



Appeal Decision

Site visit made on 24 June 2020

by R Lankshear BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2020

Appeal Ref: APP/Y3940/W/20/3244779

**Kington Langley Garage, Kington Langley, Chippenham, Wiltshire
SN15 5PY**

- 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 Mrs Celia Fry, Mr John Fry & Mrs Susan Gwilym against the decision of Wiltshire Council.
 - The application Ref 18/09873/OUT, dated 15 October 2018, was refused by notice dated 1 August 2019.
 - The development proposed is redevelopment involving demolition of existing garage buildings, retention and refurbishment of existing bungalow and erection of 4 dwellings and associated works (access not reserved).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application subject of this appeal was submitted in outline with approval sought for access with the matters of appearance, layout, landscaping and scale reserved. I have therefore determined the appeal on this basis.
3. The description in the banner heading above has been taken from the decision notice, given that there was a reduction in the number of dwellings proposed from eight originally, to four when the application subject of this appeal was determined. As such the description on the decision notice more accurately describes the nature of development applied for and I have therefore determined the appeal on this basis.
4. The Council have confirmed that they no longer wish to maintain an objection to the development with regard to satisfactory drainage, absence of tree and ecology surveys and parking provision, as set out respectively in reasons for refusal 2, 3 and 5 of the decision notice. From the information before me, I have no reason to take a different position and I have determined the appeal on this basis.
5. Since the determination of the application subject of this appeal there has been a change in the Development Plan with adoption of the Wiltshire Sites Allocations Plan (WSAP) on 25th February 2020. I have therefore determined this appeal in accordance with the Development Plan as updated.

6. I acknowledge that reasons 1 and 6 of the refusal notice do not explicitly refer to the Core Strategy, although it is clear from the submissions that the policies cited derive from this document and I have therefore considered the appeal on this basis.

Main Issue

7. The main issue is the suitability of the location having regard to local and national planning policy (including highway safety).

Reasons

Suitability of location

8. Core Policy 1 (CP1) of the adopted Wiltshire Core Strategy 2015 (CS) details the Settlement Strategy identifying settlements where sustainable development will take place. Kington Langley is identified as a small village by Core Policy 10 (CP10) owing to its low level of services and facilities, where development will be limited including to that needed to help meet housing needs of settlements. Core Policy 2 (CP2) of the CS indicates that development within Small Villages will be limited to infill within the existing built area, meet identified housing needs and listed criteria including that it does not elongate the village or constitutes infill.
9. Table 2.2 of the WSAP indicates in small villages that some modest development may be appropriate to respond to local needs and contribute to the vitality of rural communities but be limited to infill.
10. Kington Langley does not benefit from a settlement boundary under the provisions of the development plan. The village has a linear form predominantly located to the eastern side of the junction of Plough Lane and the A350 dual carriageway. This road, to my mind, forms both a physical and visual separation between the site and the village. I acknowledge the site is located adjacent to existing residential development and the appellants contention that the village is poly-focal and their commentary of the history of the site. However, despite this I am not persuaded that the site falls within what can be reasonably considered as an integral part of the built area of the village as development to the western side of the road is physically and visually distinct from the built up area of the village of Kington Langley itself. To my mind therefore it does not form part of the built area of the village for the purposes of CP2.
11. Whilst I acknowledge debate with regard to the number of dwellings that constitute 'infill' for the purposes of CP2 of the CS and the WSAP, given that I do not consider that the site falls within the built area of the village itself to my mind it does not constitute infill for the provisions of the development plan. As such I consider that the proposal would be at odds with the provisions of CP2 and of the WSAP in that it does not represent a logical infill plot within the built area of a small village. In turn this would consolidate an existing sporadic loose-knit area of development that to my mind is distinct from Kington Langley.
12. Although the appellant suggests that there is an identified need for 3 and 4 bedroom dwellings and as such the proposal complies with Policy CP45 of the CS, I am not satisfied that it has been demonstrated that the proposal

addresses a particular need within this particular location or even if it does, that this outweighs or alters my findings above.

13. I acknowledge that the site is situated close to some services including a post box, a nursery, place of worship and a public house. At the time of my visit the nearby public house was closed for business and advertised for freehold. Although there are some limited facilities within close proximity of the appeal site, I consider these would not be adequate to cater for the full and varied daily needs of future occupiers.
14. Notwithstanding that there is a footpath link running to the side of the nearby public house that connects with the A350, the road to the front of the site is unlit and does not benefit from footways to either side. Whilst I acknowledge blister paving is provided to indicate crossing points across the A350, there is no controlled crossing facility, with timings dependent on the automated changing of lights controlling vehicular movements. Although I am mindful of the guidance within Manual for Streets quoted by the appellant, owing to the nature of the road, I consider that such an arrangement would be a significant deterrent for pedestrian movements across this road. To my mind, this coupled with the absence of street lighting or footways to the front of the appeal site would not be conducive to pedestrian movements for future users, including those with young families who may occupy dwellings such as those proposed.
15. Although I acknowledge that a pedestrian footpath runs adjacent to the A350 connecting the junction with Chippenham to the south, the majority of this footpath is unlit adjacent to a dual carriageway. Footways connecting the site with the services contained within Kington Langley and Kington St Michael are unlit whilst access to the nearby industrial complex would be along an unlit lane with no footpaths. Given the nature of pedestrian facilities detailed, the position of the site and the physical separation from services within the centre of Kington Langley, the north of Chippenham and Kington St Michael to the north-west, I consider cumulatively this would represent a significant deterrent to pedestrian movements to and from the site. This would be particularly during evening hours and times of the year with shorter daylight hours, and to my mind would not constitute a safe or attractive option for pedestrian movements to nearby services. Although public rights of way are also available in the vicinity of the site, on the evidence before me I am not persuaded that the availability of such routes provides a suitable or viable alternative that outweighs or overcomes the issues raised.
16. My attention has been drawn to the availability of public transport services provided from nearby bus stops, including services to Chippenham. However, having regard to noted concerns with regard to crossing the A350 and the times of services available I am not persuaded that the bus services provided would fully cater for needs of future occupiers or provide a viable alternative to use of the private car particularly during evening hours.
17. I acknowledge that the existing business, by its nature results in a number of vehicular movements to and from the site and that the appeal has been supported by a Transport Statement (TS) that seeks to compare likely trips from the appeal development and the existing use. However, this does not quantify the existing number of trips generated by the existing use, although I acknowledge that the proposal may result in a reduction in vehicular movements including those from heavy vehicles. Notwithstanding this, given

the nature of development and lack of adequate pedestrian or cycling facilities or suitable access to public transport, I consider it highly likely that future occupiers would be reliant on the private car to access a number of day-to-day activities and local facilities. To my mind, this results in conflict with Policies CP1, CP2, CP60 and CP61 that collectively seek to direct development to sustainable and accessible locations.

18. I acknowledge the submitted TS outlines travel plan measures and cycle storage that could be adopted. However, I am not persuaded that these measures outweigh the harm I have identified above.
19. I also note that the issue of highway safety has been raised as a reason for refusal. Although in isolation the above matters may not necessarily contribute to an unacceptable risk to highway safety, cumulatively issues raised heighten my concern with regard to the suitability of the location for development of the form proposed.
20. Having considered all of the above, on balance, I consider that the location of the site would not provide a safe or accessible location that would adequately cater for the day-to-day needs of the future occupants of this development without significant reliance on the private motor vehicle as the main means of travel. As such the appeal development would not accord with the settlement strategy as detailed within Policies CP1, CP2 and CP10 of the CS and the WSA. I also find the appeal proposal would be at odds with Policy CP57 that requires that development relates positively to the existing pattern of development nor the accessibility and sustainability aims of CP60 and CP61 of the CS and Chapters 2 and 5 of the Framework.

Other Matters

21. Whilst it has been argued that the proposal would remove a 'bad neighbour' from occupiers of neighbouring residential development, having regard to the evidence before me I am not persuaded even in the suggested absence of restrictive conditions, that the existing use causes significant harm to living conditions. Although I do not doubt that a residential use would be compatible with neighbouring land uses as per criterion vii) of CP57 of the CS, and that the site may not be a protected employment site, I consider that these matters do not outweigh the harm I have identified above.
22. The appellant indicates that the site should be considered as 'previously developed land', that it does not fall within a recognised sensitive area and that the proposed development including its density and removal of a number of cars stored at the site, would respond effectively to neighbouring development and provide visual enhancement. Whilst these matters are acknowledged, they would not in themselves overcome my conclusions on the main issues, particularly in relation to the accessibility of the site to services and facilities by future occupiers.
23. I note the lack of objection received from the Parish Council and within letters of representation. Even in the absence of objection from third parties, it is incumbent upon me to consider the proposal in line with the relevant policies. Furthermore, these representations do not outweigh the harm I have identified with regard to the main issues.
24. None of the other matters outweigh or alter my conclusions on the main issue.

Planning Balance

25. My attention has been drawn to appeal APP/Y3940/W/18/3202551, and the indication that the Council cannot demonstrate a 5-year housing land supply. For the reasons detailed above, I have found that the development would be at odds with the Council's development strategy and not represent a suitable location for residential development. Even if the supply of housing land falls below 5 years and the tilted balance by virtue of footnote 7 of paragraph 11 of the Framework was applicable to this proposal, for the reasons given above I consider that the proposal would be at odds with the sustainable development aims of quoted policies within CS. To my mind the thrust of such policies are consistent with the provisions of the Framework including those contained within Chapters 2, 5 and 8 including paragraphs 8 and 91 that require development to be accessible to services. As such I consider the determinative policies referred to with regard to these main issues to be generally consistent with the Framework and as such are not out of date. It follows that the policy conflict I have identified carries significant weight.
26. There would be four additional residential units that would make a minor contribution to local housing, with associated economic benefits including development of brownfield land, jobs during construction and support for local business and Council Tax payments when dwellings would be occupied. I also acknowledge suggested social benefits including provision of family sized dwellings.
27. However, to my mind, such limited benefit would be outweighed by the harm I have identified above. When assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development.

Conclusions

28. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

Robert Lankshear

INSPECTOR