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# Appeal Decision

Site Visit made on 28 July 2021

**by David Wyborn BSc(Hons) MPhil MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 September 2021**

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**Appeal Ref: APP/Y3940/W/19/3236860**

**Land north of St George's Road, Semington BA14 6JN**

- 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 Greystoke Land Limited against the decision of Wiltshire Council.
  - The application Ref 19/02147/OUT, dated 26 February 2019, was refused by notice dated 6 August 2019.
  - The development proposed is a residential development of up to 26 dwellings (of which 50% would be affordable) with associated car parking, access, internal roads, public open space (including retention of the existing WWII Pill Box), landscaping, drainage and other associated infrastructure.
  - This decision supersedes that issued on 17 November 2020. That decision on the appeal was quashed by order of the High Court.
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## Decision

1. The appeal is allowed and outline planning permission granted for a residential development of up to 26 dwellings (of which 50% would be affordable) with associated car parking, access, internal roads, public open space (including retention of the existing WWII Pill Box), landscaping, drainage and other associated infrastructure at land north of St George's Road, Semington BA14 6JN in accordance with the terms of the application, Ref 19/02147/OUT, dated 26 February 2019, subject to the conditions in the attached schedule.

## Preliminary Matters

2. The application has been made in outline with all matters reserved for future consideration. Indicative layout and landscaping plans have been submitted and I have had regard to these plans as to what the appellant has in mind for the development of the site.
3. The application was refused for five reasons. However, following the submission of further ecological information and the planning agreement, the Council confirmed that this addressed the fourth and fifth reasons for refusal.
4. This appeal is a redetermination following the quashing of the previous appeal decision. I have had regard to the previous appeal letter, where material. That decision was linked with another appeal for up to 20 dwellings of entry level affordable housing on part of the present appeal site and was granted outline planning permission. That decision was not challenged and the permission is extant<sup>1</sup>.

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<sup>1</sup> APP/Y3940/W/20/3253180 dated 17 November 2020

5. As part of this redetermination a deed of variation to the original legal agreement has been submitted. I will consider these matters later.
6. A revised National Planning Policy Framework (the Framework) was published on 20 July 2021. The main parties have been given the opportunity to make any comments on the implications of the revised Framework to this appeal and I have taken the comments into account in my considerations.

### **Main Issues**

7. The main issues are:
  - whether the development plan would support the proposed residential development in this location, and
  - the effect of the proposal on the character and appearance of the area.

### **Reasons**

*Whether the development plan would support the proposed residential development in this location*

8. The development plan includes the Wiltshire Core Strategy (adopted January 2015) (Core Strategy) and the Wiltshire Housing Site Allocations Plan (Adopted February 2020) (Site Allocations Plan). Core Policy (CP) 1 of the Core Strategy establishes the settlement strategy for the plan area which includes Principal Settlements, Market Towns, Local Service Centres, and Large and Small villages. Large Villages are defined as settlements with a limited range of employment, services and facilities.
9. Policy CP1 explains that development at Large (and Small) Villages will be limited to that needed to help meet the housing needs of settlements and to improve employment opportunities, services and facilities. The accompanying text says that the settlement boundaries at Large Villages will be reviewed as part of the Site Allocations Plan and that development outside the settlement boundary will be strictly controlled. Within those boundaries it is explained that development will predominantly take the form of small housing and employment sites and that a small housing site is defined as sites involving less than 10 dwellings.
10. Policy CP2 of the Core Strategy sets out the delivery strategy and again explains, subject to some limited exceptions, that development will not be permitted outside the defined limits, effectively the settlement boundary.
11. Policy CP15 of the Core Strategy establishes the spatial strategy and housing distribution for the Melksham Community Area and identifies Semington as a Large Village. The settlement boundary for Semington was fairly recently reviewed and forms part of the Site Allocations Plan.
12. The appeal site lies outside the defined settlement boundary and, therefore, is located on land considered to be countryside for planning purposes. In particular, the southern boundary of the appeal site adjoins the settlement boundary in St George's Road, opposite the housing, and a small section of the appeal site, near the pill box, adjoins that part of the settlement boundary for a short section.

13. The proposal is not advanced as a rural exception site and the scheme would not accord with any other policy exception for development outside a settlement boundary. In any case, the site is for up to 26 dwellings and beyond the definition of a small housing site, even if it was within the development boundary. Accordingly the scheme would not comply with the approach set out in the Core Strategy for the development of housing at Large Villages.
14. It follows that I conclude that the development plan would not support the proposed residential development in this location and, in particular, it would conflict with Policies CP1, CP2 and CP15 of the Core Strategy which establishes the strategy for the distribution of development across the plan area.

*Character and appearance*

15. The appeal site consists of about the top half of an agricultural field than runs between St George's Road and Pound Lane. On the other side of St George's Road is a reasonably modern housing estate and the Grade II Listed former St George's Hospital. On the eastern side of the site is a public right of way behind an established hedge and then a garden/orchard, tennis courts and parking area. In the corner of the site is a World War II pill box, a non-designated heritage asset. The appeal site merges seamlessly with the rest of the agricultural field to the north and beyond this field are other fields that border the Kennet and Avon Canal. There is a poor quality field boundary to the west of the site, beyond which are further fields and open countryside.
16. The appeal field is effectively the first open land outside the settlement on the western side of this part of Semington. It has an open and agricultural character and slopes gently from the south, down to the broadly north. This slope allows clear views of the site from sections of the public rights of way network to the broadly north, such as from right of way (SEMI 6) that diagonally crosses the field near the Kennet and Avon Canal and from the Canal tow path including from and near the swingbridge. In these views the field forms a prominent element in open and expansive views of the wider countryside. However, the field is also seen in the context of the St George's Hospital building, the adjoining housing on the higher land and some of the housing nearby in Pound Lane.
17. The illustrative plan with the landscaping strategy shows an option for the development of the site. This approach would create a landscaped boundary to the north edge of the appeal site, reinstating a previous boundary, would incorporate the strengthening of the western boundary planting and would provide open space and planting within the site. I am satisfied that the extent of housing proposed would allow, with appropriate details at the reserved matters stage, generous space for a landscaping scheme. An appropriate landscaping scheme, once matured, would likely soften the impact of the housing in the views from the broadly north.
18. It would also be possible at the reserved matters stage to ensure that the ridge heights of the new dwellings did not exceed the existing buildings on the other side of St George's Road such that these buildings would still form a backdrop. Nevertheless, the slope of the site would mean that the extent of the proposed buildings, which would step down the appeal site, would still be apparent in the wider public views from the broadly north.

19. A generous landscaping scheme would also assist in providing some transition from the built form of the settlement to the open countryside beyond. However, the effect of the scheme would still appear as an incursion of development into undeveloped countryside extending the presence of the settlement in the landscape. The change in the character of the landscape in these views from the broadly north, including along sections of the tow path, would be quite marked. Even taking into account all the circumstances I have found, and the ability to mitigate some of the impact with landscaping and the presence of some other built development, I consider that the harm to the character and appearance of the area, in the views from the broadly north, would be fairly significant.
20. In this way the scheme would not meet with the Framework policy approach that decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.
21. I have taken into account all the landscape evidence from the main parties and also had regard to the analysis and conclusions from the two previous Inspectors who have considered development proposals on this field in the past. The up to 50 dwellings scheme<sup>2</sup> covered the whole field and is a different scale of development with a different impact on the countryside at the edge of this village. Whilst taking into account all this background, I have, nevertheless, formed my own views of the merits of the proposal based on the evidence before me and my site visit.
22. Notwithstanding my analysis and the conclusions set out above, I am also conscious that the appeal for up to 20 dwellings of entry level affordable housing succeeded and therefore part of the appeal site benefits from a planning permission for residential development. This permission, subject to approval of the reserved matters, would be capable of being implemented. The appellant in the further statements as part of this redetermination has commented that even if this appeal was to be dismissed then the site would still be developed for housing. The approved scheme for up to 20 dwellings has a real prospect of being implemented and is a material consideration of substantial weight. This fallback position effectively changes the baseline against which the impact of the appeal scheme on the character and appearance of the area should be judged.
23. The up to 20 dwelling scheme has a smaller site area than the present appeal proposal, very broadly about half the size. The permitted housing would be located within the top section of the field adjoining St George's Road and an illustrative plan was submitted with a possible layout. Comparatively, to the present appeal scheme, the up to 20 dwelling scheme would be a denser development and would have, in all likelihood, less scope for landscaping as a proportion of the application site. With the approved scheme, the boundary with the remainder of the field to the north would be irregular and would not appear as a characteristic feature of the landscape. While more of the field would remain undeveloped, the presence of the built form would still extend out into the countryside and have a harmful presence.

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<sup>2</sup> APP/Y3940/W/16/3164255 - The application was originally submitted as a scheme for 72 dwellings. This was reduced to 50 dwellings prior to the appeal.

24. The appeal proposal would have up to six more dwellings and because the scheme would include open market housing, some of the dwellings are likely to be larger than those within the up to 20 dwelling scheme as all those units would be for entry level affordable housing. Nevertheless, the size of the appeal site is proportionately greater and this would allow a more extensive landscaping scheme, would provide the scope for a gentler transition at the edge of the settlement and also would have a more characteristic and linear boundary with the remainder of the field. Taking all these matters together, I consider that the appeal scheme would, on balance, be more harmful than the up to 20 dwelling scheme because of the likely size of buildings and the extent of built coverage on a larger site, although the appeal scheme is not without its comparative benefits. On this basis and in these views from the broadly north, the comparative harm to the landscape, having regard to the approved development, would be likely to be moderately greater.
25. While the views from the broadly north are very important, there are also other important landscape issues to consider including that the site would be viewed from the adjoining section of St George's Road and from the public right of way to the side of the site.
26. St George's Road passes along part of the frontage of the site as far as the junction with St George's Place. The existing housing, however, extends further to the west and would be broadly opposite the extent of the appeal site. Within St George's Road, while the hedge to the front of the site provides a feature that softens the appearance of the street scene, the road has a fairly built up feel. This appearance is formed by the surroundings including housing, the large St George's Hospital building, the tennis courts and associated parking area, and the road itself with a footway and street lighting. The introduction of housing on the appeal site would not markedly alter the character of this section of St George's Road and, in any case, the permitted up to 20 dwelling scheme would, in all likelihood, have a broadly similar presence as the appeal proposal.
27. A public right of way (SEMI 9) connects St George's Road with Pound Lane. It seems that the boundary hedge adjoining the appeal site has been allowed to grow up and there are now reasonably limited views from the right of way out towards the countryside. The long open views which the Inspector refers to in her decision of December 2017 were not especially evident to me at my site visit. The route is also influenced by the chain link fence adjoining the garden/orchard area and by the tall fencing that borders the existing housing. As a consequence, the route is not one with an entirely countryside feel. Nevertheless, the presence of built development within the field would be likely to be perceptible to walkers, particularly at times of the year when the leaves may not be on the vegetation. Taking all these matters into account, including the visual effect that the up to 20 unit scheme would have if constructed, there would be a moderate loss of rural character experienced by users of the right of way which would result from the appeal proposal.
28. Other evidence shows how Semington has grown organically over time, particularly with the development of parcels of land to the west of the main core of the settlement. This includes the development of St George's Place which has pushed development further to the broadly south west. Also, once the permitted housing on the land to the east of the St George's Hospital is constructed this open space would be lost and a more continuous developed

appearance within St George's Road would result. The development of the appeal site would be a further incremental growth of the settlement area and form a further incursion into undeveloped countryside. However, given the pattern of the built form and, in particular, the position and visual influence of St George's Place on the other side of the road, the appeal site would not be out of scale or unduly alter the pattern of the built form of the settlement as a whole.

29. Drawing all these matters together, the scheme would extend development into undeveloped countryside and the character of this field at the edge of the settlement would change. However, the site is already experienced in the context of some other surrounding built form and a permission exists for residential development on part of the site. The appeal site would be of sufficient size to allow a comprehensive landscaping scheme at the reserved matters stage that would help to soften the transition of the development with the adjoining open fields. However, the extent of built form and size of the appeal site would result in a noticeable incursion of buildings away from the edge of the settlement. Overall, I conclude that this would cause moderate additional harm to the character and appearance of the area compared to the approved scheme for up to 20 dwellings. Accordingly, the proposal would not comply with Policies CP51 and CP57 of the Core Strategy which seek, notably, that development should protect, conserve and where possible enhance landscape character.

### **Other Matters**

30. I have taken into account all the letters of representation, including the objections from local residents and the Parish Council. A wide range of concerns have been raised. The objections include the size of the site and related number of dwellings and the sustainability of the location in terms of access to services and facilities. These are matters which I consider later in this decision.
31. St George's Road is reasonably narrow in places and has pinch points. While the development would increase traffic movements, the Highway Authority has not raised objection to the scheme on safety or other grounds and this does not form a reason for refusal. I have found no reason to disagree with this assessment.
32. The proposal is in outline and details at the reserved matters stage should be able to address the requirements regarding drainage capacity and surface water. Any substantive issues in relation to capacity at the local school and impact on play areas would be addressed by the planning agreement.
33. I am satisfied that issues regarding the ecological impact of the development have now been adequately addressed and can be the subject of conditions in any approval.
34. Representations set out in detail the findings that led to the previous decisions, including appeal decisions, on this land. In particular, I have had regard to the analysis and conclusions of those Inspectors who determined appeals on the site in reaching my overall conclusions. However, I am required to assess the scheme on its merits, based on the situation before me with this scheme for up to 26 dwellings, including the latest position on housing land supply and in the light of the approval for residential development on part of the site.

35. St George's Hospital is a Grade II listed building. I am mindful of the duty to have special regard to the desirability of preserving listed buildings, their setting and features of special architectural or historic interest which they possess. This was a matter which was considered as part of the 2017 appeal which included the present appeal land. I have carefully considered the present proposal and its effect on this heritage asset and I am satisfied that there would be no harm to the setting of St George's Hospital in this case.
36. The pill box is located in the corner of the site and can be considered a non-designated heritage asset. It was constructed as part of a network of WWII defences along the canal. The indicative layout shows that the proposal is likely to maintain the visual link from the pill box to the canal and therefore the proposal would not adversely affect this asset.

### **Planning Agreement**

37. Originally a planning agreement, dated 20 October 2020, was submitted. This set out obligations in respect of education, open space, play areas, leisure and waste facilities and maintenance of open space. Policies CP3, CP43 and CP52 of the Core Strategy and Policy LP4 of the Leisure and Recreation Development Plan Document (2009) requires all new housing development of this scale to address the demand for these provisions that would result from the proposal.
38. I am satisfied that these obligations are necessary to make the development acceptable in planning terms, are directly related to the development and are fairly and reasonably related in scale and kind to the development. Consequently, they would meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010.
39. As part of these appeal proceedings a deed of variation to the original agreement revises the affordable housing contribution and has been signed and dated by all parties. This now specifies that at least 50% of the residential units shall be affordable housing. This accords with the description of the development. Policy CP43 of the Core Strategy sets out the policy approach to the delivery of affordable housing. The site falls within the 30% zone where schemes of five or more dwellings should provide at least 30% of the units as affordable housing.
40. The policy does not preclude delivering more than 30% and the present scheme has an obligation for the 50% delivery of affordable units, which would equate to up to 13 dwellings in this case. For the reasons I shall explain later in this decision, I consider that this level of affordable housing, as set out in the agreement, is necessary in terms of the overall planning balance. I therefore find that this obligation meets the Framework tests for obligations. In particular, the obligations in respect of affordable housing are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. The affordable housing obligations would meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010. I therefore attribute this and all the other obligations, full weight.

### **Planning Balance**

41. The appeal proposal would be contrary to Policies CP1, CP2 and CP15 of the Core Strategy because, in particular, of the size of the development and the

location of the site outside the settlement area. Furthermore, it would be contrary to Policies CP51 and CP57 of the Core Strategy because of the harm that would be caused to the character and appearance of the area. Accordingly, I consider the proposal would conflict with the development plan when taken as a whole.

42. It is accepted by the main parties, that the Council is unable to demonstrate a 5 year supply of deliverable housing land. The Council has indicated that the latest position demonstrates a housing land supply of 4.56 years. This situation has worsened slightly compared to the previous Council calculations of 4.62 years. The appellant has previously calculated that the supply was at 4.40 years. While this range may be considered a modest shortfall, nevertheless, in these circumstances, the presumption in favour of sustainable development as set out in paragraph 11d of the Framework is engaged. This indicates that 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.
43. In the light of this position, I need to consider the weight that should be attached to the conflict with the development plan policies. As a starting point, Policy CP1 of the Core Strategy specifies the settlement strategy which links to the housing requirement for Wiltshire in the period 2006 to 2026 for the provision of at least 42,000 homes. Policy CP2 identifies the minimum requirement of 24,740 homes in the North and West Wiltshire Housing Market Area (HMA), in which Semington is located.
44. Policy CP15 of the Core Strategy addresses the Melksham Community Area and explains that over the plan period approximately 2,370 new homes are to be provided of which about 2,240 should occur at Melksham with approximately 130 elsewhere in the Community Area.
45. The supporting text to the Core Strategy explains that the HMAs will form the appropriate scale for disaggregation across Wiltshire. It is explained that the indicative requirements for each Community Area are intended to allow a flexible approach to respond positively to opportunities without being inhibited in an overly prescriptive, rigid approach which might otherwise prevent sustainable development proposals that can contribute to maintaining a deliverable five year housing supply.
46. The Housing Land Supply Statement (Published December 2020) shows that the housing supply within the North and West Wiltshire HMA is 4.29 years, the lowest of the three HMAs. Within the Melksham Community Area the data indicates that with delivered housing and commitments the indicative housing figures would be met. However, while this Community Area is meeting its indicative figures, it would not provide a strong rationale in itself to prevent further development because the strategy approach is based on the HMA, where there is only 4.29 years of housing land, and those in need of housing could move to the community area to access housing that might not otherwise be available in the wider HMA.
47. I have been referred by both parties to a number of appeal decisions, many within the Wiltshire area and others beyond, which it is argued should establish in this appeal the approach and weight that should be attached to the various housing considerations. These decisions are of varying age and circumstance and with some of the Wiltshire sites the decision was made at a time when the

Council was able to demonstrate a five year housing supply. For instance, this was the case in 2017 when the appeal proposal for up to 50 dwellings at the site was determined. These decisions provide broadly relevant information but are not directly instructive because they have been determined in the light of all their site specific and locational circumstances at that time. I therefore attach them limited weight and I have determined this appeal based on the evidence before me and the particular circumstances that are now present with this site.

48. I am also conscious that the settlement boundary for Semington was recently confirmed in the Site Allocations Plan and that the Site Allocations Plan also identifies land for development to assist with meeting the required housing land supply. I have taken into account the Council's information that more sites are coming through the system and that the permissions have been granted but not yet built out. However, at the present time the Council is not able to demonstrate the required housing land supply and this is, I consider, in part due to the restrictions placed on housing development by the settlement strategy and settlement boundaries in the approach set out in Policies CP1 and CP2 of the Core Strategy.
49. In terms of possible locations where development could be located to help address the housing shortfall, the village of Semington does have some services and facilities, and these include the primary school, public house, village hall and church. There is no shop, significant employment opportunities, medical centre or secondary school. I noted the position of the bus stops in relation to the appeal site at my site visit. The level of the bus service appears to be reasonable during the working day but not so in the evenings and weekends. I have also had regard to the letter from Stagecoach on the nature of the service and the available connections to adjoining towns and employment sites. I consider that the bus service would provide an option for some occupants of the site to access services and facilities outside the village on some occasions. There is also a cycle route that would allow access to Melksham and the industrial estate at Bowerhill, a large source of employment land.
50. Semington has Large Village status as identified in Policy CP15 of the Core Strategy and benefits from the bus service and cycle link. Nevertheless, it is also likely that occupants of the proposed housing would have, to a fairly reasonable extent, a dependence on the private vehicle to access many services and facilities. The scheme would also be larger than the scale of development, being over 10 units, that is considered appropriate, even within the settlement area for a Large Village.
51. By way of other considerations, the case of the approved development for 24 units to the east of St George's Hospital has been raised. That outline permission was approved in 2017 and the extracts of the officer report indicate that the Council concluded at that time that Semington was an acceptable location for this level of housing. The Council has explained that there was a different planning judgement and site specific balance of considerations involved with that decision including that the scheme would not cause landscape harm. I accept that each decision needs to be decided on its merits and that the decision does not set a precedent. Nevertheless, that proposal is of a similar scale to the present scheme, within the same road, also located outside the settlement boundary and was determined under the present Core

Strategy, such that the principle involved with that approval does lend some support to the appellant's arguments in favour of the present appeal scheme.

52. Drawing all these matters together, due to the Council's housing supply situation, the location of the site outside the settlement area and the size of the proposal is not definitive in this case. Importantly, the site would be towards the edge of the settlement and occupiers would have some ability to sustainably access some local services and facilities although there would be a dependence on the private vehicle for most journeys. In any case, a development of up to 20 dwellings, with the resulting residents and travel movements, could already be built on part of the site. I therefore attribute the conflict with the locational policies of the Core Strategy, in particular Policies CP1, CP2 and CP15 of the Core Strategy, limited weight.
53. In terms of landscape impact, Policies CP51 and CP57 of the Core Strategy are generally Framework compliant and I attribute the scheme's conflict with these policies substantial weight. However, for the reasons explained, because of the presence of the fallback position resulting from the approved housing scheme on part of the appeal site, the additional harm to the landscape by comparison would be moderate.
54. In terms of the benefits of the scheme, the provision of the open market dwellings would accord with the Framework intention to significantly boost the supply of housing. I attribute this matter substantial weight.
55. In relation to the affordable housing, the Council explain that the affordable housing need for Semington has already been met by the scheme for 24 units to the east of St George's Hospital. However, the information in the Statement of Common Ground indicates that there has been a substantial shortfall with the delivery of affordable housing across Wiltshire in the past<sup>3</sup> and that this has worsened since the appeal decision for up to 50 units in December 2017. The delivery of affordable housing on the site is, therefore, an important benefit to the area in general.
56. The approved housing scheme already permits up to 20 units of entry level affordable dwellings. This scheme was justified under a different policy regime, gaining support from the now paragraph 72 of the Framework.
57. The present scheme, if it was to deliver 26 units in total and meet the minimum policy requirement under Policy CP43 of the Local Plan of 30% of affordable dwellings, this would deliver only about 8 units of affordable accommodation. This would not compare favourably with the fallback option on the site. Consequently, the proposal to deliver 50% of the appeal scheme (up to 13 units) as affordable dwellings is a valuable improvement above the policy minimum, even though it would not attain the same numerical number as the approved scheme if all 20 units were constructed. Indeed, I consider that the higher percentage of affordable housing is a necessary element of the scheme to make the development acceptable in planning terms. The planning agreement provides for this requirement. On the basis of the delivery of 50% of the units as affordable I attach the provision of affordable housing on the site substantial weight.

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<sup>3</sup> The Council and the appellant agree that there has been a -52% shortfall in delivery compared to identified needs, totalling -5,760 affordable homes across the period 2009 to 2017/18.

58. In terms of other benefits, the provision of the public open space, biodiversity benefits and other financial contributions through the planning agreement, some of which mitigate the effects of the development, would be valuable but modest in extent. I attribute them limited weight.
59. There would be economic and social benefits from the construction of the development and the subsequent occupation of the housing. The spend locally from the additional residents would be fairly limited but would make a worthwhile contribution, and would assist with maintaining the vitality of this village community. Paragraph 81 of the Framework requires that significant weight should be placed on the need to support economic growth and productivity. The expenditure and employment from the construction is therefore a matter of significant weight, although this is tempered by the temporary nature of the build period.
60. When examining all the various planning considerations, the harm that I have identified, including with the conflict with the development plan and the harm to the character and appearance of the area, needs to be balanced against the fairly considerable benefits of the scheme which I have outlined above. Given my analysis of the respective weights attributed to the harm and the benefits of the scheme, I conclude that the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. On this basis, the scheme would benefit from the presumption in favour of sustainable development and this weighs heavily in favour of the development.
61. In the light of the above analysis I consider that other material considerations are of such weight in favour of the scheme that they indicate that a decision should be made other than in accordance with the development plan. Accordingly, I conclude that the appeal should succeed.

### **Conditions**

62. I have had regard to the conditions suggested by the Council and the advice in the Framework and Planning Practice Guidance. I have amended the wording where necessary in the interests of clarity or to meet the tests in the Guidance. The statutory outline time limits are required and a condition specifying the approved plans is necessary in the interests of certainty.
63. The recommended conditions on the timing for the provision of the soft landscaping and the landscape maintenance plan relate to the landscaping of the site. As this is a reserved matter, these details would be covered by the subsequent submissions and, if such conditions are necessary at that stage, they can be attached to the approval at that time.
64. A condition is necessary to ensure that surface and storm water is satisfactorily dealt with in interests of preventing flooding and the provision of adequate drainage. The condition does not need to be a pre-commencement condition and I have revised the wording accordingly.
65. A condition requiring a Landscape and Ecological Management Plan is necessary to identify responsibilities for on-going management of features of landscape and ecological importance. A condition requiring a Construction Environment Management Plan is necessary to protect sensitive ecological areas during construction. The details of both these Management Plans need to

be agreed and implemented from the outset. Consequently, it is necessary that these requirements are pre-commencement conditions.

66. A condition is necessary to ensure adequate mitigation is agreed and implemented to safeguard protected species with regard to lighting. Biodiversity enhancement measures are necessary to be secured by condition to ensure that biodiversity objectives for the development are met. A condition is necessary to secure the provision of a footpath to the east of the access in the interests of highway safety.
67. The pill box lies within the development site. It is necessary in the interests of conserving this non-designated heritage asset that a condition specifies and requires the conservation and interpretation of this building.

### **Conclusion**

68. For the reasons set out above, I conclude that the appeal should be allowed.

*David Wyborn*

INSPECTOR

### **Schedule of Conditions**

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: OXF-221-SUR-001 Rev A (Site Location Plan) and 160237 (Topographical Survey).
- 5) No dwelling hereby permitted shall be occupied until surface water drainage works (including surface water from the access and driveways) shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
  - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii) include a timetable for its implementation; and,
  - iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 6) No development shall take place until a Landscape and Ecological Management Plan (LEMP) has been submitted to, and approved in writing by the local planning authority. The content of the LEMP shall include, but not necessarily be limited to, the following information:
  - i) Description and evaluation of features to be managed;
  - ii) Landscape and ecological trends and constraints on site that might influence management;
  - iii) Aims and objectives of management;
  - iv) Appropriate management options for achieving aims and objectives;
  - v) Prescriptions for management actions;

- vi) Preparation of a work schedule including an annual work plan capable of being rolled forward over a five year period;
- vii) Details of the body or organisation responsible for implementation of the plan;
- viii) Ongoing monitoring and remedial measures;
- ix) Details of how the aims and objectives of the LEMP will be communicated to future occupiers of the development.

The plan shall also set out how contingencies and/or remedial action will be identified, agreed and implemented where the results from monitoring show that the conservation aims and objectives of the LEMP are not being met. The LEMP shall be implemented as approved.

- 7) No development shall take place (including any site clearance or ground works) until a Construction Environment Management Plan has been submitted to and approved in writing by the local planning authority. The Plan shall provide for:
- i) Risk assessment of potentially damaging construction activities;
  - ii) Identification of any biodiversity protection zones;
  - iii) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
  - iv) The location and timing of sensitive works to avoid harm to biodiversity features;
  - v) The times during construction when specialist ecologists need to be present on site to oversee works;
  - vi) Responsible persons and lines of communication;
  - vii) The role and responsibilities on site of an ecological clerk of works or similarly competent person;
  - viii) Use of protective fences, exclusion barriers and warning signs; and
  - ix) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The approved Construction Environment Management Plan shall be adhered to throughout the construction period for the development.

- 8) No external lighting shall be installed on site until plans showing the type of light appliance, the height direction and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication Guidance Notes for the Reduction of Obtrusive Light (ILE, 2005), or any updated version of the guidance, have been submitted to and approved in writing by the local planning authority. The submission shall:
- i) Identify those areas within the vicinity that are particularly sensitive for foraging or commuting bats;
  - ii) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications, including a Lux plot) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats

using their territory or having access to their breeding sites and resting places; and

- iii) Specify luminaries, heights and positions of fittings, direction and other features, e.g. cowls, louvres or baffles.

The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

- 9) Prior to or alongside the submission of the reserved matters, details of biodiversity enhancement measures to be undertaken within the site shall be submitted to and approved in writing by the local planning authority. The agreed scheme shall be implemented in full within a timeframe to be agreed in writing with the local planning authority and maintained thereafter.
- 10) No dwelling hereby permitted shall be occupied until a properly consolidated and surfaced footpath of two metres width has been provided across the site frontage to the east of the access.
- 11) No dwelling shall be occupied until a scheme and timetable for the conservation and interpretation of the heritage asset (historic pillbox) has been submitted to and approved by the Local Planning Authority. The works shall be carried out in accordance with the approved details.

End of Schedule