



Appeal Decision

Site visit made on 3 October 2023

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd October 2023

Appeal Ref: APP/Y3940/W/23/3318945

Land adjacent to Rossley House, Milbourne, Malmesbury, Wiltshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Messrs Brown against the decision of Wiltshire Council.
 - The application Ref PL/2022/08492, dated 2 November 2022, was refused by notice dated 15 February 2023.
 - The development proposed is erection of one dwelling.
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Decision

1. The appeal is allowed and permission in principle is granted for residential development comprising one dwelling at Land adjacent to Rossley House, Milbourne, Malmesbury, Wiltshire in accordance with the terms of the application, Ref PL/2022/08492, dated 2 November 2022.

Procedural Matters

2. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second ('technical details consent') stage is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted¹. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted. I have determined the appeal accordingly.
4. An applicant can apply for permission in principle for a range of dwellings by expressing a minimum and maximum net number of dwellings as part of the application. In this instance, permission in principle has been sought for one dwelling on the appeal site. I have determined the appeal on that basis.
5. A drawing has been submitted showing a possible layout, this is considered as indicative only.

Main Issue

6. The main issue is whether the location, proposed land use and the amount of development is suitable with particular regard to the local housing strategy, the character and appearance of the area, and local and national policy relating to accessibility to services and facilities.

¹ PPG Paragraph: 012 Reference ID : 58-012-20180615

Reasons

7. The appeal site is located in an area of relatively low-density residential development accessed off a road where development generally fronts it, or form part of more separated development set back from the main road. As a result, there are some sporadic groups of buildings set back from the road and which form part of the built form of the area alongside the road frontage development.
8. The appeal site is set back from the main road off a private access serving Rossley House, the Old Farmhouse and their associated buildings. These buildings are also located near the end of the access set back from the road. The site is relatively flat and forms part of a larger agricultural field. The site is not within a designated sensitive landscape area.
9. The spatial strategy for the location of housing in the area is outlined in Core Policies 1, 2 and 13 of the Wiltshire Core Strategy (January 2015) (CS). Core Policy 1 of the CS states that settlements with a low level of services and facilities, and few employment opportunities, are classified as Small Villages. Policy 2 of the CS states that at the Small Villages development will be limited to infill within the existing built area. It goes on to state that proposals for development within Small Villages will be supported where they seek to meet housing needs of settlements. This is subject to the development respecting the existing character and form of the settlement; not elongating the village or imposing development in sensitive landscape areas; and does not consolidate an existing sporadic loose knit areas of development related to the settlement. It is relevant to note that Core Policy 2 of the CS does not define settlement limits or boundaries.
10. Core Policy 13 of the CS identifies Milbourne as a Small Village whilst Policy 3 of the Malmesbury Neighbourhood Plan Volume 1 – Main Body (February 2015) (NP) follows the approach set out in Core Policy 2 of the CS. As the proposal is for a new open market dwelling, it does not benefit from, or seek support under, Policy H4 of the LP.
11. There are a range of services and facilities at Malmesbury and despite the lack of footpaths on the main road through Milbourne connecting to Malmesbury, the site is located close to a bus stop with access available by foot. Grass verges provide refuge from the road that was lightly trafficked at the time of my site visit. There is a regular bus service from the bus stop on Monday to Saturday serving Malmesbury, Chippenham and Wootton Bassett. In light of this, and given support from Core Policy 2 of the CS to development in Small Villages that meet housing needs, and from Paragraph 79 of the National Planning Policy Framework (the Framework) to development in one village supporting services in a village nearby, the site would be in an accessible location. As a result, the proposal would help to reduce the need to travel by private car.
12. With regard to impacts on the ground, the site occupies a gap in the built area between Monks Park estate and Rossley House/The Old Farmhouse. The more modern appearance of the estate and the boundary hedge adjoining the site and associated access form a strong visual termination to the estate. With Rossley House and the Old Farmhouse being more traditional in design set back further from the main road through the village with their own access, they have a very different character to the estate. In light of this, given the position

of Rossley House and The Old Farmhouse on the opposite side of the access lane to the appeal site, and the length of the frontage to the agricultural field to the lane that the site forms part of, the appeal site does not represent in-fill development or the filling of a small gap within the existing built area.

However, the site is well screened by existing vegetation along the main road, alongside the access road to the appeal site, and by the development forming Monks Park estate. As a result, only very limited views of the site are visible from the main road.

13. Given that the appeal site is set back from the main access lane through the village and is well screened, the loss of the open nature of the appeal site would not be harmful to the wider rural character of the area. Moreover, the appeal site faces the access lane to Rossley House/The Old Farmhouse and would follow and read as part of the pattern of development off this access appearing distinctly separate from the adjoining estate. For the same reasons, and particularly as the development would read as part of the complex of buildings forming Rossley House and the Old Farmhouse, the proposal would not elongate the village.
14. Given that the appeal site faces the access lane to Rossley House/The Old Farmhouse, it would follow and read as part of the pattern of development off this access appearing distinctly separate from the adjoining estate. Moreover, given that the site is set back from the main access lane through the village and is well screened from this road, the proposal would not elongate the village and the loss of the open nature of the appeal site would not be harmful to the wider rural character of the area.
15. I see no reason to suggest that a suitable design of dwelling respecting the form of the buildings off the access lane could not be secured at the Technical Details Consent stage. Given this, given the screening to the site and nature of the development fronting the access lane similar to Rossley House/The Old Farmhouse forming and reading as part of this complex of buildings, a single dwelling would not noticeably or harmfully combine the looser knit development around Rossley House/The Old Farmhouse into the settlement. Additionally, the amount of development would be compatible with surrounding land uses and densities.
16. The Council acknowledge that they are currently unable to demonstrate a five-year supply of housing land. Therefore, the presumption in favour of sustainable development outlined in Paragraph 11d)ii of the Framework is engaged. I also note that as the Council cannot demonstrate a five-year supply of deliverable housing sites, they have produced a 5 Year Housing Land Supply and Housing Delivery Test Briefing Note No. 22-09 (BN). This states that in order to restore a five-year housing land supply, the Council will 'Positively consider speculative applications where there are no major policy obstacles material to the decision other than a site being outside settlement boundaries or unallocated'.
17. Paragraph 11 of the Framework states that where policies that are most important for determining a proposal are out of date, 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 specific policies in the Framework indicate development should be restricted.

18. The proposal would conflict with the housing strategy in the development plan where it limits development within Small Villages to infill within the existing built area. These policies are broadly consistent with the Framework where it states that the planning system should actively manage patterns of growth and seek to protect the character and appearance of areas so still carry a reasonably significant amount of weight.
19. Addressing the adverse impact of the proposed development first, it would be located such that it is not infill within the existing built area. There would be a degree of urbanisation and countryside encroachment through an additional dwelling. However, it would be located such that it would respect the existing character and form of the settlement, would not elongate the village or impose development in sensitive landscape areas, and would not consolidate an existing sporadic loose knit area of development related to the settlement. Thus, the adverse impacts on the character and appearance of the area would be very limited.
20. Turning to the benefits, the proposal would contribute to the supply of housing and add towards addressing the existing shortfall in housing land supply. The site is located such that it would help to reduce the need to travel by car. The proposal would align with the Framework where it seeks to significantly boost the supply of housing and acknowledges that small-scale developments can make an important contribution to meeting the housing requirement and be built out quickly. These benefits are tempered by the scale of the proposal, but nevertheless carry modest weight in favour of the development.
21. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the development plan, unless material considerations indicate otherwise.
22. The proposal benefits from the presumption of sustainable development as outlined in Paragraph 11d)ii of the Framework. In this instance, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
23. In conclusion, whilst not in full accordance with Core Policies 1, 2 and 13 of the CS and Policy 3 of the NP, the proposed development would provide a suitable location for housing. It would accord with Core Policies 51, 60 and 61 of the CS having regard to the character and appearance of the area, and local and national policy relating to accessibility to services and facilities. Therefore, and on the basis of the individual merits of the scheme, the material considerations indicate that planning permission should be granted notwithstanding the conflict with the development plan.

Other Considerations

24. I note the concerns expressed by a local resident regarding the proximity of the proposed dwelling to neighbouring properties. However, the site is large enough to accommodate a detached dwelling with matters relating to any effect on the living conditions of neighbouring properties for consideration under the required subsequent application for technical details consent.

Conditions

25. The PPG indicates that it is not possible to impose conditions as the terms of any permission in principle must only include site location, type of development and amount².

Conclusion

26. I conclude that, for the reasons given above, the appeal is allowed.

C Rose

INSPECTOR

² Paragraph: 020 Reference ID: 58-020-20180615