



Appeal Decision

Inquiry held on 24 May 2016

by **Jonathan Bore MRTPI**

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

Decision date: 27 June 2016

Appeal Ref: APP/Y3940/A/14/2223354

Land at The Forty, Cricklade

- 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 Beechcroft Land Ltd against the decision of Wiltshire Council.
 - The application Ref 13/07132/OUT, dated 23 December 2013, was refused by notice dated 7 May 2014.
 - The development proposed is residential development of up to 70 dwellings, including vehicular access off the B4553.
 - This decision supersedes that issued on 15 April 2015. That decision on the appeal was quashed by order of the High Court.
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Decision

1. The appeal is allowed and planning permission granted for residential development of up to 70 dwellings, including vehicular access off the B4553, on land at The Forty, Cricklade, in accordance with the terms of the application, Ref 13/07132/OUT, dated 23 December 2013, and the plans submitted therewith, subject to the conditions set out in Appendix 1.

Preliminary matters

2. The application was made in outline with all matters reserved except for access.
 3. The Council withdrew four of its five reasons for refusal prior to the inquiry. These (in brief) were (1) that the site was outside the settlement boundary; (2) that it was not allocated for development and was not required to meet the 5 year land supply requirement; (3) that there were ecological concerns; and (4) that there were archaeological concerns.
 4. The Council indicated at the inquiry that reason for refusal 5 would also be withdrawn on the making of an appropriate obligation under s106 regarding the provision of affordable housing and contributions towards rights of way and open space and recreational facilities. The signed and dated obligation was submitted at the inquiry.
 5. It was common ground at the inquiry that the housing market area within which Cricklade is situated does not currently have a supply of deliverable sites sufficient to provide 5 years' worth of housing. This position was not disputed by any party. The Council stated that certain large sites identified in the
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Chippenham Site Allocation Plan were not likely to deliver as many houses within 5 years as envisaged in the 2015 Housing Land Supply Statement and that this had led to its change in position from the date of that report.

Main Issues

6. Although the Council has withdrawn all its reasons for refusal, a number of concerns have been raised by Cricklade Town Council and other objectors. Of these, the two main issues are the effect of the development on the character and separate identity of Cricklade and the effect on highway and pedestrian safety.

Reasons

The effect of the development on the character and separate identity of Cricklade

7. The site consists of two grass paddocks on the southern side of Cricklade, outside the settlement boundary. Development in such locations is resisted by North Wiltshire Local Plan 'saved' Policy H4 and Wiltshire Core Strategy Core Policy 2. However, it was not disputed at the inquiry that these policies are relevant policies for the supply of housing, and that they should be considered out-of-date because the local planning authority is unable to identify a supply of deliverable sites sufficient to provide 5 years' worth of housing. Being out-of-date does not mean that they carry no weight, but the provision of an adequate supply of housing is a very important material consideration. The National Planning Policy Framework states that where policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework.
8. Cricklade is an ancient town of modest size, and at the inquiry the Town Council questioned why the difficulty in bringing forward development at Chippenham, a much bigger town, should result in a development of up to 70 dwellings at Cricklade. The Town Council considered that the appropriate level for the town's growth was that set out in Core Policy 19, which could be accommodated within the built up area. However, the housing provision figures in Core Policy 19 are out-of-date for the same reasons that apply to Local Plan Policy H4 and Core Policy 2; there is a shortage of deliverable housing sites in the housing market area, which includes Chippenham, and it is important to bring forward more deliverable sites to meet housing needs. The appeal scheme would not be especially large or unusual in comparison with some of Cricklade's existing postwar developments; the housing estate centred on Deansfield and Pittsfield immediately north of The Forty is larger than the appeal site, and there are other modern housing developments of varying sizes elsewhere in the town. The density of the appeal scheme would be higher than some existing developments and lower than others, and it would be appropriate in its context.
9. The site itself, apart from some ridge-and-furrow, is flat, well-enclosed, and does not have any notable character. It is not widely visible, so the impact of the new housing and its roundabout junction would be relatively localised. Such impact would largely be confined to the site itself and the immediately adjacent fields, some of the dwellings bordering on to the site, a short stretch of public footpath, the B4553 in the vicinity of the site, and the common land on the opposite side of the B4553. In the wider context, the appeal scheme would

have modest visual impact. It would simply move the edge of the built up area a short distance to the south. It would be confined to a limited area within existing well-defined field boundaries and would not cut across important landscape features. Views from the open countryside over the fields and hedgerows towards Cricklade, with its dominant church tower, would be little changed. Some objectors are concerned about the proximity of Cricklade to the Swindon built-up area, but despite the extensive growth of Swindon, the towns are still separated by a two mile gap. The development would have almost no effect on this gap and would not create coalescence or threaten the separate identity of Cricklade.

10. Core Policy 1 of the Core Strategy defines Cricklade as a Local Service Centre, a location providing for modest levels of development in order to safeguard its role and to deliver affordable housing. The appeal scheme would accord with this role; it would not be excessive in scale and would have considerable public benefit, providing 70 new homes, of which 30% would be affordable, and providing support for local shops and services through the additional population. The scheme is in outline and the Council would have control over the appearance, landscaping, layout and scale of the development. There is no reason why the scheme should harm the character or separate identity of Cricklade.

The effect of the scheme on highway and pedestrian safety

11. Traffic on the B4553 is slowed on its entrance to Cricklade by two roadside nibs that require vehicles to give way to oncoming traffic. These would be replaced by a roundabout entrance to the site. The roundabout would force vehicles to deviate further from the straight line than the existing nibs and would consequently be more effective in slowing traffic and marking the entrance to the town. The roundabout would also eliminate the unfortunate effect, created by the nibs, of requiring large vehicles to take a line close to the pedestrian footpath. The access would be a safe entrance to the site and an effective means of calming traffic entering the town, and would be acceptable. The B4553 is well-used and carries some heavy vehicles, but it is not excessively busy, and the number of vehicles from a development of this size would have little impact on highway safety or the free flow of traffic on this road or indeed in the town centre.
12. The pedestrian route from the site towards the town centre would require the creation of a public footway as far as the entrance to Giles Avenue. By culverting a ditch on the western side of the road, it would be possible to create a new footway of sufficient width. The appellants propose to resurface the existing footway beyond Giles Avenue, raise the kerb to give additional protection, and cut back overhanging hedging to provide additional width. Subject to these improvement works, which can be required by condition, the development would have an adequate footway connection into the town centre and would not deter residents from travelling into the town on foot. At one point a wall would restrict the footway width, but this pinch point is too short to threaten pedestrian safety. The Town Council believe that an opportunity should be taken to connect the development to the town's separate footpath network. Whether or not that would be desirable, it is not necessary to provide such a link for the development to go ahead.
13. The scheme would not harm highway or pedestrian safety.

Other matters

Emerging plans

14. Work on the Cricklade Neighbourhood Plan has not progressed very far. A consultant has been engaged to write a draft plan but no such plan has been published for consultation. The Town Council would like to have a completed plan by May 2017, but there are many stages to go through. Much work evidently went into the production of the earlier Cricklade Town Plan but it was not prepared in accordance with statutory procedures and for the purposes of this appeal it carries little weight. As for the Council's Site Allocations DPD, this plan is not due to be published for consultation until the end of 2016, with adoption in December 2017. There is therefore no Neighbourhood Plan or Site Allocation DPD to look at, even at draft stage; these emerging plans therefore carry almost no weight. The uncertainties that surround the preparation process, and the timescales involved, mean that it would be inappropriate to resist the appeal scheme in anticipation of the emergence of these plans.

Flood risk

15. The Town Council and a number of residents express concern about the potential for flooding, stating that this site has the effect of storing the water that runs off nearby higher ground. However, the site lies within Flood Risk Zone 1, which carries the lowest flood risk. The scheme would involve clearing drainage ditches and providing an appropriate route for water movement from higher to lower ground. The use of suitable drainage methods including sustainable urban drainage systems would mitigate runoff from the site. These matters can be dealt with by means of a surface water drainage scheme, which is the subject of a condition. The scheme would result in better regulated surface water and reduced flood risk.

Ecology and archaeology

16. It was agreed by all parties at the inquiry that the archaeological and ecological matters that were raised in reasons for refusal 3 and 4 can be dealt with satisfactorily through planning conditions and I agree.

Planning obligation

17. A signed and dated s106 planning obligation, agreed between Council, developers and landowners, was presented at the inquiry which requires the development to provide 30% of the units as affordable housing in accordance with Core Strategy Policy 43, and requires the provision of an open space and play area and a contribution towards the National Cycle Network. The obligation meets the tests in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

Conditions

18. As discussed in the inquiry, some of the conditions suggested in the Statement of Common Ground, notably suggested conditions 6, 7, 8, 9 and 11, are covered by the reserved matters conditions. Others, including suggested conditions 5, 10, 17 and 21 are too prescriptive. Suggested condition 12 is unnecessary for a development of this relatively modest size and there is insufficient hard information about water supply and foul drainage issues to justify suggested conditions 18 and 19.

19. In addition to the standard outline conditions, conditions are required for tree and hedge protection to protect the character of the locality, the provision of the access point and footway and the provision of a construction method statement in the interests of highway safety and residential living conditions, the submission of a surface water drainage scheme to limit flood risk, the investigation of contamination to protect future residents, the submission of a scheme of archaeological investigation, and the submission of schemes to protect water voles and Brownhair Streak Butterflies. In addition to the reserved matters conditions, conditions 6 to 11 are pre-commencement conditions because the matters involved may have a direct effect on design, layout, archaeological site investigation, site remediation and construction method and it is essential for these matters to be resolved before work on site is begun. The Town Council suggested a condition limiting the height of the development to a maximum of two storeys, but scale is a reserved matter and height can be dealt with through the submission of details pursuant to the reserved matters condition. A condition was also suggested at the inquiry relating to runoff from the site; this can be dealt with through the submission of a surface water drainage scheme.

Conclusion

20. The proposal would provide a range of much needed housing, including affordable housing, and would not have a harmful effect on the character or separate identity of Cricklade or on highway safety. It would support the role of Cricklade as a Local Service Centre envisaged in Core Strategy Core Policy 1, would strongly support Core Policy 2, which seeks to deliver 42,000 homes over the plan period; would support Core Policy 18 by helping to improve the vitality of Cricklade; and would support Core Policy 45, by providing a mix of housing to meet Wiltshire's needs. It would not conflict with Core Policy 51 which indicates that development should not have a harmful effect on landscape character, Core Policy 57 which seeks high quality design and place shaping, Core Policy 58 which safeguards the conservation of the historic environment; Core Policy 61 which aims to improve highway safety or Core Policy 67 which seeks to avoid flood risk.
21. The scheme would not accord with the parts of Local Plan Policy H4 or Core Policy 2 which resist development outside settlement boundaries, or with the housing provision figures in Core Policy 19, but these policies are out of date owing to the absence of a five year supply of deliverable housing.
22. The scheme would therefore be in accordance with the overwhelming majority of development plan policies and with the development plan as a whole. In terms of sustainability, it would have substantial social benefits in terms of the provision of housing and affordable housing at a time when there is a shortfall of deliverable housing sites; it would have economic benefits in supporting the facilities within Cricklade, and its environmental effects would be local and limited. In consequence it would amount to sustainable development.
23. For all these reasons the appeal is allowed.

Jonathan Bore

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr Alex Smith MA	Senior Planning Officer, Development Management, Wiltshire Council
Ms Dorcas Ephraim	Solicitor, Wiltshire Council

FOR THE APPELLANT:

Mr Anthony Crean QC	Instructed by Beechcroft Land Ltd
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He called:

Mr C Simkins	Chartered Town Planner, RPS
Mr A J Kenyon	Transport Planning
Mr C Onions	Consulting Civil Engineer

INTERESTED PERSONS:

Mr J Coole	Chairman of Planning Committee, Cricklade Town Council
Mr M Clarke	Chairman of Cricklade Town Council
Mr T Russell	Cricklade resident
Mr E Williams	Cricklade resident

Richborough Estates

DOCUMENTS

Document 1	Attendance List
Document 2	Letter of notification and list of persons notified
Document 3	Letters of representation
Document 4	Proof and appendices of Mr Simkins
Document 5	Proof of Mr Smith
Document 6	Statement of Common Ground
Document 7	Set of signed and dated s106 planning obligation documents
Document 8	Statement of compliance of s106 obligations, including Planning Obligations SPD and Draft Revised Regulation 123 List (Council)
Document 9	Additional housing land supply statement including Inspector's letter regarding the Chippenham Site Allocations Plan (Council)
Document 10	Housing Land Supply Statement, April 2015
Document 11	Set of technical reports submitted with the application
Document 12	Documents relating to the quashed appeal decision

PLANS

Plan 1	Site Location Plan 0046-01
Plan 2	Site Access Plan 2538.03
Plan 3	Illustrative Layout Plan 0031-05
Plan 4	Plan of housing densities in the locality (Appellant)

APPENDIX 1

Conditions

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.
4. The landscaping details submitted pursuant to condition 1 shall include details of all trees and hedgerows to be retained together with measures for their protection during construction. The protection measures shall be put in place prior to the commencement of development in accordance with the approved details and shall be retained for the duration of the construction period.
5. No more than 70 dwellings shall be constructed on the site pursuant to this planning permission.
6. Development shall not begin until a surface water drainage scheme, including sustainable urban drainage, has been submitted to and approved in writing by the local planning authority and the scheme shall be carried out in accordance with approved details.
7. No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
8. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved statement shall be adhered to throughout the construction period. It shall provide for the parking of vehicles of site operatives and visitors, loading and unloading of plant and materials, storage of plant and materials used in constructing the development, the erection and maintenance of security hoarding, wheel washing facilities, measures to control the emission of dust and dirt during construction, and a scheme for recycling/disposing of waste resulting from demolition and construction works.
9. Development shall not begin until a scheme to deal with any contamination of the site has been submitted to and approved in writing by the local planning authority. The scheme shall include an investigation and assessment to identify the extent of contamination and the measures to be taken to avoid risk to the public when the site is developed. If contamination is found, development shall not commence until the measures approved in the scheme have been implemented.

10. Development shall not begin until a scheme has been submitted to and approved by the local planning authority for the investigation and assessment of potential Water Vole habitats. Any mitigation and management measures that are found necessary as a result of the survey shall be implemented in accordance with details to be approved in writing by the local planning authority.
11. No development shall commence on site until a scheme for the provision and management of compensatory habitat for Brownhair Streak Butterflies has been submitted to and approved in writing by the local planning authority. The scheme shall be completed in accordance with the approved details.
12. The access shall be provided and brought into use in accordance with drawing 2538.03 prior to the first occupation of the any dwelling.
13. Prior to the first occupation of any dwelling, a 2 metre footway shall be provided over the entire frontage of the site and north of the site as far as Giles Avenue in accordance with details to be submitted to and approved in writing by the local planning authority.
14. Prior to the first occupation of any dwelling, the footway between Giles Avenue and a point at the south side of The Forty shall be widened to up to 2 metres, or as close to 2 metres as is possible within the area of the existing adopted highway, and shall be resurfaced in accordance with details to be first submitted to and approved in writing by the local planning authority.

Richborough Estates