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## Appeal Decision

Hearing Held on 6 April 2018

Site visit made on 6 April 2018

**by Rory Cridland LLB (Hons), Solicitor**

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

**Decision date: 10<sup>th</sup> May 2018.**

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**Appeal Ref: APP/Y3940/W/17/3166533**

**Land at Pavenhill, Pavenhill, Purton, Wiltshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Hills Homes Developments Ltd against the decision of Wiltshire Council.
  - The application Ref 16/03625/FUL, dated 13 April 2016, was refused by notice dated 17 November 2016.
  - The development proposed is the demolition of 1 existing dwelling and erection of 25 market and affordable dwellings, with associated access, car parking and landscaping.
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### Decision

1. The appeal is dismissed

### Preliminary Matters

2. The parties confirmed at the hearing that the description of development has been altered and a new form of wording has been agreed. I have used the revised wording above.
3. The Purton Neighbourhood Plan ("the NP") has recently been submitted for examination following the requisite period of public consultation. However, while I acknowledge the time and effort of those involved in developing the plan, it is not yet adopted policy and remains at a relatively early stage of development. Furthermore, I understand that there are a number of outstanding objections that are yet to be resolved. As such, while I have noted the policies in the emerging NP which have been drawn to my attention by the parties, I have afforded them limited weight in the determination of this appeal.

### Main Issues

4. The main issues are:
  - (i) whether the site offers an acceptable location for the proposed development, having regard to its location outside the defined settlement boundary;
  - (ii) the effect of the proposal on the character and appearance of the surrounding area; and
  - (iii) the effect of the proposal on the living conditions of occupiers of neighbouring properties along Pavenhill and Gleed Close with particular regard to privacy and outlook.

## Reasons

### *Location*

5. Purton is a large village situated around 2.5 km to the west of Swindon. Core Policies (CP) 1 & 2 of the Core Strategy<sup>1</sup> (CS) direct development towards the area's main towns and settlements. Furthermore, it restricts development within large villages to that which takes the form of small housing<sup>2</sup> and employment sites and which is needed to help meet the housing needs of settlements or improve employment opportunities, services and facilities. The Core Strategy makes clear that there is a presumption against development outside the settlement boundary and that such development is strictly controlled other than in a limited number of defined circumstances.
6. The appeal site is located on the western edge of Purton, outside, but adjacent to, the recognised settlement boundary. It does not fall within the definition of a small housing site and the appellant confirmed at the hearing that they were not seeking to rely on any of the limited circumstances set out in CP2 of the CS. While I accept that Purton has a larger number of services available than some other large villages within the area and offers a regular bus service to Swindon, in the absence of any such exemption, I find the provision of 25 new dwellings in this location would be in conflict with the settlement strategy set out in CP1 & CP2 of the CS.

### *Character and appearance*

7. The appeal site comprises a parcel of agricultural land measuring around 1.5 hectares. It is bounded on three sides by residential development and to the north by a dense hedgerow, which together help ensure that views into the site are limited. Two public rights of way cross the site, with PURT110 running from north to south along the eastern boundary and PURT115 running east to west along the northern boundary. Both of these public footpaths connect in the north eastern corner of the site before continuing north along the wider rights of way network.
8. Pavenhill itself is a narrow stretch of highway which connects the western side of Purton to High Street. It is characterised by a mixture of dwellings with a loose knit layout and has a number of examples of backland development, some of which are visible from the road. Close to its junction with High Street there is a small row of shops which, along with other services dispersed throughout the village, serve the local community. The wider area displays a variety of dwelling types and sizes which include pockets of development with a more uniform layout than Pavenhill.
9. The proposal would involve the erection of 25 houses, 40% of which would be affordable. It would provide a mixture of dwelling types and would be accessed via a new estate road which would be created following the demolition of No 59b Pavenhill. The proposed dwellings would be larger than many others in the immediate area, would be sited close together and arranged in a linear pattern facing inward. However, while I note the Council's concerns in this respect, this would only be evident from within the site itself - from where any contrast with the more loose knit appearance and smaller properties along Pavenhill would not be noticeable. Furthermore, while I note

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<sup>1</sup> Wiltshire Core Strategy (2015).

<sup>2</sup> which it defines as sites involving less than 10 dwellings.

the various separation distances proposed, the plans indicate that there would be sufficient separation to ensure the properties did not appear cramped or the site overdeveloped.

10. Moreover, although I accept that glimpses of development would be possible from Pavenhill, these would be limited and would have only a marginal impact on the wider character of the surroundings. Indeed, I observed that there are other examples of more uniform and linear developments leading off Pavenhill, all of which contribute to, and integrate well with, their surroundings. While I agree with the Council's concerns regarding the lack of dwellings along the first part of the proposed access, its impact would be localised and the proposed landscaping would go some way to ensuring that any resultant harm to the character of Pavenhill was limited. Likewise, while I note their concerns regarding density, there is no robust evidence before me which would indicate that the density proposed would be materially different to that of the surrounding area.
11. Overall, I am not persuaded that the design or layout of the proposed dwellings would be poor or that the absence of dwellings along the site access would result in any material harm to the character and appearance of Pavenhill itself or the village of Purton more widely.
12. Turning then to the Council's concerns regarding the effect of the proposal on the landscape character of the area, I note that the site is well screened and not particularly visible within the landscape. Furthermore, the appellant has provided a Landscape and Visual Impact Assessment which indicates that there would be no undue harm to the wider landscape and concludes that any impacts on users of the nearby rights of way would be localised and minimal. I agree with that assessment. While I recognise that the impact on the site itself and on localised views would be greater, particularly those from properties surrounding the site, the overall impact on landscape character would be localised and I do not consider the character of the wider area would be materially affected.
13. Consequently, I do not consider the proposal would be harmful to the character and appearance of the surrounding area or the wider landscape. As such, I find no conflict with CP51 or CP57 of the CS which, taken together, seek to guard against such harm.

#### *Living conditions*

14. The Council has raised concerns regarding the separation distances between Units 8, 13 & 14 from the rear elevations of No 4 Gleed Close & Nos 70b & 70c Pavenhill respectively. In particular, they consider the distances proposed would result in inadequate levels of privacy for the occupiers of these neighbouring dwellings. However, although the Council confirmed at the hearing that it has no adopted standards in respect of separation distances, it acknowledged that a distance of around 21 metres between rear facing windows would generally provide acceptable levels of privacy.
15. In respect of No 70c, this property has a number of windows and doors in its rear elevations all of which face directly towards the appeal site. However, being around 20.5 metres from the ground floor extension, and a further few metres from the main rear elevation, I am satisfied that there would be

sufficient separation to ensure that levels of privacy for the occupiers of this dwelling were not materially compromised.

16. Likewise, although No 70b is sited closer to the boundary and would have a separation distance of around 17.5 metres from Unit 13, again this is measured from the ground floor extension with the main rear elevation being set further back. Views into the main building would be limited, while those in respect of the extension would be significantly screened by the fencing along the boundary. As with No 70c above, I consider the separation distance between No 70b and Unit 13 would be sufficient to ensure that privacy levels remained within acceptable levels.
17. Turning then to Unit 8 and its impact on the privacy of the occupiers of No 4 Gleed Close, like many others along Pavenhill, this property is not directly overlooked. Furthermore, I also heard from the owners of that property who described the impact that the loss of privacy would have on their living conditions. In particular, I note their concerns regarding views into their conservatory and kitchen area. However, with a separation distance of around 20 metres and the additional landscaping proposed along the boundary, I do not consider the resultant loss of privacy would materially affect the living conditions of the occupiers of that dwelling.
18. The Council has also raised concerns regarding the impact of Unit 6 on the outlook enjoyed by the occupiers of No 3 Gleed Close. However, although I note that, due to its orientation, the south eastern corner of Unit 6 would be close to the north western boundary of No 3, it was clear from my on-site observations that only a small area of the north western corner would be affected. Furthermore, I observed that there is currently a semi-mature tree situated along this part of the boundary and note that further landscaping would be included as part of the proposed scheme. Overall, I am not persuaded that there would be any material diminution in terms of outlook for the occupiers of that property or that their living conditions would be materially compromised by the proposed siting of that unit.
19. Consequently, for the reasons set out above, I do not consider there would be any material impact on the living conditions of the occupiers of No 4 Gleed Close or Nos 70b & 70c Pavenhill in respect of privacy or on the living conditions of the occupiers of No 3 Gleed Close in respect of outlook. As such, I find no conflict with Policy CS57 which, amongst other things, requires new development to have regard to the impact on the amenities of existing occupants, including in terms of privacy and outlook.

### **Other Matters**

20. The Council's fifth reason for refusal relates to the absence of a legal agreement in respect of affordable housing, open space and financial contributions towards waste facilities. However, following the submission of a duly executed agreement in respect of these matters, the Council has confirmed within its written evidence that it wishes to withdraw this refusal reason. On the basis of the submitted evidence, I have no reason to disagree with the Council's approach in respect of this matter. However, the obligations in respect of affordable housing provide a potential benefit which may weigh in favour of the proposal. Accordingly, it is necessary to give some further consideration as to whether the obligation meets the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

21. Policy CP43 of the CS requires an affordable housing provision of at least 40% of affordable housing to be provided on sites within the affordable housing zone within which Purton falls. Furthermore, CP45 requires new housing to address housing need and incorporate a range of different types, tenures and sizes of homes to create mixed and balanced communities. I am satisfied that the obligation is directly related to the development, is reasonably related in scale and kind and is necessary to make the development acceptable in planning terms. As such, I am satisfied that the obligation meets the relevant tests.
22. I heard from a number of resident's during the hearing, the majority of whom were concerned with highway safety conditions along Pavenhill. Furthermore, I note the considerable number of objections that have been made both as part of the original application and as part of this appeal which raise similar concerns. However, while I acknowledge that Pavenhill is a narrow road and poses a number of challenges to pedestrians, not least in view of the lack of suitable footway, the appellant has provided a detailed Transport Statement (TS) which indicates that the number of additional trips generated would have no discernible impact on the operation of the local highway network. Furthermore, it indicates that a safe appropriate access arrangement can be provided off Pavenhill that can suitably accommodate pedestrians, cyclists and vehicular traffic.
23. In addition, it recommends a number of traffic-calming measures along Pavenhill itself including the installation of speed tables and a virtual footway, all of which would improve safety along this stretch of highway. While I note that the conclusions of the appellant's TS have been challenged by a number of interested parties, no robust evidence has been submitted to demonstrate that the methodology employed or conclusions reached are materially flawed.
24. On balance, I am satisfied that there would be no diminution in safety conditions along this stretch of highway and the measures proposed would provide sufficient mitigation for the transport impacts of the proposed development. Accordingly, I concur with the Council that any resultant impacts on the local highway network can be suitably mitigated. However, an absence of harm in this respect does not weigh positively in favour of the proposal.

### **Planning Balance**

25. Although I have found above that the proposal would not result in unacceptable levels of harm to the character and appearance of the surrounding area or the living conditions of occupiers of neighbouring properties, I have nevertheless found that it would fail to accord with the Council's adopted settlement strategy as set out in CP1 & CP2 of the CS. These policies are fundamental to the operation of the development plan and I do not consider that they should be set aside easily. As such, I find that the proposal would conflict with the development plan when taken as a whole.
26. However, the appellant has suggested that there are material considerations present which indicate that a departure from the development plan would be justified. While I note the various benefits identified by the appellant regarding the provision of 10 new affordable homes for which there is an identified need, provision is already made to accommodate such need in the

exemptions set out in CP2 of the CS. As such, I afford this benefit only moderate weight.

27. Furthermore, while I agree that the traffic calming measures proposed would improve pedestrian safety along Pavenhill, they are limited in both scope and extent. Any benefits to the wider community are modest and I afford them only limited weight. Likewise, while I recognise the proposal would result in number of other benefits including economic benefits both during and after construction, the contribution to housing supply generally and the improvements to nearby public footpaths, even cumulatively these benefits are limited. As such, I afford them only a moderate amount of weight.

28. Overall, while I acknowledge the development would result in a number of benefits, on balance, I am not persuaded that they would be sufficiently great that they would justify a departure from the settlement strategy set out in the CS.

### **Conclusion**

29. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*Rory Cridland*

INSPECTOR

Richborough Estates

**APPEARANCES**

**FOR THE APPELLANT:**

Mr Peter Lawson	Turley Planning
Mr Chris Roberts	Turley Planning
Mr Kevin Archard	Transport Consultant
Ms Andrea Andrews	Hills Homes Developments Limited

**FOR THE LOCAL PLANNING AUTHORITY:**

Mr Alex Smith	Planning Consultant
Mr Chris Roe	Monitoring and Evidence Manager

**OTHER INTERESTED PARTIES**

Cllr Jacqui Lay	Local Member
Mr Paul Gregg	Parish Council
Mr Geoff Bowman	Local Resident
Mr M Bell	Local Resident and member of Purton NP steering Group
Mrs Linda Arnold	Local Resident
Mr David Arnold	Local Resident
Mr Kevin Dowsett	Local Resident
Mrs Lynda Dowsett	Local Resident
Mr James Grey MP	Member of Parliament
Mr John Hennesy	Local Resident
Mrs Julie Hennesy	Local Resident
Mr Jeff Bond	Local Resident
Mrs Edna Bunce	Local Resident

**ADDITIONAL DOCUMENTS SUBMITTED AT THE HEARING**

Purton Parish Council appeal statement.  
Statement from Cllr Jacqui Lay.  
Updated list of conditions proposed by the Council.  
Statement of Mrs E Bunce.