



Mr Chris Rees
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Brunswick House
Brunswick Place
Southampton
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Our Ref: APP/Y3940/A/10/2143011

21 September 2011

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 78)
APPEAL BY BARRATT SOUTHERN COUNTIES
APPLICATION REF: S/2009/1943/FUL
LAND NORTH, WEST AND SOUTH OF BISHOPDOWN FARM, SALISBURY**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, K G Smith BSc(Hons) MRTPI, who held a public local inquiry between 4 and 10 May 2011 into your client's appeal under Section 78 of the Town and Country Planning Act 1990 against the failure of Wiltshire Council to give notice within the prescribed period of a decision on an application for planning permission for the erection of 500 dwellings, 4 new vehicular accesses off Pearce Way, associated landscaping and public open space and the creation of a country park with associated parking, infrastructure and facilities, on land north, west and south of Bishopdown Farm, Salisbury, in accordance with planning application ref: S/2009/1943/FUL, dated 29 December 2009.
2. The appeal was recovered for the Secretary of State's determination on 30 December 2010, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the proposal involves residential development over 150 units or on sites of over 5 hectares which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

Inspector's recommendation and summary of the decision

3. The Inspector, whose report is enclosed with this letter, recommended that the appeal be dismissed and planning permission refused. For the reasons given below, although the Secretary of State agrees with the some of the Inspector's conclusions he disagrees with others and with the Inspector's recommendation. **The Secretary of State therefore allows the appeal and grants planning permission.** All paragraph references, unless otherwise stated, refer to the Inspector's report (IR).

Procedural matters

4. In reaching his decision, the Secretary of State has taken into account the Environmental Statement and Addendum submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 (IR1, 34-35, 200 & 244). He considers that the environmental information as a whole meets the requirements of these regulations and that sufficient information has been provided for him to assess the environmental impact of the application.
5. The Secretary of State notes that amendments were made to the application as set out in IR13. Like the Inspector he has considered the application on this basis and does not consider that any party has been prejudiced by so doing.

Policy Considerations

6. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the Regional Spatial Strategy for the South West (RSS) (2001), the Wiltshire and Swindon Structure Plan 2016, and the saved policies of the Salisbury District Local Plan (2003). The Secretary of State agrees with the Inspector that the most relevant development plan policies are those listed at IR17-18.
7. The Secretary of State has also taken into account as a material consideration the emerging South Wiltshire Core Strategy (CS) (IR20-26). However, given that the Inspector's Report on the EiP into the CS is still awaited, the Secretary of State gives only limited weight to its provisions as they currently stand.
8. Other material considerations which the Secretary of State has taken into account include those national policy documents listed in inquiry doc WC1 (page 6); Circular 11/95: *Use of Conditions in Planning Permission*; Circular 05/2005: *Planning Obligations*; and the Community Infrastructure Levy (CIL) Regulations 2010. Like the Inspector (IR244), he has also taken account of the Written Ministerial Statement (WMS) of the Rt Hon Greg Clark MP, on *Planning for Growth*, dated 23 March 2011. Furthermore, he has had regard to the draft National Planning Policy Framework as a material consideration but, as this was published for consultation on 25 July 2011 and is therefore subject to change, he has given it little weight.
9. As it is the Government's intention to revoke RSSs (as reflected in the Localism Bill now in the later stages of its passage through Parliament), the Secretary of State has given limited weight to the proposed revocation of the RSS in determining this case. He also notes that the parties agreed (IR29) that there was no need to debate the Cala Homes case (concerning the status of RSSs) at the inquiry.

Main Issues

Planning policy and housing land supply background

10. The Secretary of State has noted and agrees with the Inspector's introduction and background on planning policy and housing land supply as set out at IR196-209, including agreeing with the Inspector that, for the reasons given at IR208, there is a need for the housing from the appeal site. The Secretary of State also notes (IR209) that the proposed 200 affordable housing units would be supported by

development plan policies and would help in meeting what is an acute and worsening need.

Planning policy – principle of development

11. The Secretary of State agrees with the Inspector (IR213) that the proposed development for housing on the appeal site would not be in accordance with the development plan and that, in that context, it is important to consider whether there are any material considerations which should be added to the weight due to the CS on the basis of its status as an “emerging” plan. The Secretary of State agrees with the Inspector that, for the reasons given at IR214, the housing element of the appeal proposal would more than meet all the stated objectives for this site as set out in Appendix A of the July 2009 submission CS; and he has taken account of the Inspector’s observation at IR215 that there was no objection to the soundness of the allocation of the appeal site for 500 dwellings in that version of the CS. He has also had regard to the appeal Inspector’s conclusion at IR241 that the beneficial contribution of the site towards meeting the significant housing land shortage and the acute need for affordable housing would be sufficient to outweigh the conflict with the development plan on the principle of developing the appeal site for housing.
12. Against that, the Secretary of State has also had regard to the Inspector’s reasoning at IR216-219, leading to his conclusion at IR220, that the Council wishes to move away from its 2009 submission CS - albeit that the way in which the Strategic Site allocation would achieve a wider gap was unknown at the time of the inquiry. The Secretary of State agrees with the Inspector’s conclusion at IR220 that it is difficult to see how the wider gap could be achieved, and he has also taken account of the Inspector’s conclusion at IR240 that, with appropriate landscaping, the size of the gap contained within the appeal proposal would preserve the separation of Ford from Salisbury and is not, therefore, a factor of significant objection to the proposal.
13. Thus, while the Secretary of State accepts the Inspector’s conclusion that only limited weight can be given to the allocation of the site in the emerging CS until matters have been further clarified, he considers that this limited weight is, in itself, a material consideration to be put in the overall balance alongside the need for the housing from the appeal site, the acute and worsening need for affordable housing and the uncertainties about how these might be overcome without developing the appeal site.

Layout and design including access and parking issues

14. The Secretary of State has carefully considered the Inspector’s reasoning and conclusions on layout and design as set out in IR221-234 and IR243. He agrees that there is little to question in the design principles of the development (IR221-223); that a suitable scheme could be devised for vehicular access from Pearce Way (IR224); that any deficiency in visitor parking provision would not be particularly serious (IR232); and that issues relating to safety margins and servicing do not demonstrate significant layout defects (IR233).
15. Notwithstanding this, the Inspector identifies layout and access details that he sees as having significant defects (IR225-229) and, as he goes on to conclude at IR 243 that it would be wrong to permit the erection of housing incorporating such defects,

the Secretary of State needs to consider whether he agrees with the degree of weight which the Inspector gives to them in the overall balance.

16. With regard to pedestrian and cycle routes and the provision of footways (IR225-229), the Secretary of State agrees that locating the school at the western extremity would be likely to lead to more vehicular traffic and would not encourage walking to school (IR225). Nevertheless, the school would be within walking distance for many, with 4 pedestrian links (IR68), so he affords only little weight to this matter. Also, given the otherwise apparently reasonable contribution towards encouraging cycling, the Secretary of State similarly affords little weight to the lack of provision for cycle parking and storage facilities (IR226), although he considers that such provision would have been preferable.
17. As for the issues surrounding footpath 11, the substantial hedgerow beside it, and footpath and carriageway widths generally (IR227-229), the Secretary of State notes that a footway dimension of 1.5m and carriageway of 4.8m fall within the dimensions set out in DfT's "*Manual for Streets*" (MfS), and that there is no guidance in that document on where or whether there should be two footways. The Inspector acknowledges (IR229) that the guidance in MfS encourages diversity, flexibility and a sense of place while also assisting in the creation of streets which are safe. As both the Inspector and the Council acknowledge, this is a matter of judgement; and, as the Inspector records at IR230, a Level 1 Safety Audit has not revealed any substantial shortcomings. On the matter of the concern expressed by the Council and the Inspector regarding the unmarked junction referred to as Junction 3 (IR231), the Secretary of State agrees with the Inspector that there is no evidence to support the appellant's claim that unmarked junctions lead to reduced traffic speeds. However, whilst recognising that the layout may not be an ideal approach, the Secretary of State does not consider this to be a matter of such weight that planning permission should be refused given that the Level 1 Safety Audit did not find any substantial shortcomings.
18. In conclusion on this matter, while the Secretary of State acknowledges that the design and layout of the scheme is not ideal, he does not consider that it contravenes the guidance in MfS and, given that the proposal is broadly acceptable in a wide range of respects, he does not go as far as the Inspector in deeming layout and design defects to be "significant" (IR234). Therefore, while he agrees with the Inspector (IR234) that the detailed design shortcomings would conflict with relevant development plan and national policies, he does not consider that these shortcomings should be given more than limited weight against the scheme in the overall balance.

Other matters

19. The Secretary of State agrees with the Inspector's conclusions on the matters set out at IR235-237.

Section 106 agreement

20. The Secretary of State has had regard to the Inspector's reasoning at IR210-212 concerning the section 106 agreement dated 19 May 2011. However, while agreeing with the Inspector's conclusions in the final sentence of IR212, the Secretary of State disagrees with the Inspector's conclusion that that part of the Agreement relating to the country park does not comply with the CIL Regulations. He considers

that the Inspector has been misguided in that respect as the country park forms a part of the application and the agreement provides for its establishment and for its transfer into public ownership.

21. The Secretary of State considers irrelevant the Inspector's conclusion that the country park is not necessary to make the housing development acceptable in planning terms and would not be fairly and reasonably related in scale and kind to the housing development, as the application before him includes both housing and the country park area. Thus, as the country park forms a part of the application, the question on which the Secretary of State needs to satisfy himself is whether the section 106 agreement is necessary to make the actual proposed development acceptable in planning terms. He considers that, as the relevant provisions in the agreement are directly related to the country park which forms a part of the development included in the planning application and are fairly and reasonably related in scale and kind to the provision of the country park, they meet the tests set out in Circular 05/2005 and the CIL Regulations 2010.

Conditions

22. Having considered the Inspector's comments at IR245-250, the Secretary of State is satisfied that the conditions proposed by the Inspector in the Schedule attached to the IR, and set out at Annex A to this letter, are reasonable and necessary and comply with the provisions of Circular 11/95.

Overall conclusion

23. While the development of the appeal site to include 500 dwellings would conflict with its designation as open land in the development plan and would go against certain design policies in that plan, the Secretary of State has gone on to consider whether there are any material considerations to indicate that this appeal should nevertheless be determined otherwise than in accordance with it. In undertaking that balance, the Secretary of State gives substantial weight to the fact that the appeal scheme would make a major contribution towards satisfying both the lack of a 5-year supply of housing land and the acute shortage of affordable housing provision in the area. Furthermore, he has seen no evidence to suggest that he should not give some weight to the fact that it would be in accordance with the provisions of the emerging CS, and he considers that the benefit to be derived from the country park further tips the balance in favour of the scheme. He is also satisfied that the gap separating Ford from Salisbury would be maintained and that the design failings identified by the Inspector are not strong enough grounds to refuse the application. Altogether, therefore, he is satisfied that there are material considerations of sufficient weight to indicate that he should decide this case other than in accordance with the designation of the appeal site as open land in the development plan.

Formal Decision

24. Accordingly, for the reasons given above, the Secretary of State hereby allows your client's appeal and grants planning permission for the erection of 500 dwellings, 4 new vehicular accesses off Pearce Way, associated landscaping and public open space and the creation of a country park with associated parking, infrastructure and facilities, on land north, west and south of Bishopdown Farm,

Salisbury, in accordance with planning application ref: S/2009/1943/FULL (as amended), dated 29 December 2009.

25. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fails to give notice of its decision within the prescribed period.
26. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

Right to challenge the decision

27. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.
28. A copy of this letter has been sent to Wiltshire Council. A notification letter has been sent to other parties who asked to be informed of the decision.

Yours faithfully

Jean Nowak

Authorised by the Secretary of State to sign in that behalf