

LAND AT INLANDS FARM, SWINDON, WILTSHIRE

PROPOSED SCIENCE PARK

OPENING SUBMISSIONS ON BEHALF OF THE APPELLANT

1. In response to the economic and social impact of the continuing pandemic, the Government has set a strategy for economic recovery.
2. An important part of the Government's strategy is to back the sectors and technologies which will shape the UK's future¹. The Government has given specific endorsement to promoting life sciences and to the 2017 Life Sciences Industrial Strategy².
3. As the Prime Minister notes in his foreword to Build Back Better³, in the past there has been a chasm between invention and commercial application. That concern is reflected and addressed in the 2017 Life Sciences Strategy which recognises that:

Commercially successful companies can play a key role in nurturing the small companies in their geographies – stakeholder feedback suggests that the leadership and management skills required to take a company from science, research and financing to development, manufacturing scale-up and commercialisation are in short supply in the UK.⁴

4. The appeal proposal is put forward by a commercially successful company in the pharmaceutical sector which wishes to be able to expand its own business, and to nurture small companies so as to allow them to develop and manufacture new products. Wasdell offer skills which are in short supply. They are proposing to use those skills to benefit Swindon and the wider area.
5. One of the main issues for this inquiry is whether a planning policy framework adopted in 2015, before Brexit, before the pandemic, and before the current economic strategies were

¹ Build Back Better page 55 CDI-12

² Build Back Better page 54 CDI-12, Life Sciences Industrial Strategy 2017 CDI-15

³ CDI-12 page 6 (pdf page 5)

⁴ CDI-15 page 40 (pdf page 41)

developed, should be allowed to stand in the way of economic activity critical to the UK's future.

The Proposed Development

6. The Appellant proposes to develop a science park anchored by Wasdell, an industrial technology company in the pharmaceutical sector.
7. Many of the criticisms of the scheme appear to be based upon a misunderstanding of the concept.
8. Some of those opposed to the scheme seek to judge the proposal by examining Wasdell's current operations. Such an approach may be the reason why the Council seeks to take a point based upon the Use Classes Order.
9. As a result it is necessary for us to explain what is not being proposed.
 - a. This is not merely a proposal to relocate an existing business.
 - b. This is not a proposal for a generic business park.
10. The concept being promoted is the creation of a like-minded community of cutting edge companies in a campus environment, with specialist infrastructure provision⁵. That is to be facilitated by a range of measures including an innovation hub, grow on space, and a carefully curated physical and business environment, reinforced by a user restriction/gateway policy⁶.
11. With this introduction in mind we will set out, in brief, the Appellant's position on the main issues you have identified.

The Inspector's main Issues

Character and appearance (including design, and landscape and visual impact)

12. The design has taken a landscape led approach⁷ which embeds a package of landscape and design measures, including setback of the buildings from the site edge, use of recessive colours, tree and hedgerow planting, creation of woodland belts, and green roofs.
13. An extensive landscaped area will be created on the east of the site to reinforce separation from Wanborough.

⁵ Lupson Ap.G 04.22 including ICT and stand by power

⁶ Lupson Ap.G 06.9

⁷ Key landscape principles are set out at Ede PoE 4.5

14. The buildings will be set in landscaped space to create a campus layout appropriate to a high quality science park environment. The siting of buildings has been carefully considered; as an example, no development is proposed on the eastern triangular field which plays a more important role in the landscape setting of Wanborough⁸.
15. When considering these issues it is important to bear in mind that changes to the existing landscape are proposed in any event, as part of the Great Western Community Forest. These include Warneage Wood to the north east of the Appeal Site and Manners Wood to the south of Pack Hill. In 15 years or so Manners Wood will become a significant woodland block on the edge of the AONB⁹. In addition the Southern Connector Road, to the west of the Appeal Site, is in the course of construction.
16. The Appellant's case in relation to the main points in dispute (under this main issue) are as follows:
 - a. When assessed, in particular applying the criteria in Box 5.1 of GLVIA3, it is clear that the Appeal Site does not fall within a valued landscape, within the meaning of that term as used in paragraph 170(a) of the NPPF. It is also of note that the LPA, when considering the appeal application at the committee stage, and when considering the Southern Connector Road, did not form the view that site lies within a valued landscape.
 - b. The Appeal Site does not make an important contribution to the landscape or scenic qualities of the AONB.
 - c. The impact of the proposals on the countryside and landscape character.
 - i. There is no dispute that the proposal will result in harm to the landscape character of the site (that is inevitable for a major development of the type proposed).
 - ii. The point at issue is the extent to which the changes to the character of the Appeal Site will cause harm to the character of the wider area.
 - d. The impact of the proposals on views and visual amenity.
 - i. Due to the flat topography of the Appeal Site and existing enclosure by vegetation, the A419, the landform and built form of Wanborough, and the proposed planting, visibility of the development would be restricted.
 - ii. The greatest effects will be experienced by those who use the footpaths on the north western edge of Wanborough, including those which pass through

⁸ Ede PoE 3.48

⁹ Ede PoE Fig3.6 on page 19

the Appeal Site. It is acknowledged that some harm would be caused to the visual amenity of those using those footpaths. The proposals would also be seen in views from Pack Hill and from The Marsh, and by those using the footpath between Purley Road and Pack Hill.

- e. The Appellant's case is that the landscape mitigation measures proposed are appropriate and are likely to be effective, so as to ensure that, over time, the effect of the proposal on landscape and scenic beauty in the AONB itself will be minimal¹⁰.
 - f. It is the Appellant's case that over time the proposed development would integrate successfully with the landscape and the character and scenic beauty of the AONB would be conserved¹¹.
17. The development of open agricultural land as a science park is bound to have landscape and visual impacts. However, the characteristics of the site and surrounding area, and of the development proposed, will ensure that those impacts are limited.

Heritage matters (including the effect on the setting and thereby the significance of heritage assets and archaeology)

18. The villages to the east (Upper Wanborough, Lower Wanborough) and south east (Liddington) of the Appeal Site contain a variety of heritage assets, conservation areas, listed buildings and a scheduled monument. The appeal scheme will have no direct effect on those assets, but will affect the setting of some assets.
19. Both national¹² and local¹³ planning policy recognise that development which causes some less than substantial harm to the significance of designated heritage assets can be permitted if the public benefits of the proposal outweigh that harm¹⁴.
20. The Appellant accepts that the proposal will cause some less than substantial harm to the significance of the Upper Wanborough Conservation Area and 3 listed buildings in Upper Wanborough¹⁵. The harm to significance is less than substantial and at the lower end of the

¹⁰ Ede PoE 6.32

¹¹ Ede PoE 5.35

¹² Paragraph 196 NPPF

¹³ EN10b in the Local Plan CDF-1

¹⁴ In cases, such as this, where the duty imposed by section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is engaged, the public benefits are capable of rebutting the strong presumption against granting planning permission where harm is caused to the setting of a listed building. The strong presumption is referred to at paragraph 49 in *R (Forge Field) v. Sevenoaks DC* [2014] EWHC 1895 (Admin) CDO-18

¹⁵ Brookes PoE Table 5.3 on page 66

scale. The Appellant also accepts that the proposal will cause some harm to the significance of non-designated farmstead buildings in proximity to the appeal site¹⁶.

21. There is a dispute as to the degree or extent of less than substantial harm that will be caused.
22. There is also a dispute between the Appellant and the LPA as to whether harm will be caused to the significance of other designated heritage assets in Upper Wanborough, Lower Wanborough, the Marsh and Liddington¹⁷.
23. As the degree of harm to designated heritage assets is agreed to be less than substantial (with a dispute as to where it falls on the scale) the policy set out in paragraph 196 of the NPPF applies, and a balancing exercise is required. In the case of less than substantial harm to the significance of listed buildings, considerable importance and weight should be given to the desirability of preserving the setting of those listed buildings, and accordingly to the harm when weighed in the balance¹⁸.
24. It is the Appellant's case, in relation to above ground heritage assets, that the public benefits outweigh the harm to the significance of the designated heritage assets, and any harm to non-designated heritage assets.
25. The western part of the Phase 2 site includes archaeological remains of regional significance, being those associated with a Roman farmstead. Those remains are acknowledged to be a non-designated heritage asset.
26. The policy approach (at EN10(d) in the Local Plan) is that development proposals affecting archaeological remains of less than national importance will be conserved in a manner appropriate to their significance. The policy requirement will be satisfied. The remains will be removed from risk of further damage through arable farming, and appropriate construction techniques can be used to ensure that the presence of a car park does not result in compaction or otherwise harm the asset¹⁹.

The impact on the transport network, both local and strategic

27. The Appellant will address this issue at a later stage in the inquiry when the modelling work has been completed.

¹⁶ Underdown Farm, Kings Lane Farm, and Sharps Farm – Brookes PoE Table 5.4 on page 67

¹⁷ As listed in Brookes PoE Table 6.1 on page 69

¹⁸ *Barnwell Manor Wind Energy v. Secretary of State* [2014] EWCA Civ 137 at paragraph 29, CDO-3

¹⁹ King Rebuttal 2.3 and Appendix 1

Living conditions (at Applegate House in particular) in relation to noise, vibration, air quality, and anything else

28. The concerns raised by the LPA relate to the outline element of the planning application proposals.
29. The concern relating to air quality arose from construction impacts. Any adverse impacts can be mitigated to such an extent that there will be no material adverse effect on air quality and amenity at properties within the study area, including Applegate House²⁰. The LPA accepts that conclusion and does not pursue the air quality point²¹.
30. In relation to noise and vibration, the LPA sought information on whether continuous flight augur (“CFA”) piling would be suitable on the site, and if it were, the vibration and noise levels resulting²². That information has been provided, and it is understood that the LPA’s concerns have now been overcome. Ground conditions are suitable for CFA piling²³ and the impacts on noise and vibration will, respectively, be negligible²⁴ and minimal²⁵.
31. Emissions will be controlled to a point where there is no significant loss of amenity for existing land uses and therefore local plan policy EN7 is complied with.

The risks of pollution affecting water quality

32. The Environment Agency are concerned that there is insufficient network capacity to accommodate foul water discharges from the proposed development and as a result there would be a risk to water quality.
33. The concern expressed by the Environment Agency can be overcome by imposing a condition which prevents occupation of the premises until the foul water connection is provided.
34. There is no legal requirement that a condition can only be imposed if there is a reasonable prospect of it being fulfilled within the time contemplated²⁶. The PPG advises that conditions preventing occupation until a specified action has been taken should not be used where there are no prospects at all of the action being performed within the time limit imposed by the permission²⁷.

²⁰ Cowell PoE 6.1.7

²¹ Snook PoE 7.19

²² Parker PoE 7.9

²³ Beamish Ap. B

²⁴ Beamish Rebuttal 2.1.4

²⁵ Beamish Rebuttal 2.2.5

²⁶ *British Railways Board v. Secretary of State* [1993] 3 PLR 125 at page 134

²⁷ PPG on the Use of Planning Conditions: Paragraph: 009 Reference ID: 21a-009-20140306

35. In this case there is a good prospect that a connection to the foul water network will be provided within an appropriate time. Thames Water have indicated that they have identified a high level solution to the foul water capacity issue²⁸.
36. This ground of objection can be overcome by imposing an appropriately worded condition.

Whether the delivery of the Wilts. and Berks. Canal would be prejudiced

37. Careful attention should be paid to the policy which lies behind this ground of objection. Policy EN11 provides that the alignment of the Wilts and Berks Canal as shown indicatively on the Policies map, shall be safeguarded. The means by which it shall be safeguarded are then set out. In this case the route is safeguarded. A technically feasible alternative alignment is safeguarded, as shown on the plan attached to Mr Lawson's evidence²⁹.

Any benefits to the economy and employment

38. The economic benefit is not merely a question of numbers, although the numbers are significant. The major benefit of this scheme is the contribution it will make to well-being in the long term, in particular economic and social well-being through introducing a new form of employment opportunity to Swindon.
39. On completion the proposal is anticipated to deliver 2,700 jobs on site³⁰ and will result in:
- a. 2,565 direct (1,710), indirect and induced (855) net additional jobs across the wider economy
 - b. An additional £179.2 million GVA per annum
40. The NPPF sets out policies for building a strong, competitive economy. They include the following:

The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation⁴⁰, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.³¹

²⁸ Atkinson Rebuttal Appendix A

²⁹ Lawson Ap. 4

³⁰ Amos Ap. 1 Table 6.3

³¹ NPPF paragraph 80

41. This proposal meets all those criteria. Swindon would build on its strength (pharmaceuticals is identified as a priority sector in the Swindon Economic Strategy³²), counter the disadvantages arising from the lack of a science park in Swindon, and address the challenge of competing in an international market in the pharmaceutical sector, driving and encouraging innovation in an area with high productivity and capitalise on the opportunity presented by the existing Wasdell operation. All that can be achieved without cost to the public purse.

The planning balance (to include alternative sites, issues around the Use Classes Order, and compliance, or otherwise, with the development plan, read as a whole).

42. The proposal is for a science park.
43. The application is for B1c and B1b uses³³ and it should be judged on that basis³⁴. It should not be judged as if it were an application merely to re-locate existing Wasdell operations in Swindon.
44. The Council accepts that the use proposed is one which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit³⁵. The Council's residual point (in relation to use class) appears to relate to the ability of Wasdell to use the premises for which consent is sought.
45. The short answer is that Wasdell intend to use the Phase 1 premises for B1c purposes including incidental and ancillary uses.
46. The Appellant has had the benefit of expert advice on the characteristics required to create a successful science park. It is that advice and those characteristics which have influenced the site selection criteria. Applying those criteria it is the Appellant's case that there are no realistic or feasible suitable alternative sites on which to provide a science park within a reasonable time period.
47. It is accepted that the site selected lies outside the existing development boundary and that the proposal conflicts with policy SD2 and with NC3 (albeit that the conflict with NC3 is minor³⁶). It is also accepted that there will be a minor conflict with policy EN5(c).

³² CDI-1 pdf page 21

³³ The application was submitted before 1st September 2020 and must be determined by reference to the use classes which applied on 31st August 2020, before the recent changes were made: Regulation 4 of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020

³⁴ An explanation of the Appellant's position is set out in Appendix 8 to its Statement of Case

³⁵ Snook PoE 6.31

³⁶ Lawson PoE 11.117

48. A question which the inquiry will have to address, is why should planning permission be granted for a proposal which is acknowledged to be contrary to the development plan. We will not seek to give a complete answer to that question in opening, but ask you bear these points in mind:
- a. The purpose of section 38(6) of the Planning and Compulsory Purchase Act 2004 is not to rule out proposals which do not accord with the plan. The effect of section 38(6) is to provide flexibility in the system. That flexibility allows (amongst other things) proposals which the plan did not contemplate to be permitted.
 - b. In this case the Swindon Borough Local Plan 2026:
 - i. Does not make provision for a Science Park
 - ii. Was only found sound³⁷ on the basis that it incorporated provision for the strategy to be reviewed by 2016, with that exercise to include a review of the need for employment land.
 - iii. Has not been reviewed as envisaged in policy SD2.
 - c. The proposal represents an opportunity to be grasped. Wasdell have the skills which the Life Sciences Strategy identified as being in short supply. Wasdell's offer is to create a science park so that they and others can benefit from those skills. A failure to accept that offer on the basis of conflict with a local plan which did not contemplate this type of development would be to allow process to triumph over the well-being of the area and the country, and would be directly contrary to the strong encouragement given for this type of proposal in the NPPF³⁸.
49. A decision to refuse to grant planning permission would prevent a development which would facilitate economic activity which is critical to the future of the country and which is both supported and encouraged by up to date Government policy. Over the next few weeks you will have to examine whether such a development should be frustrated by development plan policies generated in response to the needs of a different era.

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15th June 2021

³⁷ Local Plan IR 33, 43, 95, and main modification MM04

³⁸ See NPPF paragraphs 80 and 82