



Appeal Decision

Site visit made on 24 May 2022

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 June 2022

Appeal Ref: APP/Y3940/W/22/3292118

Land To The East Of Church View, Sutton Benger, Wiltshire SN15 4FD

- 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 Land Allocation Ltd against the decision of Wiltshire Council.
 - The application Ref 20/03876/OUT, dated 30 April 2020, was refused by notice dated 15 September 2021.
 - The development proposed is described as "outline planning permission, with all matters reserved except for access, for up to 24 dwellings and associated infrastructure."
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Decision

1. The appeal is allowed and planning permission is granted for up to 24 dwellings and associated infrastructure at Land to the East of Church View, Sutton Benger, SN15 4FD in accordance with the terms of the application, Ref 20/03876/OUT, dated 30 April 2020, subject to the conditions in the Schedule at the end of this decision.

Preliminary Matters

2. The description of development in the header above is from the application form. In my decision I have omitted reference to outline planning permission and all matters being reserved except access as these phrases do not describe an act of development.
3. The application leading to this appeal sought outline planning permission and approval of details of access. The appeal plans show details of the layout of the development but are marked as being indicative. I have treated the layout details as being submitted for illustrative purposes.
4. The appellant has submitted a signed unilateral undertaking (the UU) pursuant to section 106 of the Act. This includes planning obligations relating to the provision of affordable housing and open space as part of the development as well as financial contributions towards off-site sports pitches and courts, waste and recycling bins, air quality monitoring equipment and the expansion of Abbeyfield Secondary School in Chippenham. The Council has had the opportunity to comment on the UU and I have taken it into account.
5. Reference is made in the submissions to an emerging Sutton Benger Neighbourhood Plan. However, this is at an early stage towards adoption and so I attach limited weight to its contents.

6. As well as this appeal, I have determined a separate appeal¹ relating to residential development for 21 dwellings with associated infrastructure, landscaping and construction of new access at a nearby site on Sutton Lane (hereafter referred to as the Sutton Lane proposal). While each appeal has been considered as a separate entity, I have taken account that I have allowed this other appeal as a material planning consideration in my assessment.

Main Issues

7. The main issues are (i) whether the development would be in a suitable location having regard to the policies of the development plan, the National Planning Policy Framework (the Framework) and accessibility to services, (ii) its effect on the character and appearance of the area, and (iii) the aforementioned planning obligations.

Reasons

Suitability of the location

8. Under Core Policy 10 of the Wiltshire Core Strategy 2015 (the CS), Sutton Benger is identified as a large village. CS Core Policy 1 defines large villages as those with a limited range of services and restricts development to that needed to help meet local housing needs. There is limited evidence that demonstrates any particular need for housing in Sutton Benger and indeed reference is made to various recent developments in the village. In the absence of such evidence, the development would be contrary to CS Core Policy 1.
9. Moreover, the site lies outside, albeit close to, the defined boundary for Sutton Benger. CS Core Policy 2 states that development outside settlement limits would not normally be permitted unless for one of the circumstances set out in paragraph 4.25 of the CS. None of these apply in this case and so in these regards the development would be contrary to CS Core Policy 2. Also, the proposal would not accord with saved policy H4 of the North Wiltshire Local Plan 2001 (LP) which allows only replacement dwellings or residences required in connection with a rural enterprise on sites outside settlements.
10. Paragraph 4.15 of the CS states that development at large villages will predominantly take the form of small housing schemes of less than 10 dwellings. However, paragraph 4.15 does not form part of any CS policy and the use of the word "predominantly" indicates that this is not a firm requirement. As such, the failure of the development to comply with the terms of paragraph 4.15 is afforded limited weight.
11. The Framework advises that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities. Due to their proximity, it is probable that residents of the proposed housing would use the range of facilities in Sutton Benger which includes a primary school, village hall, recreation facilities, pubs, post office and doctors' surgery. As such, the development would help sustain the vitality of the village.
12. All the village facilities would be within a reasonable walking distance from the development. Also, short lengths of new pavements are proposed on the road outside the site that would form a pedestrian link with existing roadside footways to the village services. Future residents and visitors would have to

¹ Appeal ref no APP/Y3940/W/21/3285458

cross the B4069 to get to and from the development but there is no firm evidence to show that this would be particularly hazardous. The Council's highway development control officer indicates that access via the B4069 would not provide a safe pedestrian route but fails to indicate the reasons why it would be unacceptable. On my visit, I saw there was good visibility along the road in both directions outside the site. As such, the need to cross the road would not discourage walking between the proposal and the village facilities.

13. Moreover, the development would be within a reasonable walking distance of local bus stops. These would provide occupiers of the dwellings with reasonable access to bus services that run on weekdays and on Saturdays. The number of buses is limited but even so the services would provide an opportunity to travel by public transport to Chippenham and to a wider range of facilities. Also, the development would be within a reasonable cycling distance from Chippenham.
14. Notwithstanding the above, it is highly likely that a significant proportion of trips to and from the development would need to be by car. In particular, this is likely to be the mode of travel to shops, higher order leisure facilities and work places. In these regards, the development would not reduce the need to travel by car and so it would not accord with CS Core Policies 60 and 61. However, the proposed roadside pavements would promote walking and consequently the use of local bus services. In these regards, the development would comply with the terms of the Framework. Also, I have taken into account that the opportunity to maximise sustainable transport solutions will vary between urban and rural areas, as emphasised in the Framework.
15. Having regard to its location outside the settlement boundary, the lack of evidence to show it would meet a local need and its scale, I find the proposed development would be contrary to the CS spatial strategy. Also, in light of the paucity of higher order facilities and places of employment within the village, it would not entirely reduce the need to travel by car. For these reasons, I conclude the development would not be in a suitable location having regard to CS Core Policies 1, 2, 10, 60 and 61 as well as LP policy H4. The harm caused in these respects is tempered by the scheme's accordance with the Framework's provisions on the location of rural housing and the potential for residents to walk to the facilities and public transport links in the village. The Council's refusal reasons also refer to CS Core Policy 48. This is irrelevant as the proposal would not be a type of development referred to in the policy.

Character and appearance

16. The site is a pasture field with agricultural buildings and hedgerow along large parts of its boundaries. Residences on Church View lie to the west and the recently constructed dwellings on Sutton Gardens are immediately to the south. Open fields are to the east with an access onto the B4069 to the north.
17. The areas of pasture, hedgerows and agricultural buildings give the site a distinctly rural appearance. However, it is a fairly narrow plot and visually separated from the extensive tracts of field to the east by the boundary hedgerow. Also, the influence of the adjacent residences leads to an edge of village or semi-rural character.
18. The proposal would plainly result in a more developed and domestic character to the site. The proposed works would also formalise the access which would to a minor degree reduce the roadside vegetation and visual qualities of the road.

Traffic and lighting associated with the development would also erode the pastoral nature. Even so, the proposed houses would be adjacent to properties on Church View and Sutton Gardens. Therefore, while it would erode the rural character of the site, the development would not be significantly out of keeping with its surroundings and it would not appear isolated from the village.

19. The development would be seen through the access gap from the B4069. Also, it would be visible when approaching the village along the road, although hedgerow on the roadside and the site boundary would obstruct some views. In addition, it is probable the development would be visible from the public footpath that runs through fields on the opposite side of the road. All of these views would to a degree undermine the semi-rural aspects of the locality.
20. The development would also be clearly seen from the adjoining houses on Sutton Gardens and Church View. From these viewpoints, the resulting encroachment of the village into the surrounding countryside would be readily apparent. The development would move the edge of the built up extent of Sutton Benger further to the east. However, the scheme would be perceived as a minor expansion into the countryside given the narrowness of the site. The development would not significantly reduce the gap between Sutton Benger and Christian Malford, the nearest village to the east.
21. The plans indicate the dwellings and gardens set away from the eastern boundary. Such positioning would allow the potential to retain existing hedgerow and to provide additional planting so to reduce the visibility of the development. Nonetheless, it is likely the houses would have a visual influence on the adjacent fields, albeit that from these viewpoints the development would be seen alongside properties in Sutton Gardens and Church View.
22. The village contains a number of residential cul de sacs and so the proposed development would follow a common layout form. The site is long and narrow but the indicative layout pattern is similar to the properties on Church View. As a cul de sac, it is likely the proposed dwellings would back on to the adjacent residences and so they would not fully integrate with any existing streets. However, this pattern of development is already present in the locality.
23. Criticisms are raised in respect of the layout of the proposal, the lack of garden space and parking and other design issues. However, I am mindful that this appeal does not seek approval for layout, scale, appearance or landscape details. The narrowness of the site would be an influential factor in the design of the development. However, from my observations and the information provided I am satisfied a high design quality scheme of up to 24 dwellings could be accommodated on the plot.
24. In summary, the proposal would erode the openness and other rural aspects of the site. This effect would be noticeable to a reasonable degree from the road when approaching and leaving the village, from the adjacent fields and from the land on the opposite side of the road. The proposal would also make a marked visual change in views from adjacent and nearby dwellings. The development would not appear isolated or out of keeping with its surroundings, which includes existing residential cul de sacs. Even so, it would represent an encroachment into open countryside, albeit a minor extension compared to the built up extent of the village as a whole. As such, the development would be harmful to the character and appearance of the area and in these regards it

would not accord with CS Core Policies 51 and 57. Amongst other things, these seek to protect landscape character and natural features

Planning obligations

25. There is no dispute between the main parties that the aforementioned planning obligations are fair and reasonable. Also, it is agreed that they would be necessary to address the Council's objections as set out in its 4th refusal reason. I find no grounds to disagree with the parties on these matters.
26. The Council has raised no concerns in respect of the UU. Therefore, I conclude the planning obligations are fair, reasonable and necessary and the UU would be effective in securing the obligations. As such, the development would accord with CS Core Policies 3, 43, 45, 52 and 55 and LP policy CF3.

Other considerations

27. Several other concerns have been raised. The appellant's transport statement demonstrates that the development would lead to only a modest increase in traffic. Even when taking into account the traffic generated by the Sutton Lane proposal and other schemes in the wider area, there is no substantive evidence to show the development would lead to highway capacity problems. The proposal would be served by an appropriate vehicular and pedestrian access and it would not prejudice highway safety.
28. Information on drainage for the scheme has been accepted by the Council's drainage engineer and Wessex Water (WW) also raise no objections. As such, I am satisfied a planning condition could be reasonably imposed to ensure surface water would be disposed of appropriately and without increasing flood risk elsewhere. There is no firm evidence such as flood risk maps to show that the development would be at flood risk. There is no objection from the Council or Environment Agency that flooding on nearby roads would prevent reasonable and safe access. WW raise no concerns in respect of foul water drainage capacity or water supply pressure and so I have no reason to conclude the development would lead to problems in these regards.
29. The sewerage treatment site would be far enough away to avoid odour problems for future occupants. Also, the appeal site is not subject to excessive noise so as to prevent acceptable living conditions.
30. The development would be next to a small part of Sutton Benger Conservation Area (CA). However, it would be set away from the historic buildings and attractive street scenes towards the centre of the village and from which the CA gains its significance. Therefore, the proposal's effect on the setting of the CA results in no harm to its most important features. The significance, character and appearance of the CA overall would be preserved. Also, the development or any additional traffic would have no meaningful effect on the significance of any other heritage assets, including archaeological remains.
31. There is no evidence to demonstrate that any features of particular wildlife importance would be harmed by the development. The Council accepts the appellant's claim the scheme would enhance the site's biodiversity value. I find no reason to arrive at a different opinion on this matter and enhancement measures could be secured through reserved matters applications.

32. The site includes pasture land which would be lost as a consequence of the development. However, as it is an enclosed and small plot, the loss of agricultural land would be acceptable. Like the Council, I am satisfied that concerns in respect of ground contamination on the site could be appropriately addressed through the imposition of a planning condition.
33. I note concerns that the proposal would increase the use of the village surgery and the primary school. However, there is no firm evidence to show that the development on its own or with the Sutton Lane scheme would lead to unacceptable pressure on local health services. Also, the information provided by the Council indicates that the school has capacity to accommodate pupils from this scheme and the Sutton Lane proposal.
34. My assessment is based on the appeal development and the evidence and information before me. It does not follow from any decision to allow this appeal that other developments would be found acceptable.
35. The concerns raised fail to justify dismissing the appeal. As such, they do not affect my overall assessment.

Housing land supply and planning balance

36. For the reasons set out in respect of the first and second main issues, the proposal would not accord with development plan policies when read as a whole. It follows to consider whether other factors justify allowing the appeal contrary to the development plan.
37. The Framework requires local authorities to identify a supply of deliverable sites sufficient to provide a minimum of 5 years' worth of housing. With reference to the Annual Housing Monitoring Report April 2022 (AHMR), the Council states it can demonstrate 4.72 years of supply for the county as a whole. Also, it sets out the various actions taken to address the shortfall in housing supply. These include granting planning permissions for residential development in Sutton Benger, in the wider local housing market area and elsewhere in the county. It is suggested that housing delivery figures show the land supply position is improving.
38. The appellant highlights recent appeal decisions where it has been found that the housing land supply figure is less than that suggested by the Council, although it is noted that these pre-date and so do not refer to the AHMR. In any event, both main parties accept that the Council is currently unable to demonstrate the minimum 5 year supply. In such circumstances, paragraph 11 of the Framework states that relevant development plan policies which are most important for determining the application are deemed out-of-date. Planning permission should be granted unless the adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework policies as a whole.
39. Even if the 4.72 year figure as suggested by the Council is accepted, the proposal would make a meaningful contribution towards addressing an identified shortfall in housing land supply. Moreover, half of the development would be affordable housing so ensuring an appropriate mix of units to meet a variety of accommodation needs and demands. Given these factors and the scale of the development, I attach considerable weight to the scheme's benefits in terms of housing provision.

40. In addition, the proposal would create construction employment and it would be close enough to allow future occupants to support village services. These economic benefits attract moderate weight. The submissions indicate that the development would lead to a net gain in the biodiversity of the site. This attracts limited positive weight given the scale of the overall benefit as claimed. The planning obligations would address needs raised by occupants of the development but enhancements from the contributions towards sports pitches and courts may also benefit the existing population. This attracts limited weight in support of the scheme.
41. The Framework reiterates that the development plan is the starting point for decision-making. However, paragraph 11 advises that where the tilted balance applies, there may be justification to grant planning permission contrary to the development plan.
42. The proposal would not accord with the development plan spatial strategy and policies on the location of housing. However, it would accord with the Framework's aim to locate rural housing where it would maintain the vitality of communities. Also, in line with the Framework, the development would allow the potential for walking, cycling and public transport trips to some facilities, despite the reliance on the private car to access places of employment and higher order services. As such, I attach only moderate weight to the unsuitability of the development's location. In arriving at this view, I have had regard to the cumulative effects of previous housing developments allowed in the village as well as the effects of the Sutton Lane proposal.
43. The scheme would go against the aim of the Framework to ensure development recognises the intrinsic character and beauty of the countryside. Given the particular effects of the development, the harm in these regards attracts moderate weight in my assessment.
44. When considering all factors together, I find the adverse impacts of the proposal would not significantly and demonstrably outweigh its benefits when assessed against the Framework. As such, the presumption in favour of sustainable development at paragraph 11 of the Framework applies. In such circumstances, the Framework states planning permission should be granted
45. The scheme would conflict with development plan policies when read as a whole. However, for the reasons given above, its benefits and other considerations are of sufficient weight to justify granting planning permission contrary to the development plan.

Conditions

46. I have considered the conditions suggested by the Council, having regard to the tests set out in the Framework. Where appropriate, I have amended the wording for precision reasons and to avoid unnecessary pre-commencement conditions.
47. The first 3 conditions are required by law. I have included a condition that requires the access to be constructed as shown on the approved plans as such details are not reserved matters. There is no need for a condition that sets the maximum number of dwellings allowed as this is included in the description of development and the appeal decision.

48. A condition requiring approval of a construction management plan is needed to avoid harm to the living conditions of nearby residents, to the environment and to highway safety. Also, a condition is necessary to ensure ground contamination on the site is dealt with appropriately without harm to the environment or human health. A condition is imposed to ensure existing trees to be retained are adequately protected during construction works.
49. To ensure surface and foul water is disposed of appropriately, drainage conditions are required. There is no need for a separate condition preventing infiltration of surface water to the ground as the adequacy of any drainage system can be assessed under the terms of the imposed conditions. There is a requirement to ensure the development incorporates water efficiency measures so as to meet the demands of climate change.
50. A condition requiring the provision of visibility splays is included in the interests of highways and pedestrian safety. For the same reason, a condition is imposed that requires road and footpath access to be completed to each individual dwelling prior to occupation. However, there is no need for a condition regarding estate roads as these details would be required under the reserved matters and other conditions.
51. Conditions are attached regarding air quality monitoring and ultra low energy vehicle infrastructure. These are required to ensure the development avoids or mitigates against adverse effects on air quality. To ensure the satisfactory appearance of the development, a condition is imposed that requires the hard and soft landscaping to be provided.

Conclusion

52. For the above reasons, I conclude that the appeal should succeed.

Jonathan Edwards

INSPECTOR

SCHEDULE OF 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 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 be begun either before: (i) the expiration of five years from the date of this permission, or (ii) before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 4) The access to the development hereby permitted shall be constructed in accordance with the site access option 2 drawing included as appendix A to the Newell Edwards Transport Statement dated 4 March 2020.

- 5) The development hereby approved shall not commence until a Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall include details of the following measures:
- an introduction consisting of construction phase environmental management plan, definitions and abbreviations and project description and location;
 - a description of management responsibilities;
 - a description of the construction programme;
 - site working hours and a named person for residents to contact;
 - detailed site logistics arrangements;
 - details regarding parking, deliveries, and storage;
 - details regarding dust and noise mitigation;
 - details of the hours of works and other measures to mitigate the impact of construction on the amenity of the area and safety of the highway network; and
 - communication procedures with the local planning authority and local community regarding key construction issues – newsletters, fliers etc.

Where piling is required this must be continuous flight auger piling wherever practicable to minimise impacts. Stone crushing shall be limited to 1030 to 1530 Monday to Friday with no crushing at weekends or bank holidays.

There shall be no burning undertaken on site at any time. Construction hours shall be limited to 0800 to 1800 Monday to Friday, 0800 to 1300 on Saturdays and no working on Sundays or Bank Holidays. The development shall be carried out in accordance with the approved CEMP.

- 6) No development hereby permitted shall commence until an investigation of the history and current condition of the site to determine the likelihood of contamination arising from previous uses has been carried out and all of the following steps have been complied with:-
- i. a written report has been submitted to and approved in writing by the local planning authority which shall include details of the previous uses of the site for at least the last 100 years and a description of the current condition of the site with regard to any activities that may have caused contamination. The report shall confirm whether it is likely that contamination may be present on the site.
 - ii. if the above report indicates that contamination may be present on or under the site, a more detailed site investigation and risk assessment should be carried out in accordance with DEFRA and Environment Agency's "Model Procedures for the Management of Land Contamination CLR11" and other authoritative guidance. A report detailing the site investigation and risk assessment shall be submitted to and approved in writing by the local planning authority.
 - iii. if the reports submitted pursuant to (i) or (ii) indicates that remedial works are required, full details of remediation shall be submitted to and approved in writing by the local planning authority. The approved remediation shall be implemented prior to the

commencement of the development or in accordance with a timetable that has been approved by the local planning authority as part of the approved remediation scheme. On completion of any required remedial works the applicant shall provide written confirmation to the local planning authority that the works have been completed in accordance with the agreed remediation strategy

- 7) Prior to commencement of development, including any works of site clearance and preparation, an Arboricultural Method Statement providing details of construction works in relation to retained trees and vegetation and tree protection measures shall be submitted to and approved in writing by the local planning authority. All works shall be carried out in accordance with the approved details.
- 8) Apart from the construction of the access or the excavation of foundation trenches, no development hereby permitted shall commence until a scheme for the discharge of surface water from the site (including surface water from the access/driveways) has been submitted to and approved in writing by the local planning authority. The details shall include proposed sustainable drainage measures, management of overland flow routes information and a maintenance schedule for drainage systems for the lifetime of the development and arrangements for the adoption by any public or statutory undertaker and any other arrangements to secure operation of the scheme throughout its lifetime. The scheme shall be implemented in accordance with the approved details prior to the occupation of the first dwelling and shall be managed in accordance with the approved details thereafter.
- 9) Apart from the construction of the access or the excavation of foundation trenches, no development hereby permitted shall commence until a scheme for the disposal of foul water from the development has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented as approved prior to the first occupation of any of the dwellings hereby permitted.
- 10) Apart from the construction of the access or the excavation of foundation trenches, no development hereby permitted shall commence until a scheme for water efficiency to be incorporated as part of the development has been submitted to and approved by the local planning authority. The approved scheme shall be implemented prior to the occupation of any individual dwelling hereby permitted.
- 11) No dwelling hereby approved shall be occupied until the visibility splays shown on the site access option 2 drawing have been provided with no obstruction to visibility. The visibility splays shall be maintained free of obstruction at all times thereafter.
- 12) No individual dwelling hereby approved shall be first occupied until the roads, footpaths, parking and turning spaces to serve that dwelling and allow access to and from the public highway have been provided and constructed to at least base course level.
- 13) No dwelling hereby approved shall be first occupied until an air quality assessment (AQA) has been submitted to and approved in writing by the

local planning authority. The AQA must quantify the effect of the development on existing local authority air quality monitoring locations and sensitive receptors as well as the development. It must also identify and make adjustments for all core strategy based development in the locality.

- 14) No dwelling hereby approved shall be first occupied until a scheme of ultra low energy vehicle infrastructure has been submitted to and approved in writing by the local planning authority. The scheme shall include an implementation timetable and the approved infrastructure shall be provided in accordance with the approved timetable and thereafter retained.
- 15) All soft landscaping as approved under the terms of condition 1) shall be carried out in the first planting and seeding season within or following the completion of each phase, first occupation of the development or the completion of the development whichever is the sooner. All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock. Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species. All hard landscaping approved under the terms of condition 1) shall also be carried out prior to the occupation of any part of the development or in accordance with a programme agreed in writing with the local planning authority.