995/FUL, dated 18 July 2016, was refused by notice dated 26 April 2017.
 - The development proposed is a hybrid application for a 2,469 square metres supermarket with access and landscaping (detail), and a Class C2 care home of up to 3,000 square metres (outline).
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Decisions

1. Appeal A. The appeal is dismissed.
2. Appeal B. The appeal is dismissed.

Procedural Matters

3. As well as on an accompanied site visit on 6 December 2018, I visited the appeal sites and their locality, Royal Wootton Bassett town centre and the surrounding countryside, unaccompanied on 17 and 18 September and 2 December 2018.
4. These two appeals concern development on land to the north of Royal Wootton Bassett, to the rear of properties fronting the west side of Hook Road and between the B4042 Malmesbury Road and the M4 motorway. The proposed development would wrap around the recently constructed Gerard Buxton Sports Ground to the west, apart from along the latter's frontage to Malmesbury Road.

5. Appeal A covers an area of 21.2 ha, Appeal B only 2.8 ha within the south-eastern corner of the larger application site. Appeal B occupies a slightly larger area within the Appeal A site than that of an earlier application at the same location within the area covered by Appeal A. That application had a larger food store and car park but no care home. In early 2017 the application to which Appeal B relates was amended to exclude a reference to the provision of 33 senior living units.
6. The applications for Appeal A and the care home element of Appeal B are in outline with all matters, except the means of access, reserved for subsequent approval. The part of Appeal B that contains the supermarket, its access, car park and associated landscaping has been submitted as a full planning application.
7. The proposals were accompanied by Planning Statements and Design and Access Statements, as well as reports into a variety of other relevant matters. These include an Illustrative Master Plan and an Indicative Site Layout (for the outline application) as well as a number of background reports providing information about the sites in the context of the proposed development. They provide information on the possible site layouts, including the general disposition of buildings across the sites.
8. However, other than in the context of the site accesses and the details of the proposed supermarket and its car park/landscaping areas, they are no more than illustrations of one way in which the buildings, whose scale, appearance and location are reserved matters, could be sited within the site. There are detailed plans and elevations for the element of Appeal B that is a full application and a layout indicating in detail how the care home element of the development could be implemented.
9. The site's access proposals are shown on drawings ref: TA3, TA4, TA6 and AP14A within the Axis Transport Assessment Addendum of July 2016. They involve the construction of conventional road junctions with Malmesbury and Hook Roads and improvements to Malmesbury Road and its junction with Hook Road. The Highway Authority supports this aspect of the proposal and in the absence of fundamental objections I do not discuss this matter any further.
10. Whilst the appeal was being processed, in October 2017, the Appellant submitted a revised Illustrative Master Plan with much more extensive landscaping and less built development, in the northern part of the site close to the M4, than was shown on that submitted with the application. It also indicated that it wished to reduce the proposed maximum number of dwellings permitted from 320 to 219.
11. Consultation on the revised proposals was delayed until the summer of 2018 and representations were received against them. I issued a note about the potential ramifications of these changes on 14 September 2018 (Document 1). At the opening of the Inquiry, on 17 September 2018, the Council and others objected to the consideration of the revised notional proposals because of alleged inadequate consultation among other reasons. After hearing submissions and considering the matter, I concluded that as the application was in outline and for up to 320 dwellings and a lower number was now being proposed with notionally enhanced landscaping, in principle the number of dwellings being considered could be reduced and the notional layout amended.

12. Agreeing with and being concerned about the inadequacy of the consultation, I adjourned the Inquiry on 4 September to enable more comprehensive public consultation to take place. Subsequently, in October 2018, the Appellant decided to submit a further revised Illustrative Master Plan and another Indicative Site Layout, but not dissimilar to those presented to the Inquiry in September. The Council undertook a comprehensive consultation on these further revised proposals before the Inquiry reopened on 4 December 2018. I have had regard to these latest notional plans and the reduction in maximum housing numbers to 219 when considering Appeal A, as well as to the further representations made thereon.
13. Issues concerning conformity with Development Plan (DP) policies, sustainability and impact upon the landscape and local services affect both of the appeals, although the overall natures of the proposals clearly differ. I have therefore dealt with them together where there are common matters, using the same reasoning to justify the decision in each case where appropriate but distinguishing between them where individual site considerations or the nature of the proposals dictate.
14. Although there are distinct elements to both proposals, neither of the main parties considered it appropriate for me to issue split decisions in either case. I have therefore given no further consideration to these outcomes.
15. One of the reasons used to refuse the planning applications referred to the Appellants' failure to meet the identified and necessary supporting services and infrastructure requirements generated by the developments.
16. The Appellants, with regard to both appeals, submitted signed and sealed Deeds made under Section 106 of the Town and Country Planning Act 1990 to the Inquiry. That relating to Appeal A is signed by itself and Wiltshire Council. That relating to Appeal B is signed by itself, Wiltshire Council, LNT Care Developments Ltd and Lidl GMBH UK. The Inquiry was told that the latter two organisations had legal interests in the development of that site for a care home and a supermarket respectively.
17. In the Agreement that relates to Appeal A, the Appellant agrees that if planning permission is granted, it will provide at least 40% of the total number of dwellings, to be constructed as a part of the development, as affordable housing and subject to various restrictions as to their nature and use. Additionally, it would carry out highway, open space and play area works, set up a management company to manage the open space and play area and make financial contributions towards the expansion of a primary school.
18. In the Agreement that relates to Appeal B, the Appellants and other signatories agree, if planning permission is granted, to carry out highway works and to provide and implement a Commercial Waste Management and Collection Plan and a Management Scheme.
19. Where appropriate, I discuss the details of the matters proposed in the Agreements, in the context of my decision, in the body of my reasoning. The Agreements include a clause that says that the covenants and obligations shall not apply or be enforceable if I state in the decision letter that such obligations are unnecessary or otherwise fail to meet the relevant statutory tests. Nevertheless, I am satisfied that the measures, as set out, comply with the provisions of paragraph 204 of the National Planning Policy Framework (NPPF),

are necessary to make the development acceptable in planning terms and meet the statutory requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended).

20. With regard to appeal A, on the Master Plan Diagram and the Indicative Site Layout, land in the north-western corner of the site is indicated as sports pitches accessed directly through the adjacent sports ground. Whilst the possibility of this land being made available as an extension to the Gerard Buxton Sports Ground was discussed, there is no evidence to confirm that such provision would actually be made and by whom.

Main Issues

21. The site is outside of the settlement boundary and within the open countryside, in circumstances where it is agreed that there is a five year supply of deliverable housing sites within the North and West Wiltshire Housing Market Area (the relevant area). It is also agreed that the most important Development Plan (DP) policies for determining the appeals are not out of date.
22. In such circumstances the presumption in Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the DP unless material considerations indicate otherwise. I therefore consider the main issues to be

Whether the proposals are in accordance with the DP when read as a whole and if not;

Whether the harm to the DP, with particular reference to the self-containment of Royal Wootton Bassett, the loss of open countryside and any harm to the character and appearance of the locality, together with any other harm attributable to the development, is outweighed by the benefits of the proposal.

Reasons

Planning Policy that is relevant to both appeals

23. The DP now consists of *the Wiltshire Core Strategy* (CS), which was adopted in 2015 and the saved policies of the North Wiltshire Local Plan (LP) 2011. The CS makes provision for development within the District until 2026, the LP made provision until 2011. Eleven CS policies are agreed to be relevant to the determination of these appeals and 3 LP policies. All of the LP policies are relevant to both appeals but only six of the CS policies are thus so.
24. The Wiltshire Housing Site Allocations Development Plan Document (DPD) is currently being examined. However there are a significant number of objections to this plan that await resolution and I was consequently not referred to any of its policies.
25. The Royal Wootton Bassett Neighbourhood Plan (NP) was made in 2018. Whilst adjacent to the NP's area, the appeal site is outside of it. Although this NP is clearly a material consideration for both appeals, it is not a part of the DP for the appeal site. That area sits within the Lydiard Tregoze NP area. However this NP has only reached the area designation stage and so its weight is very limited.

26. LP Policies NE14 Trees and NE18 Noise and pollution are policies that require the retention of ecology wherever possible and the absence of harm to public health. Compliance with them and CS Policy 3 Infrastructure requirements is a requirement of all development and compliance does not add weight in favour of a particular proposal. The Council considers the requirements of these policies to have now been met.
27. Core Policy (CP) 51 Landscape seeks to ensure that development protects, conserves and where possible enhances landscape character. It requires any negative impacts to be mitigated through sensitive design and landscape measures. Proposals should be informed by and sympathetic to the distinctive character areas, identified in the relevant Landscape Character Assessments. The policy requires nine aspects of landscape character to be conserved and where possible enhanced. These include the locally distinctive pattern and character of natural features and settlements and their landscape settings as well as their separate identity.
28. Both the North Wiltshire (2004) and the Wiltshire (2005) Landscape character Assessments cover the appeal site. Hedgerows are a key characteristic and a positive landscape feature within the area. Their loss is recognised, as is the urbanisation of the area, particularly in proximity to the large settlements. Three of the broad landscape management objectives, repairing, replanting and extending the hedgerow network, limiting further uncontrolled spreading of settlements and maintaining the separation of settlements, stem from these.
29. The character of the site is that of an agricultural landscape with pastoral fields surrounded by hedgerows. It forms a part of the landscape setting of RWB. However this component of the landscape setting has been seriously eroded by development. To the south of the appeal sites, beyond Malmesbury Road and the Framework Boundary is residential development, which is a part of the built up area of RWB.
30. Immediately to the east is the Marsh Farm Hotel and other dwellings and businesses fronting Hook Road. Although there is abundant vegetation within the properties, more so to the Hook Road frontage than that to the appeal site, this development nevertheless has an urban form and a presence and this ribbon development effectively extends the town's built form northwards from the Coped Hall roundabout towards the M4.
31. To the west is the Gerard Buxton Sports Ground, which like the appeal site fronts the B4042 Malmesbury Road. This is a multi-purpose recreational complex with a large communal building at its heart and extensive surfaced car parking, as well as a number of all-weather pitches. Much of the site's boundary and a number of the pitches are enclosed by high weldmesh fencing, some of which are erected on elevated, made-up ground. There is also extensive use of flood-lighting. Consequently, although a sports venue, this complex has a somewhat urban character and along with other development to the south-west of Malmesbury Road, a notable impact on the current character and appearance of the north-western edge of RWB.
32. To the south-west of this recreational complex, across Malmesbury Road, is the relocated RWB Rugby club, with a communal building, high fencing and flood lighting close to the road. Between it and the Framework boundary, which is now the edge of continuous built development within RWB, is another building complex occupied by a day nursery, whilst north-west of the Rugby club and

- again fronting Malmesbury Road there is further sporadic development, including a tennis complex, before the M4 motorway is crossed.
33. As a result, the transition between the town's edge, as currently defined by the Framework Boundary and the open countryside, is now somewhat blurred along Malmesbury Road. The strong edge to RWB along the A and B roads to its north, highlighted as recently as 2004¹ and referred to by the Council, has been destroyed in the intervening years by development permitted by itself through the planning system.
 34. The site is largely contained by the adjacent development and it is not a prominent feature in the wider landscape. The only points at which the site is noticeably visible are from Malmesbury Road, from Hook Road immediately north of the roundabout and at the motorway bridge and its approaches, all close to the site and from the public footpath west of Hook and north of the M4 motorway. Although a greater distance away, being elevated, it facilitates extensive views over the appeal site towards Malmesbury Road and the official edge of RWB.
 35. There is much common ground between the main parties as to the impact the development would have on the local landscape. The Landscape Statement of Common Ground records that the site has a low to medium landscape value. It goes on to agree that the development of the site would cause localised significant landscape effects and that overall they would be moderate adverse. To construct a large housing estate and a number of commercial enterprises on a greenfield site in the countryside could hardly do and be anything else.
 36. Using Guidelines for Landscape and Visual Impact Assessment 3's box 5.1 criteria, the parties conclude and agree that the site is of low to medium landscape value overall. They also agree on what are the most susceptible visual receptors and that overall Appeal A would result in significant landscape effects and Appeal B moderate to moderate/minor effects. I agree with the conclusion in respect of Appeal A and consider that the overall landscape effect of Appeal B could be moderate if appropriate landscaping were to be implemented (see para. 96).
 37. The visual receptors include the views of residents at the Marsh Farm hotel, who would view a housing estate rather than pastoral fields. However these are private views and there is no argument advanced that the development would appear overbearing when viewed from hotel rooms or other living space west of Hook Road. Any potential privacy issues could be overcome by appropriate landscaping at the site's boundary and within the area beyond, which is indicated as a green buffer on the Masterplan.
 38. The views of the site from Hook Road, immediately north of the Coped Hall Roundabout, have a backdrop of the rear of the residential development immediately south of Malmesbury Road and/or the elevated weldmesh fencing on the boundary of the sports ground, depending upon the aspect. The context is consequently already predominantly urban and whilst the view would undoubtedly change from fields to that of a care home, with a supermarket building behind, with appropriate landscaping and building design and location, this need not be harmful to the wider landscape or the experience of travellers along Hook Road.

¹ North Wiltshire Landscape Character Assessment

39. There is a gappy hedge along the northern side of Malmesbury Road that already filters northerly views over the appeal site to the open countryside beyond, particularly in summer. The development would clearly obliterate these views as open fields would be replaced by buildings and car parking for the most part. However, given the surrounding urban context, development here need not be harmful. Nevertheless, CP 57 requires the retention and enhancement of existing important landscaping and natural features.
40. The hedge on the northern side of Malmesbury Road is such a landscape feature. The main access to the site will be located within this road frontage. The carriageway and pavement construction, along with the required visibility splays, will inevitably require the removal of some of the hedge. Whilst this can be replaced to avoid conflict with the access requirements, much of the tree planting shown on the detailed plans accompanying the full application for the supermarket and its car park could not be implemented without impairing future visibility. I return to this later (paras. 97 and 98).
41. Being an outline application, it should be possible to set the buildings on the Appeal A site sufficiently far back to enable an acceptable landscaping scheme to be implemented. As well as a replanted hedge this could include other planting and physical features to appropriately filter the views of the built environment in this part of the site from Malmesbury Road.
42. Beyond Marsh Farm Cottage, Hook Road crosses the M4. This stretch of the Road is elevated and there are commanding views when travelling southwards over the appeal site. The Appellant asserts that the northern edge of the residential development, as now indicated on the proposed Masterplan and Indicative Site Layout diagrams, would be adequately screened by the notionally proposed landscaping. I do not share this optimism. Two areas of woodland planting are suggested, one a belt immediately south of the M4 and the other a block adjacent to the north-eastern corner of the sports ground. The majority of the proposed northern boundary to the housing is shown to be screened by a new/ improved hedgerow with some tree planting within it.
43. Whilst the proposed woodland planting, adjacent to the motorway, would eventually assist in screening the development from walkers using the public footpath west of Hook, it would do nothing to screen the development from the motorway bridge and its approaches. The notional layouts are intended to demonstrate how this site could satisfactorily accommodate 219 dwellings and as currently suggested, residential development would extend for some distance northwards from Marsh Farm Cottage itself, the last building off Hook Road before the motorway.
44. A hedge with some trees is unlikely to adequately screen this urban encroachment into the countryside from the elevated bridge and its approaches. Additionally, once established there is no guarantee that future residents would maintain the hedge to heights and thicknesses that screened the development from this part of Hook Road at all, let alone satisfactorily.
45. The Appellant amended the Appeal A proposal, reducing the maximum number of dwellings permitted from 320 to 219, because of the concerns about the potential impact of the development on the views from the north and the likely impact of the proposal on the perceived separation between Hook and RWB. Both the Indicative Site Layout and the Masterplan diagrams have each gone through numerous iterations and three public consultations with an expressed

- purpose of demonstrating that the development could be appropriately screened when viewed from the north. The layout was further amended following the adjournment of the Inquiry.
46. In such circumstances it is difficult to confidently conclude that the Appellant could design a proposal for 219 dwellings that could be satisfactorily accommodated on the site without any long term adverse effects on the perceived separation of Hook and RWB or the visual impact of the proposal on users of the motorway bridge and its approaches.
 47. The footpath to the north of the motorway is at a more elevated level than the appeal site and motorway bridge. At the present time there are views of the edge of RWB across the appeal site. The urban edge would be brought much closer to these receptors by the appeal development. Given the distance between the motorway and the suggested edge of the development and the topography, it would be many years and certainly more than the ten to fifteen years suggested by the Appellant, before the development edge was appropriately screened from receptors walking along this footpath, by the suggested planting adjacent to the motorway.
 48. The evidence, demonstrated through the indicative drawings, suggests that the Appellant's assertion that the visual benefits arising from the suggested planting in the northern part of the site would be a benefit weighing in favour of granting planning permission for appeal A, even in the long term, are dubious. At best and with a different approach to the landscaping and development in the northern part of the site there would be moderate visual harm for many years.
 49. Policy CP51 requires development to protect, conserve and where possible enhance landscape character and not to have a harmful impact upon it. Any negative impacts should be mitigated as far as possible through sensitive design and landscape measures. The Appeal A proposal would restore, enhance and extend the distinctive hedgerows, albeit in an urban rather than a rural environment. However, this proposal has not demonstrated that the separate identity of the settlements, the landscape setting of RWB and the transition between man-made and natural landscapes at the urban fringe are being enhanced through sensitive design, landscape mitigation and enhancement measures. Additionally Mr J Smith, on behalf of the Appellant, accepted in cross examination that there would be moderate character harm despite the suggested mitigation. In their current form the proposals are not in accord with CP 51.
 50. In the overall circumstances, I give moderate weight to this harm in as much as it affects Appeal A. I return to the impact of Appeal B on Malmesbury Road and the wider countryside landscape in circumstances where Appeal A is dismissed later in my decision (paras. 100-102).

Appeal A

Additional Planning Policy

51. CP 1 sets out the settlement strategy. It recognises that Market Towns, of which Royal Wootton Bassett (RWB) is one, have the ability to support sustainable patterns of development and the potential for significant development. However, as well as seeking to sustain and enhance their

- services and facilities, the policy also promotes better levels of self-containment and viable sustainable communities.
52. In line with CP 1, CP 2 sets out the delivery strategy for Wiltshire. It seeks the provision of at least 42,000 new homes between 2006 and 2026, of which 24,740 are proposed for the North and West Wiltshire Housing Market Area, in which RWB is situated. The policy requires these dwellings to be delivered in a sustainable way that limits the need for development on greenfield sites. The policy points out that other than in the circumstances as permitted by CP 44, Rural exception sites, residential development will not be permitted outside of the limits of development as defined on the policies map. These are being updated in the Housing Sites DPD. The policy also identifies a number of strategically important sites, with dwelling and/or employment targets. A number are smaller than the appeal site and its proposals. The policy also points out that sites for development, in line with the Area Strategies, are to be identified through neighbourhood planning.
53. CP 19 sets out the Spatial Strategy for the RWB and Cricklade Community area, within which the appeal sites are situated. Approximately 1455 new homes are to be provided, of which about 1070 should be at RWB. Whilst land is identified for employment development at RWB, none is identified for residential development because the target number has already been exceeded by planning permissions and completions.
54. The supporting text points out that the town currently performs a dormitory role for Swindon and seeks to attract employment development to help reduce out-commuting. The policy also requires the development issues listed in paragraph 5.102 to be addressed. These include phasing non-strategic growth throughout the plan period in accordance with CPs 1 and 2 and the delivery of homes in a balanced manner. The need for employment development as well as housing through mixed development is stressed.
55. The Appellant does not effectively address the consequence of the housing element of the proposal on self-containment and the figure advanced by the Council in Mr A Smith's evidence (526) is an estimation of the increased population rather than that element of it which would be economically active and likely to be requiring work.
56. The Council provided supplementary information on self-containment at my request to the Inquiry². This shows the settlement's self-containment³ declining from 30% in 2001 to 27% in 2011. Using the 2011 economic activity rate for RWB, about 380 of the residents of the reduced housing development at the appeal site would require work⁴.
57. This compares to the 100 employment opportunities likely to be provided in the commercial and care home elements of the proposal estimated by the Council and not disputed by the Appellant at the Inquiry. Assuming that all of the economically active population is working, on balance this represents an outflow of about 74%. The outflow⁵ from RWB as a whole in 2001 was about 30% and by 2011 it had declined to about 25%.

² Carolyn Gibson, Supplementary Proof of Evidence

³ Persons resident and working in RWB/Employed residents x100%

⁴ In reality the number could be higher than this if the age structure of the new development is similar to others of its type and it has overall a younger population than is found in more established residential areas

⁵ Employed residents-jobs in RWB/Employed residents x 100%

58. The appeal development as proposed would lead to a disproportionate increase in out-commuting from RWB, which would become less self-contained rather than more so, as advanced by the CS. This would be in breach of the settlement and delivery strategies for the County and the Community Area, running contrary to a key element of the CS's vision for Wiltshire, more self-contained Market towns. It is contrary to CP 1 and CP 19.
59. Although the housing targets in CP 2 and CP 19 are minima they are being met and the Council has demonstrated that it has a five year supply of housing land. CP 2 requires development to be delivered in a sustainable manner. The proposal would not contribute to the further development of RWB in a sustainable manner and is therefore contrary to CP 2. The CS's relevant spatial policies are supported by Section 9 of the NPPF, which requires the planning system to actively manage patterns of growth in a sustainable way, particularly by reducing the need to travel. I therefore give substantial weight to the proposal's conflict with CPs 1, 2 and 19.
60. LP Policy H4 only permits new dwellings in the countryside, outside of the Framework Boundaries as defined on the proposals map, in circumstances where the dwelling is a replacement dwelling or is to meet the essential needs of agriculture, forestry or a rural based enterprise. Appeal A does not meet these criteria but given that the LP expired in 2011 and the review of the Framework boundaries has not yet concluded, full weight cannot be given to this conflict.
61. Furthermore, by protecting the totality of the countryside from development, as opposed to protecting valued landscapes (NPPF paragraph 170), Policy H4 is not fully consistent with the NPPF. Nevertheless, the Framework does recognise the overall intrinsic character and beauty of the countryside and the Cawrey judgement⁶ confirms that the loss of undesignated countryside is capable of being harmful and attracting weight in the planning balance. Additionally, there is nothing in the NPPF to suggest that the use of Framework Boundaries is inappropriate. In my judgement Policy H4 is consequently not out of date and is capable of attracting moderate weight, depending upon the circumstances of the case.
62. The site's extensive northern boundary is open and adjacent to the M4. The motorway is partly at grade but mostly in a shallow cutting adjacent to the appeal site. Despite the quasi urban development, to the east and west, the site itself is open and essentially rural in character, as is the land to the north beyond the motorway and west of the village of Hook. The appeal site is undoubtedly a part of the countryside, the character of which both H4 and the NPPF seek to recognise, protect, and enhance.
63. However, although outside of the Framework Boundary, this is not a designated landscape of any kind and its loss would not seriously impact on the wider countryside landscape. Consequently, its loss should attract less than the moderate weight discussed above in the consideration of Policy H4.
64. Whilst Policy CP 57 requires development to be of a high quality, local context and high quality can be achieved and respected through design. A detailed proposal for this site need not be contrary to Policy CP 57. A detailed scheme could enhance and respond positively to local distinctiveness. It could also

⁶ Cawrey Limited v SoS and Hinckley and Bosworth BC [2016] EWHC 1198

- respect the amenity of surrounding properties and create a sense of place that respected the traditional townscape of RWB.
65. However, the proposal also includes a community hub of up to 500 sq.m containing a mixture of retail, leisure and community uses. According to Mr Hughes' evidence this is meant to sit alongside of the food store. However, the appeal drawings for Appeal B clearly demonstrate that it would not. To reach the food store from the community hub, wherever it was located, pedestrians would have to cross the store's service yard/access and/or its car park. Furthermore the store's entrance would be located at the opposite end of the building to any pedestrian access from the community hub. This would not represent the high standard of design required by CP 57. Nor would it contribute to the achievement of a strong sense of place, also required by this policy. These DP aspirations are clearly supported by paras. 91, 92, 127 and 130 of the NPPF.
66. CP 43 requires 40% of the houses provided on sites of five or more dwellings to be affordable housing. The provision of this has now been secured through one of the Section 106 Agreements. Up to 83 affordable units could be delivered by the development. There is no up-to-date information before the Inquiry on affordable housing need in Wiltshire let alone in RWB and its hinterland. The CS was expected to deliver some 13,000 affordable homes over the plan period. To what extent this is being achieved or is still relevant twelve years into the plan period is open to question.
67. At a national level there is an acute shortage of this type of accommodation and there is no evidence before me to suggest that the situation in Wiltshire is any different. In these circumstances, the contribution that the proposed affordable housing would make, towards meeting the unspecified affordable housing needs, deserves at least significant weight.
68. I have found that the proposal is contrary to the CS's development strategy, in particular CPs 1, 2 and 19, to which I give substantial weight. It is also contrary to CP 51 to which I attach moderate weight and LP Policy H4 to which I attach less than moderate weight. Cumulatively this amounts to serious harm to the DP, against which the significant weight attached to the compliance with CP 43 falls far short of overturning. I conclude that the proposal is contrary to the DP when read as a whole.

Material considerations

69. Furthermore, the RWB NP, which also seeks to improve the town's self-containment, was prevented from allocating further land for residential development, within the Framework Boundary, by the Independent Examiner. He concluded, in the context of the Neighbourhood Area having already met its indicative housing land requirement for the plan period (until 2026), that a site off Maple Drive proposed for 110 dwellings should be deleted because it would "*not contribute to the achievement of sustainable development*".
70. Likewise the appeal proposal, which is twice the size of that removed by the Examiner and although allegedly contributing towards meeting the development needs of RWB, is outside of the limits of development and across a classified road from the rest of the urban area. Because of its imbalance of homes and jobs, it too would not contribute towards the achievement of sustainable development. The proposal would be contrary to the RWB NP.

71. I was referred to an appeal at Shurnhold⁷ in 2016. At paragraph 16 the Inspector was confronted with a similar situation re the indicative housing target at Melksham having recently been met. In determining an appeal for a similar sized housing development to that now before me at RWB, she found that in allowing a further 263 dwellings, the CS provision would be considerably exceeded. To this extent she agreed that allowing the appeal could cause some prejudice to the plan-led process within the Community Area even though overall it would not prejudice the spatial strategy of the adopted CS.
72. I agree with this finding. As at Melksham, the additional dwellings provided by the appeal proposal alone at RWB would result in the delivery of housing more than 20% greater than that envisaged in CP 19 and the RWB NP. Distortions of this magnitude, even when the DP target is a minima and particularly when housing development is clearly not, through related employment generation, meeting other objectives of the plan, can only serve to undermine public confidence in the DP process. In these circumstances I attach significant weight to the proposal's failure to comply with the strategy advanced in the RWB NP.
73. The proposal would provide 136 market houses. The NPPF urges local planning authorities to boost the supply of housing. However, Wiltshire, through its DPs and planning permissions appears to be maintaining a five year supply of housing land within the HMA and has already met its housing targets at RWB. Although there is a national housing crisis, an oversupply in a relatively isolated location such as RWB and without complementary jobs to provide employment for the new residents, would hardly contribute to the resolution of England's housing crisis in a sustainable way. I therefore give the proposal's potential contribution to the supply of market housing no more than minor weight.
74. The Appellant refers to the benefits arising from the retail/commercial development and the care home. However these developments are independent of the housing proposal, being the subject of a separate application and appeal that could be allowed irrespective of the outcome of Appeal A. The jobs that they would provide would not be capable of providing employment for even half of the expected economically active residents of the houses that would be provided. Although CPs 38 and 43 support the retail and care home developments I consequently give these considerations minimal weight in the context of Appeal A.
75. The Council considers RWB to be a sustainable location for development because of its services and facilities. The Appellant adds to this by asserting that the appeal site is in turn situated in a wholly sustainable and accessible position and goes on to claim that this contributes to a conclusion that substantial weight should be given to these benefits of the proposal.
76. However, overall the proposal would result in additional out-commuting to work on a daily basis from RWB and given that the site is about 1km from RWB town centre, walking is unlikely to be the way that most people, residing within the development, would chose to use when visiting it. Guidelines for Providing Journeys on Foot⁸ advises that an acceptable pedestrian journey is 1 km and a desirable distance is 500 m. Manual for Streets⁹ in discussing walking

⁷ Appeal ref: 3132915, Land to the west of A365, Shurnhold, Melksham, Wiltshire

⁸ Institution of Highways and Transportation, 2,000.

⁹ Department for Transport, Department for Communities and Local Government, 2007

- neighbourhoods considers that there should be a range of facilities within 800 m. Planning for Walking (PFW)¹⁰ reaches the same conclusion.
77. Nevertheless if the retail proposals were implemented then there would be some facilities within the neighbourhood and a consequent reduction in the need to travel for that purpose. There is also a regular bus service to RWB town centre and to Swindon, a short walk from the site entrance. In this context I give moderate weight to the accessibility benefits of the proposal.
78. The proposal would create construction jobs, which would provide temporary employment and additional expenditure at the town's shops and businesses. Additional local expenditure would also be generated by the new residents. However the evidence suggests that RWB town centre is overtrading and some of the expenditure generated by the development would be spent at the supermarket and other businesses within the appeal site if Appeal B is allowed, as well as in Swindon. In such circumstances I give no more than moderate weight to these benefits.
79. Land in the north-western part of the site, adjacent to the M4 motorway is shown on the Masterplan as sports pitches accessed directly through the Gerard Buxton Sports Association's grounds. To what extent these are to be laid out by the developer and made available for public use, either directly or indirectly through the sports association is far from clear. There are no clauses in the S106 Agreement referring to this. As the land is not suggested for any other use, if the sports association wanted to expand into this area, then it could presumably buy the land at market value and do so irrespective of the outcome of the appeal. In the absence of an agreement to dedicate the land and/or provide sports pitches I give the provision of sports pitches no weight.
80. The additional Council Tax would be used to provide services for the site's residents and attracts no weight.
81. Although some of the above material conditions do weigh in favour of the appeal proposal, the combined weight falls far short of a justification for departing from the presumption in Section 38(6) of the Planning and Compulsory Purchase Act 2004 that applications for planning permission should be determined in accordance with the DP unless material considerations indicate otherwise. I therefore conclude that Appeal A should be dismissed.

Appeal B

82. The care home element of this appeal is in outline, with everything except its access a reserved matter. The retail unit, together with its access and car parking comprise the full application element of this appeal. Although these proposals are locationally separate and have been the subjects of separate planning applications recently, the Appellants indicated at the Inquiry that they did not wish me to consider a split decision.

Care home

83. CP 46 Meeting the needs of Wiltshire's vulnerable older people supports the provision of specialist accommodation to meet the needs of Wiltshire's older people. Such accommodation is to be provided in sustainable locations where

¹⁰ Chartered Institute of Highways and Transportation, 2,000

- there is an identified need and normally within Principal Settlements and Market Towns where there is good access to services and facilities.
84. The proposed care home would provide specialist accommodation for older people and RWB is a Market Town. However the appeal site is outside of the limits of development and within the open countryside. Nevertheless the policy says that in exceptional circumstances the provision of specialist accommodation outside but adjacent to the Market Towns will be considered.
85. The Council, whilst suggesting that there is no identified need for the proposal has not suggested that there are appropriate sites available within RWB's Framework Boundary. It therefore seems to me that in the right circumstances the appeal site could be an appropriate location for a care home.
86. The policy requires a genuine and evidenced need to be justified. Until the Inquiry the only locally based evidence was provided by the Council and that pointed out that a site that had planning permission for a care home within RWB had been given planning permission for residential development because the applicant had demonstrated that there was no demand for a new care home at RWB at this point in time.
87. Apart from referring to the UK's ageing population and corresponding increasing requirements on an on-going basis for care facilities, accompanied by a reference to the underfunding of the public sector in this context, the Appellants were silent, despite concluding that substantial weight should be attached to the benefit of a care home.
88. At the Inquiry I was told that a full planning application for a care home on the Appeal B site was now before the Council. A provider (LNT) had an option to purchase the site and was to be and now is a party to the Section 106 Agreement accompanying this appeal. The Council maintains that an option and a planning obligation do not demonstrate a need for a facility. Whilst this is correct, it seems strange that a detailed planning application is now before the Council, in advance of the determination of this appeal, if LNT do not have serious intentions.
89. Despite evidence from the Council that it has been asking the Appellants, since 2016, to demonstrate that there is a definite operator for the care home, there is no actual confirmation of this or analysis that justifies the need for one at the present time in circumstances that clearly meet criterion viii of CP 46. Although there is a letter of support for Appeal B from Lidl, the likely occupier of the retail unit, there is no complementary letter from LNT or any other potential operator supporting the need for the care home.
90. In such circumstances, whilst I consider the evidence sufficient to justify granting planning permission for a stand-alone scheme, which would not be implemented if there was not a genuine demand for a care home in this location; the evidence does not support the Appellant's contention that substantial weight in favour of allowing both appeals should be given to the fact that a care home is a part of Appeal B.
91. Although about a kilometre away, the facilities in RWB town centre are accessible by a regular bus service from the site. The scale and type of facility is appropriate for a location adjacent to a settlement such as RWB. The policy requires environmental and landscaping considerations not to be compromised.

I discussed the effect of development on this part of the site in paragraphs 38-40. The site already has an urban context, adjacent to a busy roundabout and there is built development on the other corners, as well as to the north along Hook Road and south along Malmesbury Road.

92. This part of Appeal B is in outline and the proposed site layout indicates a large area between the proposed care home and the road/roundabout. There is consequently no reason to doubt that the care home element of appeal B could not be implemented in a way that made a positive contribution to the townscape of this area through sensitive design and landscaping that respected the character and setting of the settlement. I consider this element of the proposal to be in accordance with CP 57.

Supermarket

93. The Appellant undertook a retail impact assessment and a sequential test to assess the proposal's impact on RWB town centre. Following the grant of planning permission to convert a car showroom into a supermarket on a nearby site, the results were reassessed. The parties still agree, in the context of the available retail evidence, that there would not be significant adverse impact on the vitality and viability of RWB town centre if the proposal was implemented. They also agree that there is no sequentially preferable site for a food store within RWB. The proposal therefore meets the requirements of CP 38.
94. CS paragraph 5.102 points out that RWB loses main food shopping trips to neighbouring towns but that there is no quantitative need for additional convenience retail floorspace. However, it does suggest that additional floorspace may be appropriate, to address qualitative need and improve the retention of convenience trade, if a suitable site is identified, pointing out that there is limited capacity for up to 400 sq.m within the town itself. The qualitative shortfall was portrayed as being at the discount end of the market.
95. Since the CS was adopted the Coop has replaced Morrisons within the town centre and I was told at the Inquiry that Aldi are to occupy the former car showroom. Both of these operators compete in the discount convenience market. In such circumstances the need for additional qualitative floorspace may not be as pressing as it formally was. Nevertheless, the reassessment of the retail impact assessment still suggests that the appeal proposal is supported by CP 38 and is acceptable in principle.
96. The Appellant accepted that there would be moderate character harm as a result of the implementation of the proposals despite the suggested mitigation (para. 49). I also considered that there would be a loss of countryside as a result of the introduction of built development and that this should be given moderate weight against the proposal (para 38).
97. Whilst I found harm to the character and appearance of the landscape along Malmesbury Road because of the need to remove the hedgerow, I found in the case of Appeal A that much of this harm could be overcome through mitigation when detailed proposals come forward for the site.
98. That is not the case with regard to the part of Appeal B that is a full application. The position of the building is fixed as is that of the car park unless spaces are to be lost. The building would be as close as 5 metres to the new pavement along Malmesbury Road and parts of the car park about 3 metres.

There is no landscaping proposed on any of the building's elevations and little within the extensive area of car parking. The building is somewhat utilitarian with largely solid walls.

99. No doubt influenced by the sporting and other developments further along Malmesbury Road, when I visited the site in dry conditions, there was pedestrian activity along Malmesbury Road. The construction of a care home and supermarket on the appeal site would be likely to increase the number of potential pedestrian visual receptors.
100. Without further mitigation to filter the views of the building and its car park from Malmesbury Road, for which in its current proposed position there is insufficient space, the building would appear somewhat bland and dominating in the street scene. Additionally, it and the car park would do nothing to create a strong sense of place by drawing on the local context or being complementary to the locality. In its current form the proposed landscaping is not in accord with CP 57 and the proposed mitigation would neither conserve nor enhance the landscape character. It is contrary to CP 51.
101. The proposed car park extends to the site's northern boundary. Without appropriate mitigation, it and the building's service area and north-eastern elevation would be clearly seen from vantage points to the north of the site, as well as from Marsh Farm Hotel and the Gerard Buxton sports complex.
102. Were Appeal A not to be allowed, then there would be no screening of the site whatsoever from the north. This would clearly not protect, conserve or enhance the landscape character. Indeed it would clearly have a further harmful impact on the landscape, contrary to CP 51. Additionally, the proposal would not mitigate the potential harm as far as possible through sensitive design and landscape measures. A further requirement of CP 51.
103. At para. 130 the NPPF says that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Whether as a stand-alone development or as a part of a comprehensive scheme that also involved the Appeal A development (see paras. 64 and 65) as well as the care home, the full application has not seized the opportunities to satisfactorily mitigate the harm that this development would have on the agrarian landscape or to create an appropriate sense of place.
104. It is therefore contrary to CPs 51 and 57 to which I attach significant weight. The support provided by CPs 38 and 46 could be used to justify any scheme that satisfied the CS design and landscape policies. Any urgency for further convenience retail facilities within RWB has not been established. On the evidence before me I consider the harm to design and landscape that I have identified outweighs any harm resulting from a delay to the implementation of additional elderly care and retail facilities at RWB.
105. The proposal is contrary to the DP when read as a whole. The other material considerations, to which I have been referred and which I have discussed above, do not outweigh the harm to the DP and indicate that planning permission should be granted. For the reasons discussed above I therefore find that Appeal B should be dismissed.

Other considerations

106. I was also referred to a number of other appeal and High Court decisions that are relevant to one or both appeals. I have had regard to them in formulating my decision. However, apart from the Cawrey judgement and the Shurnhold appeal, referred to above, the respective cases were not so similar to these appeal proposals for them to further influence the outcome of these appeals.

M Middleton

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Sasha White of Counsel	Instructed by Carter Jonas
He called	
Jeremy N Smith BSc, Dip LA, CMLI	SLR
Arfon Hughes BSc, MRTPI	Mango Planning and Development Ltd
Huw Mellor BA, MRTPI	Carter Jonas

FOR THE COUNCIL:

Martin Carter	Instructed by Mr I R Gibbons of Wiltshire Council
He called	
Will Harley BSc, CMLI	WH Landscape Consultancy Ltd
Carolyn Gibson BA	Wiltshire Council
Alex Smith MA, MRTPI	Geraint John Planning

INTERESTED PERSONS:

Anne Henshaw	Wiltshire CPRE
Cllr Mollie Groom	Wiltshire Councillor
Cllr SR Walls	Town Councillor
Christopher Warrall	Former Town Councillor
Dr John Eastgate	Local resident

DOCUMENTS SUBMITTED TO THE INQUIRY

- 1 Inspector's pre Inquiry note about the Appellant's proposed revisions to the proposal (14-09-18)
- 2 Appellant's opening submissions (18-09-18)
- 3 Appellant's explanation and justification for the revisions to the outline scheme (Appeal A) (18-09-18)
- 4 Correspondance between the Appellant and PINS about revisions to the outline proposal (Appeal) (12-17 & 01-18)
- 5 Council's submissions on the proposed revisions to the outline scheme (Appeal A) (18-09-18)
- 6 Consultation on amended outline proposals and responses (Appeal A) (09-18)
- 7 Appellant's opening submissions (03-12-18)
- 8 Council's opening submissions (03-12-18)
- 9 Statement submitted by Anne Henshaw on behalf of Wiltshire CPRE
- 10 3 statements from Cllr Molly Groom
- 11 Statement from Cllr S R Walls
- 12 Statement from Christopher Warrall
- 13 Statement from Dr John Eastgate
- 14 Statement from Cllr Jacqui Ley
- 15 Statement from Royal Wootton Bassett Town Council
- 16 Letter from Lidl UK (05-12-18)
- 17 Wiltshire Housing Sites Allocations Plan, Topic Paper 1. Settlement Boundary Review Methodology, submitted by the Appellant

- 18 Appeal ref: 3140016 Madley Road, Clehonger, Herefordshire, submitted by the Council
- 19 High Court Nos: CO/6434/2016 & CO/113/2017, R v The Council of the London Borough of Hackney and GHL (Eagle Wharf Road) Ltd
- 20 Queen's Bench Division ref: 1982 43 P. & C.R. 233, Bernard Wheatcroft Ltd v Secretary of State for the Environment
- 21 Closing submissions of the Local Planning Authority
- 22 Closing submissions of the Appellants
- 23 Draft conditions
- 24 Final agreed conditions
- 25 Section 106 Agreement Appeal A
- 26 Section 106 Agreement Appeal B

PLANS SUBMITTED TO THE INQUIRY

- A Drawing no: 173684 AP11F, Proposed Masterplan Diagram revision (01-10-18)
- B Drawing no: 173684 AP13J, Indicative Site Layout revision (01-10-18)
- C Viewpoints to be visited on site visit

PHOTOS SUBMITTED TO THE INQUIRY

8 photographs of the surface water outfall sewer south of Malmesbury Road entering Thunder Brook upstream of Jubilee Lake, submitted by Christopher Warrall