



Appeal Decision

Site Visit made on 31 August 2021

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2021

Appeal Ref: APP/Y3940/W/21/3272561

Land at London Lane, Minety SN16 9QY

- 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 Sheila Ward and Mr Rodney Park against the decision of Wiltshire Council.
 - The application Ref 20/07846/OUT, dated 10 September 2020, was refused by notice dated 26 February 2021.
 - The development proposed is the erection of up to four dwellings with parking, gardens and associated infrastructure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. This appeal seeks outline planning permission with access to be considered and all other matters reserved. An illustrative layout plan has been provided and I have considered it as such.
3. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published, which replaced the 2019 version. The parties were provided with an opportunity to comment on its relevance to this appeal. I have taken the comments received into account in my decision.

Main Issues

4. The main issues are: a) whether the appeal site would be a suitable location for new housing with particular regard to the settlement strategy and the character and appearance of the area; and b) the effect of the proposed development on highway safety.

Reasons

Suitable Location

5. The appeal site is a rectangular field parcel, which is currently devoid of any development. It is located on London Lane, which is a gravel track serving a small number of dwellings. It is common ground that the site lies outside of the defined settlement boundary for Minety, as set out in the Wiltshire Core Strategy (adopted 2015) (Core Strategy). Therefore, for planning policy purposes the site is within the open countryside.
6. Core Policy 2 of the Core Strategy provides that, amongst other things, at Small Villages (which includes Minety), development will be limited to infill

within the existing built area. For the purposes of Core Policy 2, paragraph 4.34 of the Core Strategy defines 'infill' as, 'the filling of a small gap within the village that is only large enough for not more than a few dwellings, generally only one dwelling'. Whilst the appellant has asserted that the use of language such as 'infill' is too prescriptive and has highlighted that Core Policy 2 uses a prescriptive criteria-based approach, I have not been able to detect any inconsistency between the policy and the Framework in these respects, and as it has been adopted, I have had regard to both Core Policy 2 and its supporting text.

7. In this respect, considering the size of the site, and taking account of the illustrative layout plan which shows plots for 4 dwellings, set against the reference to 'generally only one dwelling' as specified in paragraph 4.34, I consider that the site does not constitute a small gap within the village. Accordingly, I consider that the site does not fall within the definition of infill, for the purposes of Core Policy 2.
8. Whilst the site is functionally part of Minety and built development is near to it on 3 sides, it is set apart from the dense areas of development which characterise the core of the village. Indeed, London Lane is characterised by much looser-knit development, and the site is close to swathes of open countryside. As such, whilst the site is not within the open rolling countryside, it occupies a transitional space. Considering its fringe-of-village placement and the characteristics of the land surrounding it, including sporadic built form along London Lane and the large pond adjacent to it, the principal visual and spatial relationships of the site is with the surrounding open countryside. In this respect, the open, green, and undeveloped nature of the site is congruent with its surrounding context.
9. Due to its size, the site provides a limited contribution to the landscape character of the locality. Nevertheless, due to the mature hedging that exists along part of Station Road in the vicinity of the site, the proposed new dwellings would not be read in connection with the existing residential development in this part of Minety. Moreover, due to the elevation of the road, the new dwellings would be viewed in isolation in a fairly visually prominent location. As up to 4 dwellings are envisaged, the proposal would likely result in a much denser form of development than is commonly found in the vicinity. The likely modest uplift in comings and goings to the appeal site, including from vehicles, would further denote the shift in urbanisation caused by the proposed development.
10. All this would unduly challenge the lower-density nature of the immediate area and it would undermine the strong connection that the site has with the open countryside, meaning that the proposal would not respect the existing character and form of the settlement, in conflict with criterion i) of Core Policy 2. For the same reasons, the proposal would both elongate the village and would consolidate an existing sporadic loose knit area of development related to the settlement, in conflict with criteria ii) and iii) of Core Policy 2.
11. I note that an Inspector in a previous appeal¹ found that, for the purposes of Core Policies 2, 60 and 6 of the Core Strategy, there was not any conflict with regards to the location of the development. However, this was solely in relation to the site's proximity to a range of services and facilities. Hence, this matter

¹ APP/Y3940/W/17/3181550

does not change my findings. Reference has been made to a planning permission for new dwellings at the public house adjacent to the site but as the relevant plans for that permission have not been provided this matter also does not change my findings.

12. I therefore find that the site would not be a suitable location for new housing with particular regard to the settlement strategy and the character and appearance of the area. It would conflict with Core Policies 1, 2 and 13 of the Core Strategy and with saved Policy H4 of the North Wiltshire Local Plan 2011 (adopted 2006) which, amongst other things, collectively establish the development strategy for the area, including with respect to infill development at Small Villages.
13. For the same reasons, the proposal would conflict with Core Policy 51 of the Core Strategy which seeks to, amongst other things, conserve the separate identity of settlements and the transition between man-made and natural landscapes at the urban fringe, and with Core Policy 57 of the Core Strategy, which provides that, amongst other things, development is expected to create a strong sense of place through drawing on the local context and being complementary to the locality. The proposal would also conflict with paragraph 130 of the Framework which provides that, amongst other things, planning decisions should ensure that developments are sympathetic to local character.

Highway Safety

14. The proposed new dwellings would be accessed via London Lane, which adjoins Station Road. This part of Station Road is a single-lane carriageway, subject to a 30mph speed limit, and has no street lighting. It is recognised that it is likely that the movements generated by the proposal would be modest. In this regard, the proposal would accord with Core Policy 62 of the Core Strategy which provides that, amongst other things, developments should provide appropriate mitigating measures to offset any adverse impacts on the transport network at both the construction and operational stages. Additionally, on the evidence before me, there have been no officially recorded accidents at this junction.
15. Nevertheless, I observed that, due to the curvature of the road and a hedge adjacent to the footway, when turning right out of London Lane onto Station Road, visibility was extremely limited, such that it is tantamount to being a blind spot for drivers undertaking that manoeuvre. Specifically, I observed that when 'nosing out' there were very minimal visual cues available as to whether vehicles are approaching the junction from the easterly direction. In this regard, I note that the submitted Transport Appraisal states that the conventional visibility splay for a residential access onto a 30mph road cannot be achieved at the existing junction.
16. Accordingly, the risk of pulling out in front of an oncoming vehicle in close proximity to that vehicle is high. Similarly, whilst I have taken account of the analysis in the Transport Appraisal, and I note that Station Road is of a good width, due to the curvature in the road, vehicles approaching the junction would have little warning of vehicles exiting London Lane.
17. I have taken account of the quotes from paragraphs 10.4.2 and 10.5.8 of Manual for Streets 2 and the research mentioned therein, and the implications of DTA drawing 18464-01, but in this case my own observations are consistent

with the views of a number of local residents as to the safety credentials of this junction. Therefore, these matters do not change my finding that the proposal would have an unacceptable impact on highway safety.

18. I have carefully considered all of the mitigation measures put forward by the appellant, including traffic calming, improved/changed signage, paint, road markings and street lighting, changing the width of the carriageway, reducing the speed limit, adding a crossing, and adding a safety mirror. In this regard, a planning obligation has been presented which, amongst other relevant matters, includes a provision to agree with the Council appropriate and related measures to ameliorate or mitigate the visibility splays at the point at which London Lane meets Station Road, as is deemed suitable and proportionate to the development by the Highways Authority.
19. However, due to the current arrangements at the junction, it is clear that significant works would need to be undertaken to the public highway for the present highway safety impacts to be adequately mitigated. Considering that up to 4 new dwellings are proposed, in this instance the significant works required are such that the covenant stated at clause 3.2.2 of the obligation is not fairly and reasonably related in scale and kind to the development, in conflict with paragraph 57 of the Framework. The covenants stated at clauses 3.2.1 and 3.2.3 relate to less significant works and therefore comply with the 3 tests set out in paragraph 57 of the Framework, but as clause 3.2.2 is the most relevant clause with respect to highway safety, I have given the obligation limited weight.
20. The Planning Practice Guidance advises that a negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases². On the evidence before me, it has not been demonstrated that such a condition would be appropriate in this case. Similarly, the evidence does not demonstrate that highway safety impacts could be cost-effectively mitigated to an acceptable degree, with reference to paragraph 110 d) of the Framework.
21. Therefore, taking account of the likely modest uplift in vehicle movements that would be created by the proposal, and considering the tangible risks to highway safety that the junction poses at present, and the limited weight given to the planning obligation, I find that the proposal would have an unacceptable effect on highway safety. Thus, the proposal would conflict with Core Policy 61 of the Core Strategy which provides that, amongst other things, proposals should be capable of being served by safe access to the highway network. The proposal would also conflict with paragraph 111 of the Framework which provides that, amongst other things, development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Matters

22. The site is not recognised for its ecological value and the appellant has stated that it is presently unused for any agricultural purpose. I concur with the appellant that planning conditions could be used to preserve any ecological value. The site also offers the opportunity for biodiversity enhancements to be made, in line with both paragraph 180 d) of the Framework which provides

² Paragraph: 010 Reference ID: 21a-010-20190723

that, amongst other things, opportunities to improve biodiversity in and around developments should be integrated as part of their design, and Core Policy 50 of the Core Strategy, which provides that, amongst other things, all development should seek opportunities to enhance biodiversity. Similarly, scope for extensive landscaping exists.

Planning Balance and Conclusion

23. It is common ground that the Council is currently unable to demonstrate the supply of housing sites as required by the Framework. As such, I would consider the most important policies out-of-date and be taken to the provisions of paragraph 11 d) ii) in that planning permission should be granted for the proposal 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.
24. The appeal scheme would give rise to harm in regard to its location and the character and appearance of the area, as well as highway safety, in the terms I have described. I ascribe substantial weight to these harms.
25. The proposal would generate up to 4 dwellings which would make a positive albeit limited contribution to the current undersupply which is suggested to be 4.52 years. The new dwellings would contribute to housing choice and mix locally and whilst not precisely prescribed as part of the proposed development, they could provide an opportunity for local self-builders to erect their own homes. The proposal would help create the conditions in which businesses can invest, expand and adapt, as required by paragraph 81 of the Framework.
26. Similarly, the proposal could accord with paragraph 79 of the Framework in terms of maintaining the vitality of rural communities. Paragraph 69 of the Framework provides that, amongst other things, small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and that local planning authorities should support the development of windfall sites through their decisions. That said, and considering my findings on the first main issue, as the site is not a suitable site for the purposes of paragraph 69 c), great weight cannot be afforded to the scheme on these grounds.
27. The proposal could potentially provide housing with high levels of accessibility for all members of the community, and sustainable construction techniques and renewable energy solutions could be incorporated. These matters are primarily for consideration at reserved matters stage but in considering whether to grant planning permission I have considered all these factors in the planning balance.
28. Taken together, all the benefits mentioned above offer modest support for the proposal, and collectively I have given them moderate weight. Setting them accordingly against the substantial weight I afford to the harms I have found, it is sufficiently clear that they would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. The appeal scheme would not therefore be sustainable development for which the presumption in favour applies.

Conclusion

29. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal is dismissed.

Alexander O'Doherty

INSPECTOR