



Appeal Decision

Site Visit made on 27 September 2021

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 November 2021

Appeal Ref: APP/Y3940/W/21/3274344

Boomerang Stables, Crooked Soley, Chilton Foliat, Hungerford, Wiltshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Daffodil Homes Ltd against the decision of Wiltshire Council.
 - The application Ref 20/06839/FUL, dated 12 August 2020, was refused by notice dated 11 March 2021.
 - The development proposed is described as, "Redevelopment of equestrian premises for the erection of a detached house, outbuildings, gardens and related infrastructure".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. An amended plan¹ was submitted at the appeal stage, which shows a proposed car port. This drawing does not substantially alter the nature of the proposal, and I am satisfied that the parties' interests would not be prejudiced by the drawing being considered. Therefore, I have considered the drawing as part of the appeal.
3. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published. The main parties were provided with an opportunity to comment. I have had regard to the 2021 version of the Framework in my decision.

Main Issues

4. The main issues are whether the proposed development would provide a suitable location for new residential development, having regard to the accessibility of services and facilities; and, the effect of the development on the character and appearance of the area.

Reasons

Location

5. The appeal site is a roughly rectangular parcel of land which contains a cluster of buildings, an animal enclosure, and a dressage training area/outdoor arena. It abuts a much larger part of Boomerang Stables, which is a commercial enterprise with extensive facilities. The surrounding area is of a rural character, with narrow roads, large fields, and other equestrian centres nearby. The site is within the North Wessex Downs Area of Outstanding Natural Beauty (AONB).

¹ Crooked Soley House, Proposed Plans and Elevations, Garden Store, Barn & Car Port (2076-023 Rev E)

6. Core Policies 1 and 2 of the Wiltshire Core Strategy (adopted 2015) (Core Strategy) set out the settlement and delivery strategy for Wiltshire. In this regard, Core Policy 14 of the Core Strategy lists the recognised settlements for planning purposes for the Marlborough Community Area.
7. At the time that the development plan was found to be sound (and in accordance with the Framework), paragraph 55 of an earlier version of the Framework provided a very similar statement of national policy as now contained in paragraphs 79 and 80 of the Framework. Furthermore, the appellant has asserted that Core Policy 1 is not aimed at minor development in minor settlements, but the absence of 'minor settlements' within the text of the policy merely indicates that these are not locations where development is commonly expected to take place. Rather, the 'exception policies' (referred to at paragraph 4.25 of the Core Strategy) support a range of development types outside settlements. None of these policies apply to the proposal.
8. Hence, the evidence does not demonstrate that the Core Strategy is out-of-date regarding previously developed land outside built-up areas. Therefore, I consider that all these policies, and their supporting texts (including paragraph 4.25), are consistent with the Framework. As they are adopted policies, I have taken full account of them in my decision-making.
9. The site is not among the recognised settlements listed in Core Policy 14 and therefore it is outside the recognised limits of development. Moreover, as the site is not located within a 'Small Village', the 3 criteria for development at Small Villages given in Core Policy 2 are not applicable. Therefore, taking account of the Planning Practice Guidance referred to by the appellant², the proposal for new residential development would conflict with the spatial strategy for the area.
10. Notwithstanding this, in relation to requirements of the Framework, the appellant has advanced the view that the site is within a settlement, and I note that this has also been stated by an Officer of the North Wessex Downs Area of Outstanding Natural Beauty. A historic map has been provided, which identifies the location of Crooked Soley. Paragraph 32 of the Court of Appeal's judgment in *Braintree*³ makes clear that the observations in that judgment with respect to what constitutes a settlement were given in relation to the (then) paragraph 55 of the Framework. In any event, the judgment confirms that such matters are a matter of fact and planning judgement for the decision-maker.
11. In this regard, although there is a short run of residential properties on the west side of Soley Road, other properties within Crooked Soley are either outliers from the main areas of development, or are significantly physically separated from each other. The small number of properties in Crooked Soley have retained a strong connection with the predominant equestrian and former agricultural uses of the area. I note the lack of primary community facilities, such as a village hall, a school, a public house, or a shop.
12. I observed that the small triangle-shaped grassed area, to the west of the appeal site, has the appearance of a central island at a highways intersection, rather than a community focal point. Taking all this into account, Crooked Soley does not present as a local community, in either physical or functional

² Paragraph: 009 Reference ID: 67-009-20190722

³ *Braintree DC v SSCLG & Ors* [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610

terms. Therefore, in my view, it does not constitute a settlement for planning purposes. Accordingly, whilst it is clear that the site constitutes previously developed (brownfield) land, paragraphs 79 and 120 c) of the Framework do not provide support for the proposal.

13. Having taken account of the Soley Farm Stud appeal decision⁴ (which referred to a previous appeal decision⁵), it is common ground between the main parties that the proposal would not constitute the development of isolated homes in the countryside, and accordingly would comply with paragraph 80 of the Framework in this respect. I concur with this assessment. However, this does not resolve the conflict with the policies already referred to, nor does it mean that the site is automatically sustainably-located, in terms of the access to services and facilities.
14. Turning to the accessibility of the appeal site to services and facilities, Core Policy 60 of the Core Strategy refers to the use of planning powers, and therefore it is applicable to planning decision-making on individual planning applications and appeals. Although Core Policy 61 of the Core Strategy refers to a transport assessment, it does not state that its requirements do not apply to smaller-scale proposals. Therefore, I have taken full account of these policies in my decision-making.
15. Having regard to *Braintree*, the site is not physically isolated from other development. However, the site is not near shops or other facilities required for day-to-day living. Furthermore, local roads are often narrow, with no street lighting, footway, or cycle lanes. In this respect, in line with paragraph 105 of the Framework, it is noted that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.
16. However, considering the very limited range of services and facilities near the appeal site, and the distance to the nearest village, it is highly likely that the intended future occupiers of the proposal would use private vehicles to access these. Indeed, the appellant has stated that it is a fact of life that the resident population uses motor vehicles to travel between Crooked Soley and nearby settlements. This would also be the case if modes of transport were split, by the future residents taking buses running from nearby villages, for example.
17. I note the societal trends referred to by the appellant, including the rise of electric vehicles (including electric bicycles), greater working-from-home (promoted on the Connecting Wiltshire website⁶ and arising via the ongoing coronavirus (COVID-19) pandemic), online purchasing, 'shopping local', and work and recreational opportunities afforded by fast broadband. In line with The Road to Zero⁷ and Decarbonising Transport⁸ documents, and paragraph 112 e) of the Framework, the appellant has suggested a planning condition to require electric charging points on site.
18. However, the use of sustainable transport modes, such as ultra-low and zero emission vehicles, cannot be mandated, and the other factors mentioned will very much depend on personal choices. As such, considering the poor

⁴ APP/Y3940/A/14/2226501

⁵ APP/Y3940/A/12/2189515

⁶ Connecting Wiltshire: Work from home (<https://archive.connectingwiltshire.co.uk/plan-a-journey/travel-to-work/work-from-home/>)

⁷ The Road to Zero: Next steps towards cleaner road transport and delivering our Industrial Strategy (Department for Transport, 2018)

⁸ Decarbonising Transport: Setting the Challenge (Department for Transport, 2020)

accessibility of the site to services and facilities, it is necessary to take a precautionary approach, meaning that the significant use of internal combustion engine-based private vehicles by future occupiers must be considered to be a real possibility.

19. Therefore, I find that the proposed development would not provide a suitable location for new residential development, having regard to the accessibility of services and facilities. The proposal would conflict with Core Policies 1, 2 and 14 of the Core Strategy which collectively establish the development strategy for the area, including with respect to proposals outside the defined limits of development. It would also conflict with Core Policies 60 and 61 of the Core Strategy which collectively provide that, amongst other things, new development should be located and designed to reduce the need to travel particularly by private car, and to encourage the use of sustainable transport alternatives. It would also fail to accord with the Framework, which seeks to promote sustainable transport.

Character and Appearance

20. Turning to matters of character and appearance, equestrian uses predominate locally, and the existing structures on site are appropriate in this respect, albeit some are particularly large in scale. Nevertheless, the proposal would incorporate stables and a barn, thereby maintaining some of this equestrian feel. Moreover, although the dwelling proposed would appear from some views as a stand-alone property in an area of limited residential presence, it would not appear out-of-place considering that sporadically-located dwellings with large gardens situated amongst large stretches of open fields are a common characteristic of the wider area. Furthermore, the 'farmhouse'-style design of the dwelling, with carefully chosen materials, would blend well with the architectural vernacular of the local area.
21. Due to the relatively small-scale of the proposal in its wider context and considering that despite the site's elevated position the proposed buildings would not appear particularly prominent when viewed from further afield, the proposal would have a limited visual impact on the wider landscape. Accordingly, the landscape and scenic beauty of the AONB would be conserved and the proposal would not conflict with paragraph 176 of the Framework, nor with the AONB Management Plan⁹ or the Landscape Character Assessment¹⁰ in this respect.
22. I therefore find that the proposal would have an acceptable effect on the character and appearance of the area. The proposal would comply with Core Policies 51 and 57 of the Core Strategy, which collectively provide that, amongst other things, development should protect, conserve and where possible enhance landscape character, and should respond positively to the existing townscape and landscape features.
23. The proposal would also comply with paragraph 126 of the Framework, which provides that, amongst other things, the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. It would also comply with paragraphs 131, 174 b) and 180 c) of the Framework, with respect to the soft landscaping

⁹ North Wessex Downs AONB Management Plan 2019-2024

¹⁰ Kennet Landscape Character Assessment: Marlborough Downs

proposed. Although the appellant has referred to paragraph 73 c) of the Framework, that paragraph refers to the use of tools such as masterplans and design guides or codes and accordingly it is not directly relevant to this appeal.

Other Matters

24. The appellant has engaged with the local community in evolving the scheme now before me. It is also common ground that the proposal would not affect the setting or significance of West Soley Farmhouse (a Grade II listed building). I have no evidence before me that points to a different conclusion. However, these are neutral matters, which do not weigh in favour of the proposal.
25. 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.
26. The proposal would give rise to harm with respect to the accessibility of services and facilities, and it would not comply with the spatial strategy for the area, in the terms I have described. I ascribe substantial weight to these harms.
27. The proposal would generate a new dwelling which would make a positive albeit very limited contribution to the current undersupply which is suggested to be 4.56 years. The new dwelling would contribute to housing choice and mix locally. In this regard, 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 are often built-out relatively quickly. As the proposal would utilise previously developed land, which the appellant has stated is in limited supply in Wiltshire, it would result in an efficient use of the site in strict land-use terms, in accordance with paragraph 119 of the Framework.
28. The appellant has mentioned that the site will shortly become under-utilised (indeed vacant) and in this respect paragraph 120 d) of the Framework provides support for the proposal. However, it has not been demonstrated that the proposal would make optimal use of the potential of the site, in terms of paragraph 125 of the Framework.
29. The local economy would benefit from the spending arising from the new residents and from people employed in the maintenance of the new dwelling. The new residents would also potentially contribute to the social life of the area, and might take advantage of local employment opportunities.

Planning Balance and Conclusion

30. The preservation of the character and appearance of the area, including the AONB, is a neutral factor that weighs neither in favour nor against the proposal.
31. Taken together, all the benefits mentioned above offer modest support for the proposal, and collectively I have given them moderate weight. Setting the substantial weight I afford to the harm I have found against these benefits, it is

sufficiently clear that the harm 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.

32. 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