
Appeal Decision

Site visit made on 3 June 2020

by David Wildsmith BSc(Hons) MSc CEng MICE FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2020

Appeal Ref: APP/Y3940/W/20/3245400

Paddock Wood, Bradley Road, Warminster, Wiltshire, BA12 7JY

- 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 Robinson against the decision of Wiltshire Council.
 - The application Ref 19/06023/OUT, dated 19 June 2019, was refused by notice dated 26 July 2019.
 - The development proposed is demolition of commercial buildings and erection of 8 no. dwellings (outline).
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Decision'

1. The appeal is dismissed.

Procedural matters

2. The application was submitted in outline, with all matters reserved for later consideration.
3. Although all submitted plans are stamped as 'preliminary', including the location plan, the appellant has confirmed that the stamp on this location plan should have been removed at validation stage, but unfortunately was not. The Council validated the plans as submitted, and both main parties appear to be content that the submitted location plan accurately shows the location and extent of the site in question. I have therefore determined the appeal on this basis.

Main issue

4. The main issue is whether the appeal site represents an acceptable and sustainable location for new housing development.

Reasons

5. The appeal site comprises some 0.24 hectares (ha) of land located on the south-eastern side of Bradley Road, about 150 metres (m) outside the settlement boundary of Warminster. It houses the headquarters of A & G Minibuses and contains a number of commercial buildings and structures, along with areas of hard-standing for vehicles. The site has a single access at its northern corner, where Bradley Road is about 5.5m wide with a surfaced footway on its eastern side. To the south-west of the access Bradley Road narrows to about 3.0-3.5m wide, with no footways, but with grassed verges either side and with the appeal site having a relatively dense roadside boundary of trees and hedging. There is a residential property on the north-western side of Bradley Road, opposite the appeal site and a small number of other residential properties further to the south-west.

6. Under the appeal proposal the existing buildings on the site would be removed, and replaced with 8 dwellings. The submitted plans indicate one way in which the appellant considers the site could accommodate this quantum of housing, but as all matters of detail are reserved for later determination, it is only necessary to consider the principle of the proposed development through this appeal.
7. In this regard, the Council's development strategy is set out in the Wiltshire Core Strategy (WCS), which was adopted in January 2015. Core Policy 1 sets out the Settlement Strategy, with Warminster defined as a Market Town – a settlement that has the ability to support sustainable patterns of living, through its current levels of facilities, services and employment opportunities. The policy's supporting text explains that settlement boundaries for Market Towns will be reviewed as part of the Wiltshire Housing Site Allocations and Chippenham Site Allocations Development Plan Documents (DPDs), in order to ensure that they are up to date. Local communities also have the opportunity to review settlement boundaries through the development of neighbourhood plans.
8. Core Policy 2 sets out the Delivery Strategy for Wiltshire for the period 2006 to 2026, aiming to deliver development in the most sustainable manner. Within the defined limits of development for settlements, including Market Towns, there is a presumption in favour of sustainable development, with development not permitted outside these defined limits except in certain specified circumstances, none of which apply in this case. The policy reinforces the point that these limits of development may only be altered through the identification of sites for development through subsequent Site Allocations DPDs and neighbourhood plans.
9. Also of relevance is Core Policy 31, which deals specifically with the Warminster Community Area, and which states that development within this area should be in accordance with the Settlement Strategy set out in Core Policy 1. It also makes it plain that land to the west of Warminster has been identified for strategic growth over the 2006-2026 period, with an extension to the built form proposed which would provide 6ha of employment land and some 900 new dwellings.
10. Having regard to the above policies, I see no reason to dispute the Council's view that the WCS as a whole, and Core Policies CP1 and CP2 in particular, constitute its definition of sustainable development, and that this has been found to be fully compliant with the National Planning Policy Framework ('the Framework'). As such, I also see no reason to dispute the fact that development that does not comply with Core Policies CP1 and CP2 should be considered unsustainable, and in conflict with the principal aims of the Framework.
11. At the time the Council refused planning permission for this proposal it could demonstrate a 5-year supply of deliverable housing sites, in accordance with the Framework, and the development plan policies therefore had full weight. However, shortly after determining this planning application the Council published an updated Housing Land Supply (HLS) Statement, which reduced its HLS assessment for the North and West Wiltshire Housing Market Area, within which the appeal site lies, to 5.07 years from the previous figure of 6.25 years.
12. Circumstances then changed again in February 2020 when, at an appeal elsewhere in Wiltshire¹, the Council confirmed that it was unable to demonstrate a 5-year HLS when assessed against the Local Housing Need (LHN) for Wiltshire, which became a requirement after 20 January 2020, when the adopted WCS became 5 years old,

¹ Appeal Ref APP/Y3940/W/18/3202551 - Land at Purton Road, Swindon, Wiltshire

and when paragraph 73 of the Framework came into effect. When tested against the LHN the Council accepted that it could only demonstrate a HLS somewhere between 4.42 and 4.62 years.

13. The Framework explains, in paragraph 11(d)(ii) that where the policies which are most important for determining an application are out-of-date (which includes where a Council's HLS does not accord with the Housing Delivery Test – as here), then planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
14. With these points in mind it is not possible to give full weight to the aforementioned Core Policies. But as very little additional information on the current HLS situation has been supplied by either party, it is difficult to assess the implications of the existing shortfall with any certainty. The Council has, however, drawn my attention to comments made by the Inspector in the aforementioned Purton Road appeal, namely that even at the lower end of the agreed HLS range there is a relatively modest shortfall in housing land in the Council's area; that there is no reason to think that the WCS will not continue to be effective, particularly in light of recent progress in adopting the Wiltshire Housing Site Allocations Plan; and that there remains substantial benefit in maintaining a plan-led system.
15. No firm evidence has been submitted to cause me to reach a different view to my colleague Inspector on these matters, and I therefore consider it appropriate to still give significant weight to Core Policies 1, 2 and 31. Against this policy Framework it is clear that as the appeal site lies outside the defined settlement boundary for Warminster, the proposal would not represent sustainable development. The site was not considered as part of the Council's Strategic Housing Land Availability Assessment, nor was it brought forward as a possible housing site as part of the recently completed Wiltshire Housing Site Allocations DPD. The submitted evidence also makes it plain that this site was not considered for housing development as part of the process to make the Warminster Neighbourhood Plan 2015-2026.
16. With these points in mind, and notwithstanding the appellant's views regarding the appeal site's accessibility, I consider that any new housing development on the site would be rather isolated from the settlement of Warminster and the services and facilities within it. Furthermore, although a footway extends from the site towards the town it is not continuous, but ends at the northern side of the A36 overbridge with a gap of close to 50m where only a relatively narrow grass verge exists before the footway resumes. Whilst in some respects this may not be seen as an excessive gap, it could clearly present an obstacle to anyone wishing to walk into Warminster, especially for those with children or pushchairs, or with mobility difficulties.
17. The verge could become muddy in inclement weather conditions, and there would be potential dangers for anyone choosing to walk in the carriageway to avoid this length of verge as there is no street-lighting over this section, with the road being subject to the national speed limit of 60mph. These points all lead me to the view that the proposed development could not be safely accessed by pedestrians and that it would therefore encourage use of the private car, even for relatively short journeys. As such, the proposed development would run counter to guidance in paragraph 117 of the Framework, which states, amongst other matters, that planning decisions should ensure safe and healthy living conditions. Accordingly, I do not accept the appellant's assertion that the appeal site represents a highly sustainable and accessible location.

18. I do acknowledge, of course, that the site is currently developed and in use, but no firm evidence has been submitted to support the appellant's assertion that this current use gives rise to extensive traffic movements entering and leaving the site. It is therefore difficult to assess what sort of change to vehicle movements there would be if the appeal proposal was approved, and consequently difficult to reach a view on whether there would be any meaningful benefits in this regard.
19. The appeal proposal would give rise to some economic benefits, both during the construction phase and then as a result of the additional spending power of future occupants, but in the context of just 8 dwellings these benefits would be relatively modest. Moreover, in light of the access difficulties just described I do not consider that any material social benefits would arise from this development.
20. With a fully outline proposal such as this it is difficult to say whether or not the development would provide any environmental benefits. But unless the existing access were to be used, there is the clear potential for the development to require some significant removal of the existing roadside vegetation, in order to provide adequate visibility at any new access point or points. This is likely to have an adverse impact in environmental terms. In light of these points it seems to me that in the absence of any further details, the best that could be said is that the proposed development would have a neutral environmental impact.
21. Overall, having regard to all the above points, it is my assessment that the adverse impacts of allowing this proposal would significantly and demonstrably outweigh what I consider to be limited benefits. Accordingly, I conclude that the appeal site does not represent an acceptable and sustainable location for new housing development, and that the proposed development would therefore be at odds with WCS Core Policies 1, 2 and 31.
22. On other matters raised, I note that Natural England has placed a block on any new development that would have a connection to a sewage treatment works which has a discharge into the River Avon (and River Test), as would be the case here. As a result, any new development in such areas is required to be nitrogen neutral as a precautionary measure. However, the appellant has highlighted the fact that similar applications affecting run-off into the Solent have been satisfactorily dealt with by means of an appropriate Grampian condition. Had other matters been in favour of this proposal, the appeal would therefore not have failed for this reason alone.
23. Moreover, had all other matters been favourable, the concerns expressed by the Salisbury and Wilton Swift Group, relating to the installation of integral swift bricks, could have been satisfactorily addressed by means of an appropriate condition.

Conclusion

24. Notwithstanding my favourable findings on these latter points, and having had regard to all other matters raised, my overall conclusion is that this appeal should be dismissed, for the reasons set out above.

David Wildsmith

INSPECTOR