



Appeal Decision

Site visit made on 9 February 2023

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24th February 2023.

Appeal Ref: APP/U3935/W/22/3306188

Land to the rear of Saddlestones, 5 Butts Road, Chiseldon, Swindon SN4 0NN

- 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 Mr T Pawlowski and Mrs A Pawlowska against the decision of Swindon Borough Council.
 - The application Ref S/OUT/22/0796/PIMO, dated 23 May 2022, was refused by notice dated 3 August 2022.
 - The development proposed is erection of a single self-build dwelling and associated infrastructure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application seeks outline planning permission, with all matters except access reserved for future consideration. I shall deal with the appeal on this basis. The site has previously been the subject of a dismissed appeal¹ for outline consent for a dwelling in 2021 (the 2021 proposal), as well as earlier schemes. I have had regard to the planning history of the site, but I have reached my own conclusions on the proposal before me.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area, including the North Wessex Downs Area of Outstanding Natural Beauty (AONB) within which it would sit, and
 - whether the proposal would accord with the spatial strategy of the Development Plan.

Reasons

Character and Appearance

4. The site is located off Butts Road and consists of a small field on the edge of the village of Chiseldon, with dwellings close by. The AONB Management Plan (AONBMP) identifies the site and its surroundings as being within the Chiseldon–Warborough Plain, part of the Downs Plain and Scarp Landscape

¹ PINS reference APP/U3935/W/21/3268402

Character Area. Its characteristics includes large fields and a general absence of settlement.

5. The site is divided from the adjacent land and fields by close boarded fencing. It contains a shipping container and an area of raised flower bed. The site has previously received planning permission² for the construction of two stables and I saw that blockwork for a building has now been constructed on site.
6. Even so, whilst not a large field, the site is predominantly laid to grass and is gently undulating. There is undeveloped countryside to its side and rear. For these reasons, it retains a rural feel and so has greater affinity with the adjacent fields, rather than with the suburban form of the nearby dwellings. Stables and equestrian use, as previously approved, together with associated structures and vehicles, would also reflect its rural and countryside location.
7. The proposal is in outline but would introduce additional development in the form of a residential building onto the site. It would also result in car parking and the paraphernalia associated with a residential use, such as washing lines and children's play equipment. As such, the proposal would give the site a domestic character that would harm its rural appearance and diminish the general absence of settlement within the landscape.
8. The proposal may be smaller than the 2021 proposal, but scale is not a matter for consideration now. Layout is also a matter reserved for future application. However, the shape of the site means that a dwelling upon it would be sited largely beyond the rearmost extent of the built form of the adjacent dwellings. Therefore, rather than rounding or squaring off the village, as suggested by the appellant, it would in fact intrude beyond the physical limit of the built form of the settlement and into the countryside.
9. The village has a fluctuating spatial pattern of properties, but along Butts Road dwellings are formed in a linear arrangement. In contrast, the proposal would be in a backland location, positioned behind Saddlestones. It would not have the direct frontage access or linear alignment that is common for dwellings hereabouts. As such, it would conflict with the prevailing pattern of development and so would appear out of place with its context.
10. The submitted illustrative information suggests that the proposal could only have a single storey, restricting its visual impact. The position of the dwelling within the site may also limit its visual effects. However, I saw that views of the proposal and its effects would be obtainable from public locations, in particular from Butts Road, through the entrance driveway to the site. It would also be visible from the road leading to the nearby business park, and from the adjacent dwellings.
11. Therefore, for the reasons given above, the proposal would have a harmful effect on the character and appearance of the area, including the AONB. As such, it would be contrary to policy EN5 of the Swindon Borough Local Plan (SBLP), adopted March 2015, that protects the intrinsic character of the landscape. It also requires accordance with the AONBMP and the National Planning Policy Framework (the Framework). For the reasons I have already given, the proposal would conflict with these, including the requirement of the

² LPA reference S/12/1756/SASM

Framework to conserve and enhance the scenic beauty of the AONB, to which I give great weight.

12. The proposal would also conflict with SBLP Policy DE1, which requires that proposals reflect existing built characteristics. It would similarly conflict with the advice of the Swindon Residential Design Guide Supplementary Planning Document, adopted June 2016, that the character and context of a site can preclude backland proposals.

Spatial Strategy

13. Policy SD2 of the SBLP sets out the Council's strategy for sustainable development, to meet the need for development whilst protecting the most important assets of the Borough. As such, the policies map sets out Rural Settlement Boundaries (RSB), within which proportionate development is broadly supported. The site is on the edge of the village and so reasonably well connected to its school, shop and other services and facilities. This means that, having regard to the Court of Appeal decision at *Braintree*³, it would not be 'isolated' for the purposes of paragraph 80 of the Framework.
14. Even so, excluding its access route, the site is outside of the defined RSB. The Court of Appeal decision of *Wood*⁴ confirms that the position of a settlement boundary may not be determinative as to whether a site is within a 'village'. However, The Court's decision was in the context of Green Belt policy, and so has little relevance to this site, which is outside of any Green Belt. Furthermore, I have already found that the site has a closer physical affinity with the countryside than with the built-up village, despite being on its edge.
15. Although disputed by the Council, the appellant believes that the site constitutes previously developed land. The Framework seeks the efficient use of land and encourages the use of previously developed sites where suitable opportunities exist. However, even if I were to accept that the site does constitute previously developed land, in rural and countryside locations such as the appeal site, SBLP Policy SD2 only permits certain types of development. These are either those identified by the policy, such as tourist facilities, or specific types of development that other Local Plan policies permit in the countryside.
16. The proposal would not constitute a type of development permitted by SBLP Policy SD2 and no other policies supporting the specific type of development proposed have been brought to my attention. SBLP Policy SD2 states that it should be read in conjunction with SBLP Policy DE1. The proposal would comply with this policy in terms of its accessibility and connectivity, but I have already found conflict with it in other respects. The proposal would also conflict with the aim of the policy to protect important assets of the Borough, including the countryside.
17. Therefore, for the reasons given above, it would not accord with the spatial strategy of the Development Plan, being contrary to SBLP Policy SD2. It would similarly conflict with the requirement of the Framework to recognise the intrinsic character and beauty of the countryside.

³ Braintree DC v SSCLG [2018] EWCA Civ. 610

⁴ Julian Wood v SSCLG and Gravesham BC [2014] EWHC 683 (admin) [2015] EWCA Civ 195

Other Matters

18. The Council cannot demonstrate a five-year supply of housing land. However, in respect of Framework paragraph 11(d), and in light of my findings above, the policies in the Framework that protect areas or assets of particular importance, in this case the AONB, provide a clear reason for refusing the proposal. As such, paragraph 11(d) of the Framework is not engaged.
19. The Self-Build and Custom Housebuilding Act 2015, as amended, requires the Council to keep a register of individuals who are seeking to acquire serviced plots of land in their area who wish to undertake such projects. The Housing and Planning Act 2016 added a duty to grant planning permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the Authority's area arising in each base period.
20. The proposal would contribute to the supply of self-build dwellings. However, I have no substantive evidence that the Council is failing to provide sufficient self-build houses. Even if there is a shortfall, the proposal is for only one dwelling and so would make only a small contribution to the supply of such properties. I therefore give this limited weight.
21. The proposal would also make a positive economic contribution to the area during construction, as would its occupants, both socially and economically, but the small size of the proposal means that I give only limited weight to these benefits. The proposal would also provide ecological enhancements, through bat and bird boxes, but these benefits would also be minor and so I give them limited weight.
22. The site is close to the Chiseldon Conservation Area (CA) and to the Church of the Holy Cross, a Grade I listed building. However, the Council has not pursued its earlier concerns in respect of the 2021 proposal and the effect of development at the site on these heritage assets. Having considered the proposal and visited the site and its surroundings, I see no reason to depart from this view, or that of the previous Inspector on this matter.
23. I conclude that the proposal would conserve the listed building and its setting and would preserve the character and appearance of the CA. However, this is not inconsistent with my view regarding the effect of the proposal on the character and appearance of the area, because the CA only covers a small part of Butts Road and its predominantly linear form. My finding on the CA does not therefore alter my conclusions on the main issues.

Planning Balance and Conclusion

24. For the reasons given, I have found conflict with the Development Plan as a whole. The material considerations in this case do not indicate a decision other than in accordance with the Development Plan. This leads me to conclude that the appeal should be dismissed.

O Marigold

INSPECTOR