The Planning Inspectorate

# Appeal Decision

Site visit made on 15 November 2022

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2023

Appeal Ref: APP/Y3940/W/22/3299162
Land at Rosehill Close, Bradenstoke SN15 4LB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Rosehill Homes Ltd against the decision of Wiltshire Council.
- The application Ref PL/2021/03235, dated 11 March 2021, was refused by notice dated 28 April 2022.
- The development proposed is construction of four dwellings and associated works.

## Decision

1. The appeal is allowed and planning permission is granted for the construction of four dwellings and associated works at land at Rosehill Close, Bradenstoke SN15 4LB, in accordance with the terms of the application PL/2021/03235, dated 11 March 2021, and subject to the conditions set out in the attached schedule.

## Applications for costs

2. An application for costs was made by Rosehill Homes Ltd against Wiltshire Council. This application is the subject of a separate Decision.

## Main Issue

3. The main issue is whether or not the appeal site is a suitable location for four dwellings taking into consideration development plan policies regarding the character and appearance of the area and the accessibility of services and facilities.

## Reasons

*Location of the proposed development*

Character and appearance

4. The appeal site comprises a large, roughly rectangular area of overgrown scrub located at the eastern edge of Bradenstoke. The site's western and southern boundaries abut the neighbouring residential curtilages of Boundary Close and Rosehill Close respectively. The long eastern boundary adjoins agricultural land, while to the north there is a public footpath running along the boundary with fields located beyond.

5. The site's natural, undeveloped appearance along with its contiguous relationship with agricultural land to the north and east gives it an attractive open character. However, its proximity to dwellings and associated curtilage land to the south and west gives the site the appearance of partially adjoining the built-up edge of Bradenstoke.

6. The appeal proposal is a revised scheme following a previous appeal decision (Ref APP/Y3940/W/15/3004345) (the previous scheme) on an earlier application. That scheme covered a larger area that included a fourth dwelling on part of the field to the east, currently earmarked for habitat under the current scheme.

7. The Council's strategy for new housing is broadly set out in Core Policies 1 and 2 of the Wiltshire Core Strategy 2015 (Core Strategy).

8. Core Policy 1 identifies four tiers of settlement within which sustainable development will take place, comprising Principal Settlements, Market Towns, Local Service Centres and Large and Small Villages.

9. Core Policy 2 outlines a development delivery strategy, requiring amongst other things, sustainable locations for new houses. In small villages such as Bradenstoke, this is limited to infill within the existing built-up area where the proposed development would meet housing needs, provided that it respects the character and form of the settlement, that it does not elongate the village, and that it does not consolidate existing sporadic loose knit areas of development

10. These policies are broadly consistent with the National Planning Policy Framework's (the Framework) aims of promoting sustainable development in rural areas by requiring housing to be located where it will enhance or maintain the vitality of rural communities.

11. The explanatory text to Core Policy 2 defines infill as the filling of a small gap within the village that is only large enough for not more than a few dwellings, generally one dwelling.

12. The four dwellings proposed would be modest in numeric terms and, in my view equate to a few. However, the site's open aspect along its eastern boundary and the lack of development or physical containment to the north mean it does not appear as a small gap. Accordingly, the limited number of dwellings proposed would not relate to a small gap within the village, nor would the site accord with the Core Strategy's definition of infill.

13. The proposed dwellings would not be within the village but located beyond the settlement's edge. It would encroach onto the existing field to the east and erode the open appearance of the adjoining countryside. In doing so it would extend the village to the north and outwards to the east. The loss of the open field to development and the intrusion into the undeveloped space would result in a degree of visual harm when seen from the neighbouring residential land. This harm would be relatively minor, given the extent of the incursion, while it would not impose development in a sensitive landscape area.

14. When observed from the footpath to the north the proposed dwellings would be seen against the backdrop of the properties at Boundary Close, while continuing the linear arrangement of Rosehill Close. In this context the proposal integrates well with the parts of the village it adjoins. Additionally, it would be seen to neatly reconfigure the alignment of the settlement's edge by resolving the protruding arrangement attributed to the three dwellings at Rosehill Close. This contrasts with the previous scheme, where Plot 7 extended stridently beyond the settlement and deviated awkwardly from the cul-de-sac's building line. Accordingly, the current scheme would respect the general pattern and form of the settlement.

15. Located further to the east is the Lillybrook park home estate. This is a planned estate of chalets that follow a logical layout pattern around a series of roads. Despite the presence of that estate to the east, it maintains a sizeable distance from the appeal site. It does not have the character of a sporadic lose knit area of development in the context of Bradenstoke. Taking these factors into account the proposal would not be seen to consolidate existing sporadic loose knit areas of development related to the settlement.

16. Although I have found that the proposal would be well integrated and align well with the existing settlement pattern, it is nevertheless beyond the village edge and would encroach onto an area of open countryside. Moreover, it would not accord with the definition of infill outlined in the settlement strategy. Its location would therefore harm the area's character and appearance, but the impact would be very minor. There would be conflict with Core Policies 1, 2 and 19 where it relates to the requirements for residential development in Small Villages.

Accessibility to services and facilities

17. Core Policy 60 seeks amongst other things to promote development in accessible locations, while Core Policy 61 seeks to reduce the need to travel by private car.

18. As indicated earlier, the settlement strategy allows for some limited development in Small Villages, which could in turn help to support the viability of local services. Bradenstoke has a small number of facilities that include a church, public house, and village hall. These are a short walk from the site and could be accessed easily by foot, for most of the way, along a pavement leading into the village. Part of the route is unpaved, although this amounts to a short section between the appeal site and Herbert Ludlow Gardens. Along this section pedestrians could safely take refuge along the highway verge to allow vehicles to pass. Streetlights are limited along the route, however, there are dwellings close by facing the road offering good levels of passive surveillance.

19. The nearest large village is Lyneham located around 1 mile from the appeal site, and contains amongst other things, shops, cafés, and a pharmacy. Nonetheless, there is no longer a regular bus service that connects Bradenstoke to Lyneham or to the locality's bigger centres where future occupiers can access a broader range of services and facilities.

20. The pedestrian route to access Lyneham's amenities is for much of its length, along Hollow Way. This road is narrow in places, and has no streetlights or pavement. Therefore, even if the services and facilities in nearby Lyneham were used by future residents it would be unlikely that the occupiers of the proposed dwellings would choose to walk to them on a regular basis, as it would be much safer and more convenient to access them by car.

21. I acknowledge that journeys made by bicycle to local amenities could be an option, yet this would not be suitable to all future occupiers. Moreover, there are a greater range of services and employment opportunities further afield, making the use of the car by future residents even more likely. The proposal would not therefore encourage sustainable forms of transport to and from the site.

22. Therefore, despite the proposal being within convenient reach of the modest amenities in Bradenstoke, there would inevitably be some outward travelling as facilities are not comprehensive. This would inevitably be by private car. I attribute this as a moderate increase due to the status of the village and its relative accessibility and this needs to be considered with the need to protect rural services and facilities. The proposal is beyond the settlement's edge, so would conflict with Core Policies 1, 2, 60 and 61 of the Core Strategy, where they require schemes to be in accessible locations and relate well to transport options other than the car.

Findings on the main issue

23. Taking the above into account, the appeal site is not a suitable location for four dwellings taking into consideration development plan policies regarding the character and appearance of the area and the accessibility of services and facilities. In addition to the policy conflicts referred to, the development fails to meet any of the circumstances for the creation of additional development listed under Paragraph 4.25 of the Core Strategy. I give the weight of those conflicts' further consideration in the planning balance.

Other Matters

24. Interested parties have raised concerns that the roads in the village would not be able to safely accommodate the increase in traffic from future residents and construction activities. Although my midweek, lunchtime site visit was only a snapshot in time, I did not observe high volumes of traffic in the village or a lack of safe passing places along the narrower sections of road. There is also no specific evidence before me of any road traffic accidents in the village. Furthermore, the Council's Highway advisers have not raised concerns from a road safety perspective. I am therefore satisfied that the proposal would be acceptable from a highway safety standpoint.

25. Further concerns relate to the additional pressure the proposal would place on water supplies. However, no specific evidence has been submitted to quantify this, nor are there any objections raised from local water agencies.

26. I am satisfied that the proposed dwellings would not harm the privacy of neighbouring occupiers at Boundary Close given the generous separation distance maintained from those properties.

27. The concerns regarding the upkeep and future maintenance costs of the private road that would access the dwellings would be a matter between the residents and owners of that land.

28. There would be a loss of agricultural land, however, it did not appear to be in productive use, while there is no evidence to suggest it is high in quality. Accordingly, this matter attracts limited weight.

Planning Balance

29. The adverse impacts arising from the proposal relate to its unsatisfactory location when judged against the settlement strategy policies for Wiltshire. My findings judged those impacts to be relatively minor given the number of future trips by private vehicle and the proximity and alignment of the scheme to the settlement's edge.

30. The Council is not meeting its 5-year housing land supply requirement and therefore paragraph 11(d) of the Framework is triggered. The supply of deliverable housing sites in Wiltshire is equivalent to 4.72 years of the housing requirement according to the Council's latest findings. The appeal site is located within the North and West Housing Market Area (HMA) where the shortfall is 4.16 years (around 537 dwelling units). I find this a moderate under supply.

31. The four dwellings proposed would be a small but important contribution to the existing housing shortfall. Small scale schemes can be built out quicker compared to larger volume developer sites and would provide new family housing, to meet the local need established by the Lyneham & Bradenstoke Neighbourhood Plan (2021) (the NP). Although the appeal scheme is outside of the village and would not meet the new housing policy of the NP, it is nevertheless built up to its edge. Because of this I consider the conflict to be slight and outweighed by the additional supply.

32. The Council and interested parties do not consider that the shortfall in housing supply is significant and the proposal's modest number would be limited in contribution. However, the starting point of the Framework's presumption is that permission should be granted and the Government's objective is to significantly boost the supply of homes.

33. The additional homes would to a small extent help the vitality of the village and support the small number of local services. The scheme may also benefit the facilities in the nearby village of Lyneham through increased spending by future occupiers. These factors would align favourably with Paragraph 79 of the Framework.

34. There would be some net biodiversity enhancement proposals that would weigh in favour of the scheme, and align with the Framework's environmental objectives, as well as additional landscaping. Electric vehicle charging points at each dwelling would weigh positively in the scheme's favour by encouraging less polluting vehicle ownership amongst future occupiers.

35. The adverse impacts associated with this proposal would not be great. They therefore do not significantly and demonstrably outweigh the benefits of four additional homes when assessed against the policies in the Framework taken as a whole. As a result, the presumption in favour of sustainable development should be applied.

## Conditions

36. I have had regard to the Council's suggested conditions, amending them where necessary for clarity and to ensure compliance with the tests set out in paragraph 55 of the Framework. I also sought agreement from the Appellant to the pre-commencement conditions.

37. I have imposed a condition specifying the approved plans as this provides certainty. Conditions are also required to secure details of landscaping in the interests of the appearance of the area. There is other housing in the area so that limiting construction hours is warranted, while a condition requiring obscure glazing to a window at Unit 1 would safeguard neighbouring privacy.

38. Making provision for vehicle charging points is required to promote sustainable transport and to meet the expectations of development plan policies.

39. Conditions relating to the implementation of surface water management at the site are necessary in the interests of public health and the avoidance of surface water flooding. If contamination is encountered, a condition requiring the procedures for dealing with this risk is necessary in the interest of public health and safety.

40. A construction management plan is necessary to establish safety and environmental procedures for the work phase of the scheme. Details that require protection measures around existing landscape and ecological features are necessary to protect their health and that they do not become damaged during construction. Accordingly, these measures should be agreed before work begins.

41. A landscape and ecological management plan is necessary to safeguard the future of important environmental features at the site.

42. I have not included the Council's suggested condition relating to the burning of materials. This is somewhat vague and could prohibit things such as barbeques or fire pits. Moreover, there is nothing requiring this in the development plan policies before me. Therefore, the condition lacks precision and is unnecessary.

43. I do not consider it necessary to impose a shorter timeframe condition as suggested by the Council, in light of my conclusions. This does not, in my view, prevent the possibility of the scheme being built in a time efficient manner.

## Conclusion

44. The proposed development would be contrary to the development plan but material considerations, especially the presumption in the Framework, outweigh this conflict. Therefore, for the reasons given, the appeal should be allowed subject to the conditions in the attached schedule.

*R E Jones*

INSPECTOR

Schedule of Conditions

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2. The development hereby permitted shall be carried out in accordance with the following drawing numbers and documents: 3712-01 Rev. F – Location Plan; 3712-02 Rev. H – Block Plan & Street Elevations; 3712-03 Rev. A – Semi Detached Houses Units 1 and 2 Plans & Elevations; 3712-04 Rev. B – Detached Houses Units 3 & 4 Plans, Elevs & Section; 3712-05 Rev. J – Proposed Site Plan; Reptile Mitigation Strategy, by Darwin Ecology; Biodiversity Net Gain Post-Development Habitats Map, by Darwin Ecology.

3. No development shall commence on site until a scheme for the discharge of surface water from the site, including any sustainable drainage systems and all third-party approvals, has been submitted to and approved in writing by the Local Planning Authority.

4. No development shall commence, except ground investigations and remediation, until infiltration testing and soakaway design in accordance with Wiltshire Council's Surface Water Soakaway Guidance have been undertaken to verify that soakaways will be suitable for the development. If the infiltration test results demonstrate that soakaways are not appropriate, an alternative method of surface water drainage, shall be submitted to and approved in writing by the Local Planning Authority and installed prior to the occupation of the development.

5. No development shall commence on site until details of the provision of an electric charging point for each dwelling have been submitted to and approved in writing by the local planning authority. The approved charging points shall be installed prior to the first occupation of the dwellings that it would serve and shall be retained thereafter.

6. In the event that contamination is encountered at any time when carrying out the approved development, the Local Planning Authority must be advised of the steps that will be taken by an appropriate contractor to deal with the contamination and provide a written remedial statement to be followed by a written verification report that confirms the works that have been undertaken to render the development suitable for use.

7. Prior to the commencement of works, including demolition, ground works/excavation, site clearance, vegetation clearance and boundary treatment works, a Construction Environmental Management Plan (CEMP) shall be submitted to the local planning authority for approval in writing. The Plan shall provide details of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including the following:

a) Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g., exclusion fencing;
b) Working method statements for protected/priority species, such as nesting birds and reptiles;

c) Mitigation strategies already agreed with the local planning authority prior to determination, such as for great crested newts, dormice or bats; this should comprise the pre-construction/construction related elements of strategies only;
d) Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site;
e) Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW);
f) Timeframe for provision of compliance report to the local planning authority.

The above requirements shall be completed by the ecologist/ECoW and include photographic evidence. Development shall be carried out in strict accordance with the approved CEMP.

8. Prior to the start of construction, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP will include long term objectives and targets, management responsibilities and maintenance schedules for each ecological feature within the development, together with a mechanism for monitoring success of the management prescriptions, incorporating review and necessary adaptive management in order to attain targets. The LEMP shall also include details of the legal and funding mechanism(s) by which long-term implementation of the plan will be secured. The LEMP shall be implemented in full and for the lifetime of the development in accordance with the approved details.

9. No development shall commence on site (including any works of demolition) until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. Thereafter, the approved CMP shall be implemented and adhered to throughout the entire construction period. The CMP shall provide details of the following:
i. the anticipated number, frequency, and types of vehicles used during the demolition and construction;
ii. the parking of vehicles of site operatives and visitors;
iii. the loading and unloading of plant, materials and waste;
iv. the storage of plant and materials used in constructing the development;
v. the erection and maintenance of security hoarding;
vi. wheel washing facilities;
vii. measures to control the emission of noise, vibration, dust and dirt during the demolition and construction phases of the development;
viii. a scheme for recycling/disposing of waste resulting from demolition and construction works;
ix. hours of materials/construction related deliveries;
x. the location and use of generators and temporary site accommodation; and
xi. details of public engagement both prior to and during construction works.

10. No construction or demolition work shall take place on Sundays or Public Holidays or outside the hours of 08:00 to 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays.

11. No development shall commence on site until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority, the details of which shall include:
- location and current canopy spread of all existing trees and hedgerows on the land;
- full details of any to be retained, together with measures for their protection in the course of development;
- a detailed planting specification showing all plant species, supply and planting sizes and planting densities;
- means of enclosure and plot boundaries;
- all hard and soft surfacing materials.

12. All soft landscaping comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the first occupation of the building(s) 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, unless otherwise agreed in writing by the local planning authority. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority.

13. Before the development hereby permitted is first occupied the landing window in the side elevation of Unit 1 shall be fixed shut and obscure glazed and shall be retained as such thereafter.

***End of Schedule***

The Planning Inspectorate

# Costs Decision

Site visit made on 15 November 2022

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2023

Costs application in relation to Appeal Ref: APP/Y3940/W/22/3299162
Land at Rosehill Close, Bradenstoke SN15 4LB

- 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 Rosehill Homes Ltd for a full award of costs against Wiltshire Council.
- The appeal was against the refusal of planning permission for construction of four dwellings and associated works.

## Decision

1. The application for the award of costs is refused.

## Reasons

2. Planning Practice Guidance advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary expense in the appeal process.

3. Council Officers recommended that planning permission be granted for the proposal, but the Council members took a different course of action. While the Council is not duty bound to follow the advice of its professional officers if a different decision is reached the Council must clearly demonstrate on planning grounds why a proposal is unacceptable and provide clear evidence to substantiate that reasoning.

4. The Planning Committee minutes indicate that members had objectively highlighted that the development was outside of the settlement and within the open countryside. This they considered would have consequential effects on elongating the settlement, while the limited public transport facilities nearby would increase the need to travel by car. They also referred to the scheme's development on open, undeveloped land, while it would not meet the development plan's definition of 'infill'. Those impacts would, in their view, be at odds with the development plan's housing policies as outlined in the refusal reason.

5. Committee members were given clarification that the application site was not allocated within the development plan or its supporting documents, including the village Neighbourhood Plan (NP). The refusal reason also refers to it being unallocated housing land. The NP does provide some scope for the development of small-scale schemes such as the appeal proposal. However, that would depend on it meeting the aims of other policies such as those in the Core Strategy regarding the principle of development and location. In this

regard the scheme was outside of the settlement and therefore contrary to development plan policy.

6. Accordingly, I do not consider that the Council failed to properly evaluate the application or consider the merits of the scheme and therefore the appeal could not have been avoided. I have found that the Council had reasonable concerns about the impact of the proposed development which justified its decision. The appellant had to address those concerns and the evidence of third parties in any event. Furthermore, having assessed the evidence submitted by the appellant in addressing the Council's reasonable concerns, I do not consider that unnecessary expense was incurred on the Appellant.

7. The proposal was 'called-in' to be determined by the Planning Committee. The reasons for the call-in given by the ward member, were not, according to the applicant, consistent with those outlined in the subsequent refusal notice. However, the reasons for refusing a scheme do not, in my view, need to repeat those referred to in the call-in. There could, as it would seem in this case, be other matters that persuade elected members to come to a view based on material and information presented by officers at the committee. Relying solely on call-in reasons to refuse a development would question the need for it to be determined at a planning committee in the first instance, while also denying other members from having their viewpoints discussed. Accordingly, the Council did not act unreasonably in this respect.

8. The Council took some 13 months to determine the application and during this time it is understood that the applicant worked with officers to address comments received from consultees. No doubt the applicant was frustrated by the outcome of the final decision. However, the Council's members were entitled to come to a different view to its officers, while developers will run the risk of such an outcome occurring following a lengthy determination period. Moreover, the increase in the development costs during that time would be a separate matter that cannot be directly attributed to the determination period. Consequently, the Council did not act unreasonably in this respect.

9. I therefore conclude that for the reasons set out above, unreasonable behaviour resulting in unnecessary expense during the appeal process has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs is therefore not justified.

*R E Jones*

INSPECTOR