



Appeal Decision

Site visit made on 8 January 2025

by E Pickernell BSc MSC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 April 2025

Appeal Ref: APP/Y3940/W/24/3348998

**Former Commercial Nursery, Barters Farm, High Street, Chapmanslade
BA13 4AL**

- 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 Mark Kurton of Newland Homes Ltd and Charles Legh Walker and Diana Walker against the decision of Wiltshire Council.
 - The application Ref is PL/2023/05349.
 - The development proposed is 9 dwellings, demolition, and associated works on land north of Cleyhill Gardens, Chapmanslade.
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Decision

1. The appeal is allowed, and planning permission is granted for 9 dwellings, demolition, and associated works on land north of Cleyhill Gardens, Chapmanslade at Former Commercial Nursery, Barters Farm, Chapmanslade BA13 4AL in accordance with the terms of the application, Ref PL/2023/05349, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. Since the determination of the application the Government published a revised National Planning Policy Framework (the Framework). The parties have had the opportunity to comment on the relevance of the revised Framework to the appeal and I have taken the submissions received into account in my decision.
3. The appeal site lies within the 6.4km buffer zone for recreational pressure on the Salisbury Plain Special Protection Area (SPA) and is within the consultation zone for bats associated with the Bath and Bradford on Avon Bats Special Area of Conservation (SAC). Although not included as a reason for refusal by the Council, I have included the effect of the proposal on the integrity of these European sites as a main issue. I am required to consider whether the proposed development would be likely to have a significant effect on the sites, and if so, as the competent authority, assess the implications of the effect of the proposal on the site's conservation objectives under an appropriate assessment.
4. I am aware of some typographical errors in the reason for refusal. The proposal is referred to as 'outline', whereas the appeal relates to an application for full Planning Permission. The reason for refusal also refers to the Westbury Community Area. The Council has confirmed that the appeal site is within the Warminster Community Area. I have considered the appeal on this basis.

Main Issue

5. The main issues are:

- whether the appeal site is a suitable location for housing with particular regard to the development plan policies for the area;
- whether the appeal site is a suitable location for housing, having regard to the accessibility of services and facilities; and
- the effect of the proposed development on the integrity of protected habitats sites.

Reasons

Suitable location

6. Core Policies 1 and 2 of the Wiltshire Core Strategy (Adopted January 2015) (WCS) set out the overarching spatial strategy for Wiltshire. According to Core Policy 1, Large Villages such as Chapmanslade, are defined as settlements with a limited range of employment, services and facilities. It goes on to state that development at Large and Small Villages will be limited to that needed to help meet the housing needs of settlements and to improve employment opportunities, services and facilities.
7. Core Policy 2 of the WCS states that within the limits of development, there is a presumption in favour of sustainable development at certain types of settlements including large villages. It goes on to state that outside the defined limits of development, other than in certain circumstances, development will not be permitted.
8. Core Policy 31 of the WCS sets out the spatial strategy for the Warminster Community Area. In respect of housing development this establishes that the focus of development should be at Warminster and that growth in the rest of the community area may consist of a range of sites in accordance with Core Policies 1 and 2.
9. The appeal site comprises an area of land which is currently occupied by structures associated with the adjacent commercial nursery. The appeal site abuts, but is outside of, the defined settlement boundary. As such it lies within open countryside for the purposes of the settlement strategy.
10. The parties agree that the proposed development would not fall within any of the categories of development which might be allowed, by other 'exception policies', outside of the limits of development. In respect of housing, these include rural exception sites (Core Policy 44), specialist accommodation provision (Core Policies 46 and 47) and supporting rural life (Core Policy 48).
11. Because of its location, outside of the defined limits of the settlement and in the absence of any justification under the 'exception policies', the proposal would conflict with the spatial strategy for both Wiltshire as a whole and the Warminster Community Area.
12. Accordingly, I conclude that the appeal site is not a suitable location for housing with particular regard to the development plan policies for the area. The proposal would therefore conflict with Core Policies 1, 2 and 31 of the WCS which together

seek to restrict development in locations outside of defined settlement limits and within the open countryside.

Accessibility

13. Chapmanslade benefits from a number of facilities including a primary school, village hall, public house and church. The majority of these are within comfortable walking distance of the appeal site and would be accessible by foot via the existing pavements which lead from the appeal site and through the centre of the village.
14. The services and facilities which exist nearby would not be sufficient to meet all of the requirements of future residents. They would need to travel further afield to access a more comprehensive range of facilities and are likely to rely on a private car to do so. However, given the presence of some nearby services and facilities not all daily trips would require the use of the car.
15. The Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. Bus services are available from the High Street which provide access to higher order settlements. Whilst these services are relatively limited, they nevertheless offer an alternative to some trips which would otherwise be achieved by the use of private motor vehicles.
16. My attention has been drawn to an appeal decision in respect of land to the northeast of 150 High Street, Chapmanslade¹. In dismissing this appeal, the Inspector considered that the location of the proposal was not acceptable having regard to local planning policy and the accessibility to services. I have been provided with limited information in respect of this appeal, however I note that the Inspector described the bus stops in the village as being in excess of 1 kilometre from the site. Consequently, the circumstances differ from the scheme before me in that there are bus stops in much closer proximity to the appeal site. This appeal decision is therefore of limited relevance to the appeal which is before me.
17. I conclude that the appeal site is a suitable location for housing, having regard to the accessibility of services and facilities. It would therefore accord with Core Policies 60 and 61 of the WCS which seek to ensure that developments are located in accessible locations, promote alternatives to the use of the private car and encourage the use of sustainable transport options.

Habitats sites

Salisbury Plain SPA

18. The Salisbury Plain SPA is designated as it provides habitat for wild birds including the Hen Harrier, Eurasian Hobby, Common Quail and Stone-curlew. The conservation objectives of the SPA are to ensure that the integrity of the site is maintained or restored as appropriate and ensure that the site contributes to achieving the aims of the Birds Directive².
19. The appeal site lies within the buffer zone for the SPA. In this area, it has been established that additional residential development has the potential to increase visitor numbers and recreational pressures on the protected sites, with associated

¹ APP/Y3940/W/22/3298668

² Directive 2009/147/EC

harmful impacts on the birds. Together with other developments in the area, there would therefore be a likely significant effect on the SPA.

20. The Council's HRA and Mitigation Strategy for Salisbury Plain SPA (in relation to recreational pressure from residential development) (Reviewed in June 2024) document sets out a strategy to identify, avoid and mitigate any potential effects of increasing recreational pressure on the SPA. The mitigation strategy includes Stone-curlew monitoring and management, advice to landowners and tenants, and visitor monitoring.
21. Wiltshire Council is a Community Infrastructure Levy (CIL) charging authority. Its adopted Regulation 123 list includes funding for "*Stone-curlew and Salisbury Plain Special Protection Area*". In order to meet the requirements of the Habitats Directive³, funds are ring-fenced annually prior to spending on any other infrastructure item.
22. It is proposed to secure the necessary mitigation through a CIL payment. Natural England has confirmed it is satisfied that this would be effective in avoiding harmful impacts arising from recreational pressure on the SPA.
23. I am satisfied that with the planned mitigation measures in place, funded through the CIL, the development would not have an adverse impact on the Salisbury Plain SPA.

Bath and Bradford on Avon Bats SAC

24. The SAC is designated as it provides habitat for bat species including the Lesser horseshoe bat, Greater horseshoe bat and Bechstein's bat. The conservation objectives for the SAC are to ensure that the integrity of the site is maintained or restored as appropriate and to ensure that the site contributes to achieving the favourable conservation status of its qualifying features.
25. The Preliminary Ecological Appraisal (PEA) assesses the site as providing poor foraging habitat for bats. However, it concludes that the site is located near to woodland and pasture, and it is therefore likely that bats will forage in the surrounding area and occasionally pass over the site.
26. The proposal would involve the loss of the existing vegetation on the site and would introduce increased human activity and lighting associated with the provision of nine new dwellings into the area. Therefore, without mitigation, and applying a precautionary approach, I consider that, in combination with other development, the risk of a "likely significant effect" cannot be ruled out.
27. To mitigate the likely significant effect on the SAC a number of mitigation measures are proposed. The submitted Wildlife Mitigation and Enhancement Plan⁴ includes proposed features to mitigate the loss of existing habitat and to enhance the site including landscaping proposals. The proposed landscaping would include a combination of hedging, planting beds, trees and grass areas. The proposed hedge on the northern boundary of the site would not be subject to lighting or regular pruning. It is also proposed to install bat boxes on five of the proposed dwellings. The PEA advises measures which should be taken if bats are found on the site and suggests a lighting strategy to minimise light spill.

³ Directive 92/43/EEC

⁴ All Ecology, September 2023

28. Natural England has confirmed that the proposed measures to mitigate for the effects upon the SAC are appropriate and that these measures can be secured by way of suitably worded conditions. I have no reason to take a different view.
29. As a result, following an appropriate assessment, the proposals would not adversely affect the integrity of the SPA and the SAC. Therefore, the scheme may proceed under the Conservation of Habitats and Species Regulations 2017.

Other Matters

30. The Council acknowledges that it is unable to demonstrate a five-year supply of housing land. As a result of the recent changes to the Framework, the Council can now demonstrate only 2.03 years of housing supply. This represents a significant shortfall in housing provision in the area. Set against this, the proposal would deliver nine dwellings in a location with reasonable access to services and facilities. I note that several houses have recently been built in the village and that the housing requirement for the Warminster Community Area has been achieved. Nevertheless, the proposal would make a contribution towards housing supply in the Wiltshire local authority area. Given the extent of the shortfall I give significant weight to the contribution the appeal scheme would make to housing supply.
31. The appeal site comprises previously-developed or 'brownfield' land. The Framework states that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes. Whilst the appeal site is not within the defined settlement boundary of Chapmanslade, it is nevertheless directly adjacent to it. The proposal would make efficient use of this brownfield land, and I give this factor significant weight.
32. The proposal would give rise to economic benefits as a result of jobs during the construction phase and local expenditure by future residents. It would also provide a capital receipt which it is intended to re-invest into the nurseries business. Furthermore, the proposal would result in additional households into the area who would likely support the existing services and facilities in the village and contribute to the community. Overall, I give these factors moderate weight.
33. The proposed dwellings would be accessed via Barbers Drive which is part of the recently constructed Honeyglade development which has access onto the High Street (A3098). In this context the vehicular movements associated with nine additional dwellings would not exacerbate road capacity or safety conditions in the area. The proposal would result in the loss of existing visitor parking spaces, however as part of the proposal these would be replaced within the appeal site. The Council also found the proposal to be acceptable in respect of highway safety and parking.
34. Bearing in mind the intervening distances that would be achieved and the positioning of windows within the proposed dwellings, the proposal would not result in a significant loss of privacy, light or outlook for the occupants of nearby houses subject to conditions in respects of plots 1, 3, 6 and 7 which relate to obscure glazing and limiting new openings. The noise and disturbance associated with the increased activity generated by nine households would not have a materially harmful effect on the living conditions of neighbouring occupiers. Any noise and disturbance associated with construction would be temporary and a condition could be imposed limiting working hours to suitable times of day.

35. There is no firm evidence that the proposal would have a negative impact upon ecology. The proposals include a landscaping scheme and enhancements to biodiversity. A condition could be imposed requiring a scheme for the prevention of surface water run-off.
36. The proposed dwellings would be similar in design and scale to those nearby and would not appear incongruous in this context. The proposal would reuse previously developed land which currently does not make a positive contribution to the character of the area. Consequently, the proposal would not have a harmful effect on the character and appearance of the area, including its landscape character.
37. Issues in respect of oil tanks, potential damage to fencing and the loss of views are private matters. There is no reason to assume that the proposal would result in an increase in dog fouling locally.
38. My attention has been drawn to an appeal at Sutton Benger. I have not been provided with any documents in respect of this appeal, however I note that it was considered in the context of paragraph 77 of the previous version of the Framework. Consequently, this is of little relevance to this appeal.

Planning Balance

39. The proposal would conflict with Core Policies 1, 2 and 31 of the WCS because the site is outside of the defined settlement boundary, within the open countryside. However, because the Council cannot demonstrate a five-year supply of deliverable housing sites, these policies which relate to the delivery of housing, are deemed to be out of date. Consequently, paragraph 11 d) of the Framework is engaged.
40. The provision of nine dwellings in an accessible location which would result in the effective re-use of a brownfield site whilst providing social and economic benefits are positive aspects of the scheme to which I collectively attach significant weight.
41. The adverse impact arising from a conflict with the above-mentioned policies would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Consequently, the presumption in favour of sustainable development applies and this indicates that permission should be granted.

Conditions

42. I have had regard to the suggested conditions proposed by the Council. Where necessary, I have undertaken some minor editing and rationalisation of the conditions where they meet the tests set out at paragraph 57 of the Framework in the interests of precision and clarity. In addition to those conditions which I have already referred to in my decision and the standard time limit condition, I have imposed a condition specifying the approved plans in the interests of certainty.
43. A condition in respect of an archaeological field evaluation is necessary to ensure that any archaeological remains present at the site are protected and recorded as appropriate. The information required by this condition is needed prior to the commencement of development as early construction work and site clearance could affect any archaeological remains which may exist at the site.

44. In the interests of protecting and enhancing the landscape and ecology of the site, a condition requiring the submission of a Landscape and Ecology Management Plan (LEMP) is necessary. To avoid duplication this refers to the Wildlife Mitigation and Enhancement Plan to ensure that the measures contained therein are implemented. A condition requiring a Construction Environmental Management Plan (CEMP) is necessary to ensure that harmful effects on ecological features forming part of the SAC are avoided or mitigated. These conditions are required prior to the commencement of development to ensure such features are protected during the early phases of development. I have also imposed a pre-commencement condition in respect of a lighting strategy in order to ensure that any lighting installed during both the construction and operational phases of the development does not have a harmful effect on protected species.
45. I have imposed conditions requiring details of the proposed Sustainable Drainage System and a scheme to prevent surface water run-off during the operational phase in the interests of providing adequate drainage and avoiding flooding. There is no evidence before me which demonstrates a requirement for this to relate to the construction phase as suggested.
46. A condition in respect of the implementation of hard and soft landscaping are necessary to ensure the scheme has an acceptable appearance and provides foraging opportunities for bats. Conditions in respect of visibility splays and the implementation of parking and turning are necessary in the interests of highway safety. The provision of boundary treatment and waste storage is necessary to ensure an acceptable appearance and to ensure that future occupiers have suitable access to waste storage facilities.
47. The removal of permitted development rights in respect of the use of the garages is not necessary as the properties would have sufficient parking in the absence of these garages. A condition preventing the burning of waste is not necessary as this can be addressed through the CEMP. I have omitted the Council's suggested condition 4 because I have merged relevant matters into other conditions and omitted unnecessary elements.

Conclusion

48. The proposed development would conflict with the development plan but material considerations including the Framework indicate that a decision should be made other than in accordance with it. Therefore, for the reasons given, the appeal should succeed.

E Pickernell

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos. 853-01, 853A-05 Rev B, 835A-06 Rev A, 853A-07, 853A-08, 853A-30 Rev A, 853A-31 Rev A, 853A-32 Rev A, 853A-33 Rev A, 853A-34 Rev A, 853a-102 Rev C, 853a-106 rev C, 853a-107 Rev C, 853a-108 Rev C, 853a-131-1 Rev C, 853a-131-2 Rev C, 853a-141 Rev C, 853a-PAP Rev C, 853a-RSP Rev C and 23/528/01.
- 3) No development (including demolition) shall take place until:
 - (i) An archaeological field evaluation has been carried out in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the local planning authority; and
 - (ii) Safeguarding measures to ensure the preservation in situ of important archaeological remains and/or further archaeological investigation and recording identified in the archaeological field evaluation have been undertaken in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the local planning authority.
- 4) Prior to the commencement of the development hereby permitted a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the local planning authority. The LEMP shall include the following:
 - (i) Long term landscape and ecology objectives and targets in accordance with the Biodiversity Net Gain Preliminary Design Stage Report (July 2023, All Ecology).
 - (ii) Management responsibilities and maintenance schedules for each ecological feature proposed as part of the development as identified in the Landscape Proposals and the Wildlife Mitigation and Enhancement Plan (September 2023, All Ecology)
 - (iii) The mechanism for monitoring the success of the management prescriptions with reference to the appropriate Biodiversity Metric target Condition Assessment Sheets contained in the Biodiversity Net Gain Preliminary Design Stage Report (July 2023, All Ecology).
 - (iv) A procedure for review and necessary adaptive management in order to attain the targets referred to above.
 - (v) Details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured.

The measures outlined in the LEMP shall be implemented in full prior to the first occupation of any of the dwellings hereby permitted and the measures

implemented shall be retained for the lifetime of the development, in accordance with the approved details.

- 5) Prior to the commencement of the development hereby permitted, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the local planning authority. The CEMP shall include measures to avoid and mitigate the effects of the development on ecological features and a programme for their implementation and maintenance. The agreed measures shall be implemented and maintained in accordance with the agreed programme.
- 6) Prior to the commencement of the development hereby permitted a lighting strategy for the construction and operational phases of the development shall be submitted to and approved in writing by the local planning authority. No external lighting shall be installed within the application site, unless in accordance with the approved details
- 7) No development above ground level shall take place until details of the adoption, maintenance and management of the sustainable drainage system have been submitted to and approved in writing by the local planning authority.

Those details shall include a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the effective operation of the sustainable drainage system throughout its lifetime.

The sustainable drainage system shall be managed and maintained in accordance with the approved management and maintenance plan.

- 8) No development above ground level shall take place until a scheme to prevent surface water from the site entering the public highway during the operational phase of the development has been submitted to and approved in writing by the local planning authority including a timetable for its implementation. The measures shall be implemented in full in accordance with the approved timetable and maintained thereafter.
- 9) Prior to the first occupation of the development hereby approved details of soft landscaping shall be submitted to and approved in writing by the local planning authority. Such details shall include planting which would enhance foraging opportunities for the local bat population. The soft landscaping shall be carried out in the first planting or seeding season following the first occupation of any dwelling or the completion of the development, whichever is the sooner. Any trees or plants which, within a period of five years of being planted, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species. All hard landscaping shall be carried out in accordance with the approved details prior to the first occupation of any dwelling hereby approved.
- 10) Demolition or construction works shall take place only between 07:30 and 18:00 Monday to Friday, between 08:00 and 13:00 on Saturdays and not at any time on Sundays or on bank or public holidays.

- 11) No part of the development hereby approved shall be occupied until the visibility splays shown on the approved plans have been laid out in accordance with the plan. Thereafter no structure exceeding 600mm in height shall be placed, or vegetation allowed to grow above 600mm in height within the visibility splays referred to in this condition.
- 12) No dwelling shall be occupied until space has been laid out within the site, in accordance with the approved drawings for the parking of cars and for the turning of vehicles so that they can enter and leave the site in a forward gear. The space shall thereafter be kept available at all times for the parking and turning of vehicles.
- 13) No dwelling shall be occupied until boundary treatment and waste and recycling store has been provided for that dwelling in accordance with the approved plans. The boundary treatment and waste storage shall be maintained in situ thereafter.
- 14) The first floor windows on the west elevations of plots 1 and 3 shall be fitted with obscured glazing prior to the first occupation of the dwelling which they serve. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed and once installed the obscured glazing shall be retained thereafter.
- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows, dormer windows or roof light windows, other than those shown on the approved plans shall be inserted in the rear (south facing) roof slopes of plot numbers 6 and 7 hereby permitted.

End of Schedule