



Appeal Decision

Site visit made on 11 March 2025

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 March 2025

Appeal Ref: APP/Y3940/W/24/3348374

Land South of Ballingers, Urchfont, Wiltshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Urchfont LVA LLP against the decision of Wiltshire Council.
 - The application Ref is PL/2023/02372.
 - The development proposed is outline application with all matters reserved bar access for the development of up to 21 dwellings, including affordable housing, 4 self-build plots and associated infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for an outline application with all matters reserved bar access for the development of up to 21 dwellings, including affordable housing, 4 self-build plots and associated infrastructure at Land South of Ballingers, Urchfont, Wiltshire in accordance with the terms of the application, Ref PL/2023/02372, subject to the conditions in the attached schedule.

Application for Costs

2. An application for costs was made by Urchfont LVA LLP against Wiltshire Council. This is the subject of a separate Decision.

Preliminary Matters

3. The proposal is in outline, with only access to be considered at this stage. As such, appearance, landscaping, layout and scale are reserved for future application. Originally up to 24 dwellings were sought, including 5 self-build plots. However, the scheme was amended with the Council's agreement to 21 dwellings (4 self-build). I have determined the appeal on this basis, reflected in the description of development above. Plans showing the possible siting of the dwellings have been provided. Given that the application is in outline, I have treated these as being illustrative.
4. During the appeal, a planning obligation under s106 of the Town and Country Planning Act was executed by the appellant and the Council. This makes provision for matters including affordable housing, custom build plots and open space, and contributions towards education, waste and recycling, public rights of way, and sports facilities. The Council has confirmed that, as a result of the obligation, it no longer seeks to pursue its third reason for refusal. I shall consider this issue under Other Matters below.
5. Since the determination of the appeal planning application by the Council, a new version of the National Planning Policy Framework (the Framework) has been

published. The Council and the appellant have had the opportunity to comment on these changes. I have therefore determined the appeal with regard to the up-to-date planning policy position.

Main Issues

6. The main issues are:

- the effect of the proposal on the character and appearance of the area, and
- whether the proposal would comply with the settlement strategy of the Development Plan.

Reasons

Character and Appearance

7. The site consists of land on the edge of the village of Urchfont. It is essentially green, open and undeveloped and provides a transition between the built-up village and the wider countryside. The site is a modest-sized field at the foot of an escarpment, lying between higher chalk plateaux, part of Salisbury Plain. It is contained with a strong vegetated perimeter, other than along its western edge. These features are broadly consistent with those of the Character Area 6A (Vale of Pewsey) of the Council's Landscape Character Assessment (LCA).
8. The proposal is for up to 21 dwellings, together with associated development, and would be accessed off the B3098. An additional pedestrian link would be provided to a Public Right of Way (URCH30) adjacent to the southern boundary of the site.
9. Policy CN1 of the Urchfont, Wedhampton and Lydeaway Neighbourhood Plan (NP), made April 2017, seeks to protect the landscape, particularly the rural settings of the villages and their edges. Proposals are assessed against their effects on tranquillity, light pollution and identified important views, especially those to the south of the B3098. URCH30 forms part of a linear area of green infrastructure, known as The Holloway and consisting of a tranquil byway.
10. The proposal would result in permanent buildings being erected on the site, together with a new access, roads and hard surfaces. It would also result in domestic paraphernalia, additional lighting, and a reduction in the tranquillity of The Holloway. It would extend development into the countryside, resulting in an urbanised and built-up appearance. It would therefore have negative effects, including during construction.
11. However, the site is largely contained and close to the existing built-up edge, with housing already extending southwards along Stone Pit Lane. As such, the harmful effects of the proposal on landscape character, including the features identified in the LCA, would be limited.
12. In respect of its visual impacts, the proposed vehicular access would cut into existing roadside grass banking, creating a gap in the vegetation through which the development would be visible. In addition, the proposed pedestrian entrance between the site and URCH30 would require significant engineering works, creating a further gap. As such, the proposal would be visible from these points.
13. Nevertheless, the proposal would not harmfully intrude into existing wider public views towards Salisbury Plain, from example from Ballingers, which are largely

screened by the grass bank and vegetation. There would be only limited views of the site from the surrounding area such as from URCH33, another right of way nearby. From the important views, such as those identified in NP Policy CN1 and its Figure 6.1, the proposal would be seen against the backdrop of Urchfont itself and so would not appear out of place.

14. Furthermore, new and existing landscaping would ameliorate the adverse visual effects of the proposal. For these reasons, its visual impacts would be focused and over time would have a small harmful effect. I therefore share the conclusions of the Council's Landscape Officer, who had no objections to the proposal.
15. The proposal would introduce an 'estate' form of development at the village edge. Most but not all dwellings nearby front the road in a linear form, and some also have a planned appearance. The description of the proposal is for 'up to' 21 units, and so there is a degree of flexibility as to the number of dwellings. The internal layout, orientation, plot sizes and garden depths are all within the control of the Council at reserved matters stage. As a result, the proposal would not necessarily have a cramped or unacceptable appearance.
16. For the reasons given above, the proposal would harm the character and appearance of the area, to a degree. It would thus conflict with policies 51 and 57 of the Wiltshire Core Strategy (WCS), adopted January 2015, and NP policies D1, CN1 and CN3. These require the protection, conservation and enhancement of landscape character, green infrastructure and the natural environment. The Framework makes similar requirements. However, also for the reasons given above, the extent of this harm would be tempered. I therefore give this conflict only moderate negative weight in the planning balance.

Settlement Strategy

17. WCS policies CP1, CP2 and CP12 provide the Council's strategy which seeks to focus development on settlements with defined boundaries. Urchfont is designated as a Large Village. Policy CP1 makes clear that, relevant to this appeal, development at such villages will be limited to that which helps meet housing needs. The NP includes sites for new housing within the village, but the appeal site was not allocated. However, no conflict with a specific NP policy is identified by the Council in respect of this issue, and instead reliance is placed on the strategic policies of the WCS.
18. Policy CP1 supports development 'at' (rather than within) Large Villages. That said, its supporting text and policy CP2 strictly control development beyond settlement boundaries, other than in circumstances that do not apply here. Policy CP12 requires compliance with policy CP1. Consequently, as the site is not within the settlement boundary of Urchfont, the proposal would not accord with the Council's strategy. I understand that the emerging Local Plan now identifies a residual need for 34 additional dwellings at Urchfont, for the period to 2026. I shall consider the matter of housing needs below.
19. Nevertheless, I conclude that the proposal would not comply with the spatial strategy of the Development Plan, conflicting with WCS policies CP1, CP2 and CP12. That said, the locational strategy is driven primarily by access to services, facilities and employment opportunities. The site is adjacent to a bus stop providing linkages to the wider area, including Lavington School. There is no dispute that the site is within walking and cycling distance from the services available within

Urchfont, such as the shop and Post Office, public house, school, church and Village Hall. The proposal would therefore be in a reasonably sustainable location. For these reasons, I give the conflict with the spatial strategy only limited weight.

Other Considerations

Special Protection Area

20. The site lies around 1.3km from the Salisbury Plain Special Protection Area (SPA), and within the buffer zone around it. The SPA is protected pursuant to the Conservation of Habitats Regulations 2017 as amended (the Habitats Regulations). The qualifying features of the SPA relevant to this appeal are populations of Stone Curlew. The conservation objectives of the SPA include maintaining or restoring the extent, distribution, structure, population and function of the qualifying species and their habitats.
21. By introducing new population to the site, the proposal may well result in additional recreational pressure on the habitats of the Stone Curlew population. As a result, alone and in combination with other development, a likely significant effect to the SPA cannot be ruled out. As such, in accordance with the Habitats Regulations and as the competent authority for this appeal, I must undertake an Appropriate Assessment (AA).
22. Mitigation has been developed in the form of the Salisbury Plain Mitigation Strategy Contract. This includes Stone Curlew surveying and monitoring, liaison with landowners and managers, and measures to increase the chances of breeding success. This mitigation is funded by developer contributions through the Community Infrastructure Levy (CIL).
23. The Council and Natural England have confirmed that the mitigation and contribution through CIL would be sufficient. In undertaking the AA, the information before me indicates that the mitigation would reduce the impact of the proposal on the integrity of the SPA to a de minimis level. It would therefore accord with the Habitats Regulations. Accordingly, this matter is neutral in the planning balance.

Housing Land Supply

24. Following publication of the new Framework, it is common ground that the Council cannot demonstrate a five-year housing land supply, with only 2.3 years' worth of supply. This amounts to a substantial shortfall. As such, it is necessary for me to determine whether the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits inherent in the provision of additional dwellings, to assist the Council in addressing its undersupply, as set out in paragraph 11 of the Framework.
25. I have found conflict with WCS policies CP1, CP2, CP12, CP51 and CP57, and NP policies CN1, CN3 and D1, but that this conflict carries only moderate and limited negative weight respectively. Against that, the proposal would make a meaningful contribution to the supply of housing in the area, by the addition of up to 21 dwellings. I give this benefit substantial positive weight.
26. The proposal would include the provision of affordable units, thereby helping to meet the undisputed need for such housing. The inclusion of self-build units would also help meet the need for these. I give these benefits additional significant positive weight in favour of the proposal.

27. The Council has made reference to an appeal¹ at Westbury for 200 dwellings, where the harm was found to significantly and demonstrably outweigh the benefits. However, the harm in that case resulted principally from noise polluting activities, and so I can draw few parallels with the case before me.

Other Matters

28. The site is not far from the Urchfont Conservation Area (CA). Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that I pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The Council and the appellant agree that no adverse effect on the CA would result from the proposal. In the circumstances, I concur with that view. Accordingly, the character and appearance of the CA would be preserved.
29. The development would build on high-quality agricultural land. However, given its relatively modest size, the adverse agricultural and economic effects would be small. In terms of the effect on road users, the proposal includes suitable visibility splays, and there is already an existing highway crossing point. Parking is an issue for reserved matters stage. Although the bus stop is used by schoolchildren, I see no reason to believe that highway safety would be harmed by the proposal. I note that the Highway Officer reached a similar view.
30. The site contains a variety of species and their habitats including birds, reptiles, bats and slow-worms. The proposal would retain trees and vegetation to ensure that ecological connectivity is maintained and would include undeveloped buffers as mitigation for species. The indicative design includes measures to further maintain and enhance ecology, and could achieve a suitable net gain. Subject to conditions, the proposal would not adversely affect biodiversity.
31. The site lies within Flood Zone 1, with the lowest probability of river or sea flooding. The Strategic Flood Risk Assessment identifies that the risk of groundwater flooding in the area is not high. The information before me demonstrates that the site would be at low risk, whilst the initial drainage calculations indicate suitable measures to deal with water runoff. I am therefore satisfied that the proposal would not be harmful in terms of flooding.
32. The proposal makes provision for infrastructure, including contributions secured by means of the planning obligation and which comply with the requirements of the Community Infrastructure Levy Regulations. I have little substantive evidence to suggest that it would cause undue adverse effects to local health and education facilities. The proposal would be sufficient distance from neighbouring properties, including in Ballingers and Stonepit Lane, to ensure that their light, outlook and privacy would not be unduly harmed. The effect on private views is not a planning matter.

Conditions

33. The Council has provided a list of conditions, which I have assessed and where necessary amended, having regard to the advice in the Planning Practice Guidance. Conditions requiring submission of the reserved matters and adherence to the approved plans (reflecting the outline nature of the proposal) are necessary for certainty.

¹ APP/Y3940/W/24/3340811

34. A condition is required to secure the recording of any matters of archaeological interest. Details of management plans including in relation to construction, landscaping and ecology, are necessary in the interests of protected species and the character and appearance of the area. As such, pre-commencement conditions are necessary because the matters they relate to would be affected by below-ground works.
35. Details of external materials, and of boundary treatments, are necessary to ensure that they are sympathetic to the character and appearance of the area. In the interests of the living conditions of occupiers of the development and properties nearby, details of the drainage system, including its ongoing maintenance, are required.
36. Provision of the visibility splays are necessary in the interests of highway safety. The creation of a link to URCH30, details of a footway and crossing point at the vehicular entrance to the site, and provision of a Residential Travel Plan, are necessary to encourage sustainable modes of transport. However, I see no reason why the Travel Plan cannot be required prior to occupation rather than prior to the commencement of development. Controls over the use of external lighting are necessary for ecology reasons.

Planning Balance and Conclusion

37. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.
38. The proposal benefits from the presumption of sustainable development as outlined in paragraph 11 of the Framework. I have found that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken in the round. Therefore, despite the conflict with the Development Plan, material considerations indicate that planning permission should be granted.
39. For the above reasons, having regard to the Development Plan as a whole, the approach in the Framework, and all other material considerations, the appeal should be allowed.

O Marigold

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale (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 three years from the date of this permission.
- 3) The development hereby permitted shall take place no later than two 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: 13209/001 rev B, 226777-PD01_AT01 rev A, 226777-PD01 rev D.
- 5) No development shall take place until (a) a written programme of archaeological investigation, which should include on-site work and off-site work such as the analysis, publishing and archiving of the results, has been submitted to and approved by the Local Planning Authority; and (b) the approved programme of archaeological work has been carried out in accordance with the approved details.
- 6) No development shall take place until a Landscape and Ecology Management Plan (LEMP) has been submitted to and approved in writing by the Local Planning Authority. The LEMP will comply with mitigation and enhancement measures within Section 5 of the Ecological Impact Assessment, Ecological Parameter Plan and metric. The LEMP shall be implemented in full and for the lifetime of the development in accordance with the approved details.
- 7) No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The Plan shall provide details of (i) the avoidance, mitigation and protective measures in relation to ecology, trees and vegetation, and (ii) drainage during the construction phase; to be implemented before and during the construction phase. Development shall be carried out in strict accordance with the approved CEMP.
- 8) No development shall commence above slab level on site until details and samples of the materials to be used for the external walls and roofs have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 9) No railings, fences, gates, walls, bollards or other means of enclosure shall be erected in connection with the development hereby permitted until details of their design, external appearance and decorative finish have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to the development being occupied.
- 10) No development above slab level shall take place until details of the drainage of the site, including the arrangements for the ownership and ongoing maintenance of the drainage system, have been submitted to and approved in writing by the Local Planning Authority. Such details as are approved shall

be implemented prior to the first occupation of the development and thereafter retained in perpetuity.

- 11) No part of the development shall be first occupied until the visibility splays shown on the approved plans have been provided, with no obstruction to visibility at or above a height of 600mm above the nearside carriageway level. The visibility splays shall thereafter be maintained free of obstruction.
- 12) No part of the development hereby permitted shall be occupied until details of a footway and crossing point at the vehicular entrance to the site have been submitted to and approved in writing by the Local Planning Authority and the approved details have been implemented.
- 13) No part of the development hereby permitted shall be occupied until a shared use path has been provided to link with the Public Right of Way to the south of the site, in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority.
- 14) The development hereby approved shall not be occupied until a Residential Travel Plan has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be occupied prior to the implementation of the Travel Plan.
- 15) No external lighting shall be installed on site until plans showing the type of light appliance, the height and position of fitting, illumination levels and light spillage have been submitted to and approved in writing by the Local Planning Authority. The approved lighting shall be installed and maintained only in accordance with the approved details and no additional external lighting shall be installed.

End of Conditions



Costs Decision

Site visit made on 11 March 2025

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 28 March 2025

Costs application in relation to Appeal Ref: APP/Y3940/W/24/3348374

Land South of Ballingers, Urchfont, Wiltshire, SN10 4RL

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Urchfont LVA LLP for a full award of costs against Wiltshire Council.
 - The appeal was against the refusal of planning permission for outline application with all matters reserved bar access for the development of up to 21 dwellings, including affordable housing, 4 self-build plots and associated infrastructure.
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Decision

1. An award of costs is refused.

Reasons

2. Parties in planning appeals normally meet their own expenses. However, the Planning Practice Guidance (PPG) advises that costs may be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
3. The PPG advises that Local planning authorities are at risk of an award of costs if they behave unreasonably with respect to the substance of the matter under appeal. This can include preventing or delaying development which should clearly be permitted, having regard to planning policy and any other material considerations. It can also include a failure to produce evidence to substantiate the reason for refusal; vague, generalised or inaccurate assertions about a proposal's impact, and not reviewing their case promptly following the lodging of an appeal.
4. Although disputed by the applicant, at the time that the appeal application was determined, the Council considered that it was able to demonstrate an adequate supply of housing land. The Council's Landscape officer did not object to the proposal and agreed with the appellant's Landscape and Visual Appraisal. However, character, appearance and landscape impact are essentially matters of professional judgement, and the Council was entitled to reach the conclusion that it did regarding more localised impacts.
5. The Storridge Road, Westbury decision¹ found that the Council could not demonstrate an adequate supply of housing land. As a result, the Council reviewed its case, and accepted that the 'tilted balance' of the National Planning Policy Framework paragraph 11 applied. Nevertheless, it maintained that the harm and Development Plan conflict significantly and demonstrably outweighed the benefits of the proposal.

¹ APP/Y3940/W/24/3340811

6. In my decision, I have found that the proposal would result in harm to the character and appearance of the area, and conflict with the Development Plan, albeit that these would be outweighed by the benefits of the proposal. However, in weighing the harms and benefits of the development differently, I consider that the position of the Council was plausible.
7. The Council's Statement of Case included two photographs, one said to be from a corner of the site. In fact, it was taken from the corner of an adjacent field. Nevertheless, it does show the wider surroundings of the site, and the Council did not rely on this photograph. Instead, its case was based primarily on the more detailed findings of the Officer Report. These were sufficient to make its case respectable.
8. A Council Planning Officer is said to have been supportive of the proposal during the application stage, although this appears to have been an opinion given when circumstances were different. The planning application was not heard until the Committee meeting in February 2024, whereas the applicant believes it could have been heard much earlier. However, from the information available to me, and against a changing housing land supply position, I am not convinced that the Council's actions were unreasonable or led to unnecessary expense at appeal.
9. For these reasons, the Council has not delayed development which should clearly have been permitted and it has substantiated its concerns regarding the character and appearance of the area. Consequently, I consider that the Council has not behaved unreasonably or caused the applicant to incur unnecessary or wasted expense in the appeal process.

Conclusion

10. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has not occurred, and an award of costs is not therefore warranted.

O Marigold

INSPECTOR