

Appeal Decision

Site visit made on 30 July 2024

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2024

Appeal Ref: APP/Y3940/W/24/3339090

Land at Washpool, Swindon, Wiltshire, SN5 3PN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by E.P. Keogh Contractors Limited against the decision of Wiltshire Council.
 - The application Ref is PL/2023/00424.
 - The development proposed is described as "demolition of various outbuildings and erection of a 3-bedroom detached dwelling and associated works."
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by E.P. Keogh Contractors Limited against Wiltshire Council. This application is the subject of a separate decision.

Main Issues

3. The main issues are;
 - Whether the proposed development would be consistent with local and national policies relating to the location of new housing development;
 - Whether the proposed development would be at an unacceptable risk of flooding;
 - The effect of the proposed development on the character and appearance of the area; and
 - The effect of the proposed development on highway safety.

Reasons

Location

4. Core Policy 1 of the Wiltshire Core Strategy 2015 (CS) sets out the settlement strategy for Wiltshire and identifies the settlements where sustainable development will take place. The appeal site is outside the defined limits of development of Lydiard Millicent, the closest settlement in Wiltshire Council area, which is identified as a Small Village the CS. Core Policy 2 sets out that, other than in circumstances permitted by other

policies within the plan, development will not be permitted outside the limits of development as defined on the policies map.

5. CS Core Policy 44 and CS Core Policy 48 examples of such policies. Core Policy 44 is an exception site which allows housing for local need, solely for affordable housing. Core Policy 48, amongst other things, permits residential dwellings where they meet the accommodation needs required to enable workers to live at or in the immediate vicinity of their place of work in the interests of agriculture or forestry or other employment essential to the countryside.
6. The appeal site relates to a triangular shaped area of land that appears to be used as a storage yard. It comprises an area of hardstanding and three detached buildings. Access to the site is from Washpool and is shared with a row of garages. It lies to the east of the settlement of Lydiard Millicent, the closest settlement in the Wiltshire Council area. However, Washpools acts as the boundary between Wiltshire Council and Swindon and the appeal site is located adjacent to the town of Swindon, the built-up part of which lies to the east of the appeal site.
7. As a result, the site lies outside of the defined settlement boundary of Lydiard Millicent and Swindon and is therefore considered to be in the open countryside. It is not allocated for housing and the proposal would not fall within any of the exceptions set out by the development plan to enable new development in the open countryside. It would not be supported by any other policies.
8. When travelling along Washpools the area has a semi-rural character with agricultural fields and small groups of dwellings, and mature trees and hedgerows adding to its character. The access highway, Washpools, is a single-track road with no footpath or street lights. Whilst Swindon is located on the opposite side of the road, the existing mature trees and hedgerows screen the town from views from the immediate area.
9. The site is located adjacent to the western extent of the town of Swindon, which contains a range of services to meet day to day needs. However, the site is more closely aligned with its semi-rural characteristics than the more built-up area of Swindon. During my site visit I noted that there was a small section of pavement in front of some dwellings but this does not follow the entire road. I also saw a cycle/foot path that led toward Swindon; however, this was unlit and wooded. Furthermore, to access the path occupiers of the proposal would need to firstly travel along the single, unlit road.
10. The distance between the appeal site and services and facilities, the narrow road, lack of pavement and lack of street and path lighting would discourage occupiers of the proposed dwelling from walking or cycling to access shops, services, and facilities. Therefore, it is reasonable to conclude that occupiers of the proposed dwelling would be heavily reliant upon the use of a private car to access shops, services, and facilities, especially during inclement weather and the winter months when daylight hours are limited.
11. It would not be immediately adjacent to the settlement boundary. It is not allocated for housing and the proposal would not fall within any of the exceptions set out by the development plan to enable new development in

the open countryside. It would not be supported by any other policies. Notably, it would not fall under the definition of an infill site, as set out in the development plan.

12. The proposed development would not provide a suitable location for housing having regard to the accessibility to services and facilities. Therefore, it would not accord with CS policies Core Policy 1, Core Policy 2, Core Policy 44, Core Policy 48, Core Policy 57, Core Policy 60 and Core Policy 61 and Policy LM1 of the Lydiard Millicent Neighbourhood Plan (2021) (NP) which, amongst other things, seek to protect the countryside from inappropriate development and reduce the need to travel by private car. It would also not meet the aims of paragraph 8 of the National Planning Policy Framework (the Framework) in terms of ensuring accessible services and facilities.

Flood Risk

13. It comprises a triangular parcel of land bound by existing garages to the north, the adjoining highway to the east and a stream to the south and west. It is entirely within an area designated as Flood Zone 2 and 3a, which includes land with a high probability of flooding. The proposal, as a residential dwelling, is a 'more vulnerable' classification of land use.
14. Paragraph 165 of the Framework sets out that inappropriate development in area at risk of flooding should be avoided by directing it away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.
15. Paragraph 168 of the Framework states that the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.
16. Paragraph 173 requires that when determining applications, local planning authorities should ensure flood risk is not increased elsewhere, applications should be supported by a site-specific flood risk-assessment. Development should only be allowed in areas at risk of flooding, in the light of this assessment (and the sequential and exception tests, as applicable) where it can be demonstrated that within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location; appropriately flood resistant and resilient; incorporates sustainable drainage systems; any residual risk can be safely managed; and safe access and escape routes provided.
17. The submitted Sequential and Exception Assessment does not provide substantive evidence to demonstrate that there are no other sequentially preferable sites. The appellant has only considered sites on Washpool. However, in the particular circumstances of this case, particularly considering the proximity of the site to Swindon, I consider that such an area of search is unnecessarily restrictive. It is the aim of national and local

planning policy to steer new development to areas with the lowest risk of flooding.

18. Consequently, I find that the proposal has failed to meet the requirements of the sequential test. The sequential test must be passed before the exception test can be applied. I have therefore not applied the exception test.
19. Whilst I note that the Environment Agency has not raised concerns regarding the proposed mitigation measures contained within the appellant's Flood Risk Assessment, this does not overcome the need to firstly pass the sequential and exception tests to establish whether the appeal proposal is acceptable in principle on flood risk grounds. Taking all matters into consideration, the proposal would not be acceptable in respect of the risk of flooding.
20. The proposal would therefore conflict with CS Core Policy 67 which seeks, amongst other things, to ensure that developments are located in sequentially superior locations. It would also run contrary to paragraphs 165, 168 and 173 of the Framework and guidance within the Planning Practice Guidance, as it fails to adequately demonstrate that there are no reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.

Character and Appearance

21. The appeal located in a predominantly residential area characterised by a detached and terraced single and two storey dwellings. Whilst there is a variety in the design of dwellings there is a general consistency in the use of render and stone. The benefits form grassed verges, mature hedgerows, trees, and landscaping giving the area a verdant character.
22. The proposed dwelling would remove a number of dilapidated storage buildings and replace with a two-storey detached dwelling. It would be of a similar scale and design to other detached dwellings in the immediate area. Furthermore, it would use stone and render which would echo the materials used in nearby dwellings.
23. The proposed development would be opposite a cluster of dwellings and adjacent to a small row of garages. It would be viewed as forming part of the small cluster of dwellings and would be of a similar scale and appearance.
24. The proposed development would therefore comply with CS Core Policy 57 which seeks, amongst other things, to ensure that developments make a positive contribution to the character of Wiltshire. The proposed development would also comply with paragraph 135 of the Framework which seeks to ensure developments are visually attractive and sympathetic to local character.

Highway Safety

25. Upon reviewing the Council's case, their concerns relating to living conditions appear to relate to the access to the existing row of garages. The proposed development would use an existing access from Washpool. The Council are concerned regarding the lack of turning and manoeuvring space within the appeal site and conflict with users of the adjoining garages.

26. Washpools is a moderately trafficked and relatively straight road, albeit it narrow in nature, with minimal on street parking. As such, vehicles exiting the existing access would have good visibility of any oncoming traffic. Additionally, the plans clearly demonstrate that there is sufficient space on the appeal site that cars could park and turn vehicles so that they can access and egress the site in a forward gear. When existing the site, the access to the garages would be visible and therefore vehicles could stay within the driveway whilst the garages are accessed to avoid conflict.
27. Furthermore, the appeal site appears to be used as a storage yard, where larger vehicles could use the existing access. The construction of a single dwelling could reduce the number of larger vehicles using the site. In any event, the increase in movements associated with a single dwelling in comparison with the existing storage would unlikely increase.
28. For the reasons set out above I consider that the proposed development would not be detrimental to highway safety. Accordingly, I find no conflict CS Core Policy 57, Core Policy 60 and Core Policy 61 which seek, amongst other things, to ensure that proposals are capable of being served by safe access to the highway network. The proposal also complies with paragraph 115 of the Framework which seeks to ensure that development does not have an unacceptable impact on highway safety.

Other Matters

29. The appellant contends that the Council cannot demonstrate a sufficient supply of housing. As such, paragraph 11 (d) of the Framework falls to be considered. The proposal would provide a single dwelling. There would be some socio-economic benefits associated with the construction and use of the dwelling. These benefits would however be limited by the small scale of the proposed development. I have not found harm in relation to character and appearance and highway safety; however, these are neutral in my consideration.
30. I have found harm regarding the location of the proposed development in terms of its sustainability and flooding. These adverse impacts of the proposal would significantly and demonstrably outweigh any benefits that may arise. Therefore, the proposal would not benefit from the presumption in favour of sustainable development outlined at paragraph 11(d) of the Framework.

Conclusion

31. For the reasons given above the appeal should be dismissed.

Tamsin Law

INSPECTOR