The Planning Inspectorate

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Planning Appeals
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Your Ref: PL/2023/07377
Our Ref: APP/Y3940/W/24/3340530

02 September 2024

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeal by CJ Room Developments Ltd
Site Address: Land at The Haven, Webbs Hill, Minety, MALMESBURY, Wiltshire, SN16 9QG

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure.

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Thank you in advance for taking the time to provide us with valuable feedback.

Yours sincerely,

Mike Lloyd
Mike Lloyd

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The Planning Inspectorate

Appeal Decision

Site visit made on 14 August 2024

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 September 2024

Appeal Ref: APP/Y3940/W/24/3340530
Land at The Haven, Webbs Hill, Minety, Wiltshire SN16 9QG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
- The appeal is made by Mr Carl Room (CJ Room Developments Ltd) against the decision of Wiltshire Council.
- The application Ref is PL/2023/7377.
- The development proposed is the erection of one dwelling.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle. The Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle and the second, 'technical details consent' stage is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.

3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted. All other matters are considered as part of a subsequent TDC application if permission in principle is granted. The Council's objections relate to the location and character and appearance. I have determined the appeal accordingly.

4. The Government published in December 2023 a revised version of the National Planning Policy Framework (the Framework). The Council and the appellant have referenced this document within their appeal statements and as such I am satisfied that no party would be prejudiced by my also making reference to the Framework in this decision.

Main Issue

5. The main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use and the amount of development.

Reasons

Location and accessibility

6. The appeal site consists of a parcel of land set off Webbs Hill, a short private access route running off Silver Street providing access to a number of dwellings, including The Haven, which sits next to the appeal site. Immediately to the rear is a substantial residential garden and the site is neighboured to the east by agricultural land. The site sits on the edge of the settlement of Minety, which is defined by the Wiltshire Core Strategy (2015) (CS) as a small village. Minety has no settlement boundary and therefore, in accordance with CS Policy 1, for the purposes of planning policy, the site is located within the open countryside.

7. CS Policies 1 and 2 seek to direct new residential development to the existing urban areas and defined settlements to meet the general aims of promoting sustainable development and the protection of the countryside.

8. Saved Policy H4 of the North Wiltshire Local Plan (2001) (LP) sets out circumstances where new dwellings in the open countryside would be permissible, none of which apply in this case. CS Policy 1 states that at small villages, development will be limited to that which meets the housing needs of the settlement. CS Policy 2 further states that development is limited to infill within the existing built area.

9. Paragraph 4.29 of the CS clarifies that '*infill is defined as the filling of a small gap within the village that is only large enough for not more than a few dwellings, generally only one dwelling'*. Whilst there are residential properties to the rear, these front onto and are accessed off a separate cul de sac, Oakleaze, and therefore are separate visually from the appeal site. The dwelling would not be seen as in between the Haven and the Oakleze properties.

10. The property would be accessed off and face Webbs Hill. Whilst residential clusters off the man arterial roads is characteristic of the settlement, The Haven is the last property on its side of Webbs Hill, and as such, when viewed from the highway, the appeal site would visually only have built form on one side. The development would not fill an obvious small gap in this respect.

11. The appeal site is located in the transition between the built form of the settlement and the surrounding countryside, and whilst it may have been used as residential garden previously, I observed that it is overgrown with dilapidated outbuildings, and appears separate from the garden area of the Haven. Whilst there are residential properties to the rear off Oakleaze, domestic appearing land on the opposite side of the lane and properties at some distance to the west, the appeal site has the feeling of being more closely related to adjoining open space and countryside than the existing built up area. As such the proposal would extend independent residential built form on this side of the highway out towards the open countryside.

12. Whilst the dwelling would not be 'isolated'[1] in that it would sit next to The Haven, the appeal site is not therefore within the built up area of Minety, and,

[1] As described in Braintree District Council v Secretary of State for Communities and Local Government & Ors [2018] EWCA Civ 610

given that there is only a dwelling on one side on Webbs Hill, the proposal would not meet the definition of infill.

13. The appellant refers to two appeal decisions[2] for outline development at Malmesbury for 50 and 26 units. Malmesbury is a designated market town (as designed by CS Policy 1) and has '*potential for significant development that will increase homes and promote better levels of self-containment'*. Given the location of the site outside the settlement boundary, the Inspector found conflict with CS Policy 2 and LP Policy H4. However, the identified 'net in-commuting' experienced by Malmesbury (identified in the CS), lack of conflict with the Malmesbury Neighbourhood Plan and shortfall in housing land supply (considered below) at the time of the consideration of this appeal was found to outweigh this policy conflict. This is not the case with the proposal in front of me and as such I do not find these examples directly comparable. With regards to the example provided of the allowed appeal at[3] Millbourne, the Inspector concluded that whilst the proposal did not represent infill development, unlike the proposal in front of me, 'very limited views of the site are visible from the main road', and the proposal 'would not elongate the village'. As such, it is also not directly comparable to the proposal in front of me.

14. CS Policy 1 sets out that small villages have a low level of services and facilities, and few employment opportunities. The Framework does however acknowledge that opportunities to maximise sustainable transport solutions will vary between urban and rural areas.

15. Minety contains a Primary School and Pre-School, Village Hall, which I observed has an 'village shop' and one open public house. It also has various sports club and a church. There are also a shop and post office within a reasonable cycle ride at Oaksey. Moreover, there are bus stops within Minety that provide a service to nearby settlements including the numerous supermarkets and services of Malmesbury and Cirencester. This bus service is regular and offers a genuine convenient alternative choice of means of travel to future occupiers. The appeal site is therefore reasonably well connected.

16. Accordingly, the intended future occupiers of the new dwelling would not necessarily be likely to have a high reliance on a private motor vehicle to access day to day services. Consequently, I find no conflict with CS Policies 60 and 61 which seek to help reduce the need to travel by private car. I also find that the proposal would not conflict with the sustainable travel goals of the Framework.

17. Nevertheless, I conclude that the appeal site is not suitably located for the proposal as it would undermine the strategic objectives of the development plan and would conflict with the sustainable development principles and plan-led approach endorsed by the Framework. The proposal would therefore conflict with LP Policy H4 and CS Policies 1 and 2, in addition to CS Policy 19, which sets out the spatial strategy for the Royal Wootton Bassett and Crickdale Community area and requires compliance with CS Policy 1.

[2] APP/Y3940/W/21/3286853 & APP/Y3940/W/21/3289757
[3] APP/Y3940/W/23/3318945

Other Considerations

18. There is some dispute between the parties as to whether the Council can demonstrate an appropriate housing land supply, however both parties agree that there is over a 4 year supply.

19. The Council contends that this meets the threshold required in Wiltshire by the December 2023 Framework. A recent appeal decision[4] provided sets out the Council is able to demonstrate more than a four-year supply of deliverable housing sites '*which, for a period of two years from the revised Framework's publication, is the relevant requirement in view of the Local Plan Review having reached Regulation 19 stage and being inclusive of a policies map and proposed allocations towards meeting housing need'.*

20. The appeal decision[5] referenced by the appellant in relation to transitional arrangements set out in Framework footnote 79 relates to development in a different authority, which may not comply with the criteria set out in Framework paragraph 226. The shortfall identified by the Inspector for appeals APP/Y3940/W/21/3286853 and 3289757 pre-date the Council's example. As such, there is no definitive evidence before me to contradict the Council's position, and I do not consider that Framework paragraph 11d is engaged.

21. The permission in principle proposals[6] allowed at appeal referred to by the appellant were examples which benefited from the presumption of sustainable development as outlined in Paragraph 11d)ii of the Framework. As such, they are not directly comparable to the proposal before me. In addition, the briefing notes (No 22-09 and 20-20) referenced by the appellant relate to restoring the five-year housing land supply, and as such, are not determinative in this instance.

22. Nevertheless, the proposal would however result in an additional windfall unit of accommodation which would contribute to the Government's broader objective of significantly boosting the supply of homes, and, as a small site, could be built out quickly. The proposal would result in short-term economic benefits arising from the construction process. Economic and social benefits are also likely to arise from the occupation of the units. However, given the quantum of development in this case, I give these matters limited weight in favour of the scheme.

23. The appellant's planning statement refers to the proposed unit as self build. The Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) states that an authority must give development permission for the carrying out of self-build and custom housebuilding on enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area in respect of each base period.

24. Even if a self build scheme could be secured at TDC stage, there is no evidence before me that the Council is failing in its statutory duty to meet the demand for self-build and custom housebuilding. As such, in addition to the limited quantum of development in this case, I again give this matter limited weight in favour of the proposal.

[4] Reference APP/Y3940/W/23/3329064 dated 9 February 2024
[5] Reference APP/L3815/W/23/3319434
[6] Application reference 20/04651/PIP, APP/Y3940/W/23/3318945 & APP/L3815/W/23/3319434

25. Applications for planning permission are determined in accordance with the development plan unless material considerations indicate otherwise. For the reasons set out above, the location of the proposed development would be in conflict with the spatial strategy of the development plan. The minor benefits outlined above do not outweigh this identified harm.

Conclusion

26. For the reasons given above I conclude that the appeal is dismissed.

B Phillips

INSPECTOR