



Appeal Decision

Site visit made on 18 July 2023

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 September 2023

Appeal Ref: APP/Y3940/W/23/3314731

Land adjacent to The Stables, Sutton Hill, Sutton Mandeville, Salisbury, Wiltshire SP3 5ND

- 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 Ben Allen against the decision of Wiltshire Council.
 - The application Ref PL/2022/03875, dated 18 May 2022, was refused by notice dated 19 July 2022.
 - The development proposed is construction of a four bedroom detached dwelling and car barn with associated vehicular access.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposal would represent a suitable location for housing;
 - the effect of the proposal on the character and appearance of the area and the landscape and scenic beauty of the Cranborne Chase and West Wiltshire Downs Area of Outstanding Natural Beauty (AONB);
 - the effect on highway safety;
 - the effect on archaeological remains in the area;
 - the effect on protected species and other wildlife;
 - the effect on the integrity of designated nature conservation sites, with respect to nutrient levels.

Reasons

Location for Housing

3. Core Policy 1 of the Wiltshire Core Strategy (January 2015) (the WCS) sets out the settlement strategy for the area, with a hierarchy of settlements to which development will be directed. Under Core Policy 27, Sutton Mandeville is classed as a small village within the lowest tier, defined as those with a low level of services and facilities, and few employment opportunities. Development in these villages will be limited to that needed to help meet the housing needs of settlements and to improve employment opportunities. The appellant points to his family's desire to continue living locally, but housing needs in the context of the policy refers to objective need arising from a local housing need survey, particularly with respect to affordable housing need. I have nothing before me to indicate a particular need for market housing in Sutton Mandeville.

4. Under Core Policy 2, development in small villages is further limited to infill within the existing built area, and supported where it addresses the needs set out in Core Policy 1 and also respects the character of the settlement, does not elongate the village or impose development in sensitive landscape areas and does not consolidate an existing sporadic loose knit areas of development related to the settlement.
5. The appeal site comprises an undeveloped, arable field on the southern side of Sutton Hill. Development along Sutton Hill comprises loose-knit, individual dwellings set in large plots, often with discernible open fields between them. The main cluster of development in the village is set around All Saints Church to the east of the site; however, even this is a small, loose arrangement of dwellings with those to the northern side from Sutton Hill heavily screened from view by the topography and mature trees. In essence, the village is little more than this small cluster with dispersed rural housing along the roads leading to and from it.
6. The proposed dwelling would occupy a central position within the rectangular plot. In spatial terms, the dwelling would have a similar plot size and plot ratio to nearby development on Sutton Hill. However, it would not represent infill development under Core Policy 2 as there would still be open land between the appeal site and the next house to the west, The Old School House. Moreover, from my observations, the spacing of the dwellings to the west of the site along Sutton Hill is such that they are not read as contiguous parts of a built-up village area, but individual rural dwellings within the open countryside. Therefore, I find that the proposed dwelling would extend the main cluster of the village westward into the countryside, elongating the village in doing so, and would contribute towards the consolidation of sporadic loose knit development related to the settlement. Each of these outcomes would conflict with the criteria of Core Policy 2.
7. Moreover, with the exception of the church, Sutton Mandeville has no facilities to serve the day-to-day needs of residents, with the nearest facilities in Fovant between 1 and 2.5 km away along a narrow, single lane road with no footpaths or lighting. Consequently, occupants would rely on the private car for virtually all trips to meet daily needs. The applicant points to the proposal including space for working from home, and a school bus service, which I accept may reduce daily commuting by car. However, this would not address the inaccessibility of the site to local services, and there is also no guarantee that the appellant or future occupants would work from home in perpetuity.
8. I recognise that much of Wiltshire is rural, and the National Planning Policy Framework (the Framework) recognises that opportunities for sustainable modes of transport will vary between urban and rural areas. However, the priority of the settlement strategy is to direct development to the most sustainable locations with the greatest access to services, facilities and employment opportunities, and in the absence of substantive evidence to demonstrate that the particular site location is justified over one in a higher order settlement, the proposal would conflict with the strategic aims of the settlement strategy. Therefore, for the reasons set out, the proposal would not represent a suitable location for housing, contrary to the settlement strategy set out in Core Policies 1 and 2 of the WCS, and the aims of Core Policy 60 to reduce the need to travel by private car, and support and encourage the sustainable, safe and efficient movement of people and goods.

Character and Appearance/Effect on AONB

9. The site is undeveloped agricultural land forming a continuous part of the open countryside extending to the south. The site lies within the AONB which is noted as one of the darkest parts of southern England and a designated International Dark Sky Reserve. The Framework requires that great weight be given to conserving and enhancing landscape and scenic beauty within AONBs, which have the highest status of protection in relation to these issues.
10. I accept that the site is relatively contained within the landscape, such that it would not have a significant effect on broad vistas or notable landscape features within the AONB. However, the proposal would introduce built development to a presently undeveloped and agricultural site. Although its scale is limited, it would be at odds with the overwhelmingly rural character of the area and would create the potential for light pollution that would detract from the dark skies that form a notable feature of the AONB. The appellant has indicated a willingness to omit the rooflights from the proposal to address concerns over light pollution; however, the several large window openings proposed would still present a risk of light pollution during hours of darkness.
11. The dwelling would stand side-on to the road and would have a barn-like design, comprising a rectangular footprint with walls clad in natural larch boarding. The scale of the proposal would not be dissimilar to that of other nearby development, which in several cases includes large, detached outbuildings. The extent of development would not appear cramped on the plot and the depth of the dwelling within the site would be consistent with the depth of the adjacent dwellings to the east.
12. The main part of the dwelling would have a pitched roof with small hips to either end furthering the barn aesthetic. However, the main ridge line would be offset towards the rear, creating a substantial roof area to the façade facing the road which would create an overbearing expanse that would physically and visually dominate the dwelling, an impact that would be exacerbated if the rooflights are omitted as it would then become an unbroken expanse. The lower rear element of the dwelling would also have a larger hip than the main roof, whilst the detached garage would have no hip. This uncoordinated roofscape would result in the overall development lacking cohesion.
13. The use of natural timber cladding is common in rural areas, and I noted its partial use on some neighbouring dwellings. However, the predominant materials within the immediate area are stone or red brick, both of which are characteristic of traditional rural dwellings. The extent of timber boarding proposed, alongside contemporary aluminium-framed windows, would create an uncharacteristic, modern appearance that would fail to reflect the prevailing traditional, rural character.
14. The proposal would require the enlargement of the existing field access to create the entrance to the development. Most notably, the existing hedgerow to either side would have to be translocated back to provide adequate visibility splays at the entrance. Whilst the age of the hedgerow is a point of dispute between the parties, it is clearly an established feature which frames the lane along Sutton Hill and reinforces its rural character. A translocated hedge would require time to re-establish, until which time there would be a more open frontage that would make the development more conspicuous and exacerbating its harmful impact. Even when established, the access would more visible due

to the widened lane which would continue to detract from the narrow, enclosed nature of Sutton Hill.

15. For these reasons, I conclude that the proposal would cause significant harm to the character and appearance of the area and in encroaching into the open countryside would fail to conserve or enhance the landscape and scenic beauty of the AONB. This results in conflict with Core Policies 51 and 57 which require that development should protect, conserve and where possible enhance landscape character, including the special qualities of AONBs, and should achieve a high standard of design that relates positively to its landscape setting, the existing pattern of development and existing landscape features. Having regard to the Framework, the harm to the AONB weighs strongly against the proposal.

Highway Safety

16. As set out above, the Council seeks provision of visibility splays to either side of the site entrance to ensure safe egress from the site, but points to the required splay to the east crossing over third party land, the consequence being that the appellant cannot demonstrate that the sight line could be maintained over this land in perpetuity. The local highway authority also points to the proposed visibility to the east falling short of that required for a road with a national speed limit.
17. I saw on site that although Sutton Hill is subject to the national speed limit, it is not wide enough for two vehicles to pass at that speed. In reality, traffic is likely to travel considerably slower due to the risk of meeting oncoming traffic unexpectedly. Moreover, I saw traffic to be quite low during my visit. Although this was only a snapshot, it tallies with the small scale of Sutton Mandeville and the fact that it is not a destination for services or a particular through route between larger settlements.
18. Given these factors, I am satisfied that the visibility distances proposed would be adequate in the circumstances. However, the evidence includes objection from the neighbouring landowner over whose land the sight line to the east would cross, pointing out that it would encroach into the existing banking and hedgerow, in essence requiring their partial removal to achieve adequate visibility. My own observations indicated that this would be the case, and in the absence of evidence that this could be accommodated, the proposal would fail to achieve suitable visibility splays. Therefore, safe egress from the site would not be achieved.
19. The appellant suggests that the access can be moved, but I have no alternative plans showing a different arrangement. In any event, the appeal process should not be used to evolve a scheme and what is considered should essentially be the same scheme that was considered by the Council and interested parties at the application stage. Therefore, I have not given weight to any hypothetical alternative access to that shown on the submitted plans.
20. For these reasons, the proposal would conflict with Core Policy 61 of the WCS, which requires that development is capable of being served by safe access to the highway network and consideration is given to the needs of all transport users. There would also be conflict with similar provisions of the Framework to provide safe access.

Archaeology

21. The Council sets out that the site lies within an area of archaeological interest, being within the presumed extent of the historic settlement of Sutton Mandeville. No archaeological information has been provided with the application and the comments of the Council's archaeologist do not expand on the potential archaeological interest that the site may hold. I do note anecdotal comments from interested parties, both archaeologists, that medieval pottery and older material has been found in neighbouring gardens and around Sutton Mandeville.
22. The appellant suggests the matter can be dealt with by planning condition. However, Paragraph 194 of the Framework states that where a site includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.
23. On the evidence before me, there is potential that the appeal site may contain unidentified archaeological remains. In the absence of a detailed assessment, it is not possible to establish the presence or extent of archaeological remains, their level of heritage significance and what the most appropriate response to them might be, such as preservation in situ or recording. Therefore, I cannot conclude that the development would not have a harmful impact on heritage assets. Furthermore, I am not satisfied that a planning condition would be sufficient to address this concern. I therefore conclude that the scheme would conflict with the Framework's protection of heritage assets and the similar requirements of Core Policy 58 of the WCS.

Protected Species

24. The site lies within the Core Area of the Chilmark Bat Special Area of Conservation (SAC), designated as a high quality habitat for three bat species dependent on woodlands, hedgerows and grazed pastures for foraging. All bat species are protected under the Conservation of Habitats and Species Regulations 2017 (the CHSR) and the Wildlife and Countryside Act 1981.
25. Given the position of the site within the SAC, there is potential for bats to be present. Moreover, the proposed translocation of the front boundary hedgerow has the potential to disrupt bat foraging routes and habitats for other species. No information has been submitted in respect of the ecology of the site, in particular bats but also in respect of other species which may be present. Consequently, it is not known to what extent bats and other species are present on the site and, therefore, it is not possible to identify suitable mitigation measures to minimise the potential impacts on protected species. Full details of any mitigation measures would need to be provided in order to apply for a licence from Natural England. However, in the absence of these details, I cannot be certain that an application for a license would be successful.
26. Circular 06/2005¹ states that the presence of a protected species is a material consideration when a development is being considered which would be likely to result in harm to the species or its habitat. It goes on to state at Paragraph 99 that it is essential that the presence or otherwise of protected species, and the

¹ Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System

extent that they may be affected by the proposed development, is established *before* planning permission is granted (my emphasis), and that surveys should only be required by condition in exceptional circumstances. No exceptional circumstances have been advanced by the appellant and given the lack of information available in relation to the appeal site, use of a pre-commencement condition would not be an appropriate course of action in this case.

27. The absence of sufficient information means that I cannot rule out potentially significant harm to protected species and the integrity of the SAC. Therefore, the proposal would conflict with Core Policy 50 of the WCS, which requires proposals to demonstrate that they protect features of nature conservation and geological value as part of the design rationale and shall incorporate appropriate measures to avoid and reduce disturbance of sensitive wildlife species and habitats. The proposal would also be contrary to the Framework which states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Effect on Designated Nature Conservation Sites

28. The appeal site falls within the catchment of the River Avon SAC and has potential to cause adverse effects alone or in combination with other developments through discharge of phosphorus in wastewater, further to advice issued by Natural England that an increasing number of waterbodies are now deemed to be in 'unfavourable' conservation status for the purposes of the CHSR due to the levels of nitrates and/or phosphates present.
29. Proposed development could further increase nutrient levels and adversely affect the integrity of the protected sites. The CHSR prevents the competent authority from granting permission unless the proposal would not adversely affect the integrity of the SAC. I am the competent authority for the purposes of this appeal.
30. Wiltshire Council has agreed a Memorandum of Understanding with Natural England to put in place measures to ensure all developments permitted between March 2018 and March 2026 are phosphorus neutral in perpetuity. All 'planned development,' which in essence is development that accords with the development plan policies relating to the location of housing, is covered by the Council's phosphorus mitigation strategy.
31. However, given my findings above, the proposal would not amount to 'planned development' as defined under the WCS and the proposal would be required to address its impact on the SAC in terms of phosphorus. No information has been forthcoming from the appellant in this respect. Consequently, I am unable to determine the extent to which the integrity of the SAC would be affected or what form and extent of mitigation would be required to address it.
32. Overall, there is insufficient evidence before me to demonstrate that the proposed development would achieve phosphate neutrality in respect of the River Avon SAC. Consequently, I cannot rule out that the proposal would adversely affect the integrity of the protected site. Therefore, the proposal would conflict with the aforementioned protection of features of nature conservation under Core Policy 50 and also Core Policy 69 which requires that proposals incorporate measures during construction and operation to avoid and prevent pollution and mitigate potential disturbance effects on the River Avon

SAC. The proposal would further conflict with the Framework's approach to biodiversity as set out above.

Other Matters

33. Interested parties have raised concerns in respect of flood risk. The Council was initially satisfied that the use of a package treatment plant for foul drainage and soakaways for surface water drainage could adequately address the matter. However, in its appeal statement, the Council refers to updated mapping showing the site to be at risk from high levels of groundwater, with the Council's Strategic Flood Risk Assessment requiring development on sites shown to be at high risk to be accompanied by a sequential test. I have no response from the appellant to this information but note representations from neighbouring occupants about flooding that has occurred close to the site. I do not dismiss these concerns, or the information raised by the Council, but as my conclusions on the main issues point toward dismissal of the appeal, it is not necessary for me to address this issue further, as it would not be decisive to my overall conclusions.
34. The Council did not conclude that harm would be caused to neighbours' living conditions, due to the separation distances between the neighbour and the proposed dwelling. I saw that, at present, there would be potential for some long range views towards the neighbouring property due to the low boundary treatment between the sites, but should the proposed landscaping be implemented, this would filter views and prevent invasive overlooking. The proposed dwelling would otherwise be sufficiently distant to avoid overbearing effects. Neighbours would lose the existing outlook over the undeveloped appeal site, but would retain clear outlook to the rear, and so would not be unacceptably harmed by the proposal in this respect.
35. I have noted the appellant's personal circumstances, in particular a desire to remain living locally. However, these are ultimately private interests rather than public benefits, and so are not matters to which I ascribe favourable weight in the planning balance.

Planning Balance

36. The Council accepts that it cannot demonstrate a five year supply of deliverable housing sites, indicating a supply of 4.6 years as of May 2023. Consequently, the Council's policies for the delivery of housing, including Core Policies 1 and 2, should be regarded as out-of-date. In this case, Paragraph 11(d)(i) of the Framework indicates that planning permission should be granted unless application of policies in the Framework that protect areas or assets of particular importance provide clear reasons for refusing the development proposed. AONBs and SACs are two such areas or assets and my findings of harm above with respect to both provide clear reasons to refuse the development proposed. Therefore, the presumption in favour of sustainable development does not apply and the proposal falls to be determined against the development plan, having regard to other material considerations.
37. In that respect, I have found conflict with the development plan in respect of each of the main issues. Whilst policies relating to the supply of housing are out-of-date, they set out a settlement strategy that reflects the Framework approach of delivering sustainable development and therefore still merit moderate weight. Other policies referred to above are consistent with the

Framework and conflict with them, and the development plan as a whole, carries significant weight.

38. The addition of a single dwelling, even in the context of a housing shortfall in Wiltshire, would attract only limited weight in favour of the proposal. So too would the modest economic activity that the development would generate for the local area. These limited benefits would not be sufficient to outweigh the identified conflict with the development plan, and there are no other material considerations that indicate permission should be forthcoming in spite of this conflict.

Conclusion

39. For the reasons set out, the appeal is dismissed.

K Savage

INSPECTOR