

11/01822 Pins Ref 2177100	Lowesden Works Business Park, Lambourn Woodlands, Hungerford, Berkshire RG17 7BY	The erection of buildings to accommodate increased storage and warehousing facilities and ancillary training and office facilities, associated car parking, landscaping, surface water drainage storage, and associated works.	Dele. Refusal	Allowed 07.01.2013
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### **Procedural matters and identification of main issues**

The application was submitted in outline, with details of access, appearance and layout provided, and details of scale and landscaping reserved for future determination. The Inspector's consideration of this appeal proceeded on that basis.

The Government's National Planning Policy Framework ("the Framework") was published after the Council determined the application, and replaced most of the existing national Planning Policy Statements and Guidance. The Framework explains that at its heart is a presumption in favour of sustainable development, which has three dimensions; economic, social and environmental.

With that in mind, the Inspector considered there are three main issues in this appeal. Firstly, the economic dimension, with particular regard to the availability of employment space in the area, and the needs of local business. Secondly, the environmental dimension, with particular regard to the effect that the development would have upon the character and appearance of the area, and the accessibility of the appeal site via a range of alternative modes of transport. Thirdly, the social dimension, with particular regard to whether adequate mitigation is provided for any increased pressure the development would place on existing local services and infrastructure.

### **Reasons**

Lowesden Works Business Park (LWBP) lies within the North Wessex Downs Area of Outstanding Natural Beauty (AONB), and comprises a collection of buildings and works originally developed during the Second World War, in connection with the nearby airfield known as RAF Membury. The majority of the buildings remain in their original structural state.

#### *Economic considerations*

The West Berkshire District Local Plan 1991-2006 (as amended 2007) identified LWBP as an existing employment site, and its designation as a Protected Employment Area is carried forward in the West Berkshire Core Strategy (adopted July 2012). The Council's evidence in this appeal emphasises that protection of LWBP as an employment location is due to its existence as a fact of history, rather than its sustainability in terms of location, and explains that it was intended to offer relatively inexpensive start-up buildings for small companies in a rural area. The appeal site adjoins the north-western boundary of the designated Protected Employment Area; it is not included within it.

The proposed development would involve the construction of a linked "industrial warehouse and office building", and a separate "ancillary and training building", for occupation by RGB Communications, a tenant of LWBP since 1992. The Inspector was advised that RGB Communications is a successful local business which has expanded in recent years, and has the potential to expand further, but that there is no suitable expansion space within the current premises at LWBP. She was also told that the somewhat dilapidated state of the existing

buildings at LWBP has caused problems for the business due to the importance of keeping valuable electrical equipment secure, and away from leaks. This prompted the outsourcing, in 2011, of the warehouse and distribution operations to alternative nearby premises, but she heard that this has proved to be neither cost-effective nor an efficient use of resources.

As to other possible avenues for dis-aggregation, she heard that the proposed ancillary office space is needed to provide technical and administrative support for the training facilities and demonstration rooms, as well as the provision of after-sales support in connection with goods distributed from the warehouse, and so could not reasonably be located separately to those elements of the business. The Inspector had no substantive reason to doubt any of this evidence.

She noted the Council's concern that if the proposed development were constructed, only minimal intervention would then be required to separate the office facilities from the warehouse, such that a future occupier could potentially occupy that office space as an independent unit. However, the evidence indicates that the employment accommodation here proposed has been specifically designed to meet the particular business needs of RGB, and in her view, the scheme should be considered as a whole. She therefore did not share the Council's view that the proposed area of office space should be treated as a "main town centre use" and made the subject of the sequential test set out in paragraph 24 of the Framework; neither should it, or the proposal as a whole, be categorised "new office development" such as would form the subject of the sequential approach set out in Policy CS 9 of the Core Strategy.

Nevertheless, the more general provisions of Policy CS9 concerning the appropriate location of business development remain relevant here. These state that proposals for industry, distribution and storage uses will be directed to the District's defined Protected Employment Areas, and existing suitably located employment sites and premises.

The appellant has undertaken a review of potential alternative locations, within the limits of the geographical area that would remain reasonably accessible to the locally-based employees of RGB Communications. The findings were that of the limited existing supply of commercial premises, none were available, to buy or to let, that could meet the operational requirements of RGB. The Council contends that there is already sufficient employment land to meet the evidenced future economic requirements of the District over the Core Strategy period. That may be so, but in the absence of any more specific information as to suitable sites that are currently available, she had no reason to doubt the appellant's evidence that none could be found.

The appellant has also provided convincing evidence that provision of the required accommodation through the redevelopment of existing buildings within the Protected Employment Area of LWBP could not be achieved in the short to medium term, because there would be insufficient scope to accommodate the existing tenants elsewhere on site.

On that basis, then, the evidence indicates that the proposed development could not be accommodated within the district's Protected Employment Areas or existing employment sites. Policy CS 9 states that outside these preferred locations, proposals will be assessed against two criteria. The first is compatibility with uses in the area surrounding the proposals, and potential impact on those uses. As the Council rightly accepts, since the appeal site lies alongside an existing employment site, there would be no conflict between the proposed development and the existing employment use of LWBP. The compatibility of the proposal with the surrounding countryside is of course also important, and the Inspector considered this and the second criterion of Policy CS 9 - concerning capacity and impact on the road network and

access by sustainable modes of transport – in the context of the Environmental and Social Considerations below.

The Council drew the Inspector's attention to Policies RE3 and WCBV2 of the Regional Spatial Strategy for the South East of England 2009 ("the South East Plan") which, notwithstanding the Government's clear intention that it should be revoked in the near future, currently remains part of the Development Plan. In her judgment, there would be no real conflict between the proposed development and either of these two policies; the first requires local planning authorities to facilitate a flexible supply of land to meet the varying needs of the economic sectors, and the second states that the need for additional new employment floorspace will, *to the extent possible* (her emphasis), be met through the more efficient use of employment land in town centres and established employment areas. In this case, the proposed development is intended to meet the specific needs of a successful local business, and there is evidence that those needs could not currently be met on existing employment land within the district.

Before turning to environmental issues, there is an important material consideration to note. This is the emphasis that the Government places, in the current difficult economic climate, on encouraging economic growth. Paragraph 21 of the Framework advises that policies should be flexible enough to accommodate needs not anticipated in the Development Plan, and to allow a rapid response to changes in economic circumstances. Paragraph 28 encourages support for the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings.

The Inspector did not underestimate the value of the work that the Council is currently undertaking to address the mismatch it has identified between the supply and demand for space to accommodate different types of economic activity throughout the district. This will help to form the evidence-base for the emerging Site Allocations and Delivery Development Plan Document, which is, however, unlikely to reach Examination in Public before 2014. While the Council is entirely right (as paragraph 17 of the Framework confirms) to take a holistic and plan-led approach to the provision and use of employment land, the plan-making process should not be allowed to delay or prevent proposals coming forward in the meantime. Paragraph 19 of the Framework states that the planning system should operate to encourage, and not act as an impediment to, sustainable growth; and that "significant weight should be placed on the need to support economic growth through the planning system".

#### *Environmental considerations*

##### Character and appearance

This part of the North Wessex Downs AONB is characterised by extensive woodlands located on the valley sides below the ridge tops. Mature hedgerows and trees delineate irregular, medium-sized fields, creating a more enclosed and intimate landscape than the open downs to the north. The area is predominantly agricultural, with some major equestrian establishments. A number of former MOD sites, now Protected Employment Areas, are set on the open plateaux and ridges within this wooded downland landscape, separated by open countryside. Other settlement in the Lambourn Woodlands area is scattered in individual farmsteads and small-scale groups of houses.

The appeal site lies alongside the north-west boundary of what is now the LWBP Protected Employment Area. It is formed from the eastern half of a field that was part of the land formerly occupied by the MOD, but has since been largely abandoned and has returned to grassland. As a predominantly open, grassy space enclosed by hedges this field clearly has similarities with the character of the surrounding rural landscape, but in her judgement, the visual evidence of

former MOD occupation and development, in the form of a hard-surfaced road and three (somewhat dilapidated) buildings, links its character more closely to that of the adjoining collection of former-MOD works now functioning as a Business Park.

The existing buildings of the LWBP are predominantly single-storey structures, utilitarian in appearance, with corrugated grey roofs which stand out as a contrast to the surrounding pattern of grassland, hedgelines and woodland. These buildings have a linear layout, which curves around to largely enclose the northern, eastern and southern boundaries of the appeal site. The new buildings would also be of single-storey and utilitarian form, clad in greens and greys similar to those of the existing structure, and set down in to the ground to minimise their apparent height. The new buildings would therefore be closely related to the existing development at LWBP, and in views from the surrounding area they would be seen in the context of these existing buildings, which are an established feature of the landscape.

The proposed development would also include a considerable amount of landscaping work. Full details would be reserved for determination at a later date, but the elements of the landscape strategy have been set out in the submitted scheme. In addition to the planting within the new parking areas, intended to soften the impact of the hard surfacing, new trees and a banked native hedge would be planted along the western boundary of the appeal site, to provide screening. Existing planting along the southern boundary of the appeal site, and the outer boundary of the field, would be enhanced.

Despite the proposed use of native species, much of this landscaping work would have little in common with natural or agricultural vegetation patterns of the surrounding landscape. Nevertheless, it would serve to filter views of the buildings in the short term, and provide increased screening as the hedgerows and planting matured. The roofs of the new buildings, and glimpses of their elevations, would be visible in public views from the B4000 and Ermin Street but the Inspector considered that the foreground boundary planting, and backdrop of the existing structures, would ensure they appeared as an integrated part of the existing LWBP rather than an incongruous form of new development. The new buildings would be clearly visible from Lambourn Footpath 20 ("LAM20"), but since it already passes through the middle of the LWBP Protected Employment Area, the new development would be perceived as an extension of the existing use, and its presence would not significantly alter the overall experience of footpath users.

The Council points out that while the landscaping proposals may go some way toward mitigating the visual impact of the proposed development, it does not compensate for the overall increase in the mass of built form at LWBP, and its expansion into a formerly open part of the AONB. While she agreed that building on a field must inevitably result in some loss to the openness of the overall AONB, it does not follow that planning permission should therefore be refused; the extent of the harm caused by that loss must, along with other considerations, be weighed in the overall planning balance.

Policy CS19 of the Core Strategy states that proposals for development should be informed by, and respond to, the distinctive character areas and key characteristics identified in relevant landscape character assessments. The *North Wessex Downs Landscape Character Assessment* (2002) seeks to resist localised visual intrusions which would impact on the secluded rural character or scattered settlement pattern of the landscape. In the context of the existing built form at LWBP, and having regard to the scale parameters and appearance of the proposed development, she was satisfied that it would not appear particularly intrusive, or lead to any significant alteration to the rural character and settlement pattern of the landscape. It

would accord with the objectives of Policy CC6 of the South East Plan, which seeks to ensure that development respects the character of the landscape.

The *Newbury District-wide Landscape Character Assessment* of 1993 and the *Berkshire Landscape Character Assessment* of 2003 both note that large-scale development would not be appropriate within the wooded farming landscape that characterises the area, since it can be visually intrusive and affect the sense of remoteness. Again, the development here proposed would be seen in the context of the existing business park, which is an established feature of the area, and so would have little impact on the overall remoteness of the area. As discussed above, the proposed landscaping works would help to minimise any visual intrusion. Similarly, while the proposed development would add to the numbers of staff, visitors and vehicle movements associated with the existing use of LWBP, this would not detract significantly from the tranquillity of the AONB as a whole.

#### Accessibility

The main access roads in the vicinity of LWBP have no pedestrian footways or cycle lanes and are unlit, and so are not conducive to travelling by bicycle or on foot. Local bus services are limited, and the nearest rail station is in Hungerford, which is a bus-ride away, on a bus that would need to be pre-booked. Consequently, the proposed development would be likely to increase the number of private and commercial vehicle movements to and from LWBP, which is located some 4 kilometres, by road, from the nearest settlement of Lambourn.

The Inspector therefore agreed with the Council's assessment that in terms of the appeal site's accessibility by modes of transport other than the private car, it does not occupy a sustainable location. In this respect the proposed development would conflict with one of the aims of Policy CS13 of the Core Strategy, which seeks to reduce the need to travel.

Area Delivery Plan Policy 1 of the Core Strategy makes it clear that most development should be located within or adjacent to settlements included in the identified settlement hierarchy, and related to their transport accessibility; significant intensification of employment-generating uses should be avoided where opportunities to access them by public transport, cycling and walking are limited. However, the Policy goes on to state that "appropriate limited development" in the open countryside will be allowed, focused on addressing identified needs and maintaining a strong rural economy. Paragraph 29 of the Framework also recognises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas.

#### *Social considerations*

One of the Council's reasons for refusing to grant planning permission for the proposal concerned the lack of a planning obligation, in the form of a legal deed, to secure the payment of financial contributions said to be necessary to mitigate the impact of the development on local library services, public open space and transport infrastructure, and also to secure the diversion of Footpath LAM 20. Regulation 122 of the Community Infrastructure Regulations 2010 states that a planning obligation may only constitute a reason for granting planning permission if the obligation is necessary, directly related to the proposed development, and fairly and reasonably related in scale and kind.

The Council contends it is likely that staff working in the new development would use Lambourn library, thus generating a need for additional lending stock. That may be so, but as noted above the appeal site is some 4km from Lambourn, and not easily accessible by public transport or on foot. The propensity of future employees to make use of the library in their lunch hour, or on their way to and from work, is therefore likely to be much lower than if the development were

located within or immediately adjacent to a settlement. In any event, in the absence of any substantive evidence as to the extent by which new employees would increase demand for local library services, and the ability or otherwise of the existing services to cope with that increase, she was unable to conclude that the financial contribution sought by the Council is either necessary, or fairly and reasonably related to the proposed development.

As to public open space, the Council has calculated, by reference to methodology set out in its adopted Supplementary Planning Guidance *Delivering Investment from Sustainable Development*, that a financial contribution of £28,301 should be paid. The written evidence of the Council was that this would be put towards “enhancement projects” for existing public open space within the parish of Lambourn, as identified by the Lambourn Parish Council. At the hearing, the Inspector was provided with a list, compiled by Lambourn Parish Council, headed “Potential S106 spend Sept 2012”. It was suggested that the requested financial contribution could be put toward the final item on that list; the purchase of a cricket field at Woodlands St Mary / Lambourn Woodlands, currently leased to the cricket club.

The Inspector accepted that permanent ownership of a cricket field might be beneficial to the local community, and it may well be used by some future employees of this proposed development. But the collection of financial contributions from new developments by application of a standard formula, not in order to address specifically identified impacts of those proposals, but instead for Parish Councils to allocate to their preferred “enhancement projects”, is clearly not how planning obligations should operate. In the complete absence of any evidence to demonstrate why the purchase of a cricket field would be rendered necessary by the proposed development, she found that the financial contribution sought by the Council would not comply with the tests set out in CIL Regulation 122.

The Council has requested a financial contribution of £68,586 toward transport infrastructure. On the basis that up to 30% of staff and visitors associated with the proposed development would make use of local bus services, it states that £65,586 of that sum would be used “to mitigate the harm that these additional trips will put on the bus services and to assist with retaining these services”.

The Inspector understood, and applauded, the Highway Authority’s desire to improve public transport services to and from the site. But as she noted above in connection with the requested Public Open Space contribution, to calculate a requested contribution simply by reference to a standard formula, and then go on to decide what it might usefully be spent upon, does not comply with CIL Regulation 122. In the absence of evidence that existing bus services are at or near capacity, or that the physical infrastructure of bus stops serving the site is sub-standard, it is not clear to her what harm an increase in use would cause, or why improvements to other bus stops in Lambourn parish should be rendered necessary by the currently proposed development. Nor did she find any convincing reason why a financial contribution toward retaining existing bus services should be necessary. Planning obligations should not function as a broad-brush means of supplementing Council tax revenue, grants or subsidies; the terms of CIL Regulation 122 make it clear that any financial contributions ought to be restricted to the sums necessary to offset the impact of the particular development proposal, rather than used to fund services and improvements considered beneficial to the community as a whole.

The Inspector was told that the remaining £3,000 of the requested transport infrastructure contribution would be used to fund improvements to the signage along the B4000. At the hearing the Highway Authority gave evidence that a number of accidents have occurred at junctions near the appeal site in the last 3 years, and that additional traffic generated by the

proposed development would result in an increased risk of further such accidents unless mitigated by the provision of additional warning signs. She had no reason to doubt this professional assessment. Consequently, the absence of a legal deed, securing funding to offset the adverse impact that the development would have on highway safety, is a consideration that weighs against granting planning permission for the proposal.

One of the Council's reasons for refusing planning permission concerned the absence of a planning obligation to achieve a Diversion Order for footpath LAM20. The definitive route of this public footpath passes through the existing built-up part of the LWBP, and also the appeal site, on an east-west axis. The proposed development would involve the construction of an access road along a section of this route, but would also involve the construction of a footway separated from the road by planting, to keep pedestrians and vehicles apart. It would therefore accord with the guidance given in the DEFRA Rights of Way Circular (1/09), which advises that where possible, potential revisions to an existing right of way should avoid the use of estate roads, with preference given to keeping paths away from vehicular traffic.

The Inspector noted the Council's view that diversion of LAM20 is not "necessary" under the terms of S.257 of the Town and Country Planning Act 1990, in that it would be possible to relocate the access road instead. However, S.257 is applicable to situations where planning permission already exists, rather than situations where it is being considered; it authorises the relevant authority to order the diversion of a footpath, if it is necessary to do so for development to be carried out in accordance with the planning permission granted.

Subject to the provision of signage ensuring pedestrians would have right of way when crossing the entrance to the proposed northern car park, she was satisfied that the design and layout of the proposed roads and footways would not give rise to any undue risk of conflict between their users, or any other harm. That being the case, she found that a S.106 Obligation to achieve a Diversion Order is not necessary to render the proposal acceptable in planning terms. She was confirmed in this view by advice in DEFRA Circular 1/09 to the effect that a condition requiring a Diversion Order to be obtained prior to commencement of development would be unnecessary, in that it would duplicate the separate statutory procedure that already exists for diverting rights of way.

The Inspector therefore concluded that the absence of a legal deed requiring the developer to achieve a Diversion Order would not bring the currently proposed development into conflict with the objectives of Policy C6 of the South East Plan, which seeks to encourage access to the countryside and ensure that the Public Rights of Way system is maintained.

#### *The planning balance*

The Council contends that the current proposal constitutes "major development" for the purposes of paragraph 116 of the Framework, on the basis that it exceeds the 1000m<sup>2</sup> floorspace threshold set for major applications. The appellant contests this, but in the absence of any further definition or guidance provided by the Framework or elsewhere, she considered the Council's interpretation reasonable.

Paragraph 116 of the Framework states that planning permission for major development in the AONB should be refused, except in exceptional circumstances and where it can be demonstrated to be in the public interest. It goes on to advise that consideration of such proposals should include an assessment of the need for the development, and its impact on the local economy; the cost of, and scope for, meeting that need outside the AONB or in some other

way; and any detrimental effect it would have on the environment, the landscape and recreational opportunities and the extent to which that could be moderated.

For the reasons set out above, the Inspector considered there is clear evidence that the proposed development is necessary to accommodate the existing needs, and potential growth, of a successful local business. Given the absence of suitable existing premises within the district, the undisputed alternative is that RGB would relocate elsewhere, which would clearly have an adverse impact on the local economy and employment opportunities. No scope for providing suitable alternative premises outside the AONB or in some other way, within a realistic timetable, has been identified. The proposal would result in the loss of part of an open field, but the associated landscaping proposals would ensure that the new development would have only a limited visual impact on the landscape, and would not significantly detract from the landscape character or scenic beauty of the AONB.

The adverse impacts of the proposed development can be summarised as the loss of part of an open field within the AONB; the probable increase in the number of trips taken by unsustainable modes of transport, due to the relatively isolated location of LWBP; and the lack of any financial contribution toward necessary signage improvements at nearby junctions. In her judgment, these harmful impacts, and the ensuing conflict with some adopted Development Plan policies, are however greatly outweighed by the economic benefits that the proposed development would bring. The government currently places great weight on the importance of encouraging and facilitating economic growth, and the proposed development would do precisely that. It would therefore be in the public interest to grant planning permission. She found that in the circumstances of this particular case, against the background of the current difficult economic climate and having regard to the existing policy matrix, there is sufficient justification to allow this proposed development within the AONB.

#### *Conditions*

The Inspector attached the standard conditions concerning timescales for submission of reserved matters and commencement of development, and compliance with the details shown in the approved plans. In the interests of clarity, she supplemented these with conditions specifying the need for reserved matters to accord with the principles and parameters set out in the Design and Access statement, and the recommendations of the Verification Survey, and listing additional matters which will need to be addressed as part of the reserved matters submissions.

In view of the history and former military use of the appeal site, she attached conditions requiring schemes of archaeological work, and remediation of any contamination and also attached the suggested conditions concerning surface water run-off and drainage; while some of the required information has already been provided, she shared the Council's view that it is appropriate to secure the trigger point for implementation, and future retention and maintenance, by condition.

Given the importance of ensuring that the movements of vehicles associated with the development, and pedestrians using the public footpath, can be safely accommodated at all times, she attached a condition requiring the Council's approval of the details and signage of these elements of the scheme, together with a timetable for their provision. For similar reasons, she attached a condition requiring the provision, and future retention, of the designated parking and turning spaces and also attached a condition requiring the provision and implementation of an agreed Travel Plan, to provide some mitigation for the likely increase in the use of unsustainable forms of transport.



She attached the Council's suggested condition governing hours of work on the site, to protect the amenity of nearby residents and other road users, and have included with this the agreed provision aimed at protecting the wellbeing of badgers during construction works. In light of the importance of preserving the landscape quality of the AONB and minimising the impact of the development, she attached conditions preventing external storage, and removing Permitted Development Rights which could otherwise result in an increase to the amount of built development on site.

At the hearing the possibility of requiring some initial planting prior to commencement of development was discussed, but there was general agreement that it was not necessary at this outline stage, and she considered that a timetable for planting could more appropriately be included, and secured by condition if necessary, with the other landscape details to be submitted at reserved matters stage.

#### *Conclusion*

#### **Decision**

The appeal is allowed and planning permission is granted for the erection of buildings to accommodate increased storage and warehousing facilities and ancillary training and office facilities, associated car parking, landscaping, surface water drainage storage, and associated works at Lowesden Works Business Park, Lambourn Woodlands, Hungerford, Berkshire RG17 7BY in accordance with the terms of the application, Ref 11/01822/OUTMAJ, dated 11 August 2011, subject to the conditions set out in the schedule attached to this Decision Letter.

DC