



Appeal Decision

Inquiry held on 19-22 October and (virtually) 2 November 2021

Site visits made on 18 and 22 October 2021

by Katie McDonald MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2021

Appeal Ref: APP/Y3940/W/21/3275477

Land to the south of Chilvester Hill, Calne, Wiltshire SN11 0LR

- 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 Rainier Developments Ltd & The Hon Shane O'Neill against the decision of Wiltshire Council.
 - The application Ref 20/06684/OUT, dated 4 August 2020, was refused by notice dated 16 February 2021.
 - The development proposed is outline application (all matters reserved except for main vehicular access from Chilvester Hill only) for up to 32 dwellings and associated infrastructure, landscape and biodiversity enhancements.
-

Preliminary Matter

1. Despite the description of development in the banner heading for up to 32 dwellings, for precision and clarity this planning permission is limited in the Decision (and by a condition) for up to 28 dwellings. I am satisfied that no party would be prejudiced by the change in the description and both parties at the event agreed (without prejudice) that a condition limiting the number of dwellings to 32 or 28 would deal with this dispute. I shall deal with the reasons below.

Decision

2. The appeal is allowed and planning permission is granted for an outline application (all matters reserved except for main vehicular access from Chilvester Hill only) for up to 28 dwellings and associated infrastructure, landscape and biodiversity enhancements at land to the south of Chilvester Hill, Calne, Wiltshire SN11 0LR in accordance with the terms of the application, Ref 20/06684/OUT, dated 4 August 2020, subject to the conditions set out in the attached Schedule.

Procedural Matters

3. The proposal is for outline planning permission, with access proposed as a reserved matter. Indicative plans have also been submitted and I have had regard to these so far as relevant to the appeal.
4. The Council introduced an additional reason for refusal prior to the Case Management Conference which related to the quantum of development.
5. Reason for refusal 4, dealing with affordable housing, public open space, education, waste management and air quality were not pursued by the Council

at the Inquiry. This was owing to the drafting of the planning obligation, that was submitted in draft form, discussed at the Inquiry, and subsequently finalised.

Main Issues

6. The main issues are:

- (a) Whether the site is suitable for the proposed development, having regard to the Council's settlement strategy;
- (b) The effect of the proposal on the setting of the Grade II Listed Berhills Farmhouse and stables buildings;
- (c) Whether the proposal could satisfactorily accommodate the quantum of development proposed; and,
- (d) The effect of the proposal on the character and appearance of the area.

Reasons

Site description and development

- 7. The site is a grassed, roughly rectangular agricultural field, around 1.88 hectares, located on the western edge of Calne. The eastern boundary adjoins the settlement and Chilvester Hill (the A4) lies to the north. The Grade II listed Berhills Farmhouse and the associated Grade II listed Stables is located to the south-east, with accesses from the east and west of the site. There is agricultural land to the south and west. The site is bounded by a mixture of hedgerow, trees, and a post and rail fence. It slopes down from the north-west to the south-east, with a height difference of about 10 metres. There is a Public Right of Way (CALW12) (PROW) which crosses the site. Both parties agree the site does not lie within any nationally or locally designated landscape or within a valued landscape.
- 8. The proposal is for up to 32 dwellings, with access taken from the middle of the northern boundary onto the A4. Indicative plans submitted with the appeal and the Design and Access Statement¹ (DAS) show several iterations of a layout. However, there remains a prevalent theme of an attenuation pond to the south east corner, public open space to the south west corner, retention of the PROW (including walked route), amenity open space to the east and west sides, and single storey housing to the north west corner.

Suitability for development

Settlement Strategy

- 9. The site is located outside the defined settlement limits of Calne as set out within the Wiltshire Core Strategy (January 2015) (CS) and the Calne Community Neighbourhood Plan (Feb 2018) (NP). Calne is identified as a Market Town in the CS, which is the second tier in the settlement hierarchy.
- 10. Core Policy 1 of the CS sets out that Market Towns have the potential for significant development that will increase the jobs and homes in each town to help sustain and where necessary enhance their services and facilities and promote better levels of self containment and viable sustainable communities.

¹ CD 1.4

11. CS Core Policy 2 sets out the delivery strategy, detailing that at least 42,000 new homes will be required, with a minimum housing requirement of 24,740 dwellings to be in the North and West Wiltshire housing market area (HMA), which is where the site is located. CS Core Policy 8 sets out a spatial strategy for Calne Community Area, with approximately 1,605 new homes to be provided, of which about 1,440 should occur at Calne and around 165 homes in the 'remainder', which is in the large and small villages surrounding Calne.
12. CS Core Policy 2 and NP Policy H4 set out that development will not be permitted outside the development limits unless in circumstances permitted by other policies. It is accepted by the appellants that the proposal does not meet any of the other circumstances. Thus, the proposal's location outside the development limits of Calne renders the scheme contrary to the CS Core Policies 1 and 2 and NP Policy H4.
13. Saved Policy H4 of the North Wiltshire Local Plan 2011 (June 2006) (LP) also restricts development in the countryside, other than in specified circumstances, none of which apply to the proposal. Whilst it is not entirely consistent with the National Planning Policy Framework (the Framework) given the restrictions it places upon development in the countryside, it remains part of the development plan. The appellants find that their proposal does not garner any support from LP Policy H4. However, given the site's location outside the settlement limits, the proposal would conflict with this policy.

Balanced growth

14. Throughout the CS and the NP, there is a desire to reduce out commuting from nearly every settlement to promote better levels of self containment. Indeed, the CS states that "*reducing levels of out-commuting from many of Wiltshire's settlements is perhaps the most important strategic challenge in planning for the future of Wiltshire*"². The spatial strategy³ seeks to deliver the most sustainable level of growth, which does not exacerbate commuting, encourages a greater level of self containment and does not negatively impact on Wiltshire's exceptional environmental quality.
15. The proximity of Calne to the M4, Swindon and Chippenham means that the town has a low level of economic self-containment and people often travel elsewhere for jobs and services. The CS details⁴ the strategy for Calne will help to maintain the economic base in the town with mixed growth of employment alongside housing, thus improving the self-containment of the settlement.
16. However, Calne has experienced a high level of housing growth since the adoption of the CS, and it is suggested by the Council that it has exceeded its indicative housing requirement⁵ by 48%⁶. This is strongly contested by the appellants, who prefer the Wiltshire Housing Allocations Plan figure of 31%. Whether it is 48% or 31%, the housing growth has not been matched by similar levels of employment growth, with the Council asserting a net growth of around 1.05 hectares, against a requirement of 6 hectares⁷. Even if I were to take the appellants' housing growth figure, there is a clear imbalance of

² 2.7 of the CS.

³ 4.5 of the CS.

⁴ 5.40 of the CS.

⁵ As set out in CS Core Policy 8.

⁶ This changed over the course of the Inquiry from 31% (LPA Statement of Case), to 34% (derived from Mr Robertson Proof of Evidence), to 48% (by email prior to Closing Submissions).

⁷ Core Policy 8 of the CS.

housing and employment development, and Calne has exceeded its indicative housing requirement considerably. This is likely to prejudice its plan led growth.

17. However, the housing requirement set out in CS Core Policies 2 and 8 is indicative, and not a fixed figure, nor a ceiling on development. Therefore, whilst the Calne Community Area requirements⁸ are capable of being a material consideration to ensure that delivery is distributed broadly in line with the strategy; the CS⁹ also details the indicative figures allow a flexible approach. This is to respond positively to opportunities without being inhibited by an overly prescriptive, rigid approach which might otherwise prevent sustainable development proposals, that can contribute to maintaining a deliverable 5 year housing land supply and delivering the strategic objectives of the plan.
18. The parties agree that Wiltshire does not have a 5 year housing land supply (I will return to this below). Additionally, this HMA has the worst supply, standing at 4.29 years. The Council argue the shortfall is moderate and housing should be located where there is an established need and within limits of development. However, directing housing to areas with greater need has been plainly ineffective, given there remains a shortfall. Thus, although the exceedance in Calne is considerable, in the context of a housing shortage I do not consider this to be so determinative that it should restrict future housing development, nor prevent it until employment growth has taken place.
19. Moreover, in this instance, the proposal would equate to a small increase in the overall housing numbers in Calne, such that the effect upon the existing imbalance would be marginal, at around 2%. Additionally, I am satisfied that there are adequate services and facilities at Calne to accommodate additional dwellings. Footpaths, including the PROW, would be available into the town, there are no objections from the Highways Authority and the site is in an accessible location with bus stops directly outside the site. The planning obligation includes contributions towards sports pitches, air quality, public art, waste and education which addresses its impact upon infrastructure. Therefore there is no substantive evidence before me to demonstrate that this proposal would result in material or tangible harm to the balanced or sustainable growth of the settlement.

Out commuting and self containment

20. It is suggested by the Council and Calne Without Parish Council that around 73% of residents out commute¹⁰. Whilst this data is based upon the 2011 Census, it is the best available. The appellants assessment of this data found that 5,168 residents of Calne out commute for work. Of those residents, 17% use non car modes of travel. However, 1,912 residents live and work in Calne (of those residents, 57.5% use non car modes of travel) and 1,862 non-Calne residents commute into Calne for work (of those residents, 16% use non-car modes of travel). Therefore, taken together, of all journeys within, to and from Calne for work, 48% are by Calne residents travelling out of Calne by non-car modes.

⁸ As in Core Policy 8.

⁹ 4.33 of the CS.

¹⁰ Figure 2-2 of the Calne Transport Strategy.

21. Whatever the current figure, reducing out commuting from settlements is a key challenge in Wiltshire as a whole. It is a long-standing district wide issue due to the rural nature of Wiltshire and the geographic spread of major conurbations. Therefore, any housing development in any settlement in Wiltshire, be it within the settlement limits or outside, is likely to lead to out commuting without similar scale employment growth to redress the balance. This is identified as an issue in every settlement in the North and West HMA in the CS, aside from those constrained by environmental factors.
22. For Calne, despite there being a lack of employment growth in line with Core Policy 8, which is similarly reported in the NP and Planning for Calne¹¹ document, I heard very little substantive evidence that there is a lack of employment opportunities in Calne or that unemployment is an issue. Indeed, I heard employment opportunities exist in the town and the NP identifies a high number of facilities and services in Calne. Furthermore, the impact of the Covid-19 pandemic has led to a high number of people working from home. Whilst it may not continue to be so high, future commuting patterns could be very different to pre-pandemic levels. Moreover, housing growth in a settlement could attract economic investment such that employment development may be forthcoming.
23. Therefore, given the proposal would lead to a marginal increase in housing in Calne, the effect upon any increases in out commuting or the level of self containment would be slight, and I consider that this would have no material adverse effect. Notwithstanding this, even if it did lead to out commuting, there is a bus stop directly outside the site with regular services running between Chippenham and Swindon, and future residents would be able to take this bus to access employment in larger conurbations given this is proximity, reducing the use of private vehicles and thus carbon emissions. Furthermore, conditions to require electric vehicle charging points and a residential travel plan could also encourage sustainable modes of travel.
24. Notably however, I see no reason why the effect upon out commuting would be different if the proposal was within the limits of development, or indeed located anywhere else in the north and west HMA. Lastly, although a consultation document with limited weight, Planning for Calne outlines that a further 360 homes are to be accommodated in Calne, of those 300 would be green field sites. These too would raise similar concerns about out commuting, and as outlined above, it would be unreasonable to restrict further housing development until employment development comes forward in the context of a housing shortage.

Conclusion

25. The proposal would be contrary to the Council's spatial strategy because it would develop beyond the limits of development in the countryside. This would conflict with CS Core Policies 1 and 2, NP Policy H4 and saved LP Policy H4 and there is an 'in principle' plan led policy harm.
26. Furthermore, although the proposal would not result in a tangible adverse effect upon the balanced growth, out commuting or the self containment of Calne, given the considerable exceedance of housing growth in Calne above the indicative figures, the proposal would also conflict with CS Core Policy 8.

¹¹ CD4.9

Setting of Berhills Farmhouse and stables listed buildings

27. Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard should be had to the desirability of preserving the setting of listed buildings. This means that considerable weight and importance must be given to any harm caused to designated assets in the planning balance. This includes any harm to the setting of a listed building.
28. The Framework details that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Significance

29. The significance of the buildings at Berhills Farm is derived from their architectural interest in terms of their built form and fabric. This arises from their overall 'Tudor revival' style and thus architectural sophistication compared to more standard C19th farm buildings. The farmhouse and stable range represent the surviving part of a farm complex built in circa 1835-40. The buildings also derive significance from the historic interest inherent in their association with Lord Crewe, with the buildings recorded as being built as his principal house, although the appellants contend there is no evidence that it was ever occupied by Lord Crewe.
30. The farmhouse's south east frontage displays its main architectural and aesthetic interest. Due to its topographic position on the south facing the river valley, it appears to have been built with an intended outlook over the agricultural land across the River Marden. The building's architectural treatment clearly demonstrates that a southern aspect was an important factor in its design. The east and west elevations have less architectural interest than the front, and the north elevation is plain and functional.
31. The stables are ancillary buildings to the main farmhouse, with the south-west frontage being of principal architectural interest. They address an internal courtyard to the west and can be appreciated from the south in combination with the farmhouse. I agree with the appellants that the stables are focussed on the internal courtyard spaces of the farm complex and have no apparent design intention for a presence in the wider landscape beyond the farm complex. As such, the wider setting of the stables building beyond its more immediate farmstead setting is considered to make a more limited contribution to its significance¹².
32. Both parties agreed that the setting contributes to the significance, but this is a smaller contribution than is derived from the built form and fabric of the buildings themselves. The site itself contributes to the significance because it shares a historical association (in ownership and agricultural use) as part of the former landholding, and because the openness and current agricultural use of the site is broadly sympathetic to its historical character.
33. The Council and appellants agreed that the effect upon the setting of the Berhills Farm complex would result in less than substantial harm to their

¹² 3.25 of Mr Stratford's Proof of Evidence

significance. The appellants say this would be at the lowest end of the scale of harm. The Council says it lies as a '7' on a scale of '1-15', so low-medium. I will consider the areas cited by the Council as resulting in the harm being greater than the appellants' assessment.

Access

34. The site's open and pastoral use is noticeable on entering the access track to Berhills Farm from the roundabout off the A4 because there is a low post and wire fence. However, there are obvious adjoining rear boundary treatments of modern housing to the east, such that it does not have an entirely rural setting. The origins of this access are not clear, but the Council contend it would have been a formal designed access to the main southern frontage of Berhills Farmhouse.
35. Whilst I don't disagree with the Council, there is limited evidence to verify the access was a planned approach, as the maps presented also show an access down to a mill in the valley, with a spur off for the access to the farmhouse. The track is gravelled with cattle grids, and it did not appear to have any special value as a formalised or grand entrance to a farmhouse apart from the modern entrance gates on the roundabout, which are clearly later additions. Furthermore, on the ground now, Berhills Farmhouse is not overly apparent from the access, being obscured by landscaping with the solid boundary treatments.
36. Nonetheless, I accept the open character of the access track to the listed buildings would change if the field was developed with housing. However, given my findings above, the level of harm to the setting and significance of the listed buildings is limited.

Development of the site

37. Development of the site itself would remove the agricultural use and part of the farmsteads' separation from modern housing development. However, I consider this would also have a limited impact on the overall setting and significance of the listed buildings. This is because the setting of the listed buildings, in my judgement, is mainly drawn from the open agricultural aspect to the south, east and west over the valley, and from the other former agricultural buildings associated with the farmhouse and stables. The site simply sits between the farm complex and the A4, at the back of the buildings, and forms a much smaller part of the setting than other elements.
38. Views from the PROW on site towards the listed buildings would also still be available based on the indicative details. This would be dependent upon the design of the landscape buffer, but the Council indicate that screening would preclude the ability to understand the historic association and relationship of the site and listed buildings. This could be resolved during the detailed design.

Conclusion

39. Therefore, the less than substantial harm would be limited. This would conflict with CS Core Policy 58, which seeks to ensure the development should protect, conserve and where possible enhance the historic environment.
40. The Framework sets out that where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be

weighed against the public benefits of the proposal. I shall carry out the heritage balance later in the decision.

Quantum of development

41. The appeal is outline, and no specific details are before me relating to the layout. That said, I need to be satisfied that the proposal can fit the quantum of development proposed on site as this would be the planning permission. The appellants propose 32 dwellings and the Council states 28 would be acceptable¹³. It is accepted by both parties that a condition to limit the number of dwellings would be appropriate at either 32 or 28 and this issue would not amount to a reason to dismiss the appeal.
42. Many matters relating to urban design were put before me during the evidence and round table session, and the appellants prepared alternative layouts in advance of the Inquiry.
43. The DAS sets out several constraints on the site such that housing would be in the middle with landscape buffers to the west, east and south sides, along with the maintenance of the PROW. This leaves a considerable amount of public open space around the sides of the site, yet it is residual and not developable, and not something that counts in favour of the design. Indeed, the peripheral open space on the indicative DAS layout has no real function or purpose with bottleneck areas, and there are parts with very little natural surveillance.
44. The illustrative layout in the DAS also contains several areas of design which concern me, such as a predominance of frontage parking with large swathes of hardstanding, the lack of a prominent roadside frontage, predominance of smaller dwellings, limited trees along the street, uneven building lines, and the turning space jutting into the amenity space. This is in part due to the number of dwellings proposed on the site.
45. The amended layouts provided by the appellants in their evidence still contain several urban design issues that would preclude the development from being beautiful and high quality. This appeal was the appellants' opportunity to demonstrate that 32 dwellings could comfortably fit on site, with an appropriate mix of dwellings that has regard to the Council's Strategic Housing Market Assessment and would provide decent sized homes in a high quality layout.
46. This demonstration was not forthcoming, and the number of issues that were raised by the Council to which no satisfactory solutions were shown leads me to believe that the higher number of dwellings on this site would fail to provide a visually attractive, high quality development. For example, Testing Layout option 1 contained a prevalence of frontage parking, with narrow frontages such that any landscaping blocks or trees to break up the frontage parking may not be possible, or would be sparse. Thus, the proposals looked likely to lead to car dominated streets. There was also limited indication of tree lined streets, with a suggestion that one side of the street could be tree lined rather than both. To my mind, a tree lined street would contain trees on both sides.
47. In Testing Layout option 1, the dwellings were positioned to create a frontage to the A4, but this resulted in the circular amenity footpath merging into an access road. A shared space could be used, but it would reduce the value of the

¹³ Notwithstanding their overall objections to the proposal.

footpath as an accessible and recreational route, such that it would not encourage the active and continual use of public areas. There was a dominance of small 2 bedroom dwellings and a limited number of 3 and 4 bedroom houses.

48. Furthermore, the DAS states that the internal layouts would all be designed to meet the National Minimum Standards¹⁴. Yet it was confirmed by the appellants that the market houses were drawn to less than the nationally described space standard (NDSS). Whilst there is no adopted policy in the development plan to require dwellings to meet NDSS, it sets out minimum gross internal areas for the provision of acceptable living conditions and is nevertheless a useful tool to assess the suitability of proposals.
49. There were also concerns raised about the attenuation pond, and how this could result in a heavily engineered solution with steep sides, rather than having a dual purpose of a visually attractive and effective landscaping element and a sustainable drainage solution. The comments from the Council's drainage team¹⁵ outlines that the proposal does not consider water quality, amenity and biodiversity benefits, and the strategy appears to only consider a single attenuation pond, likely fed through a piped system. The Council would be seeking above ground features throughout the development and conveyance features that are not piped. Whilst this element of the scheme is not detailed, and the Council's drainage team are confident there is ample space within the site to adjust the layout to realise some of these opportunities through reserved matters, this is another area of constraint that could impact on the larger scheme.
50. Lastly, references were made to density being like other estates in Calne, yet I agree with the Council that the density is the product of good design, as indicated by the National Design Guide, which states *"Built form is determined by good urban design principles that combine layout, form and scale in a way that responds positively to the context. The appropriate density will result from the context, accessibility, the proposed building types, form and character of the development"*.
51. The Testing layout 2 details 28 dwellings and whilst the Council raise some concerns in relation to this, it is not necessary to consider this any further given the Council's acceptance that 28 dwellings would be satisfactory.
52. The play area proposed in the DAS referred to there being few recreation grounds and children's play areas, and that the proposal would cater for new and existing residents. However, as the Inquiry progressed, it became apparent that the play area on site would cater only for the development itself with no wider benefits. Thus, it is likely to be a smaller play area than indicated in the DAS.
53. Overall, given the number of concerns raised, and the limited solutions offered, I am not persuaded that 32 dwellings could create a visually attractive, high quality, beautiful and sustainable place to live¹⁶. Thus, a condition limiting the development to 28 dwellings would be necessary, and with the condition, the proposal would provide an acceptable quantum of development. This would be

¹⁴ It was not clear if this was referring to the nationally described space standard (NDSS), but I do not know of another national minimum standards for internal layouts and I have taken it to mean the NDSS.

¹⁵ CD 3.8

¹⁶ Framework paragraphs 126 and 130.

compliant with CS Core Policy 57 and NP Policy BE2 which together seek to ensure development makes a positive contribution to the character of Wiltshire through high quality proposals that reinforce local distinctiveness.

Character and appearance

Character of the site

54. The site falls within the Rolling Clay Lowland landscape character type in the Wiltshire Landscape Character Assessment (2005). Its size, degree of enclosure, sloping terrain and pastoral use are typical of the clay lowland landscape. However, there are several urban influences at the site.
55. The Curzon Park estate on the eastern side of the site is dominant and obvious from the site itself, forming a blunt settlement edge with the domesticated access track to Berhills Farm in between. Chilvester Hill/A4 is a busy, noisy and main arterial road located to the north with further housing beyond. There are agricultural cottages to the west and the Berhills Farm complex south west.
56. To this extent the site is influenced by existing built development even though it remains an open pastoral field, and is 'countryside' in the CS. The cottages and farm have rural associations, but the other elements are urban and overall, the site is not prevailing rural.

Gateway

57. When entering Calne on the A4 from the west, the speed limit reduces from national to 40mph. Street lights, kerbs, and then pavements along with "Welcome to Calne" signs are features of the road. There are houses on both sides of the road before these signs. There is then more road signage, large dwellings on the north side of the A4, and then you reach the site on the left, which contains a formalised bus stop within the verge. The site is obscured by the existing tall hedge, which runs down to the roundabout, yet there are clear indicators that signal a transitional entrance to Calne before reaching the site itself.
58. Equally, when approaching the site from the west on the PROW, housing on Curzon Park is noticeable between the gap in the trees. The site forms an undeveloped foreground but there are clear urban influences. On approaching from the east, the PROW passes through the backs of houses with a tall close boarded fence to the other side. The site opens, but the boundary treatments of Berhills Farm are evident as is the access track and houses on Curzon Park, and noise from the A4. Thus, I disagree with the Council that the site forms a rural gateway location, but rather it is a currently undeveloped element of the entrance into the market town of Calne.

Visual effects

59. The site is physically and visually contained, with limited visibility from any long-range views. From the south, the rooftops may be visible in winter from VP 16B and the cycleway (VP11) in the Landscape and Visual Appraisal¹⁷, but aside from this, most other views affected are short ranging and take place around the site. This is owing in part to the physical containment of the site by its defined boundaries and other developments nearby. This results in the

¹⁷ CD 2.2

visual effect of the proposal being very localised, such that any value is also of local level only.

60. From the A4, there would be a higher degree of visibility of the site as the access would be created and dwellings would be visible above the hedge. However, this would not be incongruous given the site is clearly within Calne and there are other urban influences nearby. Aside from the access and visibility splays, the hedge is proposed to be maintained and this would provide a verdant frontage.
61. I accept there is a high degree of intervisibility between the site and dwellings on Long Barrow Road and Walter Sutton Close (part of the Curzon Park estate), where the existing field forms a green back drop to the west. This would be lost, and there would be a moderately adverse effect from these viewpoints, yet the illustrative plans indicate that the attenuation pond would be to the south east corner and landscaping is likely to be planted on the eastern boundary which would ameliorate the effect.

Public Right of Way

62. Access is via a gate/stile on the western edge which traverses the site diagonally towards the middle of the southern boundary, crosses a stile leaving the site, and then continues towards the eastern corner. The walked route differs from the defined route (which does not exist on site), that appears to pass through Berhills Farm gardens from the south east, enter the site further along the southern boundary and exit on the eastern boundary. The Council raised concerns about how the routes would be accommodated in the proposal.
63. Based on the indicative details before me, even if both the walked route and defined route are required at the reserved matters stage, these could be accommodated within the development. Both would be within amenity areas and I am satisfied both could be protected and enhanced through the reserved matters, particularly given my findings in relation to the lower quantum of development.

Relationship to the settlement edge

64. The Council assert the location of the attenuation pond would create a perception that development is separated from the settlement edge, particularly from the PROW. I disagree. Its location would be part of the overall scheme, which would comprise not just housing but other amenity areas, and from the PROW, it would be clear that this was a comprehensive extension to the settlement.
65. The proposal would comprise mainly 2 storey homes. Whilst these would be taller than the bungalows on the Curzon Park, there are other 2 storey homes nearby. Furthermore, the attenuation pond and amenity space would provide an appropriate buffer between the sites, and the use of 2 storey dwellings would not be adverse nor lead to unacceptable effects upon living conditions given the distance between sites.

Conclusion

66. The transformation of an open field a housing estate would be irreversible and permanent. It would be an unavoidable and adverse consequence of any housing development on a green field site. However, in this instance,

development of the site for housing would not be incongruous nor fail to integrate into the immediate setting given the location of the site in relation to other development in Calne. With a high quality layout and landscaping, the proposal could create a positive feature on the entrance into Calne forming a roadside frontage of high quality homes and an improved settlement edge, seen as continuous to existing residential land use in Calne.

67. It is also notable that the site has been identified in 2 site selection reports and not discounted. The AECOM report¹⁸ fed into the NP, which ultimately did not allocate any sites for housing that did not already have planning permission. The Site Selection Report for Calne¹⁹ which is part of the evidence base for the emerging Local Plan (eLP) and was subject to a landscape and visual assessment, states the site is to be taken forward to the next assessment stage as there is no justification to reject. Whilst the Council contest that the appraisal carried out through this appeal is at a greater depth and should carry more weight, the other surveys carried out were with the intention to inform future site selection.
68. Consequently, the proposal would have an acceptable effect on the character and appearance of the area, compliant with CS Core Policies 51 and 57, NP Policy BE1. These seek to ensure development protects, conserves and where possible enhances landscape character providing high quality development. There would also be no conflict with the Framework, which seeks to recognise the intrinsic character and beauty of the countryside.

Other Matters

Housing land supply

69. The Council's latest Housing Land Supply Statement²⁰ (published December 2020 with a base date of April 2019) details that the Council cannot demonstrate a 5 year housing land supply. The extent of the shortfall in housing land supply is not agreed. The appellants are of the view that it stands at circa 4.22 years supply (-1,671), and the Council state 4.56 years supply (-928 homes). Given the difference between parties is only 0.34 years, no evidence was heard on the topic and the range was agreed.
70. The Council's housing land supply position is dated, and the most recent position is now 2.5 years old. Therefore, it is unclear what the housing land supply position is now, except, that at a minimum, there is a significant shortfall of 928 homes. The Council is in the process of preparing the eLP. However, despite the information on the Council's website²¹, I heard evidence²² that the timetable for adoption has slipped, with a pause on consultation of between 3-15 months. This means that it may not be adopted until 2024.
71. Therefore, notwithstanding existing site allocation plans, there appears to be no other practical plan led solution to remedy the shortfall, such that the housing land supply shortage is now patently persistent²³ and is expected to

¹⁸ CD 4.31

¹⁹ CD 4.10

²⁰ CD 4.16

²¹ Inquiry document 8

²² Mr Robertson's evidence in chief and cross examination

²³ Having been evident since February 2020 having regard to Appeal Decision APP/Y3940/W/18/3202551.

continue for at least 2 years. There is also a shortage of affordable housing, with a recent undisputed Decision²⁴ detailing substantial shortfalls.

Provision of market and affordable housing

72. The proposal would deliver up to 28 dwellings. Whilst this may be a moderate number of homes in the context of the shortfall, it would nonetheless contribute positively in the right direction. The site has good accessibility to facilities and services using a genuine choice of transport modes and benefits from bus stops directly outside the site.
73. There is also an identified need for affordable housing in the wider area, along with a high demand in Calne itself²⁵. This proposal would make a policy compliant contribution of 30%, providing homes to people in housing need. The argument pursued by the Council that Calne is more affordable than other areas in Wiltshire is of little bearing in the context of the substantial affordable housing shortfall. Therefore, the delivery of housing, both market and affordable, is of significant weight.

Economy

74. There would be economic benefits associated with the additional spending from the new housing, along with temporary construction spend. It is agreed between both parties that this should be afforded significant weight, as detailed by paragraph 81 of the Framework. However, I have not given any weight to the monies the Council would receive from New Homes Bonus or Council Tax, and these would be neutral in the balance.

Ecology and biodiversity

75. The ecological impact of the development has been adequately addressed and can be the subject of conditions. The hedgerow is proposed to be maintained, except for the access and additional planting would comprise the detailed scheme. Moreover, there would be net gains in biodiversity, at around 35.89% gain in habitat units and 42.5% in hedgerow units. This would be more than is necessary and this is of moderate weight in favour.

Safety of all highway users

76. Despite assertions from residents, the substantive evidence before me demonstrates the site can be safely and suitably accessed via the proposed access from Chilvester Hill, and that the development would not cause an unacceptable impact on highways safety and that any residual cumulative impacts on the road network would not be severe.
77. Furthermore, the proposal takes access from the middle of the northern boundary, and access from the roundabout is not before me to consider. Footpaths would be provided on the A4 outside the site, extending eastwards to the roundabout, and westwards to the bus stop, and this could be the subject of a condition. Therefore, there would be no harm caused to the safety of all highway users, nor any adverse effect upon capacity and this is neutral in the balance.

²⁴ CD 5.3 APP/Y3940/W/19/3236860

²⁵ CD 4.6 para 70.

Planning obligations

78. The planning obligation commits to providing 30% affordable housing on site, on site play area and open space (and its management), monetary contributions towards early years education in Calne, upgrading of the recreation ground and rugby pitch at Potters Field, Calne, the installation of a real time air quality monitoring station, public art and waste recycling.
79. The Community Infrastructure Levy Compliance Statement and additional justification provided by the Council adequately sets out sufficient justification for the affordable housing and contributions. Based on this evidence, I consider all the obligations would be necessary to make the development acceptable, directly related and fairly and reasonably related in scale and kind.
80. I deal with the affordable housing below, but the other provisions in the obligation are mitigation to make the development acceptable, and neutral in the planning balance.

Other decisions and representations

81. Numerous other decisions and judgements were put before me and I have had regard to these so far as necessary. However, the material circumstances of all the other decisions are different to this one, and I have assessed this proposal upon its own merits.

Planning Balance

82. As required by the Framework, great weight is given to the harm to the significance of Berhills Farm and stables listed buildings. The benefits I have identified above would cumulatively amount to public benefits in the heritage balance, and while I give great weight to the harm, it is at the lower end of the scale, such that I consider the totality of the public benefits to be more than sufficient to outweigh the harm. Thus, I disagree with the Council that the heritage harm provides a clear reason to refuse the development under Framework paragraph 11 d)(i).
83. Consequently, Framework paragraph 11 d)(ii) is engaged, such that there is a presumption in favour of granting planning permission for sustainable development, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
84. The proposal would conflict with the settlement strategy and it is outside the limits of development. It is clearly not plan-led development. However, whilst the Council claim it to be opportunistic and self-serving, the Council will be required to rely on windfall sites, such as this site, in the absence of a housing land supply. I also see no barriers to delivery of the site, despite the Council's assertions regarding potential re-negotiation of the promotion agreement.
85. The persistent shortfall in market housing is not insignificant and there is a substantial shortfall in affordable housing. There is no obvious remedy to the shortfall and this overall position indicates that the development plan is failing to meet its strategic challenges. Thus, its settlement strategy and limits of development are not working effectively. These policies are therefore of limited weight, as is the conflict with them.

86. There would be an acceptable effect upon the character and appearance of the area, and with a condition limiting the proposal to up to 28 dwellings, I am satisfied that a high quality and visually attractive scheme could be delivered.
87. The delivery of market and affordable housing is of significant weight, economic benefits are of significant weight and moderate weight is attached to the biodiversity benefits.
88. Taken together, the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. As such, the material considerations indicate a decision other than in accordance with the development plan.

Conditions

89. In addition to the conditions I have already detailed above, the plans are listed for certainty. A Landscape and Ecological Management Plan and Construction Environmental Management Plan are necessary to ensure adequate protection, mitigation and compensation for protected species, priority species and priority habitats. A Construction Method Statement is necessary to reduce the potential impact on the public highway, accommodate the efficient delivery of goods and supplies and ensure the effect upon residential living conditions during construction is not adverse.
90. To ensure that the development can be adequately drained without increasing flood risk to others, conditions are required for surface, foul and construction drainage along with post completion surveys. Visibility splays are required to be provided and maintained to achieve safe conditions for all highway users. To minimise unnecessary light spillage above and outside the development site and to protect species and habitats, details of external lighting is required.
91. The Council suggest a condition that an information board should be erected to provide information on the listed buildings. However, given I have found the harm to be limited, along with the public benefits outweighing the harm, I do not consider this meets the test of necessity. Yet, my findings would not preclude a board being erected at some point unrelated to this permission.
92. A condition for a development framework to be submitted prior to the reserved matters would be unreasonable because it is a moderate sized development, and a condition could cause delays.

Conclusion

93. For the reasons set out above, I conclude that the appeal should be allowed.

Katie McDonald

INSPECTOR

APPEARANCES

For the local planning authority:		
Richard Humphreys QC		Instructed by Dorcas Ephraim, Senior Solicitor, Wiltshire Council
He called		
	Lachlan Robertson MA DipUD BSc(Hons) MRTPI	Independent Town Planner
	Peter Radmall MA B.Phil CMLI	Chartered Landscape Architect, Independent Practitioner
	Peter Martin MEng MSc	Senior Urban Design Officer, Wiltshire Council
	Guy Bentham-Hill, BA(Hons) MSc IHBC	Senior Conservation Officer, Wiltshire Council
	Dorcas Ephraim	Senior Solicitor, Wiltshire Council
For the appellants:		
Killian Garvey of Counsel		Instructed by Jeff Richards, Director, Head of Planning South West, Turley
He called		
	Jeff Richards BA(Hons) MTP MRTPI	Director, Head of Planning South West, Turley
	Clare Brockhurst FLI BSc(Hons) DipLA	Director, Leyton Place Limited
	Jonathan Vernon-Smith BSc(Hons) DipArch RIBA RPUD	Director, Urban Design Box Limited
	Edmund Stratford BA(Hons) MCIfA IHBC	Associate, The Environmental Dimension Partnership
	Paul Wakefield LARTPI	Partner, Shakespeare Martineau
Interested parties:		
Cllr Thorn, who also gave representations on behalf of Cllr Hill		Wiltshire Councillor for Calne Central and Calne Town Councillor
Cllr Rees		Chair of Calne Without Parish Council

INQUIRY DOCUMENTS

ID1	Appellants opening submissions
ID2	Council opening submissions
ID3	Calne Town Council statement
ID4	Statement from Cllr Thorn
ID5	Timeline of the local plan review – Council website extract
ID6	Pre-application request (Turley, April 2020)
ID7	Chilvester Hill Calne vision document (June 2019)
ID8	Local Plan Review – consultation report and next steps extract
ID9	APP/Y3940/W/3129040 Appeal decision
ID10	16/12380/REM Decision notice
ID11	17/00679/OUT Decision notice
ID12	Additional information in respect of contributions contained in the S106
ID13	Draft conditions
ID14	Calne Transport Strategy (February 2021)
ID15	Council comments on exceedance figure
ID16	Appellants' comments on Calne Transport Strategy
ID17	<i>Canterbury City Council v SSCLG and Gladman Developments Ltd</i> [2018] EWHC 1611 (Admin), <i>Canterbury City Council vs Gladman Developments Ltd</i> [2019] EWCA Civ 669
ID18	Planning Proof of Evidence relating to Core Document 5.7
ID19	<i>Spitfire Bespoke Homes Ltd v SSHCLG and Warwick District Council</i> [2020] EWHC 958 (Admin)
ID20	Appellants' reply to Council's comments on exceedance figure
ID21	<i>R. (on the application of William Corbett) v Cornwall Council</i> [2019] EWHC 1022 (Admin) [2020] EWCA Civ 508
ID22	<i>Chichester District Council v SSHCLG</i> [2018] EWHC 2386 (Admin) [2019] EWCA Civ 1640
ID23	APP/Y3940/W/18/3202551 Appeal Decision
ID24	Council's reply on exceedance figure
ID25	Council closing submissions
ID26	Appellants closing submissions
ID27	Completed planning obligation

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout (including internal site access), and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place 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 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
Location plan scale 1:1250 (236 L01 Rev A)
Proposed Vehicular Access Priority Junction Drawing No. SK_02 Rev P4
- 5) No more than 28 dwellings shall be constructed on the site.
- 6) No development shall commence until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The content of the LEMP shall include, but not necessarily be limited to, the following:
 - i) Description and evaluation of features to be managed;
 - ii) Landscape and ecological trends and constraints on site that might influence management;
 - iii) Aims and objectives of management;
 - iv) Appropriate management options for achieving aims and objectives;
 - v) Prescriptions for management actions;
 - vi) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a 5 year period;
 - vii) Details of the body or organisation responsible for implementation of the plan;
 - viii) Ongoing monitoring and remedial measures;
 - ix) Details of how the aims and objectives of the LEMP will be communicated to future occupiers of the development.
 - x) Details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body/ies responsible for its delivery.
 - xi) Where the results from monitoring show that the conservation aims and objectives of the LEMP are not being met, how contingencies and/or remedial action will be identified, agreed, and implemented.
 - xii) Timescales for implementation, delivery, monitoring and any contingencies and/or remedial measures.

The LEMP shall be implemented in full in accordance with the timescales set out in the approved details.
- 7) No development shall commence (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local

planning authority. The CEMP shall include, but not necessarily be limited to, the following:

- i) Risk assessment of potentially damaging construction activities
- ii) Identification of 'biodiversity protection zones'
- iii) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements)
- iv) The location and timing of sensitive works to avoid harm to biodiversity features
- v) The times during construction when specialist ecologists need to be present on site to oversee works
- vi) Responsible persons and lines of communication
- vii) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person(s)
- viii) Use of protective fences, exclusion barriers and warning signs.
- ix) details of how the PROW, in so far as it runs within the site, is kept available for use by the public during construction
- x) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

- 8) No development shall commence (including any works of demolition), until a Construction Method Statement (CMS), has been submitted to, and approved in writing by, the local planning authority. The CMS shall include the following:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
 - viii) hours of construction, including deliveries.
- 9) No development shall commence until details of the works for the disposal of sewerage, including the point of connection to the existing public sewer, have been submitted to and approved in writing by the local planning authority. The approved sewerage details shall be fully implemented in accordance with the approved plans prior to occupation of any dwellings.
- 10) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details

that shall first have been submitted to and approved in writing by the local planning authority in consultation with the lead local flood authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details 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 its implementation; and,
 - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 11) No development shall commence until a construction management plan detailing drainage arrangements during the construction phase has been submitted to and approved in writing by the local planning authority in consultation with the lead local flood authority and the sewerage undertaker. The plan must make provision for the installation of attenuation storage prior to the installation of any upstream drainage infrastructure. The development shall be carried out in accordance with the approved details.
- 12) Prior to the commencement of development, details of the footway along the northern boundary of the site and extending eastwards to the existing footway together with all improvements, crossing points and ancillary operations to be constructed as generally illustrated, shall be submitted to the local planning authority, for approval and there shall be no occupation of any dwelling until the approved works have been completed.
- 13) No external lighting shall be installed on site until detailed plans showing the type of external light appliances, the height and position of the fittings, the illumination levels and light spillage levels in accordance with the appropriate Environmental Zone standards as set out by the Institute of Lighting Engineers in their publication 'Guidance Note 1 for the Reduction of Obtrusive Light 2021' (or any subsequent version) and maintenance details, have been submitted to and approved in writing by the local planning authority. Where development potentially affects dark corridors and wildlife habitat, lux plots shall be submitted to local planning authority for written approval. The approved external lighting shall be installed and maintained in accordance with the approved details prior to substantial completion of the development.
- 14) No part of the development shall be occupied until a Residential Travel Plan has been submitted to and approved in writing by the local planning

authority. The plan shall be implemented in accordance with the approved details.

- 15) No part of the development shall be occupied until as built drainage drawings and surveys (in CAD drawing format) have been submitted and approved in writing by the local planning authority.
- 16) No part of the development shall be occupied until the visibility splays shown on the approved plans SK_02 Rev P4 have been provided with no obstruction to visibility at or above a height of 600mm above the nearside carriageway level. The visibility splays shall be retained and maintained free of obstruction in perpetuity.
- 17) Prior to occupation of each dwelling with vehicle parking, electric vehicle charging points shall be installed in locations close to the parking area for each dwelling, the details of which shall first have been submitted to and agreed in writing by the local planning authority.

*****END OF CONDITIONS*****

Richborough Estates