



Appeal Decision

Site visit made on 28 August 2025

by **E Worley BA (Hons) Dip EP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 September 2025

Appeal Ref: APP/Y3940/W/25/3362792

Land to the rear of Porton Hotel, Winterslow Road, Porton SP4 0JU

- 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 K Hartland on behalf of TORH Pension Scheme against the decision of Wiltshire Council.
 - The application Ref is PL/2024/03203.
 - The development proposed is the construction of three dwellings with associated access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for an award of costs was made by Mr K Hartland on behalf of TORH Pension Scheme against Wiltshire Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - whether the proposed development would provide an appropriate mix of dwellings;
 - amount and quality of outdoor amenity space;
 - the effect of the proposed development on highway safety; and
 - the effect of the proposed development on the River Avon Special Area of Conservation.

Reasons

Mix of dwellings

4. The appeal proposal seeks the construction of 3 detached dwellings comprising two 4 bed and one 3 bed dwellings, on land between Winterslow Road and the Porton Hotel.
5. Core Policy 45 of the Wiltshire Core Strategy, adopted January 2015 (WCS) requires new housing, to address local housing need, incorporating a range of different types, tenures and sizes of homes to create mixed and balanced communities. It sets out that housing size will be expected to reflect that of the

demonstrable need for the community within which a site is located, having regard to the housing needs set out in the Wiltshire Strategic Housing Market Assessment.

6. The appellant indicates that the proposed 3 and 4 bedroom dwellings would reflect the market housing need identified in the Wiltshire Strategic Housing Market Assessment 2017 (SHMA), as well as the Wiltshire Local Housing Needs Assessment Update Volume 2 dated February 2023 (LHNA). This is not disputed by the Council, and I have not been provided with any substantive evidence to the contrary.
7. My attention is also drawn to the key objectives of the Idmiston Parish Council Neighbourhood Plan 2015 – 2026, Made April 2017 (the NP), which include the provision of housing to meet local demand for downsizing, whilst also providing affordable homes. The NP also highlights that the provision of affordable housing to enable young families to live in the village must be an important consideration when new development is considered. While I acknowledge these aspirations, and notwithstanding that the overall housing target for Idmiston has been met, my attention has not been drawn to any policy requirement to provide a particular mix of dwelling sizes, or specifically smaller units, based on an objectively identified local housing need for the parish.
8. In light of this and given that the size of the proposed dwellings would meet the need identified in both the SHMA and LHNA, I find that the proposed development would provide an appropriate mix of dwellings having regard to their size. The proposal would therefore accord with the aims of Core Policy 45 of the WCS. The Council's first refusal reason also cites Core Policies 1 and 2 of the WCS, which set out a hierarchy of settlements to which development will be directed, and the presumption in favour of sustainable development within the defined limits of development. However, it is unclear from the Council's submissions as to the policy conflict that would arise in that regard.

Outdoor amenity space

9. The appeal site slopes up from the highway towards the rear boundary of the site with Porton Hotel. The surrounding residential development comprises dwellings of a mix of architectural styles and ages, including single storey and 2 storey dwellings. The properties along this stretch of Winterslow Road are orientated to front the highway, on plots of a similar width. The dwellings are set back varying distances from the road, with gardens and parking between the front elevations of the dwellings and the carriageway and gardens to the rear which differ considerably in length. The proposed detached 2 storey dwellings would be set into the rising land, with access to the rear amenity space, which would include a terrace and upper garden area, provided at first floor level.
10. Despite the modest size of the rear garden areas, and unconventional arrangement, the development would nonetheless provide space for future occupiers to carry out the usual outdoor activities associated with a dwelling, such as the drying of clothes or the siting of a table and chairs. The space would also allow for some forms of outdoor play, commensurate with the size of the dwelling. Furthermore, while the depth of the gardens would not strictly accord with the advice in the Wiltshire Design Guide 2024 (WDG), the overall garden areas would not be dissimilar to the footprint of the dwellings. Having regard to these factors, the

private amenity space would be likely to comfortably serve the typical needs of those who will use them, in accordance with expectations set out in the WDG.

11. Furthermore, given the broad range of rear garden depths in the vicinity of the site, combined with the width of the plots and space between the dwellings, the proposed development would not appear unduly cramped or at odds with the prevailing character of the surrounding development.
12. In light of the foregoing considerations, I therefore conclude that the layout of the proposed development is such that it would include an appropriate amount and quality of outdoor amenity space, having regard to the living conditions of the future occupiers and the character and appearance of the area. In that regard it would not conflict with the aims of Core Policy 57 of the WCS which seek high quality design, including buildings and spaces that reinforce a sense of identity and well integrated development which makes a positive contribution to the character of the area. It would also accord with Policy 17 of the NP, in so far as it requires developments in villages to, among other things, reflect the character and variety of the existing pattern of development and follow the lines of the contours on sloping sites to ensure a better fit with the existing land form.

Highway safety

13. Vehicular access to serve the development from Winterslow Road is proposed via a shared access to plots 1 and 2 and a separate access to plot 3. Amended plans were submitted during the course of the planning application, which included a swept path analysis and alterations to the car parking and turning spaces. Subject to a planning condition to ensure the shared vehicle manoeuvring area for plots 1 and 2 is kept free from obstruction, the Highway Authority is satisfied that vehicles using the parking spaces serving plots 1 and 2 can enter and egress the highway in a forward gear. Having regard to the layout of the driveways to plots 1 and 2 and space available for vehicles to manoeuvre, I have no reason to reach a different conclusion.
14. Notwithstanding the consultation response from the Highway Authority which indicates it had no objection to the proposal on highway safety grounds, I note concern expressed regarding the layout of plot 3. In particular, it is suggested that the need for additional shunt manoeuvres to enable a vehicle to turn, would be likely to give rise to vehicles reversing in and out of the site, with implications in terms of highway safety. However, given the space available, the opportunity would nonetheless be available to turn within the site. Furthermore, there is no substantive evidence that the layout would be so impractical that the manoeuvres required to do so would be so contrived or unduly onerous to dissuade future occupiers from undertaking such, so as to avoid reversing.
15. Therefore, based on the evidence before me, I am satisfied that the proposed development would not be harmful to highway safety. It would therefore not conflict with the aims of Policy 9 of the NP which require new development proposals to demonstrate how any additional traffic generated by the proposal will be managed in terms of parking and highway safety.

River Avon Special Area of Conservation

16. The appeal site is within the catchment of the River Avon Special Area of Conservation (SAC). The SAC is a European site designated under the

Conservation of Habitats and Species Regulations 2017 (the regulations) which impose a duty on the competent authority to consider whether the development would have a significant effect, either alone or in combination with other development, on the conservation objectives of the site, within the framework of an Appropriate Assessment.

17. The Annex I qualifying features for this site which fall to be considered are 'watercourses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation'. Annex II species present include internationally important populations of Desmoulin's whorl snail, sea lamprey, brook lamprey, Atlantic salmon and bullhead. Residential development at the site, in combination with other development, has the potential to lead to adverse effects on the integrity of the SAC through an increased level of phosphorus entering the River Avon from an increase in foul water entering the river catchment via the wastewater treatment works. The increased levels of phosphorus are preventing the conservation objectives from being achieved and causing the river to be in an unfavourable condition.
18. The Council's Strategic Appropriate Assessment¹, agreed with Natural England, explains that the potential adverse effects of increased levels of phosphorus are capable of being mitigated through the Council-led mitigation scheme. This aims to deliver phosphorus neutral development, whereby phosphorus credits are available to purchase by applicants at a fixed cost per kilogram of phosphorus, either from the Council or an approved third party.
19. A nutrient budget for the proposal was submitted by the appellant as part of the application. The Council subsequently confirmed that, in the event that permission was granted, the scheme would be eligible for credits as part of the Council-led mitigation scheme. Alternatively, a bespoke mitigation package to address the additional nutrient load from the development, could be agreed. Whether or not the development would qualify as 'planned development', and be eligible for the Council-led scheme, appropriate mitigation to ensure nutrient neutrality within the catchment area and to avoid any likely significant effects of the development on the SAC, would be reliant on the imposition of a planning condition to secure either the purchase of credits or a bespoke mitigation scheme, to be agreed with Natural England.
20. I note the appellant's willingness to accept a condition to secure appropriate mitigation, an approach initially suggested by the Council. Notwithstanding this, Planning Practice Guidance indicates that conditions should not be used to require the payment of money. Further, it sets out that a negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into, which would be necessary to secure the purchase of credits, would only be appropriate in exceptional circumstances, where there is clear evidence that the delivery of the development would otherwise be at serious risk (this may apply in the case of particularly complex development schemes). Further, it sets out that, ensuring that any planning obligation or other agreement is entered into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed.

¹ Strategic Appropriate Assessment of Developments in Wiltshire Occurring in the River Avon SAC Catchment

21. Furthermore, given that an alternative on-site mitigation scheme may not be practical or viable, and in the absence of such being agreed with Natural England, it has not been demonstrated that the effects of the development upon the SAC in terms of additional phosphorus could be appropriately mitigated. In these circumstances, without certainty regarding the form or extent of any mitigation measures which may be necessary, it would not be reasonable to address this matter through the imposition of a planning condition.
22. Consequently, in the absence of a mechanism to secure the necessary purchase of credits as part of the Council-led mitigation scheme, or specific details of a bespoke mitigation scheme, following appropriate assessment under the regulations, as the competent authority I am unable to conclude, beyond all reasonable scientific doubt, that the appeal scheme, in combination with other development, would not have an adverse effect on the integrity of the SAC, with particular regard to nutrient neutrality. Thus, the proposal would conflict with the aims of Core Policy 50 of the WCS which require proposals to protect and manage favourably features of nature conservation in order to maintain their ecological value.

Other Matters

23. The proposal would offer benefits in terms of housing supply, which is a key objective of the National Planning Policy Framework (the Framework), in a location where future occupiers of the dwellings would have access to local amenities and facilities by means other than the private car. It would also accord with policies in the Framework which seek to support development that makes efficient use of land and recognise the important contribution that small sites, which are often built-out relatively quickly, can make to meeting the housing requirement of an area. Notwithstanding the modest scale of the development, for 3 dwellings, given the current circumstances in the district, the provision of additional housing would nonetheless be valuable.
24. The proposal may be compliant with various other provisions of the development plan, however, the absence of conflict with other relevant development plan policies is a neutral factor and does not weigh in favour of the proposal. Moreover, the absence of harm in other regards, including the living conditions of neighbouring properties, flood risk, ecology and the surrounding landscape, would not itself render the scheme acceptable.
25. The Council has confirmed that it is unable to demonstrate an adequate supply of housing land and that being the case, paragraph 11 d) of the Framework falls to be considered. However, for the reasons set out above, policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed. Therefore, under paragraph 11 d) i) of the Framework, the proposal does not benefit from the presumption in favour of sustainable development.
26. I appreciate the appellant's frustration with the way in which the decision was made by the Council, which is separate from the planning merits of the case to be considered as part of the appeal, and subject to a separate decision. Furthermore, while I note the appellant's efforts to engage with the Council during the planning process, including seeking pre-application advice, and that the scheme is the re-submission of an earlier scheme which sought to address concerns raised by the Council, I have determined the appeal based on the merits of the scheme.

27. The Council indicate that the site is also within the buffer zone of the Salisbury Plain Special Protection Area (SPA). Had the proposal been acceptable in other regards, it would have been necessary for me to have undertaken an appropriate assessment with regards to the likely significant effects of the development on the SPA. However, in view of my findings in relation to the main issue, resulting in my decision to dismiss the appeal, it has not been necessary to address this in any further detail.

Conclusion

28. For the reasons set out above, the proposed development would not give rise to harm by virtue of the size of the dwellings, amount and quality of outdoor amenity space or highway safety. The proposal would also contribute to the supply of housing; in a location where future occupiers of the dwellings would not be wholly reliant on the private motor car. However, given my findings in relation to the effects of the development upon the SAC, the proposal would conflict with the development plan as a whole. There are no other material considerations, that indicate that permission should be granted.
29. For the reasons given above the appeal should be dismissed.

E Worley

INSPECTOR