

Appeal Decision

Hearing held on 22 February 2017

Site visit made on 22 February 2017

by Jameson Bridgwater PGDipTP MRTPI

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

Decision date: 3 May 2017

Appeal Ref: APP/Y3940/W/16/3161391

Land at Rivermead, Braemore Road, Downton, Wiltshire SP5 3HW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Steve Carrington of Foreman Homes Ltd against the decision of Wiltshire Council.
 - The application Ref 15/10781/OUT, dated 26 October 2015, was refused by notice dated 5 October 2016.
 - The development proposed is described as 'Erection of 36 residential units, construction of an access road from Braemore Road and associated works'.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The planning application to which the appeal relates was submitted in outline form with all matters reserved except for access, appearance, layout and scale.
 3. The Hearing sat for 1 day. I held an accompanied site visit on 22 February 2017. I also conducted an unaccompanied visit on the 21 February 2017.
 4. A Statement of Common Ground was submitted which sets out the policy context along with matters of agreement and those in dispute.
 5. A Unilateral Undertaking was submitted during the course of the appeal under section 106 of the Town and Country Planning Act 1990 (s106). It makes provision for affordable housing; off site recreation open space, education and waste management. The Council have stated that the submitted obligation addresses their reasons for refusal in relation to these matters (No's 3 and 4). I deal with the contents of this below.
 6. The Council at the Hearing confirmed that, in light of changed circumstances relevant to the proposal they were no longer seeking to defend their reason for refusal relating to drainage (No 2); this was on the basis of further discussions between the parties, with the Council concluding that the matter could be adequately addressed by an engineered drainage solution secured by the imposition of a condition. Notwithstanding this, there was concern raised by local residents, in particular in relation to pre-existing groundwater conditions in the area. However, whilst there was no dispute in relation to the existing
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ground water conditions, there was no substantive or technical evidence that would lead me to a conclusion that differs from that of the Local Planning Authority with regard to the acceptability of the proposed engineered solution.

7. Since the original decision was made the Downton Parish Neighbourhood Plan (DPNP) was made on the 9 January 2017. In light of the advanced stage of its preparation, this document was referred to in the reasons for refusal along with policies from the Wiltshire Core Strategy (WCS). As indicated in their statement, the appellant was clearly aware of the preparation of this document and the Hearing gave both parties the opportunity to address any implications arising from the adoption of this document. Accordingly the DPNP, whose policies have been found to be sound, along with the WCS, form the statutory development plan for the area. I have considered the appeal on this basis.

Main issue

8. The main issue in the appeal is whether the appeal site is an appropriate location for housing with regard to the development plan and the National Planning Policy Framework (the Framework).

Reasons

9. The appeal site forms a parcel of land which is made up of three large garden areas associated with dwellings known as Green Pastures, Meadow End Cottage and Rivermead. The site is located on the southern boundary of Downton and located opposite the Trafalgar School and adjacent to the A338. It is proposed to erect 36 dwellings with up to 30% affordable housing to a locally specified mix.

Housing supply

10. There is dispute between the parties as to whether the Council is able to demonstrate a 5-year land supply of deliverable housing sites as required by the Framework. However, even if there was a shortfall in line with the appellant's most pessimistic position of 4.3 years based on their assessment of housing delivery, this would not fall below the required 3-year land supply of deliverable housing sites that applies to localities with a neighbourhood plan that has been part of the development plan for 2 years or less and allocates sites for housing as set out in the Written Ministerial Statement of 12 December 2016. Therefore, under these circumstances, the decision-taking criterion contained in paragraph 14 of the Framework is not engaged. This is by reason of the DPNP being made on 9 January 2017 and allocating sites for housing (Policy LH 2) in the event that the WCS strategic housing figure of 190 dwellings for Downton were not achieved.

Planning policy

11. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise. Core Policy 1 of the WCS, sets out the settlement strategy for the area. Core Policy 2 of the WCS seeks to direct development at a strategic level to the most suitable, sustainable locations and sets out an indicative housing requirement for each Community Area including the Principal Settlements and Market Towns and in the South Wiltshire HMA,

the Local Service Centres. Core Policy 23 of the WCS seeks to ensure that the Southern Wiltshire Community Area will provide approximately 615 new homes over the plan period, stating that 190 should occur in Downton; a local service centre and the focus of appropriate levels of managed growth.

12. As set out above the DPNP was made in January 2017. Policy LH 1 of the DPNP seeks to facilitate the delivery of 190 homes within the Plan period (up to 2026). Policy LH 2 of the DPNP sets out monitoring arrangements in relation to the provision of new homes in Downton. In the event that the development of new homes through existing commitments will not achieve the strategic figure of 190 dwellings consideration will then be given for the development of the SHLAA sites identified in the DPNP. Policy LH 3 of the DPNP seeks to ensure that applications for new residential development will be required to include a mix of dwelling types to meet the identified needs of the local community as set out in the Housing Needs Survey 2014.

Location

13. The appellant has argued that despite being outside but adjacent to the development boundary for Downton, the appeal site is in a sustainable location and would provide housing to meet local needs.
14. The Council confirmed at the Hearing that the strategic figure of 190 dwellings for Downton was not a cap or ceiling on new development. Further, it was demonstrated by the Council and the parish council that the strategic figure of 190 dwellings had already been met and exceeded, largely due to the development of sites at the edge of the village. However, whilst the appeal site is one of 3 SHLAA sites identified that could be suitable for residential development if the strategic housing figure of 190 is not met within Policy LH 2 of the DPNP. It is not necessary at this time to release the appeal site for development, given that the strategic requirement of 190 dwellings has been achieved within the plan period.
15. Consequently, based on the evidence before me and what I heard at the Hearing there is no justification for reducing the weight that should be given to Core Policies 1, 2 and 23 of the WCS and Policies LH1 and LH 2 of the DPNP leading to the release of the appeal site for residential development at this time. To do so would allow residential development in the countryside without regard to the quantified need for it and would be in direct conflict with the core planning principle of the Framework that planning should genuinely be plan-led (paragraph 17). Such a conclusion is not altered by social, environmental or economic considerations advanced by the appellant.

Unilateral undertaking

16. At the time the Council made their decision the appellant had not provided planning obligations in relation to affordable housing; off-site recreation open space, education, and waste management to offset the effect of the proposed development. However, the appellant has as part of their appeal submitted a unilateral undertaking pursuant to Section 106 of the Act, which addressed the issues outlined above. None of the planning obligations contained within the undertaking appear to be in dispute and the Council have provided a statement of CIL regulation compliance. However, I have considered them against the

tests in Regulation 122 of the CIL Regulations 2010 and the Framework nonetheless.

17. The obligation makes provision of up to 30% affordable housing and establishes definitions by type and allocation arrangements. This would contribute to meeting the identified need for affordable housing within the South Wiltshire HMA and is consistent with the requirements of Core Policy 43 of the WCS and Policy LH 3 of the DPNP.
18. The obligation also contains contributions in relation to off-site recreation open space (Downton leisure centre sports pitch drainage), education (primary school), and waste management (waste and recycling containers) to mitigate the effect of the development. It was confirmed at the Hearing that these would not be in contravention of Regulation 123 of the CIL regulations 2010 in relation to pooling and that they are reasonably related in scale and kind to the needs generated by the proposed development. Therefore the obligations would be consistent with the requirements of Core Policy 3 of the WCS and saved Policy R2 of the Salisbury District Local Plan.
19. I therefore conclude that the obligations meet the necessary tests in law and I have taken account of them in reaching my decision.

Other considerations

20. I have been referred to a number of other appeal decisions and these have been cited as setting a precedent either for or against the appeal proposal. However, in light of the materially different circumstances relevant to the proposal which include the recently adopted DPNP and the WMS in relation to the supply of land for housing in localities with neighbourhood plans, they do not lead me to a different conclusion in this case.
21. There was significant local concern raised in relation to the potential effect of the proposed development on the capacity of the local road network in particular Braemore Road. However, based on all of the evidence before me and the observations during my site visits, I am satisfied that any increase in traffic from the proposed development would not result in severe harm to highway safety. Moreover, this is consistent with the Highways Authority who raised no objection in relation to capacity or highway safety subject to the provision of site and locality specific highway improvement work.
22. A number of additional issues were raised by local residents, including flooding/surface water, contributions towards the community hall and noise; although no technical or substantive evidence was presented on these matters. However, as I am dismissing the appeal for other reasons my decision does not turn on these matters.

Conclusion

23. For the above reasons and having regard to all other matters, I conclude that the appeal should be dismissed.

Jameson Bridgwater

INSPECTOR

DOCUMENTS SUBMITTED AT THE HEARING

1. Table submitted by Appellant in relation to 5 Year HLS
2. CIL Compliance Statement

APPEARANCES

FOR THE APPELLANT:

John Bray	WYG
Rob Wilson	Paul Basham Associates

FOR THE LOCAL PLANNING AUTHORITY:

Matthew Legge	Wiltshire Council
Mark Henderson	Wiltshire Council

INTERESTED PERSONS:

Peter Quarmby	Downton Parish Council
Jane Brentor	Downton Parish Council
Nicola Wilson	Downton Society
Eileen Parker	Local resident
Dave Mace	Local resident