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## Appeal Decision

Hearing Held on 6 June 2017

Site visit made on 6 June 2017

**by Andrew Dawe BSc(Hons) MSc MPhil MRTPI**

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

**Decision date: 07 August 2017**

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**Appeal Ref: APP/Y3940/W/17/3167012**

**Land at The Grange, Devizes Road, Hilperton, Wiltshire BA14 7QY**

- 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 Charlcombe Homes Ltd against the decision of Wiltshire Council.
  - The application Ref 16/01633/OUT, dated 17 February 2016, was refused by notice dated 15 December 2016.
  - The development proposed is erection of 30 dwellings.
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### Decision

1. The appeal is dismissed.

### Application for costs

2. At the Hearing an application for costs was made by Charlcombe Homes Ltd against Wiltshire Council. This application will be the subject of a separate Decision.

### Procedural Matters

3. The description in the fourth bullet point of the above header is taken from the original planning application form. However, the parties agree and have confirmed that the proposal has been amended to relate to up-to 26 dwellings. I have determined the appeal on that basis.
4. The application was submitted in outline, with the matters of access and layout for consideration. However, based on the submissions and as confirmed at the Hearing layout is now reserved for future consideration along with appearance, landscaping and scale. A site layout plan has been submitted for illustrative purposes. I have determined the appeal on that basis.
5. It is common ground between the appellant and Council that through appropriate layout, detailed design and use of materials the development would result in no harm to the setting of the heritage assets relating to the adjacent Hilperton Conservation Area (the CA). However, concern about the effect of the proposal on the character and appearance of the surrounding area is raised by the Hilperton Parish Council and neighbouring residents. In taking account of those representations, I consider that this matter should be addressed in this decision as a main issue.

## **Main Issues**

6. The main issues are:

- i) whether or not the Council can demonstrate a five year supply of deliverable housing sites (5 year HLS);
- ii) whether or not the proposal would be in a suitable location for dwellings, having regard to development plan policies and the principles of sustainable development;
- iii) the effect of the proposed development on the character and appearance of the surrounding area and whether it would preserve or enhance the character or appearance of the adjacent CA;

## **Reasons**

### *Housing land supply*

7. Paragraph 47 of the National Planning Policy Framework (the Framework) sets out the need to boost significantly the supply of housing. It is disputed by the parties as to whether or not the Council can demonstrate a 5 year HLS and I have had regard to the submissions and discussions at the Hearing on this matter.
8. I have also had regard to a recent appeal decision that underwent scrutiny at an Inquiry, Ref APP/Y3940/W/16/3150514, dated 22 June 2017, relating to a mixed use proposal including up to 200 dwellings on land at Forest Farm, Chippenham, where it was found that the Council can demonstrate a 5 year HLS. The appellant has had the opportunity to comment on this decision. Being a particularly recent decision, this is therefore a very significant material consideration, more so than an older decision referred to by the appellant relating to a large proposed development at Langley Burrell, Ref APP/Y3940/W/15/3139183, where a lack of a 5 year HLS was recorded.
9. My colleague in respect of the Forest Farm decision considered the issue of housing delivery performance in relation to a ten year period from 2006 and also took account of the findings of the Core Strategy Inspector and of the Inspector concerning another appeal (the Shurnhold appeal Ref APP/Y3940/W/15/3132915). It was found that although in some years the annualised targets were not met, having regard to the considerable fluctuations in delivery, as well as the changing housing requirements over the past ten years, there has not been a persistent record of under-delivery. The evidence submitted in respect of the current appeal does not persuade me otherwise, such that a 5% buffer and use of the method whereby housing shortfall should be made up over the remainder of the plan period (the Liverpool Methodology) would be appropriate, as my colleague also found to be the case.
10. Notwithstanding the above findings, there does however also remain dispute between the parties relating to the deliverability of development on specific sites elsewhere. Based on the 5% buffer and use of the Liverpool Methodology, the figures presented at the Hearing by the Council and appellant were for a surplus of 209 dwellings and a deficit of 355 respectively. These figures relate to 5.16 and 4.7 years supply respectively.

11. I have had regard to those other sites referred to in the submissions and as discussed at the Hearing. In respect of Rawlings Green, there are currently unresolved land ownership issues. However, I have had regard to the Forest Farm decision whereby it was found that the Council could exercise compulsory purchase powers and that other matters, including provision of infrastructure, could be achieved so as to enable 180 dwellings to be built in the next five years. I note that the Council, in respect of figures presented at the Hearing consider this now to be 100 dwellings. However, even with that figure there would be a difference of 80 dwellings from the appellant's figure.
12. In respect of South West Chippenham, concern was raised in the Forest Farm appeal about the delivery in the first year but that 30 units by April 2018 is a possibility. In light of more recent communication from the developer, Crest Nicholson, this is now more likely to be 20. I have not been informed that a reserved matters application has yet been submitted. Nevertheless, that initial fairly low projected delivery would reflect that situation. Furthermore, I have not received sufficient substantive evidence to suggest that my colleague's findings in respect of future years would not be achievable, which reflected the Council's projections. As such, the 5 year supply would be likely to amount to 520 dwellings, a difference of 110 from the appellant's figures.
13. In respect of Ashton Park, my colleague found that the Council's projection of 350 dwellings need not be amended, taking account of the effect of the proposal on bats. However, I have also had regard to fairly recent correspondence from Persimmon Homes suggesting a delay amounting to a reduction in the 5 year provision to just 50. Like the finding of my colleague, I have received no substantive evidence to indicate a lack of viability for this site and so consider the 50 projection to be reasonable against the zero figure put forward by the appellant.
14. In respect of Foundary Lane, it was found in the Forest Farm appeal that, despite contamination issues and those raised about potential delay due to the manner in which the site owner chooses to develop the site, the projected supply should not be reduced from the Council's 250 figure. Furthermore, in respect of RAF Yatesbury, despite various complexities associated with the development of the site, my colleague found that over the 5 year period it would be feasible for 46 dwellings to be delivered. With regard to Backbridge Farm, my colleague found that the delivery should be reduced by 50 which reflects the appellant's figure in this respect. In all three of these cases, I have received insufficient substantive evidence to convince me to find differently from my colleague.
15. Therefore, even without considering the North Chippenham site, which was not at issue at the Forest Farm appeal, I find that there would be a supply of at least 414 more dwellings over 5 years than the figures submitted by the appellant. That would provide a surplus of 59. As such, I find that the Council is able to demonstrate a 5 year HLS.

#### *Suitability of location for dwellings*

16. Core Policy 1 (CP1) of the Wiltshire Core Strategy (the Core Strategy) sets out the settlement strategy which identifies the settlements where sustainable development will take place. Hilperton is designated as a Large Village in respect of this policy, where development will be limited, amongst other things, to that needed to help meet the housing needs of settlements.

17. Core Policy 2 (CP2) qualifies specifically where development would be considered acceptable to meet the minimum housing requirement in Wiltshire as whole and in the North & West Wiltshire Housing Market Area (the NWWHMA). Outside of the defined limits of development, as is the case with the appeal site, other than in the case of proposals relating to other exception policies within the Core Strategy, development will not be permitted. The proposal does not relate to any of those exception policies and so is not in accordance with policies CP1 and CP2 of the Core Strategy.
18. I have had regard to the appeal decision Ref APP/Y3940/A/14/2221954 relating to the adjacent site to the east for the erection of 15 dwellings which was allowed and remains extant, albeit not yet implemented. I agree with my colleague who in determining that appeal considered that prospective residents would have good access to a range of fairly local services and facilities to serve day to day needs such as shops, primary school and leisure facilities including play areas. Bus services running in the vicinity would also enable access to further facilities, services and employment destinations in Trowbridge, including secondary schools. It is unlikely that demand for those bus services would exceed their capacity as a result of the proposed relatively small number of additional dwellings. The appeal site, being immediately adjacent to that other appeal site, would therefore afford similar levels of accessibility for its residents.
19. I have also had regard to Core Policy 29 (CP29) of the Core Strategy which relates to the spatial strategy for the Trowbridge Community Area and requires development to be in accordance with the settlement strategy set out in policy CP1. Notwithstanding that the proposal would not accord with policies CP1 and CP2, policy CP29, amongst other things, states that greenfield housing sites in addition to the strategic sites will only be permitted once improved secondary school provision has been delivered as a result of the Ashton Park urban extension. That improved provision remains to be completed. Nevertheless, the appellant has submitted a Unilateral Undertaking planning obligation which in respect of this issue makes provision for an appropriate financial contribution towards both secondary and primary education, to mitigate the additional demand from occupiers of the proposed development. Together with my finding above relating to the accessibility to such facilities, the proposal would make adequate provision in respect of education.
20. The appellant highlights that the site has been evaluated positively in the past through the Strategic Housing Land Availability Assessment process. However I have received no substantive evidence to demonstrate any certainty that the site will be included within any future amended settlement boundary for Hilperton.
21. I therefore conclude on this issue that the proposal would not accord with policies CP1 and CP2 in terms of its location outside of the defined limits of development. It would nevertheless be in a sustainable location in respect of those identified aspects relating to accessibility and would make adequate provision for education.

#### *Character/appearance*

22. The appeal site is located adjacent to the core of the village of Hilperton which is contained within the CA. There are dwellings fronting onto Devizes Road opposite, within the CA to the west, and in a modern estate to the south.

There is also the extant planning permission for 15 dwellings on the land to the east of the site. Despite that surrounding context, the site maintains a largely undeveloped gap on the southern side of Devizes Road. That is emphasised by the highly vegetated front boundary, the significant depth of paddock land extending from the road, and further vegetation beyond adjacent to the southern site boundary. Although there is a modern housing estate to the south of the site, it is set well away from Devizes Road, and well screened such that it does not deflect from the semi-rural nature of the site.

23. In this regard, and whilst taking account of the submitted Landscape and Visual Appraisal, I agree with my colleague who, in determining the appeal for the adjacent 15 dwelling proposal, found there to be a distinct character and apparent separateness of the village core, giving it a separate identity to the suburbs of Trowbridge. In that other appeal case, the proposal's impact on that distinct character was considered to weigh significantly against it. The historic nature of that core, containing a number of attractive traditional buildings, is a key contributory factor to its distinctiveness. The presence of dwellings continuing out from the core on the northern side of the road weakens that separateness to some degree. The setting to the village core and CA provided by the retained gap on the southern side is therefore all the more important in terms of preserving that distinctiveness.
24. Although the extant appeal scheme would reduce the extent of the gap, it would still be separated from the core of the village by the significant width of the appeal site which, in its existing form, would therefore maintain a buffer. The proposed development would remove that buffer, to the detriment of the existing separate identity of the village core. In doing so, it would therefore have a significantly more noticeable impact in that respect than the extant proposal which would only partially close the gap and also still be set away from that core.
25. A planting strip, comprising dense native species, is proposed along the road frontage to the site which would be likely to provide some visual screening of the proposed dwellings. However, it is inevitable that those dwellings would still be seen to varying degrees through or over that planting from the road. This would be particularly so were the dwellings sited as close to that site boundary as shown on the submitted illustrative proposed site layout plan. Any such visibility would also be more so in the winter with leaves shed from any non-evergreen species. Furthermore, any new planting would take some time to reach maturity and its full screening effectiveness. It could also not be relied upon in the longer term for screening in terms of its ongoing health and survival. The development would also be clearly seen via the site access.
26. Having regard to paragraphs 132 and 134 of the Framework, harm to the significance of the CA would be less than substantial due to the relatively small scale of the development in relation to the village as a whole. That harm needs to be weighed against any public benefits of the proposal.
27. The proposal would have the benefit of providing additional dwellings to the supply of housing in the area in a sustainable location, albeit outside of the defined limits of development and not a particularly large number. I also note that policy CP2 of the Core Strategy is not expressed in terms of a maximum number of dwellings, and the submissions highlight a remaining requirement for housing in the Trowbridge Area. Nevertheless, as the Council is able to

demonstrate a 5 year HLS, the weight that I attach to the addition of up-to 26 dwellings is not substantial. I note that the Council has an identified need for affordable housing. This proposal would contribute towards that in respect of a policy compliant minimum provision of 30% of the on-site dwellings, secured through a planning obligation. I have applied some additional weight to that social benefit. It is also likely that there would be some local economic and social benefits arising from the proposal in terms of employment relating to its construction and from future residents supporting village services and facilities. Nevertheless, I find that such benefits would not outweigh that less than substantial harm to the significance of the CA.

28. For the above reasons, I conclude on this issue that the proposed development would cause unacceptable harm to the character and appearance of the surrounding area and fail to preserve the character and appearance of the adjacent CA. As such, in respect of this issue, it would be contrary to Core Policies 51, 57 and 58 of the Core Strategy which together, in respect of this issue, require development to protect, conserve and where possible enhance landscape character and the historic environment, and to enhance local distinctiveness. It would also be contrary to the Framework which in paragraph 17 states that planning should, amongst other things, take account of the different roles and character of different areas and to section 12 relating to conserving and enhancing the historic environment.

#### *Other matters*

29. Two Unilateral Undertaking planning obligations (UUs) have been submitted by the appellant during the appeal process in relation to securing a financial contribution towards measures to mitigate any potential adverse effect of the proposal on the integrity of the Bath and Bradford on Avon Bats Special Area of Conservation (SAC). This would relate to the Trowbridge Recreation Strategy to avoid or offset a significant increase in the total number of visits to the SAC. However such a Strategy remains to be prepared and adopted. As such, it would ordinarily be necessary for me to undertake an Appropriate Assessment (AA) under the Habitats Regulations in order to determine whether the proposal would have a significant effect on the SAC. However, as I am dismissing the appeal for other reasons, it is unnecessary for me to undertake the AA in this case or to consider the UUs any further.

#### **Conclusion**

30. The Framework sets out that there should be a presumption in favour of sustainable development and indicates that to achieve that, economic, social and environmental gains should be sought jointly and simultaneously through the planning system.
31. Under paragraph 49 of the Framework, housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5 year HLS. In this case, I have found that the Council can demonstrate a 5 year HLS and so those policies can be considered up-to-date.
32. I note that the adjacent extant appeal scheme was allowed despite being outside of the settlement limits of Hilperton and Trowbridge and my colleague's concerns relating to the effect on the character and appearance of the area.

However, that decision was made in the context of relevant policies for the supply of housing not being considered up-to-date in light of the Council not being able to demonstrate a 5 year HLS at that time. I have also found in this case that the proposal would have a significantly more noticeable impact than the extant proposal on the character and appearance of the surrounding area and would fail to preserve the character and appearance of the CA. The circumstances are therefore materially different and I have determined this appeal on its merits.

33. In considering this appeal on its merits, I have found that the proposed development would cause unacceptable harm to the character and appearance of the surrounding area and fail to preserve the character and appearance of the CA, conflicting with the relevant Core Strategy policies. It would also fail to comply with the Council's settlement and delivery strategy policies CP1 and CP2. I have found that there would be the benefits of adding up-to 26 dwellings to local housing supply, including some needed affordable housing, in a sustainable location in terms of accessibility to services and facilities. There would also be the likely economic and social benefits of construction related employment and future support of village services and facilities by prospective residents. However, these benefits would not be sufficient to outweigh the conflicts with the development plan and it would therefore not be a sustainable form of development.
34. For the above reasons, and taking account of all other matters raised, I conclude that the appeal should be dismissed.

*Andrew Dawe*

INSPECTOR

## APPEARANCES

### FOR THE APPELLANT:

Alastair Gibson	Charlcombe Homes Ltd
Christopher Dance	LPC Ltd
Desmond Dunlop	D2 Planning
Laura Wilkinson	D2 Planning
Karen Howe	Clarke Willmott
Ceri Griffiths	Nicholas Pearson Associates
Richard Wagstaffe	Chartered Architect

### FOR THE LOCAL PLANNING AUTHORITY:

Jonathan James	Case Officer
Louisa Kilgallan	Senior Ecologist
Mark Henderson	Five Year Housing Land Supply Officer

### INTERESTED PERSONS:

Ernie Clark	Wiltshire Councillor
Francis Morland	
John Jones	Local Resident
Tina Jones	Local Resident
Mr A Austin	Local Resident
Alastair Page	A Landowner
Lucie Castleman	Local Resident

### DOCUMENTS SUBMITTED AT THE HEARING:

1. Summary of figures relating to five year housing land supply including differences in figures between the Council and appellant concerning sites with disputed projected completions and figures for different buffers and approaches to addressing shortfall.
2. Documents, including various email communications, submitted by the Council relating to the issue of deliverability of housing development sites.