



Appeal Decision

Site visit made on 6 December 2022

by Laura Cuthbert BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2023

Appeal Ref: APP/Y3940/W/22/3294632

Land off Common Road, Corston, Malmesbury, Wiltshire, 392288, 184355

- 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 The Warden & Freemen of Malmesbury against the decision of Wiltshire Council.
 - The application Ref 19/12002/FUL, dated 17 December 2019, was refused by notice dated 15 September 2021.
 - The development proposed is erection of 4 dwellings.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by The Warden & Freemen of Malmesbury against Wiltshire Council. This application is the subject of a separate Decision.

Preliminary Matters

3. In the banner heading above, I have taken the appeal site address from the appeal form as this is more precise.
4. A Unilateral Undertaking (UU) has been submitted with the appeal to secure the required level of on-site affordable housing, as well as the provision of on-site open space management and maintenance of open spaces and Sustainable Urban Drainage Systems (SUDS) and the provision of an ecological landscape buffer. The Council are satisfied that the UU secures the identified requirements accordingly. I have determined the appeal on this basis.

Main Issues

5. There are 2 main issues. These are:
 - whether the proposed development would provide a suitable location for housing, having regard to the development strategy for the area and the effect of the proposed development on the character and appearance of the area; and
 - the effect on the ecological value of the Local Nature Reserve/County Wildlife site.

Reasons

Suitable Location

6. The appeal site is a rectangular parcel of land situated on the southern side of Common Road in the village of Corston. An established hedgerow encloses the appeal site along Common Road. The residential cul-de-sac of Quarry House lies to the southeast and a gravel track, which forms a bridleway runs to the northwest of the site. The bridleway provides pedestrian access to the Local Nature Reserve (LNR) and County Wildlife Site, which lies to the south of the site. A post and wire fence runs along the bridleway, allowing for open views across the site, with the Quarry House dwellings visible in the background.
7. Beyond the residential cul-de-sac of Quarry House, Common Road becomes more rural in its character and appearance, with open fields extending on both sides. Whilst there is further housing to the northwest, this is more sporadic than the more built-up form of the village which runs along Mill Lane and Main Road. The undeveloped nature of the appeal site contributes positively to the rural character of the surrounding area. Whilst Quarry House runs partly to the south of the appeal site, the majority of the southern boundary is bounded with the LNR. Consequently, the appeal site is only enclosed by existing residential dwellings on 2 sides, with the bridleway visually separating the appeal site from the dwellings to the northwest.
8. Corston has been identified in the Wiltshire Core Strategy (Core Strategy) (2015) as a 'small village'. Whilst there is no defined settlement limit associated with the village, Core Policy 2 of the Core Strategy sets out an exception at small villages. Within small villages, development will be limited to infill within the existing built area, involving the filling of a small gap within the village that is only large enough for not more than a few dwellings. Core Policy 2 sets out three further criteria that an infill development should satisfy, which includes respecting the existing character and form of the settlement, and not consolidating an existing sporadic loose knit area of development.
9. Due to the siting of the proposal, it would not respect the existing character and form of the settlement. It would result in the loss of an open gap, which would consolidate the existing sporadic, loose knit development on the edge of the village, harming the rural character and appearance of the area. The siting of the proposed 4 dwellings would be clearly visible from both Common Road and the adjacent bridleway which would further emphasise its incongruity in the area. Consequently, the proposal would not satisfy the criteria set out in Core Policy 2 in regard to infill developments.
10. I acknowledge the appeal decision¹ within which the Inspector concluded that 4 dwellings would represent 'a few' dwellings as outlined in Core Policy CP2. However, I also note that the same Inspector concluded that the proposal in that case satisfied the three criteria set out in Core Policy CP2, which is a notable difference from the proposal before me. Nevertheless, the circumstances in each appeal are likely to be different, and each appeal is considered on its own merits. In these circumstances, I have found that the proposal would fail to satisfy the criteria required for infill development.
11. Consequently, for the reasons given above, the proposed development would not provide a suitable location for housing, having regard to the development strategy for the area and the character and appearance of the area. Consequently, the proposal would conflict with Core Policies 2 and 51 of the Core Strategy. Amongst other things, these policies, in combination, direct

¹ APP/Y3940/W/16/3154507

growth and new housing to defined settlements and resist new homes in the countryside except in certain circumstances. They also require development to protect, conserve and where possible enhance landscape character and must not have a harmful impact upon landscape character.

12. The Council's appeal statement also makes reference to Saved Policy H4 of the North Wiltshire Local Plan 2011 (Local Plan) (adopted 2006), albeit this is not cited in the reason for refusal. Nevertheless, by virtue of the appeal site being outside of any recognised settlement limits, and not meeting the exceptions set out by Saved Policy H4, the proposal would conflict with Policy H4.

Ecological Impact on Local Nature Reserve

13. As already mentioned, the LNR is situated to the south of the site. The appeal site is situated at a slightly higher ground level to the LNR, with a gentle slope running down to the pond within the LNR. The LNR has an ecological importance by virtue of the habitats it provides, and the wildlife species it supports, both within the pond itself and the surrounding vegetation.
14. The proposal attracted a fairly significant amount of public objection, the majority of which was in relation to the ecological impact on the LNR, in particular the hydrological pathways to the pond. Therefore, I acknowledge the sensitivity of the LNR in regard to changes in water flows from the surrounding land, including the appeal site, to the pond.
15. I note from the Council's evidence that the appellant was advised of Natural England's (NE) concerns, notably the impacts on water levels and potential pollution from run off within the LNR, in May 2020. Following this, the appellant submitted further details including a Foul and Surface Water Drainage Strategy (July 2020), prepared by SDS Consulting. The proposed drainage strategy seeks to discharge surface water to the ordinary watercourse which runs along the northern boundary between the appeal site and Common Road, and discharges in an easterly direction. Consequently, the proposal would not discharge surface water flows towards the LNR.
16. I note that the follow up consultation response from NE in November 2020 considered that further clarification was still needed on whether the interception of surface water would significantly reduce water supply to the ground fed pond within the LNR and whether further mitigation measures are deemed necessary. However, the Council's Ecologist was satisfied that groundwater flows and quality would not be altered by the development, due to the distance between the proposed buildings and the LNR. This was confirmed by discussions with the Council's Drainage Team. I also note that there were no objections raised to the development by the Environment Agency (EA) and Wessex Water. Based on the evidence before me, I have no reason to come to a different conclusion on the matter.
17. Had I been minded to allow the appeal, further details regarding the surface water drainage, as well as a Construction Environmental Management Plan, would have been secured by suitably worded conditions. A 10m ecological landscape buffer would also be secured via the UU, which would act as a buffer between the proposal and the LNR. The UU would also secure the SUDS. These mechanisms would have ensured that the ecological value of the LNR would be protected and buffered. They would also ensure protection of all sensitive

ecological receptors both within and adjacent to the appeal site during the construction of the proposal.

18. Therefore, having carefully considered the technical evidence before me and the views of the relevant statutory consultees and that of the Council's Officers, whilst the concerns raised by local residents and the warden of the LNR are acknowledged, I am satisfied that any further matters regarding the ecological impact on the LNR could be controlled and maintained by appropriately worded conditions.
19. It is acknowledged that the appellant has submitted an additional report with their appeal statement, 'Ground Investigation – Groundwater Monitoring', (November 2021) prepared by Paddock Geo Engineering. I note that the Council have not commented or consulted on this document due to it being submitted during the appeal process, rather than during the application process. I also note the queries raised by members of the public in regard to the timing and methodology of this additional reporting. Nevertheless, even without this additional report, I am satisfied that, with appropriately worded conditions and the UU, the ecological value of the LNR would not be harmed.
20. Consequently, having regard to all of the matters raised, I am satisfied that the proposal would not harm the ecological value of the LNR. It would be in accordance with Core Policy 50 which requires development proposals to demonstrate how they protect features of nature conservation and geological value as part of the design rationale. Such features shall be retained, buffered, and managed favourably in order to maintain their ecological value, connectivity and functionality in the long-term.

Planning Balance and Conclusion

21. Although parties agree that the Council is unable to demonstrate a five-year supply of deliverable housing sites, there is disagreement regarding the extent of the shortfall. Whichever figure I use, Paragraph 11 of the Framework is engaged, which states that 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, or there are specific policies in the Framework which indicate that development should be restricted.
22. Subject to suitably worded conditions, I have found no harm to the ecological value of the LNR. However, the proposal would result in harm to the rural character and appearance of the area. Harm to which I ascribe substantial weight since it would be long lasting. As such it would be contrary to the aims of the Framework to ensure development would be sympathetic to local character, including the surrounding built environment and landscape setting and to ensure decisions enhance the natural environment by recognising the intrinsic character and beauty of the countryside.
23. Turning to the benefits, the proposal would provide a limited amount of short-term employment through the construction of the development. There would also be some further modest benefits that would result from the additional support to the vitality of the local community from the future occupiers of the development. The development would also deliver biodiversity gains. These benefits carry modest weight in favour of the development. The proposal would provide 2 affordable houses, as well as 2 market houses, which would be a

significant benefit and would go towards helping address the Council's housing shortfall whether it be 4.22 or 4.72 years.

24. Overall, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.
25. In conclusion, although acceptable in some regards, I have identified that there would be conflict with the development plan as a whole, as the proposal would not provide a suitable location for housing and would be contrary to the relevant policies in relation to the development strategy for the area and the character and appearance of the area. Considered in total, the material considerations referred to above do not outweigh the conflict with the development plan. The appeal should therefore be dismissed.

Laura Cuthbert

INSPECTOR