



Appeal Decision

Site visit made on 23 July 2024

by R Cahalane BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 November 2024

Appeal Ref: APP/Y3940/W/24/3342226

Land south of White House Cottage, Callow Hill, Brinkworth, Chippenham SN15 5DZ

- 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 Mr Andrew Barstow (Main Square (Brinkworth) Ltd) against the decision of Wiltshire Council.
 - The application Ref is PL/2023/03523.
 - The development proposed is the erection of 2 detached dwellings with associated car parking, vehicular access, tree works and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal planning application was determined, the Council adopted the Wiltshire Design Guide (WDG). Relevant extracts of the WDG have been provided as part of the Local Planning Authority's (LPA) statement, and they form part of my consideration of this appeal.
3. The appellant subsequently provided an additional appeal decision¹ made on 30 August 2024, as it tested and amended the Council's housing land supply figure following a Public Inquiry. I have therefore also taken this into consideration.

Main issues

4. The main issues of this appeal are:
 - whether the proposed dwellings would be in a suitable location having regard to the spatial strategy of the development plan for housing and its accessibility to facilities and services; and,
 - the effect of the proposed development on the character and appearance of the area.

Reasons

Location

5. The appeal site comprises an undeveloped rectangular field south of the dwelling of White House Cottage, and west of the Callow Hill highway. It is

¹ APP/Y3940/W/24/3340811 (Land off Storridge Road, Westbury)

bordered on all sides by mature hedgerows, and slopes noticeably downwards from Callow Hill. To the south, it abuts a former agricultural building which the main parties state is now in commercial use. At the time of my visit the site access to this building was closed by a metal gate, with the rest of its boundary screened by hedgerow, so I could not ascertain the precise nature of its use. The sloping land beyond the appeal site's western boundary is more open and undeveloped. The curtilage of The Paddock, a two-storey dwelling, partially adjoins the appeal site to the northwest.

6. On the opposite side of the Callow Hill highway is Callow Park, a private business park off a wide tarmacked and gated vehicular access. This business park is of considerable size, as it contains a number of two-storey contemporary commercial buildings and a large car park. The parking and most of its buildings are well set back from Callow Hill, behind a row of detached dwellings to the northeast along Callow Hill and the small agricultural business of Farm View opposite White House Cottage. The business park also extends southwards to the opposite side of the former agricultural building. Further south, there are two detached dwellings and a small complex of commercial buildings, along the same side of Callow Hill as the appeal site.
7. Core Policies (CPs) 1, 2 and 13 of the Wiltshire Core Strategy 2015 (WCS) provide the spatial strategy for new development in the area, and clearly set out how sustainable patterns of development should take place. Brinkworth is categorised as a "Small Village", which is defined as one having a low level of services and facilities, and few employment opportunities. The appeal site is some 3km away from the centre of Brinkworth village.
8. Prior to the adoption of the WCS, there was a settlement boundary around Brinkworth. There were also two other settlement boundaries around Stoopers Hill eastwards along the B4042, and Callow Hill further beyond and nearer to the appeal site (which also included part of the southern frontage to the B4042). These boundaries were all deleted by the WCS. The LPA describes Stoopers Hill and Callow Hill as distinct "hamlets" that are separate from Brinkworth village, although a planning policy or other definition of what constitutes a "hamlet" is not before me. The site lies further south and detached from this former Callow Hill settlement boundary, within the countryside as designated by the WCS.
9. The appellant has put forward an alternative on-the-ground assessment. This concludes that the site is firmly within the built envelope of Callow Hill which, in turn, forms part of the collective grouping that comprises the existing built area of Brinkworth. It is argued that when considering the physical context of the site, the proposed development is naturally contained and would not elongate the village. It is put to me that the above principle is established by case law². This Court of Appeal judgement was however deliberated within a somewhat different context of whether a proposal in the Green Belt constituted "limited infilling in villages", for the purposes of what is now Paragraph 154 of the National Planning Policy Framework (the Framework).
10. The relevant context and crux of this disputed appeal issue is that CP2 of the WCS seeks to restrict development outside the limits of development, as

² *Julian Wood v SSCLG, Gravesham Borough Council* [2015] EWCA Civ 195

defined on the policies map, other than circumstances listed in Paragraph 4.25 – none of which apply to the appeal proposal. However, CP2 supports some development within Small Villages, provided it is “limited to infill within the existing built area”, and provided that the development:

- i) Respects the existing character and form of the settlement
- ii) Does not elongate the village or impose development in sensitive landscape areas, and
- iii) Does not consolidate an existing sporadic loose knit areas of development related to the settlement.

11. Small Villages are defined in CP1 as having “a low level of services and facilities, and few employment opportunities”. The terms “infill” and “built area” are not defined in the Framework or the main body of Core Policy 2. Its supporting text at Paragraph 4.29 states that: “For the purposes of Core Policy 2, infill is defined as the filling of a small gap within the village that is only large enough for not more than a few dwellings, generally only one dwelling.” Case law has held that whilst supporting text does not have the force of policy and cannot trump it, it is nonetheless relevant to the interpretation of a policy.
12. Whether the appeal site is within a village, and whether the proposal constitutes “infill within its built area”, is essentially a question of fact and planning judgement for the decision-maker. I see no reason why this should preclude an on-the-ground assessment of the appeal site and the proposal.
13. The built area of Callow Hill comprises mainly of residential dwellings set out in a linear manner, with two small cul-de-sacs by the B4042 junction. There are bus stop shelters on either side of the B4042, by the junction of the Callows Cross cul-de-sac, and near to the Callow Hill junction. It is common ground that these stops are served by hourly services between Swindon and Chippenham. The appellant states that these stops are 0.4 miles or 640m from the appeal site, and the LPA states this distance as being 700m.
14. Regardless of the actual distance, this route to the site is unlit and whilst the westbound B4042 bus stop is served by a footway, it terminates at the Callow Hill junction. The remainder of the route towards the site contains some potential pedestrian refuges such as verges, but no footways. The highway towards it is mainly straight which provides a linear pattern of dwellings, but contains two bends with quite restrictive visibility. I also noted that despite the route being subject to signed 30mph speed limits from its B4042 junction towards and beyond the site, many vehicles appeared to pass the site at speeds in excess of 30mph, including some commercial vehicles. Whilst my visit was a snapshot in time, I nonetheless found the characteristics and quality of this route to be markedly dissimilar to that found in an urban environment.
15. The appellant has provided evidence to contend that regardless of the nature of development and the policy context, the Callow Park development has extended the built envelope of Callow Hill past the appeal site. This in effect makes the proposal site surrounded on three sides by existing development, when counting its frontage on to Callow Hill and facing the Callow Park entrance. In this physical context, the proposal would therefore comprise an infill form of development. It is also agreed that the site is not isolated in terms

of being physically separate from other development having regard to the relevant case law³.

16. There is no evidence before me to outline the specific employment output from all the commercial premises within the built area of Callow Hill. While they may provide a level of local employment opportunities, there are no other facilities and services within the built area of Callow Hill to meet everyday needs. I find Callow Hill to be best described as a standalone and mainly linear settlement of dwellings and commercial premises, notwithstanding its lack of a development plan settlement boundary, or location within Brinkworth Parish.
17. In light of all the above, Callow Hill is not a village, either in terms of the development plan context, or following my on-the-ground assessment. Callow Hill also cannot reasonably be described to form part of the established built area or envelope of Brinkworth village, due to its significant distance away from the built area of this village, with intervening parcels of undeveloped land.
18. It is also put to me that the appeal site is within a 2.4-mile distance, akin to a 12-minute cycle, from Royal Wootton Bassett. Whilst this may not be of dissimilar distance to a route from the edge of a town to the town centre, it is long and undulating with mainly no footway, street lighting or centre road lines. I did not find any of the abovementioned routes to local bus stops and wider services and facilities to be particularly attractive to walk along, and the bends and undulations would likely be perceived as hazardous or prohibitive for many cyclists. These locational shortcomings would mean that the proposal would introduce further unsustainable patterns of development within the undeveloped countryside, as it would likely be heavily reliant on use of a private car to meet day-to-day needs.
19. The surrounding development pattern is generally linear, spread out, and more sporadic on the western side of the Callow Hill highway, including a large open field to the north of the nearby lane forming the Public Right of Way BRIN72 (PRoW). If the former settlement boundary of Callow Hill were to be deemed appropriate for reinstatement, and extension to encompass the appeal site, or nonetheless viewed as an overriding material consideration, the proposal would meet the first strand to criterion ii) of CP 2 in terms of not elongating the village due to existing buildings at each side. However, it would have failed criterion iii) as the proposed dwellings would consolidate an existing sporadic loose knit area of development related to the settlement.
20. The decision notice also cites conflict with the Draft Parish of Brinkworth with Grittenham Neighbourhood Plan (NP). It is common ground that as this Draft NP has not been made yet, it carries limited weight. Its interpretation is disputed between the main parties, in terms of whether it treats the site as being within Brinkworth. Whilst the Draft NP does not propose to alter the existing settlement boundaries, there is no evidence before me outlining its specific stage of consultation or examination. It therefore does not have a significant bearing in my determination of this appeal.

³ *Braintree District Council v Secretary of State for Communities and Local Government, Greyread Ltd & Granville Developments Ltd* [2018] EWCA Civ 610

21. I have been provided with an extract of the Brinkworth Parish Housing Needs Survey (October 2022), to further support the view that the Parish as a whole is a Small Village. This extract quotes the 2021 Census population of the Parish and then states it is classed as a "small village". There is no evidence before me to suggest that this document forms part of the Council's adopted spatial strategy. It therefore does not justify such a blanket approach for all land within this Parish.
22. Appeal decisions for other sites within Wiltshire are also cited as being relevant to the proposal, including one dismissed within Brinkworth⁴, and one allowed in Winterbourne Bassett⁵. Their locational characteristics and development quantum do not appear to be directly comparable to the current appeal proposal, in particular the distances to local facilities and the relationships with surrounding development. These cited examples are therefore not useful comparisons to the current proposal. I have determined the current proposal having regard to the relevant adopted policies, the Framework and other relevant material considerations.
23. The appeal site is not a suitable location for the proposed residential development, having regard to the spatial strategy of the development plan for housing and the site's accessibility to facilities and services. The proposal therefore conflicts with CPs 1, 2, 13, 60 and 61 of the WCS. In addition to the criteria of policy CP2 set out above, these policies require, amongst other things, development to support sustainable patterns of development, reduce the need to travel particularly by private car, and encourage sustainable and safe movement of people within Wiltshire.

Character and appearance

24. At the time of my visit, the site was almost entirely screened by trees along the highway, and its access with an agricultural-style gate was also impeded by shrubbery. Its openness and undeveloped nature could nonetheless still be appreciated from along Callow Hill. The proposed widened communal vehicular access to facilitate the proposal would lead to some loss of hedgerow, and the Plot 2 front garage would require some further pruning. This loss would not be significant in comparison to the shrubbery that would be retained, but would expose some views of the dwellings from Callow Hill.
25. Immediately north of the appeal site, the two-storey dwelling of White House Cottage is clearly visible, as its gable is near to the road. Its modest scale and appearance reflects a rural vernacular, with some historic irregular stone elevation treatments, small square window openings, a low two storey eaves height and shallow pitched roofs with slate tiles. The single storey building of Farm View opposite White House Cottage is similarly close to the highway and is also of modest and traditional form, with similar external materials. The two storey Callow Park commercial buildings are also visible beyond Farm View and along Callow Hill, but well set back from the highway behind hedgerow to avoid a dominant presence in the street scene.
26. The single storey converted agricultural building south of the site was not widely visible from the Callow Hill street scene on account of hedgerow

⁴ APP/Y3940/W/23/3329918

⁵ APP/Y3940/W/23/3316153

screening. Immediately beyond, a large detached modern two-storey dwelling known as "Painscott" is set within spacious grounds. This dwelling was not visible from opposite the appeal site due to the hedgerows along Callow Hill.

27. The immediate setting of the appeal site is therefore rural in character, despite the surrounding development, including modern and commercial additions and adaptations. In this context, the appeal site provides a notably positive contribution to its rural setting, and this value is not significantly diminished by the lack of public access to the site, or its location outside of a nationally or locally designated landscape.
28. The appellant advises that both proposed dwellings have sought their design inspiration from surrounding dwellings, with the closest being White House Cottage. Whilst the proposed dwellings would sit slightly lower than this neighbour due to the declining land levels, they would have a significantly greater overall depth, width, mass and main window size. They would clearly contrast with the modest proportions of White House Cottage, and the proposed use of grey stone on the elevations would not mitigate this effect.
29. The wider linear development along Callow Hill contains a mixture of single storey and two storey dwellings, many of which are modern in appearance and form. They are mainly of more modest scale than the proposed dwellings. They are also on the opposite side of Callow Hill to the appeal site, and further away from it than White House Cottage. The western side of Callow Hill, in which the proposal would lie, is clearly more undeveloped and rural in character. The overall scale and chosen design approach for the proposed dwellings would fail to respect this more rural context.
30. Although there are other examples of front garages elsewhere along Callow Hill, their presence within the appeal scheme would add a further divergent factor from its immediate context. The dwellings would also be sited relatively close to each other. This, along with the overall tandem design of the frontages, and the expanse of hardstanding to facilitate their shared access, further accentuates a suburban appearance that is at odds with the surrounding rural context. The proposed density appears commensurate with the overall linear pattern of development along Callow Hill. Having regard to its more immediate context, the development will however consolidate the existing sporadic loose knit area found on the western side of Callow Hill, either side of the appeal site.
31. The declining ground levels also means much of the dwellings would be screened by hedgerow along Callow Hill. However, more open views would be available along the shared access, and landscaping should not be relied upon to screen poor design that diverges from its surrounding setting.
32. The proposal therefore conflicts with CP57 of the WCS, insofar as it requires all new developments to be of high standard of design, to create a strong sense of place through drawing on the local context and being complementary to the locality, and to enhance local distinctiveness by relating positively to the existing pattern of development. Even if I had considered the proposal to form infill development within a small village, it would have conflicted with criterion i) of Policy CP2, as it fails to respect its character and form.

33. The second strand to CP2 criterion ii) resists imposing development in a sensitive landscape area. The appeal site and proposal is visible at longer distance views from BRIN72 facing eastwards uphill towards the site, forming a ridge along the Callow Hill highway. From here, the undeveloped site can be viewed within the context of the larger fields located along the declining ground beyond its western boundary and also along Callow Hill. The site is also read alongside the existing dwelling of The Paddock in the foreground on lower ground, and other two storey dwellings higher up along Callow Hill, including White House Cottage. The appeal proposal would be partially visible from this vantage point, but would adequately sit within existing built forms. It would therefore not impose development in a sensitive landscape area.
34. The LPA has cited conflict with the guidance of the WDG, particularly paragraphs 3.2.5 and 4.1.1-4.1.3 which advise, amongst other things, development to respect the characteristic scale and pattern of the overall landscape and settlement, including landforms and slopes within the site. I have found no harm to wider landscape views, and the proposal would not lead to the topography within the site becoming overly reprofiled.
35. I have not found material conflict with the provided extracts of the WDG. However, these extracts do not cross reference the WCS, and it reads to me as a standalone guide more pertinent to larger scale development types than this proposal. Whilst I acknowledge that the appellant drew from existing examples throughout Callow Hill, I have found that this design approach adversely harms the more immediate and rural context of the site. In this respect, the proposal runs contrary to the advice of the National Design Guide which includes context and identity as part of its ten characteristics of well-designed places.

Other Matter

36. The appellant has highlighted inconsistency between the LPA's written pre-application response and its subsequent formal assessment under the planning application, in terms of how the site's location is described relative to Brinkworth. I appreciate how this could be frustrating for the appellant. However, I am dutybound to make my own assessment of the proposal based on the relevant policy, evidence and site-specific circumstances before me. This matter has therefore had little bearing on my determination of this appeal.

Planning Balance

37. I have found significant harm in respect of the location of the proposed dwellings, having regard to the spatial strategy of the Development Plan for housing and the appeal site's accessibility to facilities and services, contrary to Core Policies 1, 2, 13, 60 and 61 of the WCS. I have also found significant harm to the character and appearance of the area, contrary to the design requirements of CP57 of the WCS. Accordingly, I conclude that the appeal proposal is contrary to the development plan as a whole.
38. During the recent determination of the Land off Storridge Road appeal, determined by means of evidence tested under Public Inquiry, the Inspector found that Wiltshire could no longer demonstrate the required four-year supply of deliverable housing sites, concluding that the housing supply figure was 3.85 years. This shortfall has not been disputed by the main parties and exists regardless of whether a four- or five-year housing land supply is required.

Paragraph 11 d) of the Framework is therefore engaged by footnote 8, which states that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

39. Irrespective of the existing housing land supply position, the appellant argues that the WCS countryside policies (Core Policies 1, 2 and 13) are not consistent with the Framework and are therefore out-of-date. It is also put to me that these policies are out-of-date when assessed against current development needs in Wiltshire's emerging Local Plan Review, and appeal decisions across Wiltshire⁶ forming a "long standing trend" in allowing development outside settlement boundaries due to the WCS failing to deliver housing in accordance with defined needs. The appellant also cites extensive case law⁷ and appeal decision citations and extracts⁸ to support this assessment.
40. The appellant also considers the above approach to be consistent with a recent Public Inquiry appeal decision⁹, where relevant policies within a plan of similar age were found by the Inspector to be out-of-date. However, Paragraph 225 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework i.e. the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given.
41. CPs 1, 2 and 13 are the most important spatial policies for determining the appeal. They seek to direct development towards sustainable locations within settlements and although they restrict many housing types in the countryside, they do not afford the countryside outright protection that would be inconsistent with the Framework. CP57 also forms one of the most important policies and is also consistent with the Framework, as it requires development to establish a strong sense of place and be sympathetic to the existing pattern of development. CPs 60 and 61 are also consistent with the Framework, as they both seek to reduce the need to travel particularly by private car. Despite the existing shortfall in housing delivery, I nonetheless give significant weight to the conflict with these policies.
42. The Framework supports housing that enhances the vitality of rural communities. It also states that in order to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities, and where there are groups of smaller settlements, development in one village may support services in a village nearby. It also states that opportunities to maximise sustainable transport solutions will vary from urban to rural areas and that this should be taken into account in decision-making.

⁶ APP/Y3940/W/20/3253204 (Lyneham); APP/Y3940/W/22/3296058 (Great Somerford); APP/Y3940/W/22/3309170 (Chippenham); APP/Y3940/W/22/3312268 (Devizes); APP/Y3940/W/21/3275053 (Swindon); APP/Y3940/W/23/3330955 (Hankerton).

⁷ Including: *Wavendon Properties Limited v Secretary of State and Milton Keynes Council* [2019] EWHC 1524 (Admin); *Bloor Homes Limited v Secretary of State for Communities and Local Government* [2017] PTSR 1283; and, *Suffolk Coastal DC v Hopkins Homes Ltd & SSCLG and Richborough Estates Partnership LLP & SSCLG v Cheshire East BC* [2017] UKSC 37.

⁸ Within Annex 1 to the appellant's Statement of Case.

⁹ APP/H1705/W/23/3326191 (Land at Watermill Bridge, Andover Road, Wash Water, Hampshire).

43. There is no compelling evidence before me to demonstrate that the vitality of existing services of Brinkworth village, or the local rural community as a whole, is dependent on additional dwellings in Callow Hill. The location and nature of the appeal proposal would increase reliance on the private car and would not foster the sustainable movement of people. The proposal's location is therefore not afforded with any positive weight.
44. The Framework seeks to significantly boost the supply of housing provision, and it also states that small sized sites can make an important contribution to meeting the housing requirement of an area. The proposal would make a small but positive contribution to housing supply. Small sites such as this can cumulatively provide a significant contribution to the overall housing need. Mindful of the extent and persistence of housing shortfall across Wiltshire, moderate weight is afforded to the provision of two dwellings and the associated benefits arising from this. Although the Government's draft planning reforms may further increase the required supply of housing and the extent of the Council's current shortfall, they are at the early stages of consultation. These reforms are therefore afforded only limited weight.
45. The proposal would include several ecological enhancements as set out in the Ecological Appraisal Report. Although the precise net gain to biodiversity is not quantified, these enhancements are supported by the Framework and are afforded moderate weight. The lack of harm to living conditions of surrounding neighbours and future occupiers, and the lack of highway safety objection raised by the Council's specialist officer or team in consultation, are all neutral considerations that weigh neither in favour nor against allowing the appeal.
46. In the specific circumstances of this appeal, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Conclusion

47. For the reasons given above, the proposal conflicts with the development plan and there are no material considerations, including the Framework, that indicate that a decision should be made other than in accordance with it. I therefore conclude that the appeal should be dismissed.

R Cahalane

INSPECTOR