



Appeal Decision

Site visit made on 20 December 2022

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd March 2023

Appeal Ref: APP/Y3940/W/22/3298668

Land to the north east of 150 High Street, Chapmanslade BA13 4AP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Landstrom Group Ltd against the decision of Wiltshire Council.
 - The application Ref 20/06919/OUT, dated 10 August 2020, was refused by notice dated 3 February 2022.
 - The development proposed is an outline planning application for 5 no. serviced self-build plots, with all matters reserved except for access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted as an application for outline planning permission, with only the matter of access for consideration at this stage. I have considered the scheme on this basis.

Main Issues

3. The main issues are:
 - Whether the location of the proposal is acceptable, having regard to local planning policy and accessibility to services,
 - The effect of the proposal on the character and appearance of the area, and
 - The effect of the proposal on biodiversity.

Reasons

Acceptability of location

4. Core Policy 1 of the Wiltshire Core Strategy (adopted January 2015) sets out a hierarchy of settlement types, which are Principal Settlements, Market Towns, Local Service Centres & Large and Small Villages. Large villages, of which Chapmanslade is one, are recognised as having a limited range of employment, services and facilities. It is further stated that at such locations, development will be limited to that needed to help meet the housing needs of settlements and to improve employment opportunities, services and facilities.
5. Core Policy 2 establishes how development within Wiltshire will be delivered and establishes that within defined limits there is a presumption in favour of development. Outside of defined limits, development is not permitted, other

than in circumstances endorsed by other policies of the Core Strategy. These are in respect of employment land, military establishments, development related to tourism, rural exception sites, specialist accommodation provision and developments which support rural life. Based on the information before me, the appeal scheme does not fall within any of these exceptions. Core Policy 31 further stipulates that development within the Warminster Community Area should be in accordance with the strategy set out in Core Policy 1.

6. The appellant asserts that the development plan is silent on the matter of self and custom-build housing, and that this is a matter that weighs in favour of the proposal. However, I find that the development plan sets out the strategy for the location of new residential development, in sustainable locations. This would include self and custom-build housing.
7. The appeal site lies outside of the defined limits of development boundary as set out in the Core Strategy. The scheme proposes open market housing, albeit self and custom-build housing. Nonetheless, given its location, the scheme conflicts with Core Policies 1, 2 and 31 of the Core Strategy, which together seek to direct development to appropriate locations.
8. In terms of the accessibility to services, there are few services provided for within the settlement of Chapmanslade itself. The Council identifies that there is a primary school, a public house, a village hall and a small number of localised employment opportunities. The settlement lacks a secondary school, shop, post office, bank, supermarket or any leisure facilities. The appellant does not contest this information.
9. The appellants Transport Statement, submitted with the planning application, sets out the frequency of bus services that serve the location. However, these are far from regular services, indeed the appellant refers to them as "semi-regular" within the appeal statement. They would not, in my view, cater for the day-to-day needs of occupiers of the proposed properties. Furthermore, I note that the bus stops, that could allow access to a greater range of services, are positioned in excess of 1 kilometre from the site, which the appellant accepts is beyond recommended walking distances.
10. I note that the appellant has put forward the construction of two new bus stops to serve the development, as well as other existing dwellings in the area. It is proposed that these bus stops would be secured through a Section 106 legal agreement. However, any such agreement would be required to meet the tests as set out within Regulation 122(2) of the Community Infrastructure Levy Regulations 2010, which states that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation is:
 - (a) necessary to make the development acceptable in planning terms;
 - (b) directly related to the development; and
 - (c) fairly and reasonably related in scale and kind to the development.

These tests are also reflected in paragraph 57 of the National Planning Policy Framework (the Framework).

11. Given the scale of the development that is currently proposed, i.e., 5 dwellings, I am unconvinced that the obligation to provide the bus stops would be fairly and reasonably related in scale and kind to the development. As such, I find

that this provision, even being offered by the appellant, cannot constitute a reason for granting permission. As such, these proposed facilities have not influenced my consideration on this matter.

12. I find therefore that the occupants of the dwellings would likely be reliant on the use of the private car and that there would be a lack of accessibility to services by sustainable means.
13. The appellant points to a large car park at the nearby village hall, which it is alleged would attract many vehicles and traffic movements. However, this is an existing situation, and the village hall undoubtedly serves part of the community that would be able to walk from it within the settlement. As such, this matter does little to convince me of the acceptability of allowing the proposal, where there is a lack of access to facilities by sustainable means.
14. Accordingly, I find that the location of the proposal is not acceptable, having regard to local planning policy and accessibility to services. Thus, it conflicts with Core Policies 1, 2, 31, 60 and 61 of the Core Strategy, which together seek to direct development to appropriate locations, to promote sustainable transport alternatives and reduce the need to travel by private car.
15. Core Policy 62 is referenced in the reason for refusal. However, this policy relates to direct impacts on the highway network. I find that none have been specifically identified and thus do not consider there to be any direct conflict with this policy. This does not however diminish the conflict with policy I find above.

Character and appearance

16. The appeal site comprises an area of undeveloped land located to the north of the A3098 road, which runs east to west through Chapmanslade. The site is enclosed along the road by mature hedging set behind a wide and verdant verge. Nonetheless, there are glimpses through parts of the hedging that is low, as well as small gaps, of the appeal site and woodland beyond. Thus, the site forms an attractive green area outside of the settlement boundary. On the northern side of the road, either side of the appeal site there is limited, sporadic development comprising a small number of dwellings. Moreover, further to the east is a large swathe of green fields, which also serve as an attractive and green setting to the settlement. The site is accessible by the public via the public right of way which crosses the field, linking to wider rights of way in the surrounding area.
17. The majority of residential development forming the defined settlement within the vicinity of the appeal site, comprises a linear arrangement of dwellings on the southern side of the road. This continuous linear layout ceases at the same western extent as the appeal site but stretches eastwards to a more concentrated core of the village towards its easternmost point. As a consequence, a defining feature of the settlement is the consolidated, linear arrangement of dwellings to the south of the road, with only a small number of separated dwellings to the north.
18. The site also lies within The Chapmanslade Greensand Ridge Special Landscape Area (the SLA), with one of the identified characteristics being a "distinct pattern of small sized mainly regular shaped fields enclosed by mostly intact hedgerows with mature trees". The linear pattern of development at the

settlement, as well as the small and irregular pattern of fields in the locality, are also identified as contributors to the area.

19. The appeal scheme, with the matter of access for determination at this stage, shows the creation of a new vehicular access centrally within the frontage to the road. This would puncture the existing boundary hedging, and with radii of 6 metres, as shown on the submitted details, the access would be an obvious and intrusive feature at this location, diminishing the positive contribution provided by the continuous hedging.
20. Additionally, the presence of new dwellings at this location, notwithstanding that they would be setback from the road and that additional landscaping would be incorporated, would appear as an unsympathetic addition to the location. It would significantly depart from the prevailing pattern of development that can be seen in the surrounding area and harmfully intrude into the rural aspect of the countryside at this location. Moreover, it would serve to degrade the field pattern that currently exists, eroding one of the key characteristics of the SLA at this location.
21. The appellant's Landscape Visual Impact Appraisal identifies that from the adjacent road, while the development would result in a perceptible change, it would not affect the overall character of the view. I disagree. From this vantage point, the development would result in a significant change to the character of the view, from a green, rural space to one that contains five dwellings. In light of the positive contribution that this site makes at this location, I find that this would not be an acceptable or desirable change.
22. The presence of dwellings within the site would be particularly conspicuous to users of the rights of way that abut the appeal site. The LVIA further identifies that there would be a Major/moderate impact when viewed from these paths. This only serves to reinforce my view, that the scheme would be a discordant addition at this location that would not be adequately mitigated by additional landscaping.
23. Accordingly, I find that the proposed development would result in a significantly harmful effect on the character and appearance of the area. Thus, the scheme conflicts with Core Policies 51 and 57 of the Core Strategy, insofar as they seek to ensure that development protects and conserves landscape character and relates positively to the existing pattern of development.

Biodiversity

24. The application was accompanied by a Preliminary Ecological Appraisal, which identified that there would be some low scale loss of habitats for bats, but that subject to the integration of mitigation measures within the scheme, there would be no impact on bats and that no license would be required. It was noted however that if the mature horse chestnut to the frontage of the site was to be affected by the works, that further surveys should be conducted.
25. Following this, the appellant undertook an Interim Nocturnal Bat Survey (dated July 2021) and further Nocturnal Bat Survey (dated November 2021). Both of these surveys concluded that subject to the inclusion of mitigation, that the favourable conservation status of local bat populations would be maintained. The Council has not provided any substantive information that would lead me to consider differently.

26. The contentious matter in respect to bats therefore appears to be in respect of the horse chestnut tree. Should there be works to this, or it be removed, further survey works have been recommended. However, the landscape parameters plan as well as Ecological Parameters Plan show that this tree is to be retained during the course of the development. The retention could also be secured through the use of a planning condition, should any permission be granted. As such, I find that sufficient information has been submitted to show there would be no harmful effects on local bat populations.
27. In respect of the hedge to the frontage of the site, the Council raise concern over whether this hedge can be protected. However, the submitted Unilateral Undertaking (UU) from the appellant requires the development to be undertaken in accordance with the Biodiversity Enhancement Management Plan, with a plan attached to the UU showing the retention of this hedge along the frontage of the site. As such, it would be possible to secure the long-term retention of this hedge. It would also therefore be possible to secure any necessary bio-diversity net gain in the same manner.
28. Accordingly, I find that the proposal would not have an adverse effect on biodiversity and thus the scheme accords with Core Policy 50, which seeks to ensure that development protects features of nature conservation importance.

Planning Balance

29. The Framework requires Councils to demonstrate a five year supply of deliverable housing sites. As the Council is currently able to demonstrate 4.72 years supply, paragraph 11(d)(ii) of the Framework is engaged.
30. In terms of the benefits, the scheme would provide five dwellings to overall housing supply and as such, the contribution overall would be limited, against what is a limited shortfall. The scheme would also result in the provision of self and custom-build housing and there is an identified need for this, with the number of people on the self-build register having increased in recent times. This would therefore also be a benefit of the scheme. However, the weight I attach to this is tempered by the fact that I have found that the location of the development would be such that there would be poor access to services. The appellant also accepts that providing self and custom-build housing within the scheme does not mean that it would be acceptable where "unrestricted open market" housing would ordinarily be unacceptable. As such, I accord the collective benefits of the scheme moderate weight.
31. The development plan's housing policies are broadly in line with the aims of the Framework in directing new residential development to locations where there is good access to services and by limiting development in rural areas unless there are special circumstances. I therefore attach moderate weight to the conflict with Core Policies 1, 2 and 31. Core Policies 60 and 61 are wholly consistent with the Framework's aim of supporting a choice of means of travel and I therefore attach full weight to conflict with this policy. Consequently, the inappropriateness of the location of the development carries significant weight. Moreover, there would be harm to the character and appearance of the area, which I find to be significant. The identified harms therefore carry considerable weight.
32. Overall, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits that would arise when

assessed against the policies in the Framework, taken as a whole. Consequently, the proposal does not benefit from the presumption in favour of sustainable development envisaged by paragraph 11 of the Framework.

Other Matters

33. I agree that the location is not isolated within the context of paragraph 80 of the Framework, that the proposal would add some support to the existing, albeit limited, services within the locality, and that transport solutions vary between urban and rural areas. In my view however, none of these matters are sufficient to outweigh the conflict with policy that I have identified above.
34. During the course of the appeal, the appellant submitted a UU to secure the inclusion of self and custom-build housing, as well as covering biodiversity matters. The Council was given the opportunity to comment on the submitted UU. While the Council raised concern in respect of a number of matters, given that I have found the scheme unacceptable and am dismissing the appeal, it is not necessary that I consider these matters further.
35. The appellant has drawn my attention to a number of appeal decisions which have allowed development proposals for self and custom-build dwellings, as well as addressing matters of accessibility to services. However, from my reading of these decisions, they are materially different from the scheme that is before me, due to variously, a different scale and make up of schemes, some of which have included affordable housing, findings of no or little/limited harm in regard to the effect of a proposal on character and appearance, the presence of facilities within the vicinity of those sites referred to, the size of the nearest settlement, a different use being proposed, and the location of some cases within different planning authorities, with differing local policy contexts. As a result, having regard to the specific circumstances of the case before me, I do not consider these examples to be directly comparable and thus do not convince me of the acceptability of this development.

Conclusion

36. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which indicate a decision other than in accordance with the development plan.
37. For the reasons given above I conclude that the appeal should be dismissed.

Martin Allen

INSPECTOR