



Appeal Decision

Site visit made on 13 December 2021

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 January 2022

Appeal Ref: APP/Y3940/W/21/3274142

Land at Notton, Corsham Road Lacock North Through Notton to by junction of A350, Notton, Lacock SN15 2NF

- 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 Mr Healy (SDLS Properties Limited) against the decision of Wiltshire Council.
 - The application Ref 20/09195/FUL, dated 19 October 2020, was refused by notice dated 10 March 2021.
 - The development proposed is the erection of 8 dwellings and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. An amended plan was submitted at the appeal stage (SC-LH-02) as Appendix 7 to the appellant's Grounds of Appeal, which primarily involves the reorientation of some of the proposed dwellings. This plan does not substantially alter the nature of the proposal, and I am satisfied that the parties' interests, including that of local residents, would not be prejudiced by the plan being considered in this appeal. Therefore, I have considered the plan as part of this 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 and I have taken any made into account. I have had regard to the 2021 version of the Framework in my decision.

Main Issues

4. The main issues in this appeal are:
 - whether the proposed development would provide a suitable location for new residential development, having particular regard to the settlement strategy and the accessibility of services and facilities;
 - the effect of the proposal on the character and appearance of the site and the area, including the settings of the nearby heritage assets; and
 - whether the proposal would provide adequate living conditions for future occupiers of the scheme, with particular reference to the provision of private amenity space, privacy, and outlook.

Reasons

Location

5. The appeal site is a grassed paddock located close to a small number of office and residential buildings in the open countryside. It lies within Notton, a hamlet. Core Policies 1 and 2 of the Wiltshire Core Strategy (adopted 2015) (Core Strategy) set out the settlement and delivery strategy for Wiltshire. Core Policy 11 of the Core Strategy lists the recognised settlements for planning purposes for the Corsham Community Area.
6. In this respect, the site is situated outside any defined settlement boundary. Even so, having regard to *Braintree*¹ and the parts of the Eakring appeal decision² quoted by the appellant, the site is not physically separate or remote from other parts of Notton which comprise residential and commercial development. Accordingly, I consider that the site is not 'isolated' for the purposes of paragraph 80 of the Framework.
7. I have taken account of the parts of the Broden Stables appeal decision³ quoted by the appellant, and I also note that the appellant has referred to a recent appeal decision⁴ in relation to whether Core Policy 2 is inconsistent with the Framework. In this regard, Core Policy 2 takes a restrictive approach to development outside the defined limits of development. However, it does reference the 'exception policies' identified at paragraph 4.25 of the Core Strategy. These policies relate to the circumstances where development may be permitted outside the defined limits of development.
8. As such, it is clear that Core Policy 2 is not intended to be read in isolation, but in conjunction with the 'exception policies' identified at paragraph 4.25. As the 'exception policies' appear to be consistent with the Framework, it follows that Core Policy 2 is too. I have therefore taken full account of these policies in my decision-making.
9. The site is situated near an employment site and considering the size of the hamlet some further employment opportunities for the intended future residents of the proposal are likely to be available within a reasonable distance. The main parties disagree on exactly what services and facilities are available in Notton but from the evidence before me and my own observations it is clear that Notton lacks many key facilities required for day-to-day living, including local shops and supermarkets.
10. The nearby garden centre does offer a café / restaurant, a food store, and a pet shop, in addition to gardening-related items. However, considering its primary function as a garden centre it is unlikely to be frequently used as a main food shopping destination by the intended future residents of the proposal. Consequently, travel outside of Notton on a regular basis would likely be necessary.
11. In this respect, Notton is near to Lacock, which is classed as a 'large village' in the settlement hierarchy. A National Cycle Route exists which connects Notton to Lacock, with a traffic-lit crossing providing easy access across the busy A350

¹ *Braintree DC v SSCLG & Ors* [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610

² APP/B3030/W/17/3169590

³ APP/N1730/W/17/3185513

⁴ APP/Y3940/W/19/3243873

road. Nevertheless, very little details have been provided by the appellant with respect to what services and facilities might be available at Lacock. The Officer's Report for 14/05231/FUL refers to a nearby regular bus service, but little up-to-date information has been provided as to the current state of affairs with respect to the provision of public transport to nearby villages and towns.

12. Moreover, I have carefully considered the findings of the 2005 Secretary of State decision relating to Notton Park⁵, but as that decision was based on the circumstances that prevailed over 15 years ago I cannot be certain that the current circumstances are sufficiently comparable. I note the findings within the Officer's Report for 14/05231/FUL in relation to sustainable development, but that scheme related to a commercial use as opposed to a residential use. The evidence before me does not demonstrate that the commercial use approved would be comparable to the proposed residential use, with respect to the amount, frequency and length of likely journeys by the intended future residents of the proposal.
13. As such, it has not been demonstrated that the intended future residents of the proposal would be able to meet their day-to-day needs by means of sustainable modes of transport. This is particularly so as although cycle routes are available, cycling is unlikely to be appropriate for many journeys, such as for a family undertaking a food shopping trip, for example. A planning condition could require the installation of electric vehicle charging points but their take-up by the intended future residents of the proposal would be a matter of personal choice. Accordingly, I consider that the proposal would not promote sustainable development in rural areas, as required by paragraph 79 of the Framework.
14. I therefore find that the proposed development would not provide a suitable location for new residential development, having particular regard to the settlement strategy and the accessibility of services and facilities. The proposal would conflict with Core Policies 1, 2, and 11 of the Core Strategy and with saved Policy H4 of the North Wiltshire Local Plan 2011 (adopted 2006) which collectively establish the development strategy for the area, including with respect to proposals outside the defined limits of development. It would conflict with Core Policies 60 and 61 of the Core Strategy which collectively provide that, amongst other things, the Council will use its planning and transport powers to help reduce the need to travel particularly by private car. It would also conflict with the Framework, which seeks to promote sustainable transport.

Character and Appearance

15. Notton as a whole has a variety of forms of development but a loose-knit pattern of development is the predominant characteristic in the vicinity of the site. The site's location near to larger residential gardens and open fields reinforces the rather spacious feel to the immediate locality.
16. The appellant's analysis with respect to density demonstrates that the proposal is policy compliant in strict numerical terms. The materials proposed for the proposed dwellings would respect the local vernacular. The proposed new access would open up views into the site, but the majority of the mature hedgerow would remain. Sufficient tree cover would also be retained.

⁵ APP/J3910/V/04/1150934

17. Nevertheless, the proposal would introduce a fairly tightly-packed arrangement of 8 houses which would unduly contrast with the loose-knit characteristic of the local area. Furthermore, although houses 12, 14, 15 and 15A Notton Garden are all accessed via a private lane, commonly dwellings in Notton are accessed from the main road. The proposal would significantly depart from this arrangement, by the creation of a suburban-style estate, with a single vehicular access point. All this would undermine both the distinctly semi-rural vernacular of the hamlet and the sense of spaciousness referred to above.
18. The appeal site is within the settings of 2 nearby Grade II Listed Buildings, Notton Cottage and walls⁶, and the stable and coach house associated with Notton Cottage⁷. As such, the site is part of the surroundings in which the heritage assets are experienced. Other listed buildings are present within Notton but these are sufficiently far away to not be materially impacted by the proposal. The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) provides at s66(1) that in considering whether to grant planning permission for development which affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
19. I observed that the significance of Notton Cottage and walls derives in part from the distinctive architectural features of Notton Cottage which include a coursed rubble stone exterior with a stone slate roof, and the rustic nature of the exterior walls. Similarly, the significance of the stable and coach house derives in part from their aesthetically-pleasing stonework and tiled roofs. The settings, including the appeal site, contributes to the significance of these heritage assets by providing a backdrop of open space and greenery which allows their attractive architectural merits to be better revealed.
20. The proposed erection of 8 new dwellings and the new access road, including associated comings and goings from the intended future residents of the proposal, in close proximity to these heritage assets, would considerably reduce the spacious semi-rural aesthetic in this location. In this respect, the contribution that the settings make to the significance of the heritage assets would be compromised by the proposal. Although planning conditions could be imposed requiring details of materials and landscaping, this would not be sufficient to overcome the harm identified.
21. Whilst the harm to the settings of the heritage asserts would be less than substantial, this harm is of considerable importance and weight. This harm must be weighed against the public benefits of the proposal, and in this regard the proposal would contribute 8 new dwellings. Additionally, the intended future residents of the proposal would likely contribute to the economic and social life of the area.
22. The Framework makes clear that great weight needs to be given to designated heritage assets' conservation. I give moderate weight to the benefits of the proposal and find that they do not, either individually or cumulatively, amount to public benefits which outweigh the harm that would be caused to the settings of the identified heritage assets.

⁶ Statutory Address: NO 5 (NOTTON COTTAGE) AND SCREEN WALLS TO ROAD, 5

⁷ Statutory Address: STABLE AND COACH HOUSE TO SOUTH OF NO 5

23. I therefore find that the proposal would have an unacceptable and harmful effect on the character and appearance of the site and the area and that the settings of the nearby heritage assets would not be preserved. The proposal would conflict with Core Policies 51, 57 and 58 of the Core Strategy which collectively provide that, amongst other things, the locally distinctive character of settlements should be conserved, new development should make a positive contribution to the character of Wiltshire, and that development should protect, conserve and where possible enhance the historic environment. It would also conflict with the Framework which provides that, amongst other things, planning decisions should ensure that developments are sympathetic to local character and development should preserve or enhance heritage assets.

Living Conditions

24. Plots 5 to 8 within the proposed scheme would comprise a terrace of dwellings. These plots would offer a smaller amount of private amenity space than is common in the local area, and this amount of space would also be less than that found for the proposed plots 1 to 4. However, I observed the presence of mid-terraced units in Notton, including at Notton Park, meaning that this arrangement is not unknown in Notton, and considering that the dwellings proposed for plots 5 to 8 would be 2 bedroom units the amount of private amenity space would be adequate in terms of their sizes and shapes.
25. Based on the amended Block Plan before me (referred to at paragraph 2 above), the distance from the proposed parking areas to the front doors of the proposed dwellings for plots 5 to 8 would be acceptable. As the proposed parking areas would lie in front of the dwellings for plots 5 to 8, there would be little scope for any materially harmful loss of privacy for the intended future residents of plots 5 to 8.
26. The outlook from some of the front windows of the proposed dwellings for plots 1 to 3 would be cluttered somewhat by the presence of the dwellings, fencing, and associated soft landscaping for plots 4 to 8. However, based on the amended Block Plan before me, the main areas of fencing for plots 4 to 8 would be to the sides and rear of those plots, closest to the road. Planning conditions could be imposed to ensure that the Council has control over the exact details with respect to hard and soft landscaping. Thus, the intended future residents of plots 1 to 3 would enjoy an adequate level of outlook.
27. I therefore find that the proposal would provide adequate living conditions for future occupiers of the scheme, with particular reference to the provision of private amenity space, privacy, and outlook. The proposal would comply with Core Policy 57 of the Core Strategy which provides that, amongst other things, new development should make a positive contribution to the character of Wiltshire through ensuring that appropriate levels of amenity are achievable within the development itself, including the consideration of privacy. The proposal would also comply with the Framework which provides that, amongst other things, planning decisions should ensure that developments create places with a high standard of amenity for future users.

Other Matters

28. The proposal would be acceptable with respect to highway safety, parking provision, ecology, and drainage. Planning conditions could be imposed to ensure that cycle parking and electric vehicle charging points are catered for.

However, these are neutral matters, which do not weigh in favour of the proposal, as is the lack of adverse effect on the living conditions for future occupiers of the scheme, referred to above.

Planning Balance

29. 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.
30. The proposal would generate 8 dwellings which would make a positive albeit limited contribution to the current undersupply. This would also support the Government's objective of significantly boosting the supply of homes, and would contribute to the mix of housing in the local area. In this regard, a number of local residents have expressed their support for the proposal, including by reference to the lack of properties available to meet the demand for people who wish to live in Notton.
31. The proposal would provide employment for construction professionals, albeit for a limited period. The appellant has asserted that the proposed development would be built out by a small local housing developer, and that the proposed dwellings would constitute affordable housing but as no mechanisms are before me to secure these matters, these considerations can only be given limited weight.
32. The future residents of the proposal would likely contribute to the economy and the social life of the local area in the long-term, although the quantum of units involved means that these benefits would not likely be significant. The RTS Group and BGS Healthcare have provided their support for the proposal, including with respect to the potential for the proposal to provide more housing for employees, close to local businesses. In this regard, the appellant has highlighted that an extant permission exists to build another office building on the adjacent commercial site.
33. Taken together, all the benefits mentioned above offer modest support for the proposal, and collectively I have given them moderate weight.
34. The appeal scheme would give rise to harm in regard to its location and the character and appearance of the site and the area as well as the settings of the nearby heritage assets, in the terms I have described. I ascribe substantial weight to these harms.
35. Setting the substantial weight of these harms against the moderate weight I afford to the benefits I have found, it is clear that the harms 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

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

Alexander O'Doherty

INSPECTOR