The Planning Inspectorate

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Planning Appeals
Wiltshire Council
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Your Ref: PL/2023/08067
Our Ref: APP/Y3940/W/24/3350853

14 April 2025

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeal by Mr James Armstrong
Site Address: High View and Bonakers Farm, Idmiston Road, Porton, SALISBURY, Wiltshire, SP4 0LD

I enclose a copy of our Inspector's decision on the above appeal(s), together with a copy of the decision on an application for an award of costs.

If you wish to learn more about how an appeal decision or related cost decision may be challenged, or to give feedback or raise complaint about the way we handled the appeal(s), you may wish to visit our "Feedback & Complaints" webpage at https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure.

If you do not have internet access you may write to the Customer Quality Unit at the address above. Alternatively, if you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

The Planning Inspectorate is not the administering body for High Court challenges and cannot change or revoke the outcome of an appeal decision. If you feel there are grounds for challenging the decision you may consider obtaining legal advice as only the High Court can quash the decision. If you would like more information on the strictly enforced deadlines and grounds for challenge, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

Guidance on Awards of costs, including how the amount of costs can be settled, can be located following the Planning Practice Guidance.

http://planningguidance.communities.gov.uk/blog/guidance/appeals/how-to-make-an-application-for-an-award-of-costs/

We are continually seeking ways to improve the quality of service we provide to our customers. As part of this commitment we are seeking feedback from those who use our

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

Yours sincerely,

Cassandra Low
Cassandra Low

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Planning Inspectorate

Appeal Decision

Site visit made on 25 March 2025

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2025

Appeal Ref: APP/Y3940/W/24/3350853
High View and Bonakers Farm, Idmiston Road, Porton, Salisbury, Wiltshire SP4 0LD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr James Armstrong against the decision of Wiltshire Council.
- The application Ref is PL/2023/08067.
- The development proposed is the demolition of existing dwelling and annexe and construction of 4 dwellings.

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr James Armstrong against Wiltshire Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The Council have confirmed that following a recent approval on the same site[1], that they do not wish to contest the first reason of refusal which related to traffic generation.

Main Issues

4. As such, the main issues in this case are:

• the effect of the proposed development on the River Avon Special Area of Conservation (SAC); and

• whether the proposed mix of dwellings would address the local need for housing.

Reasons

River Avon SAC

5. The site is within the catchment area of the River Avon Special Area of Conservation (the SAC). The River Avon catchment is an internationally important habitat due to the presence of Ranunculion fluitantis and Callitricho- Batrachion vegetation and species such as Desmoulin's whorl snail and sea lamprey.

6. It has been concluded that elevated levels of phosphorus are preventing conservation objectives from being achieved and that this has resulted in the river

[1] Application Reference: PL/2024/07489

being in an unfavourable condition. New developments within the river catchment have the potential to contribute to elevated phosphorus through foul water discharges from sewage treatment works and package treatment plants.

7. Where the potential for likely significant effects, alone or in combination, cannot be excluded, an appropriate assessment of whether the plan would affect the integrity of a European site must be undertaken.

8. The Council has produced a document entitled Strategic Appropriate Assessment of Development in Wilshire Occurring in the River Avon SAC Catchment (the SAA). I note that this document has been produced in consultation with Natural England. The SAA sets out that the current approach is to seek to achieve phosphorus neutrality, in part, by securing developer contributions which can be put towards mitigation schemes, by the delivery of bespoke solutions on-site, or by applying for the Council-led scheme, where credits will only be allocated to applicants when applicable mitigation capacity is available.

9. The appeal scheme originally proposed bespoke mitigation outside of the site boundary and therefore would have required a legal agreement to secure the mitigation and monitoring. However, it is now proposed that credits would be purchased in the Council's strategic mitigation scheme.

10. The submitted phosphorous nutrient calculation, which has been agreed by the Council's ecologist, sets out that the impact of the development proposed as part of this appeal would be minor. As such, mitigation would be possible.

11. Both parties are content that this matter could be deferred and dealt with via condition, as was the case with the recently approved scheme on the same site, referenced above. Such a condition is suggested as being appropriate for minor developments in the Council's nutrient neutrality guidance notes document. This condition would prevent the commencement of development until evidence of compliance to the Wiltshire Council River Avon Special Area of Conservation Mitigation scheme or an alternative approved mitigation package has been approved in writing by the Council that addresses the additional nutrient input arising from the development.

12. As the Competent Authority in this case, I am required to have certainty that mitigation measures are sufficient and properly provided for. Whilst, as set out above the appellant states that credits will be purchased, the wording of the suggested condition does not specify a detailed strategy and is open to any 'mitigation package'. I therefore have no certainty about what the mitigation would entail.

13. At present, there is no specific evidence before me of compliance with the SAC mitigation scheme, or alternative mitigation package. I cannot determine whether an adverse effect on integrity can be ruled out beyond all reasonable scientific doubt.

14. Notwithstanding this, Planning Practice Guidance (PPG) sets out that negatively worded conditions, such as the one proposed here, are unlikely to be appropriate in the majority of cases except in exceptional circumstances, for instance where the delivery of particularly complex development schemes may otherwise be at risk.

15. The circumstances before me would also apply to numerous other proposals for residential development within the catchment of the SAC. As a result, this does not lead me to conclude the appeal scheme represents an exceptional situation that allows me to impose a negatively worded condition.

16. The PPG also refers to the use of a planning obligation, before granting planning permission, being the best way to deliver sufficient certainty for all parties. This was the case with the previously proposed bespoke mitigation outside of the site boundary. No such legal agreement however has been provided as part of the appeal.

17. Therefore, because the necessary mitigation has not been secured at this stage, I find that the proposed development may have an adverse effect on the integrity of the SAC. In these circumstances, Regulation 63(5) of the Habitats Regulations precludes the proposal from proceeding. It would therefore conflict with Policies CP50 and CP69 of the Wiltshire Core Strategy, 2015 (CS), the relevant aspects of which seek to preserve and enhance biodiversity, including the integrity of the River Avon SAC.

Local need for housing

18. Core Policy 1 of the Wiltshire Core Strategy (CS) (2019) sets out that development at large villages, including Porton, '*will be limited to that needed to help meet the housing needs of settlements and to improve employment opportunities, services and facilities.'*

19. CS Core Policy 45 sets out that "*Housing size and type…will be expected to reflect that of the demonstrable need for the community within which a site is located incorporating a range of different types, tenures and sizes of homes to create mixed and balanced communities*".

20. The proposal would result in the erection of 3 no. four bed dwellings and 1 no. two bed replacement agricultural workers dwelling.

21. The Swindon & Wiltshire Strategic Housing Market Assessment (SHMA) 2017 identifies that within the County's market housing need, 4-bedroom dwellings are of the second highest need. The three 4-bedroom dwellings proposed in the appeal application will make a contribution to this need. In addition, the proposed 2-bedroom dwelling adds variety to the overall housing mix of the site in line with CS Core Policy 45.

22. Policy 19 of the Idmiston Parish Council Neighbourhood Plan 2015 – 2026 (2017) (NP) relates to sites for new development to meet the Parish's housing needs, stating that the Neighbourhood Plan will facilitate the delivery of approximately 32 homes across the plan period, up to 2026. There is nothing before me that indicates that these figures are a ceiling or limit to the number of dwellings that can be permitted in any Parish area, particularly as the Council does not contradict the appellants assertion that it cannot at present demonstrate a 5 year housing land supply.

23. Moreover, the site is located within the identified settlement boundary of Porton, and therefore the development would protect the Parish's rural feel whilst modernising its infrastructure and meeting the needs of the future, in accordance

with the stated key objective of the NP. It would also therefore comply with CS Core Policy 60, which seeks to promote sustainable forms of transport.

24. I conclude that the proposed housing mix would provide a suitable range of dwelling types and sizes to address current and future household needs, in accordance with CS Core Policies 1 and 45, and NP Policy 19.

Planning balance and conclusion

25. The proposal would result in 3 additional units of accommodation which would contribute to the Government's broader objective of significantly boosting the supply of homes, in a location with good access to services and facilities. The development would make efficient use of the site, as supported by the Framework, and would also result in a short-term economic benefits arising from the construction process. Economic and social benefits are also likely to arise from the occupation of the new dwellings. However, given the quantum of development in this case, such benefits would be small.

26. The conflict with CS Policies CP50 and CP69 CS3 in relation to the protection of the integrity of the SAC carries significant weight. This is because the Framework requires that development protect and enhance biodiversity and geodiversity.

27. In accordance with footnote 7, this also means that paragraph 11d ii of the Framework does not apply.

28. The identified harm means the proposal would not accord with the development plan policies when read as a whole. The benefits and other considerations are of insufficient weight to justify granting planning permission contrary to the development plan. As such, I conclude that the appeal is dismissed.

B Phillips

INSPECTOR

Planning Inspectorate

Costs Decision

Site visit made on 25 March 2025

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2025

Costs application in relation to Appeal Ref: APP/Y3940/W/24/3350853
High View and Bonakers Farm, Idmiston Road, Porton, Salisbury, Wiltshire SP4 0LD

- 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 Mr James Armstrong for a full award of costs against Wiltshire Council.
- The appeal was against the refusal of planning permission for the demolition of existing dwelling and annexe and construction of 4 dwellings.

Decision

1. The application for an award of costs is allowed in the terms set out below.

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 sets out that unreasonable behaviour in the context of an application for an award of costs may be either procedural or substantive.

4. The appeal proposal was a resubmission of a previously refused scheme[1]. This previous scheme was refused for two reasons, relating to the retention of the agricultural workers dwelling on the site and effect on the River Avon Special Area of Conservation (SAC). The resubmitted scheme was refused for two completely separate reasons.

5. This inconsistency is unreasonable, as the appellant should have confidence that the issues raised by the Council can be addressed.

6. Moreover, the two refusal reasons, relating to highways impact and local housing need, were imposed contrary to advice from the planning officer regarding housing need and the technical advice of the Highways Officer. It is not unreasonable for Members to come to a differing conclusion from advice given, however it must be evidenced and substantiated.

7. On both issues, the Council's case is vague and limited. Unsubstantiated and unqualified references to local knowledge of the housing market does not sufficiently justify the reason for refusal. Whilst there may be an element of judgement in the assessment of the broader issues of highways impact, where

[1] Application reference PL/2023/03232

local knowledge can be useful, I find that the case put forward by the Council at appeal to be lacking in detail and compelling evidence. This is especially given the location of the development within the settlement boundary where the principle of new residential development is accepted, and it is noteworthy that this reason for refusal was subsequently withdrawn.

8. The Council also does not dispute the appellants assertion that a Member with a declared interest voted on the determination of the application.

9. Notwithstanding my conclusions on the appeal, this represents unreasonable behaviour both procedurally and substantively has been demonstrated as described in the PPG.

10. For the reasons given above, unreasonable behaviour resulting in unnecessary or wasted expense has occurred and a full award of costs is therefore warranted.

Costs Order

11. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Wiltshire Council shall pay to Mr James Armstrong the costs of the appeal proceedings described in the heading of this decision; such costs to be assessed in the Senior Courts Costs Office if not agreed.

12. The applicant is now invited to submit to Wiltshire Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount.

B Phillips

INSPECTOR