



---

# Appeal Decision

Site visit made on 29 May 2013

**by Sue Glover BA (Hons) MCD MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 15 July 2013**

---

**Appeal Ref: APP/Y3940/A/13/2192165**

**Castle Works, Castle Road, Salisbury, SP1 3SB**

- 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 Five Rivers Eco-Homes Ltd against the decision of Wiltshire Council.
  - The application Ref S/2011/1566/OUT, dated 10 October 2011, was refused by notice dated 26 November 2012.
  - The development proposed is to demolish the existing buildings; and the development of the site with an eco-village of 60 dwellings; open space; amenity areas; new footpaths; parking spaces and an internal site road.
- 

## Costs

1. An application for costs has been made by Five Rivers Eco-Homes Ltd against Wiltshire Council. This application is the subject of a separate decision.

## Decision

2. The appeal is dismissed.

## Procedural Matters

3. All matters except access are reserved for subsequent approval. There are indicative drawings showing a layout of 60 dwellings together with details of appearance and scale.
4. As the Council is freehold owner of the site, there is a case to be made that the application to the Council could have been made under the provisions of Regulation 3 of the Town and Country General Regulations 1992. Nevertheless this was not the case, and the appellant has submitted an appeal against the Council's decision. The appeal is therefore determined on this basis.

## Main Issues

5. The main issues are the effect of the proposal on the character and appearance of the area and on the settings of the Old Sarum Scheduled Ancient Monument (SAM) and Stratford-sub-Castle Conservation Area.

## Reasons

6. The site is an industrial area, which is well-screened by boundary vegetation from the adjoining open areas that comprise the conservation area. It is within an area designated as the Landscape Setting of Salisbury and Wilton in the

- Salisbury District Local Plan (LP). There are distant but important views from the elevated Old Sarum SAM, the site of the ancient settlement of Sarum.
7. The appeal site lies in line of sight (albeit not on the skyline) between viewpoints at Old Sarum and the imposing spire and mass of Salisbury Cathedral, although this was not the position recorded in the appellant's landscape and visual impact assessment. The viewpoint from Old Sarum towards Salisbury is identified as a key elevated open view of special quality to be safeguarded in the Salisbury District Landscape Character Assessment.
  8. From the SAM, the industrial buildings within the appeal site may only be glimpsed and from the upper levels they are read in the context of the low rise housing beyond. The appeal site appears from northerly views from the SAM and from much of the conservation area as a predominantly wooded area sitting alongside the recreation areas and the seasonal caravan site as part of a generally soft and open edge to the city.
  9. On account of the significant amount of greenery on the boundaries and its wooded appearance from key external viewpoints, I consider that the appeal site makes a positive contribution to the settings of the SAM and the Stratford-sub-Castle Conservation Area. There is in particular an effective evergreen screen on the northern site boundary comprising tall *Leylandii* and yew, which shield most of the bulk of the industrial buildings from significant external views.
  10. The proposal would replace the industrial buildings with 60 dwellings, which would cover a smaller built footprint and increase the permeable surfacing within the site. The indicative layout suggests a central open space, a "green heart", with linear terraces positioned around it in a rectangular form. The terraces would lie alongside the site boundaries and the access way, with rear gardens adjoining the boundaries. With the exception of the additional buildings along the south and east sides, the position of the dwellings would not be dissimilar to that of the industrial buildings.
  11. The indicative drawings suggest 4, 3-storey apartment blocks positioned in 4 corners of the site. These blocks are indicated to have a maximum height of 13.5m, a little higher than the largest industrial building that has a maximum height of 12.2m and which is visible in part above the trees from Old Sarum. The remaining dwellings are indicated to be 2-storey some with rooms in the roof, with a maximum height of 9m.
  12. The position of many of the dwellings close to the boundaries as indicated raises matters about the compatibility of buildings, rear-facing habitable room windows and private amenity space in close proximity to high trees and dense evergreen vegetation should the existing boundary vegetation be kept. There is significant potential for a poor quality of daylight into windows, and for gardens and habitable rooms to feel overly enclosed with a poor outlook.
  13. Should the extensive *Leylandii* screen on the northern boundary be removed as it is suggested in the appellant's submissions, and the site opened up to improve daylight and outlook for future residents, then there is potential for much of the site to lose its wooded appearance as seen from significant viewpoints. The built form would dominate and the development would intrude more visibly upon the landscape. Whilst there is a belt of mature deciduous trees in the recreation area and there could be phased additional planting to

- reinforce the northern boundary, the proximity of the dwellings and gardens to the boundary would be likely to prohibit the re-introduction of a high all-year-round boundary screen.
14. The retention of the tall yew trees would screen much of a 3-storey apartment block in the north-west corner, although matters relating to the proximity of trees to dwellings and the potential harm to residents' living conditions are also of relevance here. The remaining 3 apartment blocks as indicated would introduce higher buildings in other parts of the site where there would be less evergreen screening should the Leylandii be removed so increasing the prominence of the built form from key external viewpoints.
  15. The existing industrial buildings would be removed but they would be replaced by a development of 60 dwellings. The layout of 60 dwellings as indicated in the submissions would significantly increase the prominence of built form on a site which appears predominantly wooded from significant external viewpoints and within the setting of important heritage assets.
  16. Although the appeal application reserves matters of appearance, landscaping, layout and scale, nevertheless the application is for 60 dwellings, and the indicative drawings are intended to show how this number of dwellings might be achieved. On the basis of the submissions, I am not convinced that an acceptable layout of 60 dwellings could be built on the site without harming the character and appearance of the area and the settings of the Old Sarum Scheduled Ancient Monument (SAM) and Stratford-sub-Castle Conservation Area. Whilst English Heritage does not object to the development, I note that in its assessment it indicates that much reliance must be placed on the effectiveness of the planting screen around the site to disguise the presence of the development proposed.
  17. I am mindful that there is potential for other layouts and designs for 60 dwellings. However, given the constraints of the site and the lack of detail about alternative schemes which would not harm material interests, I am not persuaded that outline planning permission should be granted. In reaching my conclusions I have taken into account all the supporting information including the design and access statement, the landscape and visual impact assessment, and the arboricultural implications statement.
  18. Paragraph 132 of the National Planning Policy Framework says that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The proposal does not meet the objectives of the National Framework in these respects.
  19. The proposal is contrary to the objectives of LP Policies G1 (iii), D1 (ii), (vi) and (vii), CN11, CN20 and C7 as saved in the adopted South Wiltshire Core Strategy. The emerging Wiltshire Core Strategy is still subject to public examination and therefore I place limited weight on this document. I note from the information provided by the Council that LP Policy G2 is not saved.

*The planning obligation*

20. There is a unilateral undertaking, relating to the provision of affordable housing, the relocation of the businesses in the South Wiltshire area, and a financial contribution. The Council is freehold owner of the land, but it is not party to the obligation. A planning obligation can only resolve planning

objections to a development if all those who might need to be directly involved in complying with its provisions including freeholder, lessees, tenants, and mortgagees enter into the Deed. Notwithstanding the appellant's submission that the freeholder owner has no relevance to the covenants, the freehold is the superior title and should be bound. There is a fundamental flaw in the unilateral undertaking, so that it is inadequate.

21. I shall therefore address whether a planning obligation is necessary. There are development plan policy requirements to deliver a proportion of affordable housing in perpetuity (South Wiltshire Core Strategy Policy 3), to relocate businesses (LP Policy 22), and to provide contributions for the purposes of education, public open space, waste and recycling (LP Policies R2, G9), and the Wessex stone curlew project to avoid harmful effects to the Salisbury Plain Special Protection Area (the Habitat Regulations).
22. On the basis of the evidence provided the contributions would be directly related to the development and necessary to make the development acceptable in planning terms. Justification is provided by the Council for the amount of each contribution and the total sum. The amounts of each contribution and the sum would be fairly and reasonably related to the development proposed, so that the statutory tests set out in Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 would be satisfied. These matters are not disputed by the appellant, but the Deed does not identify how the total sum should be spent.
23. Without all these matters in place within a secure planning obligation to which the freeholder is a party or by other appropriate means, there would be significant harm to material interests in respect of the lack of provision for affordable housing, the relocation of the businesses, and the identified contributions. I have also considered other matters, such as the lack of a plan appended to the deed, which may challenge the validity of the undertaking and the ability to deliver the obligations in accordance with the development plan policies.

*Other matters and conclusions*

24. There is an existing wide vehicular access with good visibility to Castle Road, which serves the rugby club car park, the recreation area car park and caravan site, as well as the appeal site. The appellant's transport statement indicates that the proposed development is likely to generate fewer traffic movements into and out of the appeal site compared to that which could potentially result from continued industrial use. By implication there would also be an enhancement to air quality. A condition could be imposed to require improvements to the access, including street lighting, a footway and pedestrian crossing points, in order to bring the access road up to adoptable standards and to improve highway safety. A travel plan and cycle provision could be required by condition. I therefore find no material harm to highway safety.
25. There are proposals to improve the focus of the rugby club floodlights to reduce the spread of light and potential nuisance to nearby residents. There are suggested alterations and measures to overcome potential conflict areas in and around the rugby club building in respect of external noise. It has been highlighted that there may be a need for traffic management especially on Sundays. I am satisfied that all these matters could be resolved by conditions or appropriate management measures. Any noise from the use of the rugby

- field for training and for special events is likely to be intermittent and from the submissions there is no substantive evidence of any harm to future residents' living conditions.
26. Phase 1 and phase 2 bat and reptile surveys indicate that there is a low risk of significant populations of bats or reptiles being affected. Measures could be put into place to address any residual risks and for enhancement of nature conservation. Conditions could also be imposed to address any potential risks relating to drainage in respect of the River Avon Special Area of Conservation.
27. In its favour, the proposal would relocate existing businesses which would enable those businesses to grow. The Council has indicated that there are sites available for relocation in the locality. The site is previously developed land and in an accessible location with access to public transport. It is also intended that the proposed dwellings would have a significantly higher environmental performance than the existing buildings. I am told that there is sufficient supply of housing, so that housing need does not weigh in favour of the proposal.
28. I have taken into account all other matters including the significant efforts of negotiation by the appellant, but on balance I find that the harm that I have identified to the heritage assets, and the lack of provision for affordable housing, the relocation of the businesses and the identified contributions, are significant and overriding. I have considered all the policies in the National Planning Policy Framework in the light of the submissions for this appeal, but the National Framework does not alter my conclusions. The appeal therefore does not succeed.

*Sue Glover*

INSPECTOR