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# Appeal Decision

Site visit made on 11 May 2023

**by Jonathon Parsons MSc BSc DipTP Cert(Urb) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 21 July 2023**

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**Appeal Ref: APP/W0430/W/22/3295345**

**Land adjacent 123 Strongrove Hill, Bath Road, Hungerford RG17 0SJ**

- 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 Ms Belinda Spanswick against the decision of West Berkshire Council.
  - The application Ref 21/00185/FULD, dated 5 February 2021, was refused by notice dated 26 November 2021.
  - The development proposed is the erection of 2 detached 3 bedroom houses and associated works.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. Natural England have confirmed that the appeal site is not within the catchment of the River Lambourn SAC and nor does it have any connection with the River Lambourn either in terms of a foul wastewater connection or a land drainage connection. Therefore, the proposed development would not be likely to have any significant effect on the River Lambourn SAC.

## Main Issues

3. The main issues are (a) whether the proposal would be appropriately located, having regard to the spatial strategy and settlement hierarchy under the development plan and landscape and visual appearance, (b) flood risk and surface drainage.

## Reasons

### *Location*

4. The appeal site comprises land between an access track alongside Freemans Marsh and a major highway, the A4, leading out of Hungerford. The application site is situated in the open countryside as defined by Policy ADPP1 of West Berkshire Core Strategy (CS) 2006-2026 Development Plan Document, 2012, and Policy C1 of the Housing Site Allocations (HAS) Development Plan Document 2006-2026, 2017.

5. CS Policy ADPP1 states that most development will be within or adjacent to the settlements included in the settlement hierarchy within the policy, that is related to the transport accessibility of the settlements (especially by public transport, cycling and walking), their level of services and the availability of suitable sites for development. Under the settlement hierarchy, the appeal site would fall within open countryside where only appropriate limited development in the countryside will be allowed, focused on addressing identified needs and maintaining a strong rural economy.
6. HSA Policy C1 places a presumption against new residential development outside settlement boundaries, unless the proposal falls within an exception, such as limited infill in settlements in the open countryside, subject to criteria being met. Amongst these, the development must be within a closely-knit cluster of 10 or more existing dwellings adjacent to, or fronting an existing highway; the scale of development must consist of infilling a small undeveloped plot commensurate with the scale and character of existing dwellings within an otherwise built up frontage; and the plot size and spacing between dwellings must be similar to adjacent properties and respecting of the rural character and streetscene of the locality.
7. In this regard, the appeal site lies within a group of 7 dwellings, consisting of 4 terraced, 2 semi-detached and 1 detached. There is significant separation between the terraced and detached dwellings, and the detached dwelling and the semi-detached dwellings. The later separation comprises the appeal site and an access serving most of the dwellings. As such, the appeal site would not be within a closely-knit cluster of 10 or more dwellings. Within this group of existing dwellings, the plot sizes are varied in shape and size but given the lack of close-knit clustering, the development would not be within an otherwise built-up frontage. The development would not be infill given the number and spacing of dwellings within this hamlet, and therefore, there would be conflict with HSA Policy C1 and CS Policy ADPP1.
8. The appeal site lies within the North Wessex Downs Area of Outstanding Natural Beauty (AONB). The surrounding AONB has a varied undulating patchwork of fields, woodlands, and water features, marsh and river. The site is heavily overgrown with vegetation but, although sandwiched between the A4 and access track, it has a landscaped quality contributing to the rural attractiveness of the area and AONB.
9. CS Policy ADPP5 states new development should conserve and enhance the local distinctiveness and sense of place of the AONB. CS Policy CS14 requires new development to demonstrate sustainable and high quality design that respects and enhances the character and appearance of the area. CS Policy CS19 seeks to conserve and enhance the diversity and local distinctiveness of the landscape character, with particular regard to, the sensitivity of the area to change, and ensuring that new development is appropriate in terms of location, scale and design in the context of the existing settlement, form, pattern and character.
10. Paragraph 176 of the National Planning Policy Framework (the Framework) states great weight should be given to conserving and enhancing the landscape and scenic beauty in AONBs which have the highest status of protection.
11. The design of the dwellings would be in keeping with those within the hamlet and there would be lowered finished ground levels on this sloping site. There

would be amenity space separating the dwellings. Behind the site, there would be the main A4 highway on higher ground whilst beyond the access track, there is a Freemans marsh. Due to topography and vegetation, the site is well-screened and there would be limited wider landscape views of the development. However, the dwellings would be dominant given their height, proximity to the access track, restricted depth of the plots and hard surfaced dominated frontages. In particular, the end dwelling, closest to the access leading up to the main road, would be tightly positioned on its plot given its narrowness and depth of building. Such overdevelopment would be noticeable from the public right of way (PROW) routed along the access track.

12. Two previous houses on the site were burnt down. The Council's planning history indicates that the site was vacant and overgrown in 1977. There is still some doubt when the houses ceased on the site. However, they do not exist on the site now and based on my site inspection, have not done so for some significant period of time. The Council did permit the replacement of a burnt down dwelling at 126 Strongrove Hill but there is no evidence that this occurred after a lengthy period of time. Therefore, this previous use of site has limited relevance and significance.
13. For all these reasons, the location of the housing would conflict with the spatial strategy and settlement hierarchy, based on sustainable principles of the development plan, and although localised, there would be harm to the landscape and scenic beauty of the AONB. Accordingly, the proposal would be contrary to Policies ADPP1, ADPP5, CS14 and CS19 of the CS and Policy C1 of the HSA and paragraph 176 of the Framework.

#### *Flood Risk and surface water drainage*

14. The application site plan shows the housing part of the site to be within the Environment Agency (EA) Flood Zone 1 but the part of the site beyond the access track up to and including the back of the River Dun is within Flood Risk 2 and 3. The Council have also indicated it includes a small part of the functional flood plain. The appellant has indicated a Sustainable Urban Drainage System (SuDs) would be used, with run-off managed and routed towards the marsh.
15. CS Policy CS16 states where development has to be located in flood risk areas, it should not increase flood risk elsewhere and reduce that risk where possible. It requires Flood Risk Assessments (FRAs) for sites within Flood Risk 2 or 3. Development will only be permitted, if amongst other matters, it would not have a detrimental impact on the flow of fluvial flood water, surface water or obstruct the run-off of water due to high levels of groundwater. The policy further states, surface water will be managed in a sustainable manner through the implementation of SuDS in accordance with best practice and national standards and to provide attenuation at greenfield run-off rates.
16. The development would generate surface water run-off, including from roofs, hard surfaced areas and amenity areas, if waterlogged/hardened due to weather conditions. Additionally, there would be water discharge from the sewage treatment plant for each of the dwellings.

17. The appellant's SuDS statement<sup>1</sup> indicates hardsurfaced areas would be permeable gravel and surface runoff would enter into an infiltration area, comprising a geo-cellular system, underground storage crates, within a buffer area on other side of the access track, with controlled outflow into the marsh area. The treated water from the sewage treatment plant, a mechanical aerated system, would be discharged into a soakaway. The Lead Local Flood Authority and EA have raised no objections on flood risk grounds.
18. However, the drainage proposals are an integral part of the development and would be designed to discharge surface water into the marsh within Flood Zones 2 and 3. FRAs are designed to reduce the potential to increase flooding elsewhere, taking into account climate change and measures to deal with these effects and risks. Taking into account weather events generated by climate change, it has not been demonstrated that the SuDS would ensure acceptable surface water attenuation from the site based on Greenfield rates. There is little detail on surface water flows, hydrological and soil conditions, soil absorption capacity, the size of necessary geo cellular system and practicalities of siting it within the buffer area. Without more comprehensive details, it cannot be certain that the drainage approach would be successful and reinforces the view that an FRA is necessary.
19. Additionally, Natural England has commented on how the drainage proposals could affect the SSSI. The surface water discharge from the sewage treatment plan has been accepted but details are still required regarding control of pollutants and sediment from the outfall of the geo-cellular system into the marsh. For all these reasons, an FRA is necessary and an acceptable drainage system has not been demonstrated for the site. Accordingly, there would be conflict with Policy CS16 of the CS. There would also be conflict with paragraph 167 of the Framework.

#### *Other matters*

20. The provision of two dwellings would boost housing supply and increase the variety of land coming forward in accordance with paragraph 60 of the Framework. The development would accord with paragraph 69 of the Framework where it indicates small sites can make an important contribution to meeting the housing requirements of an area, and are often built out relatively quickly. There is no indication that the Council's Year Housing Land Supply (5YHLS) is in deficit, but it is dependent on larger sites and there is a lack of variety of land underpinning it. Given much of West Berkshire is covered by AONB, opportunities to develop small sites are restricted.
21. The construction of the dwellings would result in employment and use of local businesses, whilst the financial spend of new residents would similarly bring about economic benefits. Hungerford town centre is within a 10 minute walk time along a footway on the A4. The town has a railway station with regular services to London, Reading and other settlements. A network of PROWs provide access to the surrounding countryside, features and villages. Residents of the development would be sustainably located, having regard to facilities and services. The housing, financial and sustainable nature of the location are considerations weighing in favour of granting planning permission for development.

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<sup>1</sup> Reference for SUDS and Environmental Planning (Natural England) , undated.

22. The Framework defines previously developed land as land which is or was occupied by a permanent structure including the curtilage of the developed land. However, the definition excludes land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape. Here, the former dwellings have been salvaged from the site and remaining brick structures have blended into the landscape. For these reasons, the site is not previously developed.
23. Blanket planning policies restricting development should be avoided. However, HSA Policy C1 does not fall within that category in that it does permit development outside settlement boundaries and in the interests of the plan's sustainability spatial strategy and settlement hierarchy, sets out criteria for acceptability. CS Policy ADPP5 places an emphasis on further opportunities being available for infill development and on previously developed land but for the reasons indicated, the appeal site is not previously developed land and would not be infill development within HSA Policy C1.
24. There have been two previous dwellings on the appeal site but given the considerable period of time that has lapsed, the new dwellings cannot be considered as replacement. By reason of this time that has lapsed, the former establishment of two dwellings has reduced importance and only small weight can be given to this consideration.
25. In an appeal at Hamstead Marshall, an Inspector considered whether undeveloped plots could come within the ambit of the HSA Policy C1, with regard to infill. I do not disagree and even though the appeal site is not previously developed, this does not exclude consideration of this appeal site under this policy. However, the current appeal proposal before me does not comply with policy criteria in terms of size of hamlet, number of dwellings, and spatial characteristics.
26. In an appeal at Upper Inglesham, an Inspector gave greater weight to policies boosting housing supply in allowing residential development. However, in this decision, the Council had no 5YHLS, there was no harm to the character and appearance of the area and AONB was not an issue. In the Hamstead appeal, the Inspector found the appeal site to be within a close-knit cluster of 10 dwellings. Therefore, there are significant differences between these appeal decisions and the appeal proposal before me and they demonstrate that every appeal has to be considered on its particular planning merits. Accordingly, negligible weight is given to these appeal decisions.

### *Planning Balance*

27. The proposal would result in the addition of housing, in a sustainable location, having regard to non-private vehicle modes of transport. There would be economic benefits derived from the construction of the dwellings and financial spend of residents. However, there would be harm to the Council's spatial strategy and settlement hierarchy for development, AONB and flood risk, in conflict with ADPP1, ADPP5, CS14, CS16 and CS19 of the CS and Policy C1 of the HSA. Such harms would be substantial and determinative, and therefore, there would be conflict with the development plan taken as a whole. There are no material considerations of sufficient weight or importance that determine that the decision should be taken other than in accordance with the development plan.

## **Conclusion**

28. For the reasons given above and having regard to all other matters raised, including support, I conclude that the appeal is dismissed.

*Jonathon Parsons*

INSPECTOR