



The expert Landscape Assessment <sup>2</sup> identified that: “The Applicant’s Environmental Statement generally underestimates the Site’s visibility in the wider landscape and that the development would cause harm to setting of the AONB and to the valued landscape of the Site <sup>3</sup> and its surroundings in the Blackmore Vale.

## Introduction

1. We believe that everyone involved in development planning should recognise the urgent need for renewable energy as a means of helping to urgently address the very serious ongoing consequences of climate change and the fuel crisis.
2. We will not repeat the arguments already submitted in our previous representations, however, the recent [Crupton Farm decision](#) <sup>4</sup> has brought to light some ‘last minute’ points which we wish to highlight. It was suggested that the Council prefer us not to directly lobby the planning committee members about these additional matters, but to write to the Case Officer, so that the main parties are aware of them.
3. We are very mindful that the Case Officer must be close to completing his considerations, report and recommendations and, of course, may already have ‘weighed’ some of the points raised here.

## The main matters raised here are:

4. The magnitude of the proposed development within a ‘valued landscape’, in the settings of the AONB, two Conservation Areas <sup>5</sup> and numerous heritage assets, with reference to the Crupton Farm decision.
5. The identified harm the proposal would cause to the setting of protected areas, surrounding landscapes and heritage assets, with particular reference to the matters of ‘less than substantial harm’, the Inspector’s Decision in the Inlands Farm Appeal <sup>6</sup> and the AONB Position Paper.

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<sup>2</sup> [SHV Letters of Representation – Save Hardy’s Vale \(savehardysvale.com\)](#)

<sup>3</sup> The site itself may not exhibit any of the demonstrable physical features but as long as it forms an integral part of a wider ‘valued landscape’ .... it would deserve protection... CEG Land v SSCLG

<sup>4</sup> Application Reference: P/FUL/2021/01920 Application Site Crupton Farm Crupton Lane Crupton DT2 0EB

<sup>5</sup> The Hazelbury Bryan Conservation Area and Mappowder Conservation Area

<sup>6</sup> [Appeal decision 3269667.pdf \(planninginspectorate.gov.uk\)](#)

6. An assessment of the public benefits of the proposed North Dairy Farm Solar development in the light of the Inlands Farm Appeal Decision, and developing Government energy policy guidance.

### **Huge impact – on out of the ordinary countryside**

7. In the recent Cruyton Farm Application the main reason, noted in the Planning Committee minutes, for refusing to grant planning approval, is that the proposed development, on 17.66 hectares of agricultural land, would have a “huge” impact on its surrounding and designated landscape. The NDFS proposal is for 77 hectares i.e., an area 4.36 times larger than at Cruyton. If 17 hectares would cause “huge” harm”, then clearly 77 hectares of “energy infrastructure” would cause **significant harm** to a highly ‘valued landscape’,<sup>7</sup> the settings of the AONB, two protected Conservation Areas and the area’s heritage assets.

### **The surrounding landscape**

8. Management Plan for the Dorset AONB states: “Where visible from the AONB, the surrounding landscape, which is often of significant landscape value, is an important element of the AONB’s natural beauty. Local planning authorities must have regard for the landscape and visual impact of major development adjacent to or within close proximity of the AONB’s boundary.”

### **AONB Position Statement**

9. We draw attention to the (long standing) AONB Unit Position Paper number 3. It notes: ‘The setting providing the distinctive context benefiting the Listed Building, and the Listed Building contributing to the character and qualities of the wider environment, each add value to the other. **A similar situation exists on the edge of an AONB**, especially where the landscapes and landforms link, visually or functionally, and join the surroundings to the AONB.’ The paper also notes: **“particular care will be taken to ensure that no development is permitted outside Areas of Outstanding Natural Beauty which would damage their natural beauty”**.

### **Affected by what lies outside the AONB**

10. The AONB position paper draws attention to the Inspectors decision APP/P1235/A/06/2012807. In that the Inspector wrote: “I consider that the area immediately abutting an AONB will be relevant where the appreciation of the natural beauty of the designated area **may be affected** by what lies outside it”.

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<sup>7</sup> Valued Landscape requires “Defined Physical Attributes” Stroud decided that the concept of “valued landscapes” in [109] of the Framework is not confined to landscapes which have a particular designation

11. The Secretary of State in APP/N1215/1191202 & 1191206, 2007 also confirmed that the setting of the AONB is a material planning consideration when determining the 'called in' proposal for housing development to the east of Shaftesbury, which would have been within the setting of this AONB.

### **Harming the character, appearance and the setting**

12. The AONB Position Paper also cites the appeal by public inquiry into the refusal of planning permission for four wind turbines near Silton, in North Dorset, about 2.5km outside the AONB. The Inspector noted that: 'there are **spectacular views across the broad expanse of the Blackmore Vale towards and beyond the site [to and from the AONB]**' and that 'the site forms part of the **panoramic views across the Blackmore Vale from the AONB**'. He also concluded: '...the site forms an **integral part of an undulating and tranquil farming landscape that is set against a distant back-drop of a chalk escarpment [the AONB]**'. In dismissing the appeal, the Inspector said [paragraph 46 of his decision, 8 11 2012]: 'I conclude on the first main issue [the effect on the character and appearance of the area, including the setting of the AONB] that **the proposal would harm the character and appearance of the area and the setting of the AONB.**'

### **The AONB Planning Officer's view**

13. In the NDFS proposal, the Dorset AONB Landscape Planning Officer<sup>8</sup> makes it clear in his consultation response that: "the series of moderate effects on the outlook from the AONB places the effects at the cusp of being 'significant' and **does not demonstrate clear compliance with the recommendations of NPPF 176**" and that: "overall, whilst noting a modest improvement in **the design of the development, it is not considered that the changes have fundamentally avoided or minimised impacts on views from within the AONB**". He also notes that: "I broadly concur with the LVIA that (the) effects are most pronounced in the vicinity of Bulbarrow Hill/Rawlsbury Camp" and that: "the impact upon each wider viewpoint identified along the Escarpment (i.e., not from the Bulbarrow Hill area), which are from distances typically ranging from 4-4.5 km, would not be regarded as 'significant' in their own right. However, **such impacts should not be discounted from the planning balance, but rather apportioned a reasonable degree of weight, alongside the more substantial weight apportioned to the impacts affecting Bulbarrow Hill.** These impacts on the outlook from the AONB **should be aggregated with the effects on landscape and visual receptors outside of the AONB, which are likely to experience a greater magnitude of change,** in order to form a rounded view on the landscape and visual effects of the proposal, and its compliance with the recommendations of NPPF 176 and Local Planning Policy".

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<sup>8</sup> Richard Brown CMLI Dorset AONB Landscape Planning Officer- email 10 October 2022

14. NPPF 2018 Para 170 “Planning policies and decisions should contribute to and enhance the natural and local environment by: a) protecting and enhancing **valued landscapes, sites of biodiversity** or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan)

#### **Landscape Architect cannot support**

15. Dorset Council’s Senior Landscape Architect <sup>9</sup> noted in her consultation response that: **“there would be significant adverse effects on views from Rights of Way to the east of the site, most especially where these extent across the site to Dungeon Hill Scheduled Ancient Monument/the AONB to the west”**. And that the proposal would: **“adversely affect the setting of the AONB, most particularly given the interrelationship between the clay/rolling vale character of the local landscape that the site is located in, and the chalk escarpment landscape of the AONB”**. She writes that in her opinion **the proposals did not comply with the requirements of paragraph 154 and 170 of the NPPF (now 158 and 174 of the NPPF 2021) or policies 3, 4, and 22 of the North Dorset Local Plan** and that as a consequence she could not support the application.

#### **Similar matters to the NDFS proposal**

16. The Main Issues in the Inlands Farm Appeal (Paragraph15.) are “the effect of the proposal on: (1.) the character and appearance of the area; and (2.) the setting and thereby the significance of heritage assets”. The notable similarities in the North Dairy Farm Solar proposal and the Inlands Farm Application are that both involve major developments within the setting of an AONB. Both have identified a ‘high bar’ of important public benefits, which in the Appeal case, would have been very significant local and national economic benefits, including 5265 FTE jobs created. The visual impact on users of Public Rights of Way is also important in both Applications, and the decision particularly underlines the importance of the **setting of both the AONB and heritage assets, and the role that the surrounding valued landscape plays in the assets and their setting’s importance and value.**

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<sup>9</sup> Colm O’Kelly - Senior Landscape Architect - Infrastructure and Delivery Team 10 October 2022 – for Helen Lilly

### Within the setting of the AONB

17. The Appeal at Paragraph 21. summarises: “There is no dispute that the appeal site lies outside, but within the setting of the AONB. It is agreed that in so far as section 85 of the Countryside and Rights of Way Act 2000 is concerned, the purpose of the provision is to conserve and enhance the natural beauty of the AONB itself. Land within the setting of an AONB is not protected as such, **but development in the setting of an AONB that might undermine the purpose of conserving and enhancing the natural beauty of the AONB itself, is protected against.** Following on from that, paragraph 176 of the Framework says that development in the setting of an AONB should be sensitively located and designed to avoid or minimise adverse impacts on the designated area. Similarly, criterion c. of LP Policy EN5 is clear that **proposals outside the AONB should not adversely affect its setting.**”

### Expert view - development would harm the setting of the AONB

18. Both the Dorset Council’s Landscape Architect and the AONB’s Landscape Officer have identified that the NDFS development would harm the setting of the AONB and that the harm is not overcome by the planting mitigation proposed. Their conclusions are echoed by the expert assessments provided by Phillip Hanson CMLI of The Landscape Practice and Emma Rouse MCifA MA BA Hons.

### More than just countryside

19. In paragraphs 22. to 24. the Inlands Farm Appeal Inspector establishes that the setting of the AONB (and the heritage assets) ‘is much more than “mere countryside”, and has characteristics that take “it “out of the ordinary”. He writes: “To my mind, the appeal site should be considered to be a valued landscape”. We believe that the Applicants LIVA and the Local Authority’s Landscape Character Assessments establish that the NDFS site is clearly **in, and surrounded by, ‘valued landscape’ and is therefore ‘out of the ordinary’.** The area is also identified by Dorset Council as “highly sensitive to solar development”.

### Radical change to the landscape

20. At paragraph 26. The Inspector notes that the proposed development: “would undergo radical change from its **typically agricultural appearance to something intensively landscaped**”. In the NDFS case the “radical” change would be from a typically agricultural appearance to an incongruous industrial one, brought about by introducing 77 hectares of “energy infrastructure”.

## Separation matters – identity undermined

21. Turning to the Conservation Areas and heritage assets, the Appeal Inspector writes in paragraph 30: ‘the two settlements (Conservation Areas) derive some of their significance from their setting in a largely agricultural landscape’ and that: **‘removing the sense of separation between these settlements would undermine their identity and linkage with the surrounding landscape.** He notes: **‘That would have a detrimental impact on their settings, and thereby their significance as designated heritage assets’.** We believe that the removal of the agricultural landscape that separates the two protected Conservation Areas of Hazelbury Bryan and Mappowder would undermine their identity and linkage with the surrounding landscape. The same can be said of many of the affected designated heritage assets which currently derive some of their value from being surrounded by open farmland in a ‘valued landscape’.

## Conservation Areas and their settings harmed

22. In the Inlands Farm Appeal, at paragraph 27. the point is made **that simply removing the ‘separation’ provided by the existing landscape would cause harm to the surroundings, and to the protected Conservation Areas, heritage assets and their settings.** Clearly the same harm would be caused by the “radical” change to energy infrastructure by the NDFS proposal. At paragraph 36. the Inspector again underlines that the two Conservation Areas derive something of their significance simply from their setting in an agricultural landscape, and would suffer harm from its replacement by, in that case, by a ‘landscaped environment’. In the NDFS proposal the agricultural landscape would be ‘replaced’ by incongruous industrial energy infrastructure.

## Hazelbury Bryan Neighbourhood Plan

23. We note that the Hazelbury Bryan Neighbourhood Plan refers to the value the community places on the ‘separation’ that open farmland currently provides and the importance they place on the **“views across open agricultural land ..... capturing the beauty of the landscape in the Blackmore Vale”.**

## Non-designated heritage assets harmed

24. In the Appeal, at Paragraph 32. the Inspector states that a similar line of reasoning applies to non-designated heritage assets, that lie between the Conservation Areas, and the appeal site. We suggest that the same would apply in the NDFS proposal.

## Weight and the desirability of preserving the setting

25. At paragraph 40. the Inspector summarises: ‘I am conscious of the statutory protection conferred on the setting of any listed building by s.66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and **the need to attach considerable importance and weight to the desirability of preserving (that is not causing harm to) such a setting when considering development proposals.** We believe that the Applicant’s Heritage Assessment consistently underestimates the level of harm the proposed NDFS development would cause to the protected Conservation Areas, the heritage assets and their settings, and also **fails to identify the harm that would be caused if the ‘separation’ provided by the existing agricultural landscape was removed.**

## Inaccurate heritage assessment

26. The following extract illustrates the level of ‘understatement’ in the NDFS case. The Applicant’s Heritage Assessment states: “There are no discernible historical or landscape associations between any of the assets discussed and the Site. Additionally, all of the assets are visually screened from the Site by intervening vegetation and the effects of topography, and are considered to be of sufficient distance from the Site so as not to be affected by change to their settings. As such, the proposals will not result in any harm to the significance of these assets, and they have not been assessed in any further detail”. The [Wyvern Heritage Assessment](#) demonstrates that with the exception of the last sentence, the Applicants assessment is simply inaccurate.

## Less than substantial harm

27. The Inlands Farm Appeal Inspector turns to clarifying the matter of “less than substantial harm”. Although the point is also addressed in detail in the SHV Wyvern Heritage Assessment, we raise it again because during a recent Application debate there was apparent misunderstanding, followed by a suggestion that “less than substantial harm” could be given little or no weight in the planning balance. We are aware of the efforts made by Officers to correct the misunderstanding. That said, we ask that the Inspectors comments and opinion outlined at Paragraph 43. of the Appeal, referring to the ‘Shimbles’ judgment in relation to the assessment of less than substantial harm, is brought to the attention of the Committee. In short, the Inspector says: “to my mind, the breadth of the definition of less than substantial harm, which ranges from a very minor impact on significance, to something not too far short of the destruction (or vitiation) of significance, demands some clarity if any consequent balancing exercise is to be properly understood.”

## Strong presumption against the grant of planning permission

28. We do appreciate that the degree of harm to a heritage asset or its setting is a matter of rational judgment for the expert assessor and the decision-taker, but if there is **any** harm (including ‘less than substantial’), the decision-taker is **not** entitled to give it such weight as they think fit, but instead has to give it **“considerable weight” and have “special regard”** to the desirability of preserving the setting of designated heritage. **When any development will harm a listed building or its setting, that harm alone gives rise to a strong presumption against the grant of planning permission.** The Wyvern Heritage Assessment clearly identifies that harm would be caused to the settings of the protected Conservation Areas, and the Inlands Appeal Inspector identifies how the loss of ‘separation’ provided by the existing agricultural landscape would harm their settings, and the settings of the other heritage assets affected by the development proposal.

## Policy COM 11.

29. COM 11. states that proposals for generating heat or electricity from renewable energy sources (other than wind energy) will be allowed, providing the benefits of the development, such as the contribution towards renewable energy targets, **significantly** outweigh any harm.

30. It is required that the members reach a balanced judgement based on “a **robust assessment of the evidence presented.**” Various recent cases have illustrated how vulnerable planning permissions can be to Judicial Review when the expert evidence presented is ignored.

## Gilding the lily’

31. We accept that the NDFS proposals in themselves will, in principle, provide an environmental benefit. However, the benefit needs to be measured against the adverse impact, on what the Local Authority and the Applicant have identified to be a highly sensitive landscape and species rich natural environment, which the proposed NDFS scheme would “radically change” to an industrial one. One reason the proposed NDFS Site is exceptionally ‘species rich’ is that the hedgerows surrounding the Site have remained largely unchanged since the Middle Ages, and the Site boundaries have been ‘designed’ by the areas exceptionally high rainfall and the natural hydrology of the surrounding waterways. Attempting to improve on nature’s work at that location would be ‘gilding the lily’.

32. We also recognise that paragraphs 176 and 177 of the National Planning Policy Framework 2021 give the highest status of protection for the ‘landscape and scenic beauty of AONBs **and their settings.**

33. While the Applicant point to the (outdated) number of houses that might be supplied by the proposed NDFS development, the Carbon Intensity of wind generation at 21 CO<sub>2</sub>-eq kg/MW-he is over five times lower than PV solar panels at 106 CO<sub>2</sub>-eq kg/MW-he. and wind turbines have a Carbon footprint some eleven times lower than PV solar.

### Policy and weighting changes signalled

34. The Prime Minister, in his [COP 27 Statement to the House of Commons](#) said "Community support is vital". For onshore energy developments, the PM said: "It is right that we bring people with us as we transition to net zero. The worst thing we can do is alienate communities if we want to actually deliver on our climate commitments. **As it turns out, we are lucky to have a very reliable and very affordable form of energy in offshore wind, which is also creating jobs domestically in the UK. It is right that that is our priority**".
35. It is reported that: "the de facto ban on solar farms will be continued by the government, the Environment Secretary, Thérèse Coffey, signalled she would be keeping the policy"<sup>10</sup>. She said: "It's really important we make the best use of our land to have food security ... It's also really important when considering land use to consider the best place to put renewable energy generation, which by and large most people would agree, let's use our best agricultural land for farming **and make use of brownfield sites for these energy projects**".

### Lower carbon cost

36. There clearly are more carbon efficient ways to provide the generating capacity that Dorset and the country urgently needs, and therefore we believe that the **weighting given to the public benefits of the NDFS proposal should reflect the availability of lower carbon cost alternative generation systems.**

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<sup>10</sup> <https://www.theguardian.com/environment/2022/nov/17/de-facto-ban-on-solar-farms-in-england-to-continue-therese-coffey-signals>

## The community does not support

37. The local community has made very clear to the developers and Dorset Council that NDFS proposed development would be in the wrong place. Approximately 260 have objected. Some forty farming families have written to the local Authority expressing their opposition to siting an industrial development in the heart of Hardy's Vale, on productive farmland, within a highly sensitive and valued landscape. The significant community concern about the risk of surface runoff increasing, as a result of impermeable PV panels being installed, is the subject of separate SHV representations<sup>11</sup> and the Hydro-GIS Assessment.<sup>12</sup>

## Public Benefits – 5265 FTE jobs created

38. In the Inlands Farm Appeal, at paragraph 75. the Inspector writes: “It is fair to describe the economic benefits of the scheme as very significant indeed. On completion, the proposal is anticipated to deliver **2,700 FTE jobs on site 31 and an additional 2,565 direct, indirect and induced net additional jobs across the wider economy**. It would produce an **additional £179.2 million GVA impact per annum and a yearly £2 million uplift in business rates revenue**”.

## Business support

39. The Inspector also notes at paragraph 76. that: “The construction phase of the scheme would produce more than 300 direct, indirect, and induced FTE jobs and generate £30.6 million GVA impact per annum during the construction of Phase 1, with an additional 230 direct, indirect, and induced FTE jobs, and £22.2 million GVA impact per annum generated by the implementation of Phase 2. He also writes (Paragraph78.) “The scheme has drawn strong support from the local Chamber of Commerce”.

## NDFS - Predominantly private benefit

40. It is very clear in the Appeal Decision that the public benefits that would have been gained are far greater than the public benefits that might flow from the NDFS proposal. When the carbon costs of alternative low carbon energy generation are compared, the public benefits of the scheme are not, as in the Inlands Farm case “very significant indeed”. The significant benefits of the NDFS scheme are predominantly private economic gains.

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<sup>11</sup> [SHV Representations](#)

<sup>12</sup> [Hydro-GIS Ltd Hydrological Review February 2022 \(wordpress.com\)](#)

### **Great weight should be given to the asset's conservation**

41. It is notable that despite the clearly identified public benefits of the Inlands Farm proposal that the Inspector writes, at paragraph 91. that the: "NPPF at paragraph 174 tells us that we need to protect and enhance valued landscapes, and paragraph 176 sets out that development in the setting of an AONB should be sensitively located and designed so as to avoid or minimise impacts on the designated area. On top of that, paragraph 199 makes it plain that when considering the impact of a proposed development on a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be)".

### **Inlands Farm - Public benefits far outweighed**

42. In paragraph 92. The Inspector writes: "The essential question is whether the benefits claimed for the proposal can justify the harmful impacts it would cause to the character and appearance of the area, and the setting of the AONB, and the setting and thereby the significance of the range of designated and non-designated heritage assets described." The Inlands farm Decision is notable in that it establishes that harm to the setting of the designated area, and the harm the development would cause to the site, its immediate surroundings, are considered to far outweigh the clearly identified and very significant economic public benefits of the proposed scheme.

43. It is the Government's intention that by 2028/2030 offshore wind turbines will be able to supply the energy need of all homes in the country – at much lower carbon cost than solar. We believe that the weight given in the planning balance for the NDFS proposal should reflect the Government's plans, and that, as in the Inlands Farm Appeal Decision, the harm the development would cause to the setting of the designated areas, heritage assets and 'valued landscape' is clearly not outweighed by the public benefits the proposal would bring.

44. We fully understand that it is for the decision maker to decide what degree of weight to apply to the material planning matters, and that every Application is to be rationally (reasonably) decided on its own material plan-based merits. Whilst it is late in the day, we believe that the points highlighted here from the Inlands Farm Appeal should be brought to the Strategic and Technical Planning Committee's attention, as the Appeal Inspectors opinions and decision are pertinent to the NDFS proposal.

Ian Bryan

For and on behalf of the Save Hardy's Vale community group

[SHV Web](#)

[SHV Facebook](#)

[friends@savehardysvale.com](mailto:friends@savehardysvale.com)



2022

## ANNEX 1.

### **Cranborne Chase and West Wiltshire Downs**

#### **Area of Outstanding Natural Beauty**

#### **Position Statement Number 3**



## **The Relevance of the Setting of the AONB (Including Addendum December 2012)**

The concept of “setting” is set out in the legislation relating to Listed Buildings. It is generally recognised that the form, qualities, and character of an area within which a building sits contribute greatly to the sense of place, even though an historic or architecturally significant building creates its own presence. There it is clearly a two-way effect; the setting providing the distinctive context and benefiting the Listed Building and the Listed Building contributing to the character and qualities of the wider environment. Each adds value to the other. A similar situation exists on the edge of an AONB, especially where the landscapes and landforms link and, visually or functionally, join the surroundings to the AONB. Proposals for change in the setting should, therefore, have regard to the inter-relationship with the AONB and the landscape character and qualities.

Areas of Outstanding Natural Beauty are nationally designated areas of especially fine landscape. The Cranborne Chase and West Wiltshire Downs AONB has been established under the 1949 National Parks and Access to the Countryside Act to conserve and enhance the outstanding natural beauty of this area. The Countryside and Rights of Way Act 2000 reiterates the purpose and designation procedures for AONBs as well as making provision for national funding of the local management of these national resources. Natural beauty includes wildlife, scientific, and cultural heritage, and it is also recognised that in relation to their landscape characteristics and quality, National Parks and Areas of Outstanding Natural Beauty are equally important aspects of the nation’s heritage and environmental capital.

In addition, the setting of an AONB has been incorporated in Policy ENV3 of the emerging South West Regional Spatial Strategy [RSS], and Policy C2 of the South East RSS. Policy ENV3 says that particular care will be taken to ensure that no development is permitted outside Areas of Outstanding Natural Beauty which would damage their natural beauty.

RSSs also draw attention to the national status of AONBs and their Management Plans. The Management Plan for this AONB, adopted by all the Local Authority partners, states [p 54] “Where visible from the AONB, the surrounding landscape, which is often of significant landscape value, is an important element of the AONB’s natural beauty. Relevant local planning authorities must have regard for the landscape and visual impact of major development adjacent to or within close proximity of the AONB’s boundary.” The potential for development to impact on the setting of an AONB, and hence being a material matter in the consideration of the acceptability of that development, has recently been reaffirmed by the Planning Inspectorate [APP/P1235/A/06/2012807, 2007]. That Inspector wrote:

“I consider that the area immediately abutting an AONB will be relevant where the appreciation of the natural beauty of the designated area may be affected by what lies outside it. In my view, this is analogous to development outside of a Green Belt, where Planning Policy Guidance *Green Belts* (PPG2) advises, at paragraph 3.15, that the visual

amenities of the Green Belt should not be injured by proposals for development conspicuous from the Green Belt which, although they would not prejudice the purposes of including land in Green Belts, might be visually detrimental by reason of their siting, materials or design. I therefore agree with the Council that the effect on the AONB is a material consideration.”

The setting of an AONB and the potential impacts of development upon it are explicitly picked up in paragraph 3.2.8 of the West Dorset Local Plan [2006] in relation to the Dorset AONB.

“The policy [relating to development in the AONB] will apply not only to development within the AONB, but also to any development outside the AONB that is sufficiently prominent (in terms of its siting or scale) to have an impact on the area’s natural beauty. Where development may be prominent in the wider landscape (either within or outside the AONB), the District Council will require the Landscape Masterplan (see Table 11.1) to include a visual envelope study and photomontages.”

The Secretary of State [APP/N1215/1191202 & 1191206, 2007] also confirmed that the AONB is a material planning consideration when determining the ‘called in’ proposal for housing development to the east of Shaftesbury which is within the setting of this AONB.

The Partnership for this AONB, therefore, draws the attention of all relevant authorities, land managers, developers, and their agents and consultants to the importance of the setting of the AONB and urges them to

- a) Acknowledge and accept the concept of the setting of the AONB.
- b) Adopt policies and practices which recognise, conserve, and enhance the settings of this AONB.
- c) Involve the AONB staff regarding work that may affect the AONB or its settings.
- d) Take into account the views and professional opinions and judgements of the AONB team.

At its meeting on 9<sup>th</sup> December 2008 the AONB Partnership Panel endorsed the Position Statement and said:

**The Partnership Panel encourages all relevant authorities, land managers, developers, and their agents and consultants to recognise the settings of the AONB and undertake the associated practices set out in the Position Statement Number 3.**

RFB 10/12/08

## Addendum

The concept and scope of the setting of AONB was a key factor in the appeal by public inquiry into the refusal of planning permission for four 120m high wind turbines near Silton, in North Dorset, about 2.5km outside the AONB.

The Inspector noted that

*'...there are spectacular views across the broad expanse of the Blackmore Vale towards and beyond the site [to and from the AONB]' and that*

*'...the site forms part of the panoramic views across the Blackmore Vale from the AONB'.*

He also concluded

*'...the site forms an integral part of an undulating and tranquil farmland landscape that is set against a distant back-drop of a chalk escarpment [the AONB]'.*

In dismissing the appeal, the Inspector said [paragraph 46 of his decision, 8 11 2012]:

***'I conclude on the first main issue [the effect on the character and appearance of the area, including the setting of the AONB] that the proposal would harm the character and appearance of the area and the setting of the AONB.'***

He also concluded that the harm arising from the proposal would not be outweighed by its benefits.

NB Despite the declared intention to do away with Regional Planning Guidance the South West Guidance has not yet been abolished.

RFB 18/12/2012



## Appeal Decision

Inquiry Opened on 15 June 2021

Site visits made on 10 June, 16 September, and 17 September 2021 **by Paul**

**Griffiths BSc(Hons) BArch IHBC**

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

**Decision date: 24<sup>th</sup> January 2022**

### Appeal Ref: APP/U3935/W/21/3269667 Inlands Farm, The Marsh, Wanborough, Swindon SN4 0AS

- 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 Wasdell Properties Ltd against the decision of Swindon Borough Council.
- The application Ref.S/OUT/18/1943/EDSN, dated 26 November 2018, was refused by notice dated 26 August 2020.
- The development proposed was described as 'hybrid planning application for a Science Park comprising demolition of existing buildings, 33,507 sq m (GIA) of Use Class B1c (light industrial), together with access, parking, landscaping, drainage, and green infrastructure (detailed); up to 16,400 sq m (GIA) B1c and up to 32,281 sq m (GIA) of Use Class B1b (research and development), with associated access, parking, landscaping, drainage, and green infrastructure (outline with all matters reserved)'.

### Preliminary Matters

1. As set out above, the original application was made in a hybrid form with full planning permission sought for what was termed Phase 1, and outline planning permission for Phase 2.
2. The original description of development was modified by the Council with the agreement of the (then) applicant to read 'a hybrid planning application for a Science Park and associated works to include full details of 33,507 square metres (GIA) of Use Class B1c (light industrial), with associated access, parking, landscaping, and drainage, and an outline proposal for up to 32,281 square metres (GIA) of Use Class B1b (research and development) and up to 16,400 square metres B1c (light industrial), with associated access, parking, landscaping, and drainage (all matters reserved)'.
3. The application was accompanied by an Environmental Statement<sup>1</sup>. In response to comments from various consultees, additional information was submitted in the course of the application, including, in April 2020, a revised ES, and, in July 2020, a revised Arboricultural Assessment<sup>2</sup>.

4. While some issues were raised in relation to the ES, and in particular the way it approaches water quality, I am content that, supplemented by the evidence submitted and heard during of the Inquiry, it is sufficiently comprehensive to allow the proposal at issue to be properly assessed.

<sup>1</sup> Referred to hereafter as ES

<sup>2</sup> Precise details are set out in the General Statement of Common Ground – ID43

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5. I have dealt with the appeal on the basis of the proposals as submitted and thereafter revised by the (then) applicant, and subsequently decided upon by the Council. In particular, I have treated the submitted plans as binding in relation to Phase 1, and illustrative in relation to Phase 2<sup>13</sup>.
6. The Inquiry opened on 15 June 2021 and sat for an initial period of 12 days before adjourning on 2 July 2021. The Inquiry resumed on 7 September 2021 to deal with the highway and transport issues, and water quality, and it was closed on 8 September 2021.
7. Owing to the ongoing pandemic, the Inquiry took place on a 'virtual' basis using PINS' Teams platform. I am grateful to all involved for their flexibility and patience throughout. Aside from the appellant, and the Council, the Inquiry was attended and assisted by two Rule 6(6) parties: the South Swindon Protection Group<sup>14</sup> and Highways England. There were contributions too from local residents, councillors, and organisations, including the Wilts and Berks Canal Trust, and the local Chamber of Commerce.
8. In its decision notice of 26 August 2020, the Council cited eight reasons for refusal in relation to the element for which full planning permission was sought, and (with some crossover) eleven in relation to the outline element. These formed the basis of my preliminary definition of the main issues at the Case Management Conference<sup>15</sup> and upon opening the Inquiry (that I refer to further below). As agreed at the CMC, some of those issues lent themselves more easily to 'round table' discussions rather than formal presentation of evidence. To that end, the 'round table' vehicle of was used to deal with issues around the canal, water quality, archaeology, alternative sites, and highways and the remaining issues were dealt with through the formal presentation of evidence.
9. The various parties were able to agree a series of Statements of Common Ground<sup>16</sup> which proved most helpful. As well as a general SoCG<sup>17</sup>, these cover heritage matters, landscape, archaeology, and highways<sup>18</sup>.
10. I made an unaccompanied site visit in advance of the Inquiry<sup>19</sup> when I took in the site and its surroundings, and the views from Liddington Castle, for the purposes of familiarisation. After the Inquiry closed<sup>20</sup>, I visited the site and its surroundings, including Liddington Castle, again, on an unaccompanied basis, before carrying out an accompanied site visit in accordance with an itinerary helpfully agreed by the parties<sup>21</sup> the following day. This took in the Carriageworks,

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<sup>13</sup> The split is set out on drawing ref. 17108-OA-MP-101-P-00 Revision P6: Phasing Plan.

<sup>14</sup> Referred to hereafter as SSPG

<sup>15</sup> Referred to hereafter as CMC – it was held on 5 May 2021

<sup>16</sup> Referred to hereafter as SOCG

<sup>17</sup> ID43

<sup>18</sup> ID14, ID15, ID31, ID42, and ID44

<sup>19</sup> On 10 June 2021

<sup>20</sup> On 16 September 2021

<sup>21</sup> ID69

North Star, and other town centre sites, and the Wasdell premises on the Euroway Industrial Estate, before following a walking route across the site and its surroundings. After that, there was a tour (by minibus) of the area, including Hinton Parva, along a route recommended by Mr Baird. After that, I took in the Wasdell premises on Stephenson Road, Swindon, on a 'drive-by' basis.

11. In between the two sittings of the Inquiry, the Government published a revision to the National Planning Policy Framework<sup>22</sup>. All parties were able to address the relevant changes in submissions<sup>23</sup>. I have, of course, proceeded on the basis of the current version of the Framework. Any issues arising from the publication of the emerging Local Plan for consultation in late July 2021 were dealt with at the same time<sup>24</sup>.
12. Discussions around the various planning obligations necessary continued throughout proceedings. At first, it was thought that these could be dealt with through an Agreement under s.106 of the principal Act<sup>25</sup>. However, it became clear that the various matters involved would need to be dealt with through a Unilateral Undertaking. A draft<sup>26</sup> was discussed at a round table session during the Inquiry, and comments on a revised version were received, in accordance with an agreed timetable, after the Inquiry closed<sup>27</sup>. The final completed Unilateral Undertaking was received (in top copy) on 12 November 2021<sup>28</sup>.
13. In the course of the Inquiry, the Council made an application for costs and the appellant responded to it<sup>29</sup>. This application is the subject of a separate decision.

## Decision

14. The appeal is dismissed.

## Main Issues

15. These are the effect of the proposal on: (1) the character and appearance of the area; and (2) the setting and thereby the significance of heritage assets, and archaeology. There are then a series of 'other matters' to be considered including the impact of the scheme on: (3) the transport network; (4) water quality; and (5) the living conditions of nearby residents. Also, the question of whether: (6) the proposal would prejudice the delivery of the Wilts. and Berks. Canal needs to be assessed. All that needs to be set against: (7) any benefits the proposal would bring forward. Finally, there is a need to conclude on (8) whether the scheme accords with the development plan read as a whole; and (9) the overall planning balance.

## Reasons

16. Notwithstanding the structure set out above, it is right to set out the general policy context that underpins analysis of the various issues. The development plan for the area includes the Swindon Borough Local Plan 2026<sup>30</sup> that was adopted in March 2015. Against the background of LP Policy SD1 which sets out the Borough's Sustainable Development Principles, LP Policy SD2

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<sup>22</sup> On 20 July 2021 – I refer to it hereafter as the Framework

<sup>23</sup> ID38 and ID48

<sup>24</sup> All agree that no significant weight can be attached to it

<sup>25</sup> ID35

<sup>26</sup> ID46

<sup>27</sup> ID70, ID71 and ID72

<sup>28</sup> ID73 – referred to hereafter as the UU

<sup>29</sup> ID65 and ID66

<sup>30</sup> Referred to hereafter as LP

provides for a Sustainable Development Strategy. In recognition of the role and function of Swindon in the wider area, development is to be concentrated on Swindon

by realising opportunities within the urban area, and at a series of allocated strategic sites, including the proposed New Eastern Villages<sup>31</sup>.

17. The NEV is dealt with specifically in LP Policy NC3. This sets out the forms of development expected to come forward as part of the allocation, including a new road link to the Commonhead roundabout<sup>32</sup>, and a safeguarded route for the Wilts and Berks Canal. Also, under criterion e, we are told that the character and identity of Wanborough, Bishopstone and Bourton will be protected by a principle of non-coalescence between the settlements. Land between the NEV site boundary and the existing villages shall remain part of the countryside, where only development that is small in scale will be permitted, where it retains or enhances countryside character.
18. LP Policy EC1 undertakes to enable inward investment and the growth and retention of existing businesses by, amongst other things, concentrating on Swindon Central Area.
19. There is also the Framework to consider. Chapters 6: building a strong competitive economy, and 15 and 16: conserving and enhancing the natural and historic environments are of particular relevance to the proposal at issue.

Character and Appearance (encompassing landscape and visual impact and design)

20. The appeal site lies to the east of the A419 and, broadly speaking, to the west of Lower and Upper Wanborough, in most part within the Non-Coalescence Area included in LP Policy NC3<sup>33</sup>. To the south, lies the northern boundary of the North Wessex Downs AONB.
21. There is no dispute that the appeal site lies outside, but within the setting of the AONB. It is agreed that in so far as s.85 of the Countryside and Rights of Way Act 2000 is concerned, the purpose of that provision is to conserve and enhance the natural beauty of the AONB itself. Land within the setting of an AONB is not protected as such, but development in the setting of an AONB that might undermine the purpose of conserving and enhancing the natural beauty of the AONB itself, is protected against. Following on from that, paragraph 176 of the Framework says that development in the setting of an AONB should be sensitively located and designed to avoid or minimise adverse impacts on the designated area. Similarly, criterion c of LP Policy EN5 is clear that proposals outside the AONB should not adversely affect its setting.
22. That brings me on to the question of whether the appeal site forms part of a 'valued' landscape, falling under the ambit of paragraph 174a of the Framework, to be protected and enhanced.
23. There is a difference between the main parties on this question. While it is relatively flat, and of a typical agricultural appearance, it is squarely within the setting of the AONB, and an important part of the transition between the slopes of the downs to the south, and the flatter land to the north. Moreover, and more importantly, it is, in large part, in an area to be protected from development in order to prevent coalescence between outlying settlements, and Swindon, and the NEV. It is criss-crossed by various footpaths too.

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<sup>31</sup> Referred to as NEV

<sup>32</sup> The Southern Connector Road (or SCR)

<sup>33</sup> As indicated in Figure 11: NEV Inset Diagram – LP Page 170

24. On that overall basis, the site is much more than 'mere countryside', in my view, and it does have characteristics that take it 'out of the ordinary'. To my mind, the appeal site should be considered to be a 'valued landscape'.
25. Turning then to the proposal itself, in and of themselves, the buildings are well designed, and the general layout proposed makes sense, given the route of the SCR that crosses the south-west corner of the appeal site. However, the fact remains that for all the attempts to reduce impacts through recessive colour schemes, green roofs and landscaping, the main building in Phase 1 would be enormous in terms of its footprint (160 metres x 170 metres), and over 12 metres high. The main building in Phase 2 (as shown on the illustrative drawings) would be very large too.
26. Notwithstanding the hybrid nature of the application, it seems to me fair to consider the proposal as a whole<sup>34</sup>. The scheme would cover a relatively extensive area and the character of that area, save for the south-eastern corner of the site, would undergo radical change from its typically agricultural appearance to something intensively landscaped but much more manicured, punctuated by buildings of significant scale, and areas of car parking.
27. The effect of that, overall, would be to largely fill the gap between the settlement of Wanborough and the A419, and Swindon beyond, and in a similar way, to remove much of the separation between Wanborough and the NEV to the north. Moreover, and notwithstanding the proposed landscape treatment on the site, and the likely growth of the newly planted woodland to the south, the scheme would bring a hard edge to the northern boundary of the AONB and remove the sense of transition between the downs to the south, and the flatter land to the north. In simple terms, it would bring development right up to the edge of the AONB.
28. For all those reasons, the landscape and visual impact of the scheme would be significantly detrimental, in my view, and there would be a great deal of harm caused by it to the setting of the AONB, thereby undermining the purpose of conserving and enhancing the natural beauty of the AONB itself. There would be conflict with LP Policies NC3 and EN5c and the intentions behind s.85 of the Countryside and Rights of Way Act 2000.
29. That is not the end of the matter, because of the need to set any benefits against those consequences, but I turn next to heritage assets.

#### Heritage

30. Following on from my findings above, it is useful to begin with the Upper and Lower Wanborough Conservation Areas. All agree that given the reasons they grew up where they did, these settlements derive some of their significance from their setting in a largely agricultural landscape<sup>35</sup>. Removing the sense of separation between these settlements and Swindon, and the NEV, would undermine their identity and linkage with the surrounding landscape. That would have a detrimental impact on their settings, and thereby their significance as designated heritage assets.
31. Further, there are some listed buildings within Upper Wanborough Conservation

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<sup>34</sup> The appellant was keen to stress the strong likelihood that Phase 2 including the Science Park, will follow on from Phase 1

<sup>35</sup> I would add that this lends weight to my conclusion about the appeal site being part of a 'valued' landscape

Area – Disney Cottage (Grade II), The White House (Grade II), and The Lynch House (Grade II), that have clear agricultural origins. As such, they derive something of their significance from their position in a rural settlement with a relationship to the agriculture that goes on around it. The proposal would undermine the rural nature of the settlement and its relationship with the agricultural landscape around it. This, in turn, would harm the setting of these listed buildings.

32. A similar line of reasoning applies to Underdown Farm, Kings Lane Farm, and Sharps Farm, which are agreed to be non-designated heritage assets, that lie between the Lower Wanborough Conservation Area, and the appeal site.
33. There are two churches to consider too. The Church of St Andrew which lies within the Upper Wanborough Conservation Area is a Grade I listed building and unusual in that it has a tower and a spire. The tower is widely visible as a feature, marking the position of the settlement in the landscape, so the church has a landmark quality that is a part of its significance. The Church of All Saints in Liddington, another Grade I listed building, has a tower that performs a similar function. This landmark quality contributes to the significance of the Church.
34. There are places on The Marsh, and along Pack Hill, where either or both towers are visible across a largely open, agricultural foreground. The proposal would introduce large buildings into that foreground that would compete with, and supplant, the churches' landmark qualities. That would be harmful to their significance as designated heritage assets of the highest order of importance.
35. There are other designated heritage assets that require analysis too. First is the group of listed buildings to the north (roughly) of the appeal site – Wandsbridge House Farmhouse and Coach House (Grade II), Moat Cottage (Grade II) and Lake Cottage (Grade II). These derive something of their significance from their agricultural origins and relationship with the rural landscape around them. However, unlike the listed buildings in Upper Wanborough referred to above, these are visually separated from the appeal site by distance, and development on the north side of The Marsh. As such, their relationship with their surroundings would not be changed by the proposals in a way that would affect their significance.
36. Similarly, like the Upper and Lower Wanborough Conservation Areas, the Liddington Conservation Area, to the south of the appeal site, derives something of its significance from its setting in an agricultural landscape. In my view, the proposal would be sufficiently distant from the conservation area to ensure no harmful change to that relationship.
37. There is Liddington Castle, a late Bronze Age and early Iron Age univallate hill fort, and Scheduled Ancient Monument, to consider too. It lies to the south of the appeal site in the AONB. As one might expect, there are wide ranging views from it, and particularly to the north. These views allow us to understand why the site of the hill fort was chosen by our forebears as a strategic location and they contribute to its significance as a result. Certainly, the proposal would be visible from Liddington Castle and its impact on landscape character, that I have set out above, would be readily apparent from it. However, I do not consider that this presence in the view would undermine our understanding of the strategic importance of Liddington Castle and as a result, it is my  
  
conclusion that the proposal would not harm its significance as a designated heritage asset.
38. To summarise then, I have found that the proposal would cause harm to the setting and thereby the significance of the Upper and Lower Wanborough Conservation Areas, the Church of St Andrew, and the Church of All Saints, and Disney Cottage, The White House, and The

Lynch House, as designated heritage assets. Harm would also be caused to the setting and thereby the significance of Underdown Farm, Kings Lane Farm, and Sharps Farm as nondesignated heritage assets.

39. Paragraph 199 of the Framework tells us that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset the greater the weight should be).
40. I am also, of course, conscious of the statutory protection conferred on the setting of any listed building by s.66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 and the need to attach considerable importance and weight to the desirability of preserving (that is not causing harm to) such a setting when considering development proposals.
41. There is then a need to calibrate the degree of harm to significance that would be caused. The Upper and Lower Wanborough Conservation Areas derive a good deal of significance from their identity as rural settlements distinct from Swindon. However, a large part of the significance of the conservation areas would remain untouched by the proposals so the harm would be, in the language of the Framework, less than substantial.
42. In terms of the listed buildings where there would be a harmful impact, a similar logic applies; the buildings and their embedded significance would remain intact so the harm caused to their significance by the described impact on their settings would be less than substantial.
43. Reference was made to the *Shimbles* judgment<sup>36</sup> in relation to the assessment of less than substantial harm. To my mind, the breadth of the definition of less than substantial harm which ranges from a very minor impact on significance, to something not too far short of the destruction (or vitiation) of significance, demands some clarity if any consequent balancing exercise is to be properly understood.
44. Here, my view is that the (less than substantial harmful) impact would be at its peak in relation to the significance of the Upper and Lower Wanborough Conservation Areas because of the extent of significance they derive from their rural settings. In my judgment, the (less than substantial) harm that would be caused to the significance of these assets would be readily apparent and considerable, though nowhere near the threshold for substantial harm. I would place it halfway along the spectrum described above.
45. The (less than substantial) harmful impact that would be caused to the significance of the churches, and the other listed buildings, would be a little way below that because of the extent of significance embedded in the fabric of these buildings. Given its more contained position, and relationship to the edge

of the village, I consider that the impact on the significance of The Lynch House would be a little less harmful than the impact on Disney Cottage and The White House which have a clearer visual relationship with the rural surroundings of the village.

46. Paragraph 202 of the Framework says 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. LP Policy EN10b takes a similar approach. As far as the affected nondesignated heritage assets are concerned, paragraph 203 of the

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<sup>36</sup> ID16

Framework tells us that a balanced judgment will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

47. As far as archaeology is concerned, the construction of the SCR encountered the remains of a Roman farmstead which has obvious linkages to Roman remains to the north and east. These remains lie in part on (or to be specific under) the appeal site. The masterplan for the proposal suggests that these remains, which are proposed to remain in situ, would be located under a car parking area. The Council would prefer them to be located under pasture so that there is less prospect of them suffering any damage.
48. Notwithstanding the potential for technical solutions that might lessen any prospect of damage as a result of the car parking area, I have some sympathy with the Council's position. Nevertheless, I do not believe that to weigh against the proposals because the car parking area at issue is within Phase 2 and in outline. This is a matter that could be resolved by rearrangement of the layout as part of any subsequent reserved matters application. On that basis, issues around archaeology do not weigh against the proposal.
49. All that leads neatly into a consideration of the public benefits the proposal would bring forward but first there are some 'other matters' to consider.

#### Other Matters

50. In terms of *potential impacts on the transport network*, both local and strategic, I acknowledge the concerns of many local residents and their representatives about current traffic conditions on the routes through the villages in the vicinity of the appeal site, and the relationship of those traffic conditions to events on the nearby M4 motorway. There is evidently an existing problem, and it is one that I was able to observe during my site visits.
51. That said, the approach to the highways and transport impacts of the proposal must take place in the context of LP Policy TR2 and paragraph 111 of the Framework. As the appellant sets out, the questions to be asked are whether there would be an unacceptable impact on highway safety; would the residual cumulative impacts on the road network be severe; and could the development provide mitigation to offset any adverse impacts on the transport network?
52. It is agreed between the Council, National Highways and the appellant that the local and strategic transport network would be able to accommodate traffic generated by Phase 1 of the proposal without any unacceptable impact on highway safety, or any residual cumulative impact on the road network that could be termed severe. No mitigation would be required in relation to Phase 1 and as such, in these terms, it is acceptable and accords with LP Policy TR2 and paragraph 111 of the Framework.
53. The main parties have helpfully engaged on Phase 2 which resulted in the production of SoCGs between the appellant and the Council, and the appellant and National Highways<sup>37</sup>. The upshot of those discussions is an agreement that subject to mitigation measures there will be no residual cumulative effect (in terms of capacity and congestion) on the road network. These mitigation measures involve first of all: improvements to the existing eastbound off-slip at Junction 15 of the M4 to provide a two-lane auxiliary taper. At the Commonhead roundabout there would be a need: to signalise the interface between the circulatory carriageway of the roundabout and the approaches of the A419 off-slip and the A4259 Marlborough Road; for an increase in the circulatory carriageway on the approach to the A419 northbound off-slip from one to two lanes;

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<sup>37</sup> ID44 and ID42

and for a widening of the exit from the roundabout on to the A4259 Marlborough Road from two lanes to three lanes. All of that could be secured by suitably worded conditions.

54. There remains a dispute between the appellant and National Highways over the need, or otherwise, for further mitigation to address safety issues arising at the M4 Junction 15 westbound merge, and the A419 Commonhead roundabout northbound merge. The need for these mitigation measures could only be justified if there was shown to be an unacceptable impact on highway safety, as a result of the proposal, without them.
55. I appreciate that these are important routes and any impact on them needs to be approached with care. However, the appellant's analysis<sup>38</sup> is instructive, and not directly countered. It shows that there is no safety issue at the M4 Junction 15 westbound on-slip merge at present and the introduction of traffic attributed to the development at issue would have no material impact. There could be no unacceptable impact on highway safety as a result of the proposal in this regard, therefore.
56. As far as the A419 Commonhead roundabout northbound merge is concerned, there is no safety issue at present and the proposal would not result in an impact on journey times or queues that would be material. On that basis there would be no harmful impact on the operation of the merge, and no unacceptable impact on highway safety. In relation to the two aspects in dispute, there is, in my view, no need for mitigation and therefore, there would be no need for conditions to secure it if the appeal were to be allowed.
57. On that overall basis, and subject to the necessary conditions referred to above, there would be no unacceptable impact on local or strategic transport network as a result of the proposal and there is accord with LP Policy TR2 and paragraph 111 of the Framework. This is not a matter that tells against the scheme, though it is not one that weighs in favour either.
58. As far as any issue relating to *pollution and water quality* is concerned, LP Policy IN2d says that development proposals should take account of the capacity of existing off-site water and sewerage/waste-water treatment infrastructure and the impact of development proposals on them. Where necessary, the Council will seek improvements to water and/or sewerage/waste-water treatment infrastructure, related and appropriate to the development, so that the improvements are completed prior to its occupation.
59. Alongside that, LP Policy EN7 explains that development that is likely to lead to emissions of pollutants that may adversely affect existing development and vulnerable wildlife habitats, shall only be permitted where such emissions are controlled to the point where there is no significant loss of amenity for existing land uses, or habitats.
60. Further, Framework paragraph 174 e) makes it clear that there is a need to prevent new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of, amongst other things, water pollution. Development proposals should, wherever possible, help to improve local environmental conditions such as water quality.
61. Discussions between the appellant and the Environment Agency took place during the Inquiry and the matter was dealt with at a 'round table' session, informed by helpful submissions

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<sup>38</sup> ID45

from both sides that I have considered with care. Given that the Swindon Waste-Water Treatment Works is expected to cope with the NEV, I can well understand the concerns the Environment Agency raises through the Council.

62. The appellant is confident that the proposal can be managed in a way that would have no unacceptable impact on water quality. They may well be correct about that, but it seems to me that given the risks involved, and the possibility that development of the NEV might be frustrated if the proposal at issue causes problems at the Swindon Waste-Water Treatment Works, the issue needs to be approached with some caution.
63. The Environment Agency has suggested the imposition of Grampian conditions<sup>39</sup> to address the matter. The first seeks to secure a scheme for the improvement of the sewerage system to accommodate the additional wastewater flows from the development. The second addresses the risk of future problems at the Swindon Waste-Water Treatment Works as a result of the proposal by securing mitigation of impacts to water quality in the River Ray from the proposal, cumulatively with expected growth in Swindon. I acknowledge that similar conditions have not been applied to schemes approved within the NEV, but I would observe that the development of the NEV is planned, rather than speculative, and therefore expected to come forward. In that situation, I can understand why such conditions were not considered necessary.
64. More importantly, in the situation outlined, where difficulties at the Swindon Waste-Water Treatment Works might holdback important, planned development, I believe the prudent approach is to be favoured on this issue. There is enough in the concerns raised by the Environment Agency to make their suggested conditions both reasonable, and necessary.
65. I appreciate the concerns raised by the Council about the efficacy of the second condition given that it might well rely on action from Thames Water, including in relation to their Environmental Permit. However, I see no in-principle difficulties with that. Grampian conditions often require co-operation from third parties in order to be satisfied. If Thames Water cannot, or will not, co-operate, then the proposal at issue would not come forward.
66. With the imposition of those conditions, I can conclude that the proposal would raise no significant difficulties in terms of pollution and water quality. There is compliance with LP Policies IN2d and EN7 and the Framework, in this regard. This is a neutral factor in the overall balance.
67. Concerns have been raised about the impact of the proposal on the *living conditions of occupiers of Applegate House* which occupies a position on the eastern side of The Marsh which means it would be bounded on three sides by the proposal. I heard from the occupiers during the Inquiry. If the proposal, and in particular Phase 2, went ahead, there would be a fundamental change in the nature of Applegate House. Rather than being an isolated rural dwelling, it would sit next to a Science Park. That would represent a fundamental change. However, such a change need not be harmful to the living conditions of the occupiers.
68. The appellant and the Council have agreed that subject to conditions, the proposal need not have an unacceptable impact on the living conditions of the occupiers. I agree with that analysis and draw further comfort from the fact that the Phase 2 element is in outline. It would be possible at reserved matters stage to bolster the landscaping screen shown on the illustrative plans and think again about the car parking arrangements so that vehicular access and parking is kept

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<sup>39</sup> In ID54

as further away from the house than is shown. As a result, the impact of the proposal on living conditions at Applegate House is not one that weighs against it.

69. In terms of the *Wilts and Berks Canal*, LP Policy EN11 criterion a safeguards the alignment of the canal, as shown indicatively on the Policies Map with a view to its long-term re-establishment as a navigable waterway by ensuring that development protects the integrity of the canal alignment, and its associated structures; ensuring that where the canal is affected by development, the alignment is protected or an alternative provided; and ensuring infrastructure associated with development does not prejudice the delivery of the canal.
70. The appellant has proposed an alignment for the canal as part of their evidence to the Inquiry<sup>40</sup> that all agree is technically feasible. The first two criteria of LP Policy EN11a have been satisfied, therefore. This revised alignment passes through a drainage swale that is proposed to the west of the main building in Phase 1. The Council is concerned that this might lead to technical difficulties that might prejudice the delivery of the canal, bringing the scheme into conflict with the third criterion of LP Policy EN11a.
71. However, it seems to me that there is no technical reason why the canal could not take over the function of the drainage swale. Representatives of the Canal Trust were very clear that the canal will need a water supply. If the supply of water from the drainage swale was too great for the canal to cope with, then alternative drainage arrangements could be made. If planning permission is granted for the canal in future, the alternative drainage scheme obligation in the completed UU would be triggered, and a new approach to draining the appeal site, taking into account the presence of the canal, would need to be designed and implemented. To my mind, that is an appropriate response to the third criterion of LP Policy EN11a.
72. There is then the question of finance. It was suggested that the alternative alignment proposed by the appellant would mean additional delivery costs of £2.1 million. However, that figure must be seen in the appropriate context. It was explained that the proposed canal would be a major engineering project likely to cost £100s millions. Moreover, there is an obligation in the completed UU that gives the Canal Trust the opportunity to purchase the freehold of the land required for the alternative alignment for £1. In that context, I do not believe that the alternative alignment places an undue burden on the Canal Trust that might threaten delivery.
73. In my overall view, far from being a reason to resist the scheme, the approach the appellant has taken to the canal represents a benefit of the proposal. There is clear compliance with the three criteria of LP Policy EN11a.
74. Concerns have been raised too about surface water on and around the site, but I agree with the appellant, and the Council, that there is no good reason why an acceptable scheme could not be arrived at that equalled, or even bettered, greenfield run-off rates. This is not a matter that weighs against the proposal.

#### Public Benefits

75. It is fair to describe the economic benefits of the scheme as very significant indeed. On completion, the proposal is anticipated to deliver 2,700 FTE jobs on site<sup>41</sup> and an additional 2,565 direct, indirect and induced net additional jobs across the wider economy. It would produce an

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<sup>40</sup> Annex 4 to Mr Lawson's PoE – the alignment therein is different to that shown on the scheme drawings which shows the canal passing under the SCR roundabout in the south-west corner of the site

<sup>41</sup> A figure that includes 600 FTE jobs retained from existing operations by Wasdell in Swindon

additional £179.2 million GVA impact per annum and a yearly £2 million uplift in business rates revenue.

76. The construction phase of the scheme would produce more than 300 direct, indirect, and induced FTE jobs and generate £30.6 million GVA impact per annum during the construction of Phase 1, with an additional 230 direct, indirect, and induced FTE jobs, and £22.2 million GVA impact per annum generated by the implementation of Phase 2.
77. Significant as those figures are, the appellant says that the major benefit of the scheme would be the contribution that the introduction of a new form of employment opportunity to Swindon will make to social and economic wellbeing in the longer term, through the creation of high skill and high value jobs. This, it is said, needs to be seen in the context of Swindon's significant economic vulnerabilities<sup>42</sup> of which the recent closure of the Honda UK manufacturing plant is the most obvious manifestation.
78. The scheme has drawn strong support from the local Chamber of Commerce<sup>33</sup>. However, the Council, and SSPG, have cast doubts over the benefits claimed in a number of ways. First, it is suggested that there is a mismatch between the number of jobs it is claimed would be produced, and the HCA average employment density for the Use Classes proposed. That is magnified, it is claimed, by the appellant's stated ambition to automate and use artificial intelligence to make their operations more efficient.
79. It is questioned why the appellant needs to concentrate its operations on a single site in order to develop further. It is highlighted that Wasdell currently  
  
operate from a number of sites in Swindon and elsewhere in the UK and Ireland and have achieved 'stellar' growth in doing so. Even if, it is accepted that the operations need to be concentrated in the form the scheme provides for, in Swindon, it has not been demonstrated conclusively that it could not be accommodated in a more favourable place in Swindon like the vacant Honda site, or at Great Stall West. Neither has it been demonstrated that the benefits of the proposal could not be realised elsewhere in the UK.
80. As far as Phase 2, the Science Park, is concerned, it is pointed out that this is entirely speculative, and developer- rather than plan-led. Moreover, there is no strong evidence that the appellant's operations need to be co-located with a Science Park, or that they provide a suitable anchor for one. Following on from that 'speculative' point, there is no guarantee that the appellant will actually occupy Phase 1, or that Phase 2 will ever come forward.
81. Points have been made too that while the application refers to Use Classes B1c (light industrial) and B1b (research and development), the Phase 1 building in particular, has more of the plan-form and appearance of an operation in Use Class B8 (storage and distribution)<sup>43</sup>.
82. Most fundamental perhaps, is the suggestion that the proposal will erode to a great degree the Council's expressed desire<sup>44</sup> to focus growth on the centre of Swindon and move away from the hollowing out effect that continued outward growth into the surrounding countryside causes.

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<sup>42</sup> Not all of which are related to the economic impacts of the pandemic <sup>33</sup> ID11

<sup>43</sup> Use Classes B1c and B1b are now part of the new Use Class E but the point remains

<sup>44</sup> In the LP and the associated Swindon Town Investment Plan <sup>36</sup> Now Use Class E

83. The appellant has responded to those points in some detail, and for reasons that will become clear below, it suffices for me to make some observations, rather than strict findings on these matters. First, I am prepared to accept that the appellant's operations have characteristics that make comparisons with general employment densities for the Use Classes sought misplaced.
84. I can appreciate too why the appellant would wish to concentrate operations on a single site - there must be efficiencies in doing so. As for alternative sites, it seems that the owners of the Honda site are looking to accommodate a different kind of user (in Use Class B8) and it may well be that Great Stall West has too many constraints to facilitate what the appellant proposes. Moving operations to elsewhere in the UK would doubtless be disruptive and make it difficult to retain skilled staff.
85. As for the Science Park, there is nothing inherently wrong about proposals that are speculative, and it seems that Science Parks often come forward in this way. The appellant is clearly committed to the co-location and of the belief that there would be a synergy in it. The appellant has undertaken to occupy Phase 1 for at least five years in the completed UU. The pandemic has shown how difficult it is to rely on economic forecasts so it is very difficult to be definitive about whether Phase 2 would come forward.
86. In terms of the nature of the use, the application is very clear and if planning permission was granted then it would be on the basis of Use Classes B1c and B1b<sup>36</sup> as applied for. If the permission was implemented, and use(s) commenced that were more like those in Use Class B8 then it would be open to

the Council to take enforcement action. I appreciate the difficulties that would be involved in that, with Phase 1 having been built, but I do not consider that to be something a great deal of weight can be attached to.

#### The Development Plan

87. It is freely accepted on behalf of the appellant that the proposal fails to accord with the development plan, read as a whole. That is clearly correct. The proposal falls contrary to LP Policies SD2, NC3 and EC1 that I have rehearsed above. There would also be a failure to accord with LP Policies NC3 and EN5c in relation to impacts on the landscape and the AONB. LP Policy EN10b relating to impacts on heritage assets includes a balancing exercise against benefits to be undertaken so I do not conclude against it at this stage.
88. The divergence from LP Policy SD2 is tempered somewhat by the undertaking therein to review the strategy by 2016, at the latest, to assess future levels of need for new homes and employment land over the period to 2031, to provide an appropriate basis for employment land and infrastructure provision. While the Council has seen no need to change its strategy, it is not clear that a 'review' in the form expected has actually taken place. This does not change my overall conclusion in relation to the development plan, however.
89. Having accepted that the proposal fails to accord with the development plan, read as a whole, the appellant relies on 'other material considerations', and that feeds into the need to carry out an overall planning balance.

#### The Planning Balance

90. It is fair to say that paragraph 81 of the Framework is strongly supportive of development that contributes to building a strong, competitive economy. It says that significant weight should be placed on the need to support economic growth and productivity, taking into account both local

business needs and wider opportunities for development. Paragraph 83 makes it clear that the locational requirements of different sectors should be recognised and that includes making provision for clusters or networks of knowledge and data driven, creative or high technology industries.

91. However, paragraph 174 tells us that we need to protect and enhance valued landscapes and paragraph 176 sets out that development in the setting of an AONB should be sensitively located and designed so as to avoid or minimise impacts on the designated area. On top of that, paragraph 199 makes it plain that when considering the impact of a proposed development on a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be).
92. The essential question is whether the benefits claimed for the proposal can justify the harmful impacts it would cause to the character and appearance of the area, and the setting of the AONB, and the setting and thereby the significance of the range of designated and non-designated heritage assets described. Bearing in mind that the Framework does not suggest that economic factors are more important than environmental ones, or vice versa, this is essentially a matter of judgment.
93. The manner in which the Framework is arranged makes this a relatively complex process. First, paragraph 203 says that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgment will be required having regard to the scale of any harm or loss and the significance of the heritage asset. If I accept that the economic benefits of the proposal are as great as the appellant suggests and add to them the benefits involved in facilitating a section of the Wilts and Berks Canal, and the benefits to biodiversity that the landscaping scheme would involve, then I find that the harm to the setting and thereby the significance of the non-designated heritage assets involved would be justified.
94. Dealing with the designated heritage assets involved is a different matter given what paragraph 199 of the Framework says about weight and, in relation to the settings of the listed buildings involved, the workings of s.66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. As set out above, paragraph 202 of the Framework says 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. In my view, the extent of the harm that would be caused to the setting and thereby the significance of the Upper and Lower Wanborough Conservation Areas, the two Grade I listed churches, and the other (Grade II) listed buildings in Upper Wanborough, to which I must attach great weight, would not be outweighed by the benefits of the proposal, taken at their maximum. This means that the appeal must be dismissed and, as an aside, it also brings the scheme into conflict with LP Policy EN10b.
95. For completeness, there is a need too to carry out an overall planning balance. In my view, the environmental costs of the proposal, in relation to the character and appearance of the area, and the setting of the AONB, and the setting and thereby the significance of designated and non-designated heritage assets, are simply too great to allow them to be outweighed by the economic and other benefits prayed in aid of the proposals, even if those benefits are taken at their absolute highest.
96. Put very simply, a scheme of this sort would be a great economic opportunity for Swindon, and indeed the UK, but in my view, the site that has been chosen for it is quite fundamentally the wrong one.

## **Final Conclusion**

97. On that overall basis, it is my conclusion that the appeal should fail.

**Paul Griffiths**  
**INSPECTOR**

## ANNEX 3.

### The setting of the Dorset Area of Outstanding Natural Beauty

This map shows the proposed North Dairy Farm Solar Site (outlined in red) almost surrounded to the West, East and South by the higher ground of the Dorset Area of Outstanding Natural Beauty (in green). At its closest the proposed Site is only 1300 metres from Eastern boundary, and is very clearly within its setting.

