



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: 30th October 2024

Appeal Ref: APP/U3935/W/24/3339082

Land north of Eden Field, Kingsdown Lane, Blunsdon, Swindon, SN25 5DL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Hampton Developments Ltd against Swindon Borough Council.
 - The application Ref is S/23/0920.
 - The development proposed is the "erection of 4No dwellings."
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Decision

1. The appeal is allowed and planning permission is granted for Erection of 4No dwellings. at Land north of Eden Field, Swindon, SN25 5DL in accordance with the terms of the application, Ref S/23/0920, subject to the conditions in the attached schedule.

Preliminary Matters

2. Since the appeal follows the Council's failure to determine the application within the prescribed period, there are no reasons for refusal. That said, the Council has indicated that, had it been in a position to determine the applications, planning permission would have been refused.

Main Issue

3. From the Council's evidence and my own observations on the site, the main issue in respect of this appeal is whether the appeal site can be developed independently of the wider allocated site NC5 having regard to development plan policies.

Reasons

4. Policy SD2 of the Swindon Borough Local Plan 2026 (2015) (LP) identifies that, in order to recognise its role and function in the wider area, development in Swindon will be concentrated within Swindon's urban area and on allocated strategic sites at a number of locations. It goes on to identify Kingsdown, where the appeal site is located, as a strategic allocation to provide about 1650 dwellings. LP Policy SD3 states that the Council will work proactively with applicants to find solutions which mean that proposals can be approved wherever possible.
5. Under LP Policy NC5, the appeal site forms part of a strategic mixed-use allocation which is located to the north of Swindon. This policy requires the development of housing, commercial units, primary school, sports, leisure, and community facilities along with highway and access improvements for

vehicles, cyclists, and pedestrians. The policy does not require the site to come forward as one application nor does it restrict smaller parcels coming forward individually. Additionally, most of the allocation has been granted outline planning permission¹ for a mixed-use scheme including 1552 dwellings, however this does not include the appeal site and other parcels of land within the allocation.

6. LP Policy SD1 refers to the delivery of sustainable development and to support sustainable communities in the Borough. The policy sets out that this will be achieved by meeting several criteria, including, ensuring that developments are a high-quality design, promote healthy safe and inclusive communities, be accessible by walking, cycling and/or public transport and use land and resources in an efficient way.
7. Whilst the appeal site is located within an allocation, it lies outside any defined settlement boundary in the LP and outside the Blunsdon settlement boundary contained within the Blunsdon East Neighbourhood Plan (NP). Policy 2 of the NP states that outside defined boundaries development will not normally be permitted. However, NP Policy 4 specifically relates to the NC5 allocation and states that the proposed development of the allocation should include a design code, preserve, and enhance the character of Blunsdon Village, retain, and enhance hedgerows and biodiversity, and provide infrastructure, facilities, and highway/access improvements. The policy does not restrict the development of the site being undertaken in phases or applications coming forward in smaller parcels.
8. I have had regard to the Council's concerns regarding the potential for piecemeal development. However, the development of the allocation in phases and parcels is a likely outcome due to the scale of the allocation and the fact that the appeal site, and other smaller sites, were excluded from the larger outline scheme.
9. Nevertheless, the site location plan and masterplan for the outline scheme details that the appeal site would be surrounded by housing development and in close proximity to the proposed spine road linking the area to the wider allocation. I am satisfied that the appeal scheme's layout next to the shared boundary is acceptable and would not restrict suitable adjacent development. Therefore, the proposal would not prejudice the development potential of the adjacent remaining land and I can see no policy reason for the allocation to be considered on a comprehensive basis.
10. The Council considers that the scheme falls within the open countryside, due to it not being allocated under the NP. Policy 2 of the NP restricts development in the open countryside and on non-allocated sites. However, the appeal site is allocated in the LP and the NP includes a specific policy for this allocated site (Policy 4). NP Policy 4 does not restrict when or how development should come forward, and whilst it provides a number of criteria for the allocation these are not requirements. As such, I consider the appeal site to fall within an allocated site and therefore not within the open countryside.
11. Overall, I conclude that the appeal site can be developed independently of the wider allocated site having regard to development plan policies and the proposed development's use of land and layout details. The proposal would

¹ S/OUT/17/1821

accord with Policy SD1, SD2, SD3 and NC5 of the LP and Policies 1 and 2 of the NP. It would also accord with the National Planning Policy Framework (the Framework) where it seeks to significantly boost the supply of homes and promote the development of a good mix of sites by, amongst other things, working with developers to encourage the sub-division of large sites where this could help to speed up the delivery of homes.

Other Matters

12. The North meadow and Clattinger Farm Special Area of Conservation (SAC) is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). Whilst the appeal site is not within the SAC, it is located within its outer zone of influence. Given its proximity I consider that the proposed development would be likely to have significant effects on the features of interest of the SAC, due to increased recreational use arising in combination with other development.
13. It is noted that this SAC was designated due to its rich diversity of meadow plants, which includes 95% of the UK's surviving population of Snake's Head Fritillary. The evidence indicates that the primary causes of site degradation include walking, and in particular dog walking.
14. In this case, the proposed development is located within the outer zone of influence of the SAC. Whilst there may be limited opportunity to park near to the SAC this would not in itself dissuade future residents from using the SAC site recreationally, thus increasing the numbers of visitors to the site. As such, I am satisfied that the proposed development would be likely to lead to recreational pressure on the SAC, and in particular the North Meadows section. I consider that the effects of the proposed development, is such that it is likely to have significant effects on the meadow, particularly from walking.
15. The Council have adopted a North Meadow and Clattinger Farm Special Area of Conservation Interim Recreation Mitigation Strategy for the period of 2023 – 2028 which sets out an agreed strategy across the authority areas of Swindon, Wiltshire and the Cotswolds in order to mitigate the potential in-combination impacts of new housing development in the vicinity of the SAC. Within the outer zone of influence from the North Meadow component of the SAC, all new residential development will be expected to provide mitigation in the form of contributions towards Strategic Access Management and Monitoring (SAMM) measures. The SAMM contribution amount has been set at £323 per additional dwelling towards measures such as: employment of an on-site warden; awareness raising campaigns; temporary walk boards and other similar infrastructure, and monitoring. Such contributions are required by way of S106 agreement or similar deed constructed as such under S106 of the Town and Country Planning Act.
16. Following concerns raised by the Council an updated Unilateral Undertaking (UU) was submitted which secures the payment of the mitigation contribution to the Council prior to the commencement of development. Subject to the terms of the UU, I am satisfied that the proposed development would not adversely affect the integrity of the SAC and would thus accord with the expectations of the Habitats Regulations.

17. I have had regard to concerns raised in relation to highway safety, drainage, character, and appearance. Whilst the appeal site is on a narrow road, it was lightly trafficked with wide verges that lead to Turnpike Road, which is only a short distance away. Furthermore, sufficient parking for the proposed development is provided on the submitted drawings. Having regard to the comments made by the Council's Highways department, I am content that, subject to conditions that there would not be a harmful impact to highway safety. I am satisfied that the proposal can appropriately manage drainage, and further details will be conditioned.
18. With regards to character and appearance, the appeal site is located in an area where there is a wide variety of dwelling designs, plot sizes and materials. Nevertheless, the proposed dwellings have been designed to reflect the housing in Blunsdon and use similar materials. The proposal would not therefore have a harmful impact on the character and appearance of the area.

Conditions

19. Conditions controlling the time for implementation of the permission and listing the approved plans are required in the interests of certainty.
20. In the interests of highway safety conditions relating to construction management plan, vehicular access, and car parking are necessary. To protect environmental interests, conditions are required to secure the remediation of contaminated land are necessary. To ensure a satisfactory surface water drainage scheme is provided and to avoid any increase in flood risk off-site, full details of a surface water drainage scheme and maintenance strategy must be agreed prior to the commencement of any development.
21. The Council have requested a condition requiring landscaping details which the appellant has disputed. Whilst some details of the landscaping have been submitted on the drawings, this does not include the size of planting, a timetable for implementation or the maintenance/management of the landscaping. I consider this condition necessary to safeguard the character and appearance of the area and in order to ensure that the landscaping is provided and maintained.
22. Some of the Council's conditions included reasons for their imposition, lists of details to be submitted or reference to other approval processes, guidance, and legislation. My conditions focus on the actions required to be taken in the interests of precision, and I have omitted generic lists so that the parties can agree the relevant factors for this site, in accordance with prevailing guidelines at the relevant time. I have made some other changes to the Council's suggested conditions to avoid duplication and in the interests of consistency and clarity, and to ensure compliance with the Framework and Planning Practice Guidance.

Conclusion

23. For the reasons given above the appeal should be allowed.

Tamsin Law

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved drawings and documents: Drawing No. EF-LP-01 Rev A Location Plan, Drawing No. EF-SP-01 Rev B Proposed Site Plan, Drawing No. EF-FP-01 Rev A Proposed Floor Plans Plots 1-4, Drawing No. EF-HT-01 Rev A Proposed Front and Rear Elevations, Drainage Layout - CP-09-01-Dated 25/09/2023.
3. The external surfaces of the development hereby permitted shall be constructed in the materials shown on Drawing No. EF-HT-01 Rev A Proposed Front and Rear Elevations.
4. Prior to the commencement of development, a scheme of landscaping to include a planting schedule and time table of works, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the positions, species and crown spread of all existing trees and hedgerows on the land, detailing those to be retained, together with measures for their protection during development. The approved scheme shall be implemented as per the approved timetable. Any tree or shrub planted in accordance with the scheme which is removed, dies, or becomes diseased within a period of five years from first being planted, shall be replaced by one of a similar size and the same species.
5. No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to, and approved in writing by, the Local Planning Authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall:
 - i. set out details of the parking of vehicles of site operatives and visitors;
 - ii. set out arrangements for the loading and unloading of plant and materials;
 - iii. set out arrangements for the storage of plant and materials used in constructing the development;
 - iv. set out arrangements for wheel washing facilities;
 - v. specify the intended delivery hours, taking account of road network and other local traffic peaks such as schools.
6. Prior to the occupation of the development hereby permitted, the vehicular access and shared driveway shall be laid out in accordance with Drawing No.EF-SP-01B and Drawing No.EF-SP-01B. The access and shared driveway shall be maintained thereafter.
7. The development hereby permitted shall not be occupied until the parking for cars and cycles plus turning facilities have been completed in accordance with Drawing No. EF-SP-01B, and those facilities shall be maintained available for those purposes thereafter.

8. Development shall not begin until a surface water drainage scheme for the site, in accordance with the approved drainage strategy detailed in 'Drainage Layout - CP-09- 01' has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is completed.
9. Development shall not be occupied until a surface water drainage maintenance scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be maintained in accordance with the approved details.
10. No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the Local Planning Authority before any development begins. If any significant contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development.
11. The Remediation Scheme, as agreed in writing by the Local Planning Authority, shall be fully implemented in accordance with the approved timetable of works and before the development hereby permitted is first occupied. Any variation to the scheme shall be agreed in writing with the Local Planning Authority in advance of works being undertaken. On completion of the works the developer shall submit to the Local Planning Authority written confirmation that all works were completed in accordance with the agreed details.
12. If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.