



# Appeal Decision

Site visit made on 9 April 2024

**by Lewis Condé BSc, MSc, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 30 April 2024**

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**Appeal Ref: APP/Y3940/W/23/3324932**

**Land adjoining 1 Lamberts Marsh, Southwick, Trowbridge BA14 9PA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
  - The appeal is made by Mr Oliver Warren against the decision of Wiltshire Council.
  - The application Ref is PL/2023/03701.
  - The development proposed is the erection of one dwelling.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has two stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second (technical details consent) stage is when the detailed development proposals are assessed. This appeal relates to the first of these two stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted. I have determined the appeal accordingly.
4. In respect of residential development, an applicant can apply for permission in principle for a range of dwellings by expressing a minimum and maximum number of net dwellings as part of the application. In this instance, permission in principle has been sought for the erection of a maximum of one dwelling at the appeal site. For the avoidance of doubt, I have determined the appeal on that basis, having regard to the requirements of the Order and the PPG.
5. An indicative site plan showing the potential layout of the proposed dwelling was submitted with this appeal. I have had regard to it only insofar as it illustrates how development could take place.
6. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. Main parties have had the opportunity to provide commentary on the implications of the revised Framework on the appeal proposal and I have considered the comments received. Where references are made to the Framework in this decision, they relate to the December 2023 version unless otherwise specified.

## **Main Issue**

7. The main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development.

## **Reasons**

8. Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 15 of the Framework further emphasises that the planning system should be genuinely plan-led.
9. The development plan for the area includes the Wiltshire Core Strategy (adopted 2015) (the Core Strategy) and the Southwick Neighbourhood Development Plan (Made 2021) (the SNDP).
10. The appeal site forms part of an island of land situated between Blind Lane and Wesley Lane, at the edge of the village of Southwick. The appeal site is closely related to existing built form, with a dwelling already located on the island adjacent to the appeal site. A significant amount of housing is also located opposite the site to the other side of Blind Lane, whilst to the west largely lies rural countryside albeit interspersed with a small number of dwellings.
11. Despite the close presence of built form, the appeal site lies adjacent to but outside the settlement boundary for Southwick. It is therefore deemed to be in the 'open countryside' under development plan policy.
12. The spatial strategy for the location of housing in the area is outlined under Core Policies 1 and 2 of the Core Strategy. Core Policy 1 identifies four tiers of settlements where sustainable development is to take place (Principal Settlements, Market Towns, Local Service Centres and Large and Small Villages). Although Southwick is identified as a Large Village under Core Policy 1, as indicated, the site lies outside the settlement boundary for the village.
13. Core Policy 2 of the Core Strategy states that outside the defined limits of development, other than in circumstances permitted by other policies in the plan (identified at paragraph 4.25), development will not be permitted. The appeal scheme does not adhere to any of the exceptions outlined.
14. Meanwhile, Core Policy 29 of the Core Strategy sets out the intended growth strategy for the Trowbridge Community Area (TCA), that the appeal site also falls within. Amongst other matters, the policy highlights that approximately 165 homes will be provided outside of allocated sites in the TCA, over the plan period, in accordance with Core Policies 1 and 2.
15. The SNDP has also allocated housing sites to address the local housing requirements for Southwick, but the appeal site is not part of an allocation.
16. Southwick does have a limited range of facilities and services, including a primary school, shop, public house, and bus stop. Furthermore, there are pavements within very near vicinity of the appeal site that extend throughout much of the village and would provide suitable walking opportunities to such services for any future residents of the proposal. Indeed, the opportunity to

access facilities and services by sustainable means from the site is much the same as many existing properties nearby within the village boundary.

17. I am also satisfied that, in principle, the scale of the appeal site could suitably accommodate a single residential dwelling.
18. Nevertheless, it remains that the site is outside the defined limits of development for the village and the appeal scheme conflicts with Core Strategy Policies CP1, CP2 and CP29, in so far as these policies establish a strategy for the distribution of development across the plan area. Accordingly, having regard to the relevant provisions of the development plan, the site does not represent a suitable location for the proposed residential development.
19. Although quoted on the Council's decision notice, the proposal is not contrary to Policies 5a or 5b of the SNDP, as these policies specifically relate to development taking place at relevant allocated sites. However, whilst not quoted on the Council's decision notice, Policy 6 of the SNDP has been brought to my attention and I find that the proposal is also contrary to this policy. Policy 6 relates to proposals for additional housing development beyond the allocated sites in the SNDP. Amongst other matters, Policy 6 sets out that such development should not be permitted in the open countryside, unless it is permitted by an exception within the Core Strategy.

### **Other Matters**

20. The principle of a dwelling on this site has not been deemed to result in harm to the character or appearance of the area. However, this is to be expected of new development and therefore does not overcome the conflict with the development plan policies highlighted above.
21. A site has been allocated within the SNDP at Land off Wesley Lane. This is to the west of the appeal site and also lies outside of the limits of development for Southwick. I understand that there has also been a subsequent planning application made seeking to progress development at that site. Whilst development at Land off Wesley Lane may result in built form encroaching further beyond the settlement boundary than the current appeal scheme, and have an urbanising effect, it does not alter the settlement boundary for Southwick. Furthermore, unlike the appeal proposal, that neighbouring site has been considered and allocated for development through a plan led process.
22. The Council has an emerging local plan that has now passed the Regulation 19 stage, which contains both a policies map and proposed allocations towards meeting its housing need. As such, by virtue of Paragraphs 77 and 226 of the revised Framework, the Council need only to demonstrate a four-year supply of deliverable housing sites.
23. The Council states that it can demonstrate a 4.60 year housing land supply, while there is no robust evidence before me to dispute this figure. Consequently, I find paragraph 11d) of the Framework is not engaged.
24. Notably, the Framework's policies are material considerations which should be taken into account in dealing with applications from the day of its publication. Indeed, Paragraph 226 specifically highlights that from the date of publication of the revised Framework, for decision-making purposes, certain local planning authorities will only be required to identify and update a supply of specific

- deliverable sites sufficient to provide a minimum of four years' worth of housing.
25. The appellant has referred to the transitional arrangements outlined at footnote 79 of the Framework. However, the footnote is clear that the transitional arrangements are an exception and only apply to the provisions of paragraph 76 of the Framework<sup>1</sup> and the related reference at footnote 8, which are not relevant in this instance.
26. I also note the appellant has provided a copy of an appeal decision<sup>2</sup>, that further discusses the revised Framework's transitional arrangements. That appeal decision suggests that the change to only a 4-year housing land supply should only be taken into account as a material consideration when dealing with applications made on or after the publication of the latest version of the Framework. However, based on my own reading of the Framework, I do not agree with this finding. I also note that such interpretations of the transitional arrangements were also not reached by other Inspector's highlighted in appeal decisions referred to by the Council<sup>3</sup>.
27. Whilst I find Paragraph 11d) of the Framework is not applicable, the proposed development would nonetheless provide some socio-economic benefits associated with the construction and subsequent delivery of a dwelling. Such benefits would include a very minor contribution towards the Council's housing land supply position. However, given the proposal involves only a single dwelling such benefits would be very limited and would not outweigh the harm arising from the proposal's conflict with the plan led spatial strategy.
28. In determining the original application, as part of its planning balance, the Council applied Paragraph 14 of the previous iteration of the Framework as it deemed all of its relevant criteria to apply. Subsequently, the requirements of Paragraph 14 have since been amended as part of the revised Framework, while main parties dispute whether it is applicable to the appeal scheme. Even if the appellant is correct that the neighbourhood plan does not contain policies and allocations to meet its identified housing requirement, it remains that Framework Paragraph 14 is not relevant to the appeal given that Paragraph 11d of the Framework is not engaged.
29. Reference has also been made by the appellant to permissions in principle that have been granted for single dwellings located outside settlement boundaries within the authority area. I do not have the full background details of the cases cited. However, from the information before me these decisions benefited from the 'tilted balance' under paragraph 11d) of the Framework, whilst Paragraph 14 of the Framework was seemingly not relevant to those cases. As such, there appears to have been material differences in the policy circumstances of the decisions referred to compared to the appeal scheme.

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<sup>1</sup> Namely, not requiring local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if a) their adopted plan is less than five years old; and b) that adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded.

<sup>2</sup> Appeal Reference: APP/L3815/W/23/3319434 Land off Main Road, Birdham PO20 7DR

<sup>3</sup> Appeal Ref: APP/Y3940/W/23/3329064 Land South of Pound Lane, Semington; and Appeal Ref: APP/Y3940/W/23/3324436 15 Folly Lane, Warminster, Wiltshire BA12 8EA

30. There is dispute between the main parties as to whether the allocations within the SNDP meet the local housing requirements for the village over the plan period. Notwithstanding that the SNDP was relatively recently Made, the appellant highlights that as part of the Wiltshire Local Plan Review (the LPR), the baseline indicative housing requirement for the village of Southwick (from 2016 – 2036) is in the region of 85 dwellings. When taking account of commitments and recent completions, the appellant therefore suggests that there is a significant shortfall in the supply of dwellings in the area to meet this housing need.
31. However, the LPR has yet to be submitted for examination and remains at a relatively early stage of preparation. As such, these figures have not yet been verified. Additionally, the Council's 'Local Plan Empowering Rural Communities' Paper (January 2021) continues to promote a plan led approach to addressing such housing needs, including the potential need for reviews of neighbourhood plans and further allocations of sites. I therefore give the appellant's argument on the indicative housing requirement for the village little weight and my decision does not turn on this matter.
32. The Council has previously prepared a Briefing Note (No. 22-09, April 2022), which includes details of how it will seek to restore a five-year housing land supply. From the evidence before me, it is unclear whether the Briefing Note went through a formal review or any consultation process. Additionally, given its age and the changes in planning policy context since the Briefing Note was prepared, I find it attracts very limited weight and again does not alter my findings on the appeal proposal.
33. Finally, I note the appellant's frustrations in the manner in which the Local Planning Authority dealt with the original application, however, the appeal has been determined on its own merits.

### **Conclusion**

34. The appeal scheme conflicts with the development plan as a whole and there are no other considerations, including the Framework's provisions, which outweigh this finding. Therefore, for the reasons given above and considering all other matters raised, the appeal is dismissed.

*Lewis Condé*

INSPECTOR