



Appeal Decision

Site visit made on 20 May 2025

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 June 2025

Appeal Ref: APP/Y3940/W/24/3351131

Land adjoining The Mermaid Inn, Main Road, Christian Malford, Chippenham, Wiltshire SN15 4BE

- 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 Jeremy Smith of Bybrook Developments (Southern) Ltd against the decision of Wiltshire Council.
 - The application Ref is PL/2022/01313.
 - The development proposed is erection of 2 no. dwellings (Class C3) and associated works.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my site visit, the driveway to the front of the Mermaid Inn (the Inn) did not match the submitted plans. I have considered the appeal as a proposed scheme against the plans provided.
3. Although not part of the application when determined by the Council, a Flooding Sequential Test report, amended Proposed Site Plan, and information relating to biodiversity¹ were provided at the outset of the appeal. Therefore, there was opportunity for the Council, consultees and other parties to comment on them and they did not significantly alter the scheme. As such, and as the additional information was not a fundamental change, parties would not be prejudice by my taking them into account.

Main Issues

4. The main issues are:
 - Whether the appeal site is an appropriate location for the proposed development with regard to the local development strategy and accessibility to services and facilities,
 - Whether there are reasonably available sites appropriate for the proposed development in areas at lower risk of flooding and whether the sequential test has been met,
 - Whether the proposed development would provide appropriate living conditions for future occupiers with regard to outlook and sunlight,

¹ Small Sites Metric Final, Biodiversity Net Gain Report

- The effect of the proposal on the character and appearance of the area including the setting of the Inn; and
- The effect of the proposed development on biodiversity.

Reasons

Location

5. Policy 1 of the Core Strategy² indicates that at villages development will be limited to that needed to help meet the housing needs of settlements and to improve employment opportunities, services and facilities. Core Policy 2 sets out the minimum housing requirement for different areas and that development is not permitted outside limits other than certain exceptions. Core Policy 10 sets the strategy for the Chippenham Community Area, which includes the Larger Village of Christian Malford. Similarly, Policy HP1 of the NP³ supports development within the settlement boundary with HSP1 setting out housing allocations.
6. Although close to it and sharing the same post code, the main part of the site is outside the settlement boundary. Being open market housing, the proposal would not meet any of the exceptions of the policies listed above. Therefore, it would conflict with the development strategy policies.
7. The site is adjacent to the settlement boundary, not isolated and close to other residential properties. There is a footway to the front of the site. While not continuous, there are footways for much of the quite flat route into and through Christian Malford. Moreover, there is a bus stop close to the entrance to the site and the distances involved would mean that cycling would also be possible to access some services and facilities. Consequently, future occupiers would have a range of options to reach a range of services and facilities in the village and the wider area and the site is a relatively accessible location. It would accord with Core Policies 60 and 61 where they seek to reduce the need to travel, particularly by private car, encouraging sustainable transport alternatives.
8. Notwithstanding this, the appeal site is not an appropriate location for the proposed development with regard to the local development strategy contrary to Policies 1, 2, 10 of the Core Strategy and Policies HP1 and HSP1 of the NP.

Flooding

9. The proposal relates to more vulnerable development and the Council's SFRA⁴ shows the site to be in an area with high levels of groundwater and surface water. Although only for 2 dwellings, a sequential approach, and test, is required as set out in the Policy 67, Framework and Planning Policy Guidance.
10. Given the scale and nature of the scheme, there is no compelling evidence before me that local circumstances relating to the catchment area for the type of development proposed should be confined to Christian Malford alone. There may be reasonably available sites in a suitable location for the type of development in lower risk areas that could accommodate the scheme. The absence of a 5-year land supply is not a relevant consideration for the sequential test for individual

² Wiltshire Core Strategy January 2015

³ Christian Malford Neighbourhood Development Plan 2015-2035

⁴ Strategic Flood Risk assessment

proposals. Therefore, the evidence before me has failed to demonstrate that it is not possible to locate the proposed development in lower risk areas.

11. Details of soakaways could be conditioned were the appeal to be allowed. Even if the development was safe for its lifetime and would not lead to increased risk of flooding elsewhere, the Sequential Test must be passed first. As such, there is no need to consider the scheme against the Exception Test.
12. Consequently, the proposal fails to demonstrate that there are no reasonably available sites appropriate for the proposed development in areas at lower risk of flooding. It would be contrary to Policy 67 of the Core Strategy and the National Planning Policy Framework (the Framework) where they seek to steer new development to areas with the lowest risk of flooding.

Living Conditions

13. The only external window serving Bedroom 2 in each unit would be small and at a high level with the internal fixed screen facing towards the dining room wall. Consequently, the outlook from that room would be generally upwards, restricted and uninviting as a result. Although small in size, the orientation of the openings would allow appropriate levels of sunlight and daylight to enter the room.
14. The orientation of the front elevation of the properties, along with the presence of vegetation would affect the daylight and sunlight that could enter the rooms they serve. Nevertheless, while narrow, these windows would be tall and the rooms not overly large. There would also be some separation with the driveway between the windows and the vegetation to the front of the site. This would allow a reasonable outlook from these rooms and the sunlight and daylight that would enter them would be sufficient.
15. Nonetheless, the proposal would not provide appropriate living conditions for future occupiers with regard to outlook for Bedrooms 2 in each unit. The scheme would be contrary to Policies 57 of the Core Strategy and D1 of the NP where they in part seek to ensure that appropriate levels of amenity are achievable.

Character and Appearance

16. The appeal site is located adjacent to the Inn which is a listed building. The significance of the Inn lies in part, in its scale and external architectural features as well as its prominent position near the edge of the village.
17. Whether or not the appeal site was previously part of the garden and curtilage of the Inn, it currently forms part of the open and undeveloped land adjacent to it. Although historically there may have been a building on the site, approaching the site from within the village, the Inn is relatively prominent and is seen, in part, with the undeveloped land at the appeal site. Therefore, the appeal site forms part of the setting of the Inn.
18. Notwithstanding this, on the approach from outside of the village, the Inn is largely screened by the roadside vegetation until close to the front of it. As such, it does not feature in distant views as the edge of the village. Moreover, although the evidence suggests a previous functional relationship between the Inn and the land around it, including the appeal site, the re-development of the Inn and introduction of the dwellings around it means that the current context in which the Inn is experienced is not that of an Inn or farmhouse with associated land or grounds.

Instead, while still at the edge of the settlement it is enclosed by and seen with residential development around it in many views. Consequently, while currently vacant, the appeal site makes little contribution to the significance of the Inn and there is little connection with the pond.

19. The proposed buildings would be considerably smaller than the Inn as well as the recent ones adjacent in terms of height and footprint. In addition, they would not be obtrusive in their design due to their simplistic form and traditional materials. Some separation would still be retained between the Inn and the proposed buildings. Consequently, while marginally forward of it, they would not compete with the Inn where they are seen together. There would still be appreciation of the Inn with space around it in views over the proposed dwellings and through the remaining gap to the open land beyond. The prominence and dominance of the Inn as the main feature at the edge of the village would not be diminished by the presence of the small-scale simplistic buildings proposed.
20. There are already several, much large new buildings around the Inn. The openness of the site would be reduced further by the appeal scheme. The introduction of the dwellings, along with associated parking and domestic paraphernalia would undoubtedly change the character and appearance of the site. Nonetheless, the development would be seen with other residential development at and adjacent to the Inn. The new rear boundary, while extending into a field, would still be considerably forward of the adjacent residential gardens and a large area of field would remain.
21. The outdoor areas would not be large. However, they are comparable to those of the newly constructed dwellings adjacent to the Inn and there is variation in the size of plots in the area. The size of the plots would therefore not appear discordant.
22. The recent development adjacent to the Inn has some examples of narrow windows on front elevations. As such, the similar ones proposed would not be out of keeping. There is no consistency to the size and position of openings on nearby properties and the proposed dwellings do have some variation on their main elevations in terms of openings.
23. Domestic features would be seen with those adjacent and not be incongruous. The planting to the rear of the gardens would be subject to conditions to ensure they and the existing hedgerow are maintained. This planting would also partly screen views of the development from the rear. Were the appeal allowed the removal of certain permitted development rights to protect these features could be secured by condition.
24. On the approach from outside the village, the proposal would be largely screened with only glimpses through the roadside vegetation. The buildings would be more readily visible with the Inn from the other approach. Notwithstanding this, the prominence and dominance of the Inn would be retained given its scale in comparison to the proposal.
25. Therefore, the proposal would not harm the character and appearance of the area or the setting and significance of the Inn. It would accord with heritage protection and design aims of Policies 51, 57 and 58 of the Core Strategy and Policy D1 of the NP and the Framework.

Biodiversity

26. The PEA⁵ identified that bats may be using the boundary hedges as commuting routes and feeding areas. A further roost assessment of trees found they had negligible value for roosting bats. The roadside ditch and pond had negligible potential for the presence of Great crested newts. The Small Sites Metric Final demonstrated that net gain targets could be achieved. Securing measures in relation to these, as with the retention, planting and management of landscape features, including areas at the rear of the site could be addressed by condition were the appeal to be allowed. This would also be the case for matters such as lighting and tree protection and would ensure the protection of habitats and species.
27. Therefore, the proposal would not harm biodiversity. It would accord with Policy 50 of the Core Strategy and the Framework where it seeks the protection and enhancement of biodiversity.

Other Matters

28. The proposal would contribute towards housing supply and mix and align with the Framework where it seeks to significantly boost the supply of housing and states that small-scale developments can make an important contribution to meeting the housing requirement.
29. Despite the scale of the scheme, due to the extent of the shortfall, it would make an important contribution towards housing supply. There would also be small economic and social benefits associated with the construction and occupation of the buildings as well as to biodiversity and energy efficiency due to the scale of the scheme. The site is also in a reasonably accessible location and the Framework recognises that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. A lack of harm from other issues is a neutral factor.
30. The development strategy policies the scheme conflicts with are broadly consistent with the Framework where it states the planning system should actively manage patterns of growth. Nevertheless, they are not currently delivering sufficient housing given the shortfall in supply and the conflict with them, and harm that attracts, is given limited weight. There would be moderate harm regarding living conditions contrary to the Framework where it seeks a high standard of amenity for existing and future users. There would be significant harm in relation to flooding contrary to the Frameworks aim to steer new development to areas with the lowest risk of flooding.
31. The proposal would be contrary to the development plan as a whole. In applying the policies in the Framework, the conflict regarding flooding provides a strong reason for refusing the development proposed. Therefore, paragraph 11d(ii) of the Framework is not engaged.
32. The other appeal decisions cited relate to a different location and from the evidence before me did not have the same concerns regarding the sequential test. Therefore, they are materially different to this appeal.

⁵ Preliminary Ecological Appraisal

Conclusion

33. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it.
34. For the reasons given above the appeal should be dismissed.

Stuart Willis

INSPECTOR