



Appeal Decision

Hearing held on 18 March 2016

Site visit carried out on the same day

by Mrs J A Vyse DipTP DipPBM MRTPI

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

Decision date: 15 June 2016

Appeal Ref: APP/Y3940/W/15/3133451

Wheatleys Farm, High Road, Ashton Keynes, Swindon SN6 6NX

- 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 Mr and Mrs A Glead against the decision of Wiltshire Council
 - The application No 14/11978/OUT, dated 17 December 2014, was refused by a notice dated 24 March 2015.
 - The development proposed comprises demolition of existing farm buildings and the erection of 18 No dwellings.
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Decision

1. For the reasons that follow the appeal is allowed and planning permission is granted for demolition of existing farm buildings and the erection of 18 dwellings at Wheatleys Farm, High Road, Ashton Keynes, Swindon, in accordance with the terms of the application, No 14/11978/OUT, dated 17 December 2014, subject to the conditions set out in the attached schedule.

Procedural Matters

2. This is an outline application with all matters reserved for future consideration. The application was accompanied by an illustrative layout (LDC.1808_003B). However, it transpired that parts of the site lie within Flood Zones 2 and 3. As a consequence, a revised illustrative layout was submitted (LDC.1808_008C). At the start of the Hearing, both the Council and others present confirmed that they had no objection to the revised details. Since layout is a matter that is reserved for future consideration in any event, I was content that accepting the plan would not prejudice the position of any interested parties and the Hearing proceeded on that basis.
 3. Although access is a reserved matter, the Design and Access Statement confirms that it is intended that the development would be served via two existing accesses off High Road.
 4. A planning obligation was submitted at the Hearing (Doc 5). It secures the provision of at least 40% (eight) affordable units on site and the provision of public open space. With the agreement of the Council, a sealed copy was submitted shortly after the event (Doc 6). However, I noticed that one of the paragraphs in the sealed version was missing some references. An amended version was submitted subsequently, rectifying that omission (Doc 7). The Agreement is a material consideration and I deal with its provisions later.
 5. At the time that the planning application was determined, the Council maintained that it could demonstrate a five year supply of housing land. Since then however, the examination into the Chippenham Site Allocations
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Development Plan Document has been suspended. As a consequence, the Council's stated position at the Hearing was that it could not, at the present time, demonstrate a five year housing land supply. That position was confirmed in a recent appeal relating to residential development in Sutton Benger.¹

6. Since the Hearing, a judgement has been handed down by the Court of Appeal (Civil Division) on appeal from the Administrative Court Planning Court.² The judgment considers the proper interpretation and application of the National Planning Policy Framework, in particular paragraph 49. The judgment interprets and applies paragraph 49 but leaves flexibility with the decision maker to determine, in the circumstances before him/her, what policies fall within the ambit of paragraph 49, and how much weight is to be given to them in the overall planning balance. Both the Council and the appellant were given the opportunity to provide further comment on any implications of the judgement for their respective cases. I have taken the comments received into account in coming to my decision.

Background

7. The Council's decision notice set out four reasons for refusal (RR). RR4 related to the absence of a planning obligation. As noted above a signed, but not sealed, version was before the Hearing. It provides for affordable housing and the provision of open space within the site, the only matters requested by the Council in its Statement. Consequently, RR4 was not pursued at the Hearing.
8. RR3 refers to the site not being well-served by public transport links and as having poor pedestrian links with the village, with implications for pedestrian safety. Prior to the Hearing, the Council confirmed that the spatial strategy, as set out in the Wiltshire Core Strategy (adopted January 2015) identifies Aston Keynes as a Large Village and that, as such, the settlement is accepted as being an acceptable location for limited growth. The Council also confirmed that, whilst public transport is relatively poor, it is available within reasonable proximity to the site. I was advised that the Council's Highways Team was also satisfied, given the wider policy background, that development of the site is acceptable in transport terms. RR2 refers to flood risk. As explained below, the revised illustrative site layout addresses the Council's concerns in this regard. Neither RR2 nor RR3 were pursued by the Council at the Hearing. However, others present continued to have concerns in relation to these matters, I have included them in the main issue below.
9. RR1 refers to the site being outside the defined settlement boundary, as shown on the North Wiltshire Local Plan Proposals Map (Doc 4) and to the development not delivering identified needs in the Community Areas through a Site Allocations DPD and/or a Neighbourhood Plan.
10. The majority of the appeal site is classed as previously developed land,³ and the Council takes no issue with the development proposed in terms of any adverse impact on the character and appearance of the area. It was also satisfied that the intrinsic value of this part of the countryside should not

¹ APP/Y3940/W/15/3028953

² Mr Justice Supperstone [2015] EWHC 132 (Admin) Mrs Justice Lang [2015] EWHC 410 (Admin) Suffolk Coastal District Council and Hopkins Homes Limited and SSGLG, Richborough Estates Partnership LLP and Cheshire East Borough Council and SSGLG 17 March 2016 [2016] EWCA Civ 168

³ Although previously a farm, the appellant has planning permission for change of use of the agricultural buildings and yard to storage of up to 140 caravans, motor homes and boats (listed as Doc 1 at the end of this Decision).

preclude development at the site. With that in mind, and given the emphasis in the Framework to significantly boost housing supply, the Council accepted that, whilst the quantum of development proposed would be above that allowed in general terms under the provisions of Core Policy 1 (CP1) of the Core Strategy⁴, its location at the edge of a Large Village was in broad conformity with the Council's overall spatial strategy as set out in CP1. On that basis, the Council did not pursue RR1 at the Hearing. Again, however, others continued in their opposition on these grounds, including reference to implications for the emerging Neighbourhood Plan. I have, therefore, also included this in the main issue set out below.

11. The main issue below is different from that set out at the start of the Hearing. However, the positions of the parties crystallised during the event and all parties were afforded full opportunity to present their respective cases. Whilst the representatives of the Parish Council and the Neighbourhood Plan Group had thought that they could each speak to the Hearing only for a few minutes, I explained at the start how Hearing events were run and both gentlemen took a full and active part in the discussion with no time constraints. I am mindful, in this regard, of Article 6 of the European Convention on Human Rights, which seeks to ensure that people have an equal opportunity to put their case. Being very aware of the duties imposed on me as the appointed Inspector, in particular the duty to ensure that the Hearing was conducted fairly and that all participants were afforded the opportunity to present their cases whilst observing the rules that govern the conduct of such events, I assisted those opposing the development to present their cases so far as I was able within the scope of the powers afforded to me and within the constraints of my own impartiality, having regard to the need to run proceedings as efficiently and effectively as possible. I am satisfied that the conditions under which objectors were able to present their cases was as fair as it could be to all parties. As such, their European Convention rights in this regard have not been offended.

Main Issue

12. The appeal site lies approximately 100 metres outside the defined settlement boundary for the village. In planning policy terms therefore, it lies in open countryside. However, having regard to the provisions of paragraph 49 of the National Planning Policy Framework (the Framework) the current housing land supply position renders the development boundary, and those policies restricting development to within those boundaries (other than in certain circumstances that are not relevant here) namely policy CP2 of the Core Strategy, and saved Local Plan policy H4, as out-of-date. The effect of that, is that the presumption in favour of sustainable development is to be applied. That is not to say that the policies are to be disregarded. Rather, they are to be given the weight they are due in all the circumstances of the case. Policies CP2 and H4 are generic in nature, covering wide swathes of the District. As such, they can be afforded little weight in the planning balance.
13. In that context, the main issue in this case relates to whether the appeal scheme would comprise sustainable development having regard to:
- flood risk;

⁴ In Large Villages, development is limited to that needed to help meet the housing needs of settlements and to improve employment opportunities, services and facilities.

- access to shops, services and facilities;
- pedestrian safety;
- and the emerging Neighbourhood Plan.

Reasons for the Decision

Flood Risk

14. There is reference in the objections from local residents to flooding in the area. Indeed, the Environment Agency confirms that, although most of the appeal site lies within Flood Zone 1, parts lie within Flood Zones 2 and 3.
15. However, whilst an area within the centre of the appeal site is shown as lying within Flood Zone 2, with a very small area within that lying in Flood Zone 3, that is based on ground levels. This part of the site is disconnected from the wider floodplain by higher ground on all sides. The Council is content, therefore, as am I, that it is appropriate to treat this part of the site as Flood Zone 1. The revised illustrative layout referred to above demonstrates that it would be possible to accommodate 18 dwellings wholly within Flood Zone 1.
16. The remaining part of the site shown as Flood Zones 2 and 3, at the north/north-eastern end of the site, would be used to provide open space and possibly part of the rear gardens to a couple of the house plots. In any event, the final site layout would be the subject of a detailed scheme, were the appeal to succeed, which details would be a matter for consideration by the Council in the first instance. I am satisfied therefore, subject to conditions, that future residents would not, necessarily, be at risk of flooding and neither would the development increase the risk of flooding elsewhere. There would be no conflict in this regard with Core Policy 67 (CP67) of the Core Strategy or the Framework, which together seek to direct new development to Flood Zone 1.
17. Objectors raised concerns that a ditch across the front of the site had been filled in. Be that as it may, the ditch lies within Flood Zone 1 and I have no reason to suppose that it has any material bearing on the Flood Zone 1 designation of most of the appeal site. In any event, policy CP67 requires that new development should include sustainable drainage measures, which would reduce the rate of surface water run-off from the site, helping to prevent increased flooding elsewhere, and improve rainwater infiltration. Such measures could be secured by condition, irrespective of the current condition of the ditch.

Access to shops, services and facilities

18. As confirmed by the Council, the local bus service is poor, although the appellant refers to it as an active service. I understand, however, that it does connect the village to Swindon, Cirencester and Chippenham. Furthermore, as a Large Village, Ashton Keynes has been identified as having an albeit limited range of employment, services and facilities (policy CP1). I understand in this regard, and it was not disputed, that playing fields, a sports ground, a primary school, a doctor's surgery, a couple of public houses, a village hall, post office and a garage are located within the village, within easy walking distance from the appeal site.

19. That said, it seems to me, that whilst future occupiers would have access to some services and facilities, they would be largely reliant on the private car for most of their everyday needs. However, in coming to a view on accessibility, I am mindful that the settlement is identified in the Core Strategy as a sustainable location for future housing development to help meet housing needs. I note, in this regard, that outside Malmesbury itself, there are no higher order local service centres within the Malmesbury Community Area (within which the appeal site is located). Indeed, the emerging Neighbourhood Plan anticipates further development in the village. Moreover, by the time of the Hearing, the Council's position was that it took no issue on this matter, confirming also that the Highways Team was satisfied that the site is acceptable in transport terms, given the wider policy background.
20. The appeal site is not in an isolated countryside location and there is at least some prospect that alternative modes of transport could be used for some journeys. Whilst the accessibility of the appeal site is less than ideal, it is not so poor that it has to be regarded as obviously unsustainable. I find no fundamental conflict, therefore, with the spatial strategy of the development plan in this regard, or with Core Policies 60 and 61, which together seek to reduce the need to travel by private car and encourage the use of sustainable transport alternatives.

Pedestrian safety

21. A particular concern of objectors was the absence of a footway along the roads leading to the centre of the village. However, I saw that a significant proportion of existing properties within the settlement have no footway alongside the adjoining highway, including those properties closest to the appeal site. In my experience, that is not unlike the situation in many rural villages.
22. Whilst the revised illustrative layout plan includes an annotated reference to a proposed footpath/pedestrian connection to the village, the requirement for such was not one of the Council's suggested conditions. Furthermore, in the related discussion at the Hearing, the Council officer confirmed that, on balance, the authority was not pursuing the provision of a footway given the overall benefits of the scheme. Indeed, even were a footway provided to the edge of the settlement, some 100 metres away, there is no footway there to connect to.
23. Although the road immediately adjacent to the appeal site is subject to the national speed limit, there are wide grass verges that could provide a pedestrian refuge if necessary. Moreover, the road is straight and so pedestrians would not be hidden from the view of oncoming drivers. Moreover, just past the appeal site, before the settlement boundary, the speed limit reduces to 30 mph. I recognise that future residents might well seek to walk their children from the site to the local school. Even so, there is no substantiated evidence to suggest that the absence of footways in the village is particularly dangerous, or has resulted in accidents in the past. On that basis, and having regard to the relatively limited scale of the development proposed, I am not persuaded that the absence of a footway here means that the development would pose an unacceptable risk in terms of pedestrian safety. Neither am I persuaded that it would have material implications in terms of

encouraging car travel. I find no conflict in this regard with Core Policy 61 which encourages, among other things, safe movement of people.

Emerging Neighbourhood Plan

24. A Neighbourhood Plan is currently being prepared for Ashton Keynes in accordance with the statutory process. I was advised that it has been subject to consultation under Regulation 14 and that the responses are currently under consideration by the Neighbourhood Plan Group.
25. The Core Strategy makes provision for at least 42,000 new homes to be delivered, with indicative requirements set out for each of the Community Areas. Malmesbury Community Area is expected to accommodate approximately 1,395 new homes over the Plan period – some 885 within Malmesbury itself, approximately 510 in the rest of the Area. Even taking subsequent completions into account, there remained a need, at the time of the Hearing, for approximately 150 additional dwellings within the Community Area outside Malmesbury.
26. Potential housing sites beyond the settlement boundary for Ashton Keynes were considered during preparation of the Plan and were put to the community via a Housing Consultation Survey. The survey set out that the settlement should provide 15 of the remaining homes required within the Community Area and sought views on a total of ten potential sites including the appeal site. The results of that survey showed support for three of the ten sites⁵. Only the top two sites - AB Carter Haulage (11 dwellings) and part of the former Cotswold Community (48 dwellings) are included in the emerging Plan (policy HSP1). The emerging Plan sets out that further new housing development will only be supported where it is within the settlement boundary (policy HSP4). As noted above, the appeal site lies close to, but just outside the settlement boundary. As a consequence, the proposal would conflict with the emerging Plan.
27. In February, the Neighbourhood Planning section of the Government's Planning Practice Guidance (planning guidance) was updated in relation to housing land supply. It confirms that, in the circumstances outlined above, decision makers may still give weight to relevant policies in an emerging neighbourhood plan.⁶ Indeed, the concerns of the Neighbourhood Plan Group, as stressed at the Hearing, were that allowing this appeal would set an undesirable precedent whereby other applications for residential development outside the village boundary would be difficult to resist, thus undermining the considerable time and effort spent in preparation of the Plan.
28. In coming to a view on the proposal, I am mindful that the planning guidance indicates that documentation produced in support of, or in response to emerging Neighbourhood Plans, may be of assistance to decision makers in their deliberations⁷. The Sustainability Appraisal, which informs the emerging Neighbourhood Plan, and the Housing Site Assessment Consultation Report, are two such documents. As noted above, they confirm that there was overall public support for only three of the ten sites consulted upon – the appeal site came in third⁸. All the other sites scored negatively overall. In light of that, it

⁵ Appendix B of the Housing Consultation Report (6 September 2015)

⁶ Paragraph: 082 Reference ID: 41-082-20160211

⁷ Ibid

⁸ Appendix B of the Housing Consultation Report (6 September 2015)

seems to me that any other site that might come forward for development would not, it would seem, have that element of public support.

29. In addition, the Sustainability Appraisal includes a résumé of each of the potential housing sites the subject of the survey. It sets out that the appeal site is located wholly within Flood Zone 2, that a significant proportion of the site comprises Coastal and Floodplain Grazing Marsh Biodiversity Action Plan Habitat, and that there is potential for the land to be classified as Best and most Versatile Agricultural Land (BMV). As a consequence, in terms of biodiversity, water resources/flood risk and climatic factors, development on the site is scored as having a likely adverse effect. However, the majority of the site is within Flood Zone 1, with the dwellings proposed to be confined to that area. Moreover, given that the appeal site comprises almost entirely of hard surfacing or buildings, a sustainable drainage scheme, secured by condition, could improve current surface water run-off rates. It was also confirmed, given the existing hardsurfacing and buildings, that the site makes no contribution to the Biodiversity Action Plan Habitat and does not comprise BMV. There would be no harm, therefore, as a consequence of the development proposed in these regards, contrary to what is implied in the Sustainability Appraisal. Furthermore, whilst the résumé identifies that development of the appeal site would have a neutral/no effect on the historic environment and landscape, the officer's report confirms that the development proposed could have a positive impact, with benefits to the village in terms of design, landscape and appearance.
30. It seems to me, therefore, when measured against those assessment criteria, that the impact of the development could be considered neutral at worst (as opposed to adverse or unknown as recorded in the Appraisal) and, in the case of historic environment and landscapes, positive. Moreover, all but two of all the other sites consulted upon lie within the Conservation Area – as set out below, the appeal site lies outside the Conservation Area. In addition, six of the other sites comprise greenfield land, whereas the appeal site is previously-developed land, and some are wholly within Flood Zone 2.
31. All in all, I am satisfied that the forgoing considerations differentiate the appeal site from the other potential housing sites assessed and thus, were the appeal to succeed, it would not set an undesirable precedent since the criteria that relate to this site are not repeated by any of the other sites. Perhaps, most importantly of all, none of the other sites had an overall positive public rating in the Housing Site Assessment Consultation.
32. At the Hearing, the Council confirmed that, even though Core Policy 2 of the Core Strategy supported the approach set out in the Neighbourhood Plan, and taking account of the recent advice, it was of the view that the emerging Plan could, in the circumstances, only be afforded limited weight. In light of my findings above, I have no reason to take a different view.

Other Matters

33. The Ashton Keynes Conservation Area, which encompasses almost the whole settlement, lies a short distance to the north of the appeal site. The Framework defines the setting of a heritage asset as the surroundings in which it is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate

that significance, or may be neutral. Setting embraces all of the surroundings from which an asset can be experienced, or that can be experienced from or within the asset. In essence, if the development proposed could be seen from, or in conjunction with the Conservation Area, then there would be an impact on its setting. An assessment is then required as to whether that impact would harm the significance of the asset that is the Conservation Area.

34. There was general agreement that the appeal site lies within the setting of the Conservation Area. There was no suggestion, however, that it makes any positive contribution to its heritage significance which derives, it seems to me, from its irregular grid of ancient streets and the infant River Thames which now flows along one side of High Road, with bridges across it leading to various dwellings. In addition, the remains of four C14th crosses bind several sections of the village together. The village, which has developed over the centuries, now has a diverse range of architectural styles and materials, although the use of limestone rubble predominates amongst the older properties. The Conservation Area is surrounded by agricultural land and large man made water bodies.
35. The officer's report notes that the appeal site currently comprises a mix of dilapidated modern agricultural buildings and hardstanding and that, as such, redevelopment is likely to have a positive impact with benefits to the village in terms of design, landscape and appearance. I am satisfied, in this regard, that the development proposed would not impact on the ability of the public to interpret the significance of the Conservation Area and there would be no harm to its heritage significance in this regard.

Planning Obligation

36. Consideration of planning obligations is to be undertaken in the light of the advice at paragraph 204 of the National Planning Policy Framework and the statutory requirements of Regulations 122 and 123 of the Community Infrastructure Levy Regulations. These require that planning obligations may only constitute a reason for granting planning permission where they are necessary to make the development acceptable in planning terms; are directly related to the development; are fairly and reasonably related in scale and kind to it; and, since April 2015, must not be a pooled contribution where more than five such pooled contributions have already been collected.
37. The submitted planning obligation seeks to address the fourth of the Council's reasons for refusal. As confirmed in the Council's statement, its concerns relate to affordable housing provision and open space.
38. Affordable housing is an important element of the overall housing need in the area. To that end, Core Policy 43 of the Core Strategy requires 40% affordable housing provision on site, with a 60% affordable rent and 40% shared ownership tenure split. The arrangement secured complies with the policy and thus meets the relevant tests.
39. Core Policy 3 of the Core Strategy requires the provision of necessary infrastructure to support and serve the development. Although the related reason for refusal refers to the need for contributions towards education provision, public transport, indoor leisure and highways improvements, those were not pursued at the Hearing. However, in addition to affordable housing, the Council required the provision of on-site open space. Saved policy CF3 of

the Local Plan sets out the formula for calculating open space, based on the number and type of dwellings proposed, with the Council confirming that at least 1065 square metres of public open space should be provided, to include a local area for play. The planning obligation provides for a policy compliant quantum of open space, including an equipped local area for play. It also provides for the landscaping of that space and a management scheme. I am satisfied that the arrangement is supported by policy and meets the relevant tests.

The Planning Balance

40. At the heart of the Framework is a presumption in favour of sustainable development, which is defined as encompassing economic, social and environmental dimensions which give rise to corresponding roles for the planning system.
41. Whilst there is concern locally about the need for the development proposed, the provision of a modest number of market dwellings on the edge of what is identified in the Core Strategy as a sustainable location for some new development, at a time when the Council cannot demonstrate a five year supply of housing land, would help support economic growth. The development would also generate spend on construction and related jobs over the build period, with future occupiers likely to generate additional spend in the local area. In addition, at least 40% of the dwellings proposed would be affordable. Although that provision is a policy requirement, given the pressing need for such accommodation, I consider that to be a further benefit of the scheme. Moreover, this is, for the most part, previously-developed land and I have found that the development proposed is likely to result in an improvement in terms of character and appearance. The combination of these benefits accords with the principal thrusts of the Framework of securing economic growth and boosting significantly the supply of housing, and are sound arguments carrying considerable weight in favour of the proposal. These considerations also resonate with the economic, social and environmental dimensions of sustainable development.
42. I have found that, whilst future occupiers would have safe pedestrian access to some services and facilities, they would be largely reliant on the private car for most of their everyday needs. However, this is a settlement where some new development is clearly anticipated by the current development plan and the emerging Neighbourhood Plan. The appeal site is not in an isolated countryside location and there is at least some prospect that alternative modes of transport could be used for some journeys. Whilst the accessibility of the appeal site is less than ideal, it is not so poor that it has to be regarded as obviously unsustainable. I find no fundamental conflict with the environmental or social dimensions to sustainable development in this regard.
43. So, looking at the overall planning balance, whilst I have found that there would be conflict with the emerging Neighbourhood Plan, for the reasons set out earlier I afford that Plan only limited weight for the purposes of this appeal. Similarly, whilst there would be conflict with the housing land supply policies of the development plan, those policies attract very little weight in light of the Council's current housing land supply circumstances. On that basis, I am satisfied that the appeal scheme does not conflict with the vision and spatial strategy for the District when the development plan is considered as a whole.

Even acknowledging that there are some shortcomings in terms of accessibility, the adverse impacts of the development would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken in the round. Accordingly, the proposal can be considered as comprising sustainable development and thus benefits from the presumption in favour of such as set out in the Framework.

Conclusion

44. For the reasons set out above, I conclude, on balance, that the appeal should succeed.
45. I recognise that this outcome will be disappointing for local residents, who have invested considerable time and effort in preparing the emerging Neighbourhood Plan. Indeed, I consider the involvement of the community in the plan-making process to be a material consideration. I am very aware in this regard, of the Government's 'localism' agenda. However, even under 'localism', the views of local residents, very important though they are, must be balanced against the requirements of the development plan and other considerations, including the Framework. For the reasons set out above, in particular the Council's current housing land supply position and the express requirement to boost significantly the supply of housing as set out in the Framework, the evidence in this case leads me to conclude that the appeal should be allowed.

Conditions

46. Possible conditions⁹ were discussed in detail at the Hearing in the light of related advice in the Framework and the planning guidance. During that discussion, some conditions were deleted on the basis that they were unnecessary, that the provisions were covered elsewhere, or that they dealt with matters more appropriately addressed at reserved matters stage. Additional conditions were also discussed having regard to some of the consultation responses. The conditions set out in the attached schedule, including amended wording, reflect the discussion.
47. In addition to the standard conditions relating to the submission of reserved matters (1, 2, 3), details of foul and surface water drainage are required in order to avoid pollution and to prevent increased risk from flooding (4, 5). In order to prevent increased risk from flooding, it is also necessary to ensure that no buildings or roads are constructed, and no ground levels are raised within that part of the site within Flood Zones 2 and 3 and, given the uncertainties of climate change, that finished floor and road levels are above the predicted climate change and annual exceedance probability flood levels (6, 7).
48. In order to protect the living conditions of local residents, and in the interest of biodiversity and protected species, a Construction Management Plan is required (8). In the interest of visual amenity, it is necessary to set out the details to be included in the landscaping reserved matters (9).
49. There was some debate, in light of the introduction of the new national technical standards, and the associated Written Ministerial Statement (WMS)¹⁰ about the suggested conditions which relate to water efficiency and Level 4 of

⁹ Based on those attached to the Council's final comments.

¹⁰ WMS dated 25 March 2015 'Steps the government are taking to streamline the planning system, protect the environment, support economic growth and assist locally-led decision-making.'

the Code for Sustainable Homes. However, the appeal falls to be determined during the transitional period following the introduction of the new standards. Whilst the Government withdrew the Code for Sustainable Homes on 27 March 2015¹¹, the WMS states that '*Where there is an existing plan policy which references the Code for Sustainable Homes, authorities may continue to apply a requirement for a water efficiency standard equivalent to the new national technical standard, or in the case of energy a standard consistent with the policy set out in the earlier paragraph in this statement, concerning energy performance.*' My attention was drawn, in this regard, to Core Policy 41 of the Core Strategy, which seeks to ensure that new development meets national and local priorities relating to the achievement of sustainable development and conservation of natural resources. It also refers to the Code for Sustainable Homes. I am satisfied, therefore, that conditions relating to these matters would meet the tests. I have amended the suggested wording to reflect the current guidance (10, 11).

50. In the interest of highway safety, conditions are required to ensure that the internal site roads etc are provided and that off-road parking is provided for each dwelling (12, 13).
51. Details of external lighting are required in the interest of visual amenity and in order to protect wildlife interests (14). A condition ensuring that bat roosts are accommodated within the permitted buildings is also necessary, given the current use of the site by bats for resting up and feeding (15).

Jennifer A Vyse

INSPECTOR

Schedule of Conditions
APP/Y3940/W/15/3133451
Wheatleys Farm, High Road, Ashton Keynes, Swindon

Reserved Matters

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

Drainage/Flood Risk/Pollution

- 4) None of the dwellings hereby permitted shall be occupied until foul drainage works have been provided on the site to serve the development, in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority.
- 5) No development shall take place, including works of demolition and site clearance, until details of a sustainable surface water drainage scheme, based on the Flood Risk Assessment undertaken by JVT Consulting Engineers Limited

¹¹ Aside from the management of legacy cases.

(dated 28 April 2015) submitted with the planning application, has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details and timetable. The scheme to be submitted shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for implementation of the scheme in relation to each phase of the development; and,
 - iii) provide a management and maintenance plan for the scheme, for the lifetime of the development, which shall include the arrangements for adoption of the scheme by any public authority or statutory undertaker, and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 6) No buildings or roads shall be constructed and no ground levels shall be raised within that part of the site shown as being hatched on plan No LDC.1808_008C (i.e. the northern/north-eastern parts of the site that lie within Flood Zones 2 and 3).
- 7) Finished floor levels shall be no lower than 83.59 metres Above Ordnance Datum (AOD) and road levels shall be set no lower than 83.21 metres AOD.

Construction Management Plan

- 8) No development shall take place, including works of demolition and site clearance, until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The approved CMP shall thereafter be adhered to throughout the construction period for that phase. The CMP shall include, but is not limited to, the following matters:
- the hours during which construction work, including works of site clearance, and deliveries can take place;
 - measures to ensure that no pollutants, including sediment, enter Swill Brook during construction;
 - measures to ensure the protection of reptiles, great crested newts and nesting birds during the construction process;
 - no burning of waste or other materials shall take place on the site during the demolition/construction phase of development;
 - a detailed construction waste management plan that identifies the main waste materials expected to be generated by the development during construction, including the demolition phase, together with measures for dealing with such materials so as to minimise waste and to maximise re-use, recycling and recovery;
 - on-site parking and turning provision for site operatives, visitors and construction vehicles and provision for the loading/unloading of plant and materials within the site;
 - arrangements to exclude on-site storage of materials, plant and machinery, temporary offices, contractors compounds and other facilities from that part of the site shown as being hatched on plan No LDC.1808_008C (i.e. the northern/north-eastern parts of the site that lie within Flood Zones 2 and 3).

Landscaping

- 9) The landscaping details submitted pursuant to condition 1 above shall include, but are not confined to:
- (i) full details of trees and hedges to be retained, including a plan at not less than 1:200 scale, and measures for their protection during construction;
 - (ii) a detailed specification of all plant species and sizes and planting densities;
 - (iii) finished levels and contours;
 - (iv) means of enclosure;
 - (v) hard and soft surfacing materials;
 - (vi) minor artefacts and structures eg street furniture, play equipment; refuse and other storage units, etc.

Water/Energy Efficiency

- 10) In relation to water efficiency, the dwellings hereby permitted shall not be occupied until Requirement G2 and Regulation 36 of the Building Regulations 2010 (as amended), as set out in the current *Approved Document G: Sanitation, hot water safety and water efficiency* (2015 edition with 2016 amendments) has been complied with.
- 11) The dwellings hereby permitted shall not be occupied until the relevant requirements of level of energy performance equivalent to ENE1 level 4 of the Code for Sustainable Homes have been met and the details of compliance provided to the local planning authority.

Access/Parking

- 12) No dwelling shall be occupied until and until the internal site roads agreed pursuant to condition 1 above including footways and turning spaces, have been provided with a properly consolidated and surfaced footpath and carriageway to at least base course level, between the dwelling and the highway.
- 13) No dwelling hereby permitted shall be occupied until associated parking spaces have been provided in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority. Once provided, the spaces shall be retained thereafter and shall be used for no other purpose.

External Lighting

- 14) Prior to commencement of development, details of a wildlife sensitive lighting scheme for roads and footways within the site shall be submitted to and approved in writing by the local planning authority. The lighting scheme shall also include measures to minimise sky glow, glare and light trespass. Development shall be carried out in accordance with the approved details.

Ecology

- 15) No dwelling shall be occupied until details of the provision to be made for bat accessible roof spaces and permanent bat roosts have been submitted to and agreed in writing by the local planning authority. Development shall be carried out in accordance with the approved details and the measures provided shall be retained thereafter.

-----END OF CONDITIONS-----

APPEARANCES

FOR THE APPELLANT:

Mr B Pearce	Land Development and Planning Consultants Limited
Mr A Glead	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Pearson	Senior Planning Officer with the Council
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INTERESTED PERSONS:

Mr M Carter	Ashton Keynes Neighbourhood Plan Co-ordinator
Mr D Wingrove	Chair Ashton Keynes Parish Council

DOCUMENTS HANDED UP DURING THE HEARING

Doc 1	Application No 15/07213/FUL Case Officer's report, decision and plans
Doc 2	Statement on behalf of the Neighbourhood Plan Group
Doc 3	Environment Agency correspondence dated 11 March 2015
Doc 4	North Wiltshire Local Plan Proposals Map (extract)
Doc 5	Draft S106

DOCUMENT SUBMITTED AFTER THE HEARING

Doc 6	Sealed copy of the planning obligation
Doc 7	Sealed copy of the planning obligation (amended)