

Appeal Decision

Site visit made on 30 November 2021

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 February 2022

Appeal Ref: APP/Y3940/W/21/3277743

Land off Old Hospital Road, Pewsey, 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 Mr S. Abbley, Spire House Developments Ltd against the decision of Wiltshire Council.
 - The application Ref 20/10207/FUL, dated 11 November 2020, was refused by notice dated 12 March 2021.
 - The development proposed is the erection of 6 no. dwellings and associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was submitted the Government has published a new National Planning Policy Framework (the Framework). The main parties have had the opportunity to provide comments on the revisions and I have taken these into account in reaching my decision. I have considered the appeal on the basis of the revised Framework.
3. The appellant has submitted amended plans with the appeal, amending the garden layout of two of the properties. The Council has had the opportunity to comment on these amendments, stating that they partially overcome one of the reasons for refusal. I have considered the appeal on the basis of these amendments and consider that there would be no prejudice to any party in my doing so.

Main Issues

4. The main issues raised are:
 - Whether the location of the development is acceptable having regard to the locational strategy of the development plan,
 - The effect on the character and appearance of the area,
 - The effect in respect of ecological matters, and
 - The effect on the living conditions of neighbouring occupiers, with particular regard to overlooking.

Reasons

Suitability of location

5. Core Policies 1 and 2 of the Wiltshire Core Strategy (adopted 2015) (the Core Strategy) set out the approach for the delivery of new housing throughout Wiltshire. Core Policy 1 establishes a hierarchy of settlements as well as the expected level of development to be delivered within the differing settlement categories. Pewsey is identified as a Local Service Centre, which is to accommodate modest levels of development and to deliver affordable housing.
6. Core Policy 2 sets out the delivery strategy for new development and establishes that within defined limits there is a presumption in favour of development. Outside of defined limits, development is not permitted, other than in circumstances endorsed by other policies of the Core Strategy. Core Policy 18 further sets out the spatial strategy for the Pewsey Community Area, setting out that any development within this area should accord with Core Policy 1. Core Policy 44 is also of particular note as this permits the development of sites for affordable housing where, amongst other things, the proposal is within, adjoining or well related to the existing settlement.
7. I note that the appellant contends that reference to exception sites, that being sites for affordable housing outside of development boundaries, is a misnomer, in that paragraph 64 of the Framework supersedes such policies. However, the Framework at paragraph 78 specifically refers to local authorities supporting rural exception sites to support affordable housing. Thus, within this context I find Core Policy 44 to be relevant.
8. The appeal site lies outside of the defined limits of development boundary as set out in the Core Strategy, as well as that within the Pewsey Neighbourhood Development Plan (adopted 2015). The scheme proposes open market housing, as well as an element of, but not solely, affordable housing. As such, given its location, as well as the tenure of the dwellings proposed, the scheme conflicts with Core Policies 1, 2, 18 and 44 of the Core Strategy, which together seek to direct development to appropriate locations.

Character and appearance

9. The appeal site lies to the western edge of Pewsey and is bordered by the existing buildings located within Bailey Close, as well as newly constructed dwellings referred to as Phase 1 of the development in the area. Currently the site accommodates a construction compound utilised in association with the ongoing development in the locality. To its north edge is an abutting estate road which serves Phase 1 and adjacent is an area containing existing trees, that are to be retained. Further to the north of the site is an area of undeveloped land which has a distinct open, countryside appearance that includes a variety of vegetation, including shrubs and trees.
10. The extent of the existing built development of dwellings in the area forms a distinct and definable boundary between the built-up area of the settlement and the surrounding countryside. I acknowledge that the access road for Phase 1 traverses part of the more open land, however its low-level construction does not significantly intrude into the rural aspect. I am also conscious that the appeal site comprises an area that will be subject to compensatory planting in association with the already permitted development, which would further

reinforce the attractiveness of the area and its relationship to the wider, open countryside. It would also further mitigate any effect of the formation of the estate road at this location. As such, while the submitted Landscape Statement asserts that the outermost kerb line of the new road forms the boundary of the settlement and the surrounding countryside, I find that this is more appreciably delineated by the existing extent of dwellings and their garden areas.

11. The proposed location of the dwellings therefore provides an attractive and valuable transition between the distinguishable edge of the built-up area and the wider, open area to the north. This is acknowledged within the appellant's Landscape Statement. The construction of the proposed dwellings would erode the contribution the area makes and would prevent the further integration of the site with the open land that would result from the approved landscaping details that have already been secured.
12. The site is located within the North Wessex Downs Area of Outstanding Natural Beauty (the AONB), which washes over the entire surrounding area, and specifically lies within the Vale of Pewsey Character Area. This character area forms a broad low-lying landscape which, while being within the most densely settled character area within the AONB, is particularly vulnerable to change with significant pressures for new development. One of the key issues identified in regard to this character area, is there being intense development pressures, particularly for new housing, which impact on the character of villages and their edges, resulting in settlements becoming less assimilated in the landscape. The key management objective of the character area is to maintain the pattern of discrete small villages set within a quiet rural landscape.
13. In light of my findings above, that the development would intrude from the distinguishable edge of the settlement into the surrounding area, I find that it would negatively impact on the edge of the settlement and would hamper the assimilation of the settlement into the surrounding landscape. Thus, it would consequently also have a harmful effect on the character and appearance of the AONB at this location.
14. Accordingly, I find that the proposal would be harmful to the character and appearance of the area, including that of the AONB. Thus, the proposal conflicts with Core Policies 51 and 57 of the Core Strategy, insofar as they seek to ensure development responds positively to its landscape setting and that great weight is given to conserving landscapes. The scheme would also conflict with the landscape protection aims of the Framework, in particular paragraph 176, which requires that great weight should be given to conserving and enhancing the landscape in Areas of Outstanding Natural Beauty.

Ecological matters

15. The appeal site is located within an area that was to be delivered as a meadow grassed area as part of the previously permitted development on an adjoining site. While I note that the Council contends that the loss of this area would erode the ecological enhancements that were to be delivered, I am also conscious that the appeal contains details of further enhancements that could be delivered by the proposed scheme. These would include the construction of a new wildlife pond, a native scrub buffer strip, log piles and native scrub & tree planting. It is also stated that these enhancements have been designed to integrate with previously agreed landscaping, including wet meadow grassland

and wildflower meadow habitat. On the basis of this information, I find that the details of the proposed ecological enhancements are appropriate and adequate to compensate for the loss of meadow grassed areas, that would result from the previously approved development.

16. Thus, there would be no conflict with Core Policy CP50 of the Core Strategy, insofar as it seeks to ensure that habitats are created through development proposals.

Living conditions

17. The rear elevations of the dwellings on Plots 1-4 are arranged so that they face towards the neighbouring property located along Bailey Close. However, as is highlighted in the Officer's report, there is a distance of approximately 16 metres between the rear elevations of the proposed dwellings and the garden of 19 Bailey Close. In light of the position of other surrounding properties, there is likely to be a degree of mutual overlooking that already exists. Therefore, the introduction of the proposed dwellings with the separation distance I refer to above, is unlikely to result in any increase in perceived overlooking, such that it would result in unacceptable living conditions for neighbouring occupiers.
18. Accordingly, the effect on the living conditions of neighbouring occupiers, with particular regard to overlooking, would be acceptable and thus the proposal accords with Core Policy 57 of the Core Strategy, insofar as it seeks to ensure that appropriate levels of amenity are achieved. There would also be no conflict with the living condition protection aims of the Framework or the National Design Guide.

Other Matters

19. It is common ground between the parties that the Council is currently unable to demonstrate a five-years supply of deliverable housing sites. However, the presumption in favour of sustainable development is disengaged where policies referred to in the Framework that protect areas of particular importance provide a clear reason for refusing the development. Footnote 7 of paragraph 11 outlines that this includes policies in respect of an Area of Outstanding Natural Beauty. As I have found conflict with policies of the Framework in this respect, the presumption in favour of sustainable development does not apply.
20. The site lies within the catchment of the River Avon Special Area of Conservation (the SAC) and the foul water from the development would discharge into this catchment. The Council has undertaken a Generic Appropriate Assessment (the GAA) of development that is envisaged to occur within the catchment. It is identified that residential development, ranging down to single dwellings, can in combination have the greatest negative effects across the catchment. In order to prevent negative effects on the SAC, all new residential development is required to be phosphorous neutral.
21. The Council highlights that the development does not fall within the scope of the GAA. As such, while the Council appears to have a strategic approach to addressing the matter, in line with the GAA, this is limited to planned housing growth. Therefore, based on the evidence before me, despite the modest scale of the development and that the appellant asserts that the proposal would have no appreciable effect and that any increase in nutrient loading would be

indistinguishable from background variations, I cannot be satisfied that the proposals would not lead to likely significant effects either alone or in combination with other projects. If I was minded to allow this appeal, I would need to undertake an Appropriate Assessment. However, as I am dismissing this appeal for other substantive reasons, I have not carried out an Appropriate Assessment in this case and I need not consider this matter further.

22. I note that the scheme would result in a small contribution to the supply of housing in the area, including the provision of a number of affordable units, and that these would be benefits of the scheme.
23. There is reference to the scheme comprising previously developed land, even if this were the case, it would not outweigh the harm I identify.

Conclusion

24. While there would be no harm to matters of ecological importance or the living conditions of neighbouring occupiers, I find that there would be harm in terms of the location of the development and on the character and appearance of the area, including harm to the AONB. There would be some benefits arising from the scheme, however these are not sufficient to outweigh the harm that I have identified.
25. For the reasons given above I conclude that the appeal should be dismissed.

Martin Allen

INSPECTOR