



---

# Appeal Decision

Site visit made on 15 January 2024

**by Andrew Smith BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 09 February 2024**

---

## **Appeal Ref: APP/Y3940/W/23/3329064**

### **Land South of Pound Lane, Semington**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (the Act) against a refusal to grant outline planning permission.
  - The appeal is made by Greystoke Land Limited against the decision of Wiltshire Council.
  - The application Ref PL/2022/09397, dated 25 November 2022, was refused by notice dated 17 May 2023.
  - The development proposed is residential development of up to 30 dwellings (of which 30% will be affordable) with associated car parking, access, internal roads, public open space, landscaping, drainage and other associated infrastructure.
- 

### **Decision**

1. The appeal is dismissed.

### **Preliminary Matters**

2. The appeal proposal is for outline planning permission with all detailed matters reserved for future approval. Whilst not formally part of the scheme, I have treated any details submitted with the appeal application relating to matters of access, appearance, landscaping, layout and scale as a guide to how the site might be developed. Whilst access is a reserved matter, it is a requirement<sup>1</sup> to state the area or areas where access points to the development proposed shall be situated. It is apparent from the submitted evidence that the site would be accessed from Pound Lane in a location approximately central to the site's northern boundary. Indeed, a 'vehicular access point' and 'highway corridor flexibility zone' are depicted upon the submitted Parameter Plan<sup>2</sup>. I shall consider the appeal on this basis.
3. A Unilateral Undertaking pursuant to Section 106 of the Act (the legal agreement) is before me, dated 26 January 2024. Copies signed separately by the appellant and the principal landowner have been provided. The legal agreement contains various provisions related to: the on-site provision of affordable housing; education contributions; a public right of way contribution; a public art contribution; a waste and recycling contribution; an off-site leisure contribution; and an off-site open space contribution. I shall return to the legal agreement later.
4. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. The main parties have had the opportunity to provide observations with respect to any relevance of this to the determination of this appeal and I have considered representations received.

---

<sup>1</sup> of The Town and Country Planning (Development Management Procedure) (England) Order 2015

<sup>2</sup> Ref: P22-2581\_DE\_001B\_08

5. A Wiltshire Local Plan Review (the LPR) is emerging, which has reached Regulation 19 stage with consultation commencing in September 2023. However, the LPR, which has yet to be submitted for examination, remains at a relatively early stage such that its emerging policies currently attract limited weight in decision making. I shall consider the appeal on this basis.

### **Main Issue**

6. As confirmed through its Statement of Case, the Council initially reviewed its position at appeal stage and decided, following legal advice and subsequent internal discussions, not to defend any of its three reasons for refusing planning permission. However, following the publication of the revised Framework, which has implications for identifying and updating a supply of deliverable housing sites and the engagement of the presumption in favour of sustainable development, it has resurrected its opposition to the scheme in view of identifiable conflict with its strategic housing delivery policies. I shall formulate the appeal's main issue on this basis.
7. The main issue is whether or not the site represents an appropriate location for the proposed residential development, having regard to relevant provisions of the development plan.

### **Reasons**

8. Core Policy (CP) 1 of the Wiltshire Core Strategy (January 2015) (the CS) sets out a settlement strategy that identifies four tiers of settlements: Principal Settlements; Market Towns; Local Service Centres; and Large and Small Villages. Semington is identified as a Large Village through Policy CP15 of the CS. Whilst it contains some facilities and services, including a primary school and a village hall, these would not be capable of serving the full day-to-day needs of residents. In accordance with the supporting text to CP1, a limited level of development shall be supported at Large Villages in order to help retain the vitality of these communities, with such development predominantly taking the form of small housing (involving less than 10 dwellings) and employment sites within settlement boundaries.
9. Moreover, Policy CP2 of the CS sets out that, other than in specific circumstances as permitted by other CS policies (which are not applicable here), development will not be permitted outside defined limits of development. The same policy confirms that development limits may only be altered via the identification of sites for development through subsequent Site Allocations Development Plan Documents and neighbourhood plans.
10. Whilst new allocations were advanced through the Wiltshire Housing Site Allocations Plan (February 2020), which entailed a review of settlement boundaries, the site has not been allocated or identified for development. Accordingly, it falls beyond, albeit adjacent to, the defined settlement limits of Semington and thus within the countryside where the adopted settlement strategy dictates strict development controls.
11. I acknowledge the proximities to the site of Trowbridge, a Principal Settlement, and Melksham, a Market Town, as well as the availability of bus services and a local cycle link serving employment opportunities at Bowerhill. However, these connectivity factors do not alter my identification of clear conflict with the adopted settlement strategy.

12. Thus, having regard to relevant provisions of the development plan, the site does not represent an appropriate location for the proposed residential development. There is identifiable conflict with Policies CP1, CP2 and CP15 of the CS in so far as these policies establish a strategy for the distribution of development across the plan area.

### **Other Matters**

13. The site falls within the setting of the Grade II listed St Georges Hospital, and I am mindful that, in considering whether to grant planning permission for development which affects a listed building or its setting, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. I am satisfied that, in-part owing to the degree of separation involved, the setting of this designated asset would be preserved and that no loss of heritage significance would result.
14. I have noted objections/concerns raised by interested parties with respect to matters including highway safety, the effect upon the character and appearance of the area, the effect upon wildlife, the effect upon local water courses and drainage/sewerage systems, the effect upon nearby non-designated heritage assets, and the effect upon neighbouring living conditions. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to explore such matters further here.

### **Planning Balance**

15. It is the appellant's view that the presumption in favour of sustainable development, as set out at paragraph 11 of the Framework, is engaged on the basis that the policies most important for determining the proposal are out-of-date. The most important policies are, as agreed by the main parties, Policies CP1, CP2, CP3 and CP15 of the CS, which set out settlement and delivery strategies (including specifically for the Melksham Community Area) as well as adopted infrastructure requirements.
16. The appellant has accepted that 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 LPR having reached Regulation 19 stage and being inclusive of a policies map and proposed allocations towards meeting housing need. However, it has been asserted that development plan policies that restrict housing development should be considered out-of-date in any event. This position is based on the level of housing supply achieved across the plan period when assessed against the minimum housing requirement of the CS.
17. The plan period of the CS is 2006 to 2026, and the delivery strategy presented at Policy CP2 sets out that at least 42,000 homes shall be developed in sustainable locations in conformity with a distribution that indicates a minimum housing requirement of 24,740 dwellings across the relevant North and West Wiltshire Housing Market Area (the HMA).
18. My attention has been drawn to the overall housing requirement being 2,000 homes less than the objectively assessed need identified by the CS's examining Inspector. However, notwithstanding the absence of an early review, the CS

was found sound based on a 42,000 minimum figure across the plan period, and this remains the adopted housing requirement.

19. The main parties anticipate that at the end of the plan period a shortfall of between 199 and 590 homes measured against the minimum 42,000 requirement shall be evident, and that a shortfall of between 318 and 560 homes shall avail across the HMA. Indeed, the Council has acknowledged that by the end of the plan period the existing development plan shall not have met its overall housing requirement, nor the housing requirement of the HMA.
20. However, the situation just described does not automatically render the most important policies for deciding this case out-of-date. Instead, this is a matter of planning judgement to be informed by the specific circumstances to hand. It is pertinent that, taken in the context of the overall number of houses required and the length of the plan period (which has yet to expire), the anticipated shortfalls are relatively minor.
21. Furthermore, of key relevance is the Council's current Framework-compliant housing supply position (applicable to the HMA in isolation, and in overall terms), which has been assessed against local housing need using the standard method, as well as its recent housing delivery record. These measurements, notwithstanding any historic shortfalls, offer clear current indications that the Council's strategic housing policies are not placing undue constraints on housing development.
22. Moreover, the restrictions placed on housing development by the Council's settlement and delivery strategies have not prejudiced the present demonstration of the required housing land supply as dictated by national policy, and the spatial strategy is in accordance with the Framework. Thus, in my view, the basket of most important policies for determining the proposal cannot be fairly considered out-of-date for the purposes of applying paragraph 11 of the Framework. Thus, in view of identified conflict with the development plan, the presumption in favour of sustainable development is not engaged. As such, a straight planning balance of scheme benefits against identified adverse impacts is necessitated.
23. As regards the scheme's benefits, it would provide additional open-market and affordable dwellings that could potentially be delivered quickly upon the site in question. Although the provision of up to 30 homes would not make a clear or noticeable difference to the housing supply situation in Wiltshire, the Framework reaffirms the Government's objective of significantly boosting the supply of homes. Further, the policy-compliant delivery of at least 30% affordable homes would promote the delivery of distinct social benefits and respond to a locally identified need. These are thus benefits that attract considerable weight.
24. The scheme would also create jobs during the construction phase and provide support to the local economy and local community facilities once occupied. I afford these benefits moderate weight in view of the number of dwellings proposed.
25. The legal agreement, which I am satisfactorily content is fit-for-purpose despite not binding a small part of the appeal site, secures various contributions (in addition to affordable housing already discussed above). However, these are intended to mitigate the proposal's effects and, on this basis, do not typically

attract positive weight in the planning balance. This includes an off-site open space contribution to be put towards upgrading existing local play areas.

26. Whilst it is realistically envisaged that new publicly accessible open space areas would materialise on-site, these would primarily be of benefit to future occupants of the scheme itself rather than the wider local community. I therefore afford any benefit to be brought about by the delivery of new on-site public open space limited weight. Furthermore, any biodiversity benefits to materialise would realistically be fairly modest and attractive of somewhat limited weight in the planning balance.
27. It has been put to me that the scheme is landscape-led and has been designed to provide a sympathetic extension to Semington in lieu of planning permission<sup>3</sup> having already been granted for the development of up to 26 homes upon the site situated to the immediate south. However, even if the scheme could be assessed to cause limited or no material harm in a character and appearance sense, this would not equate to a scheme benefit attractive of positive weight in the planning balance.
28. The proposal would conflict with the Council's spatial strategy and therefore the development plan when read as a whole. In cumulative terms, the scheme would deliver significant benefits. However, in my judgement, these material considerations would be insufficient to outweigh the conflict I have identified.

### **Conclusion**

29. For the above reasons, the appeal is dismissed.

*Andrew Smith*

INSPECTOR

---

<sup>3</sup> APP/Y3940/W/19/3236860