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## Appeal Decision

Site visit made on 8 September 2022

by **Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 28 September 2022

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**Appeal Ref: APP/D1265/W/22/3296683**

**Land North of Plumbley Meadows, Winterborne Kingston, Dorset DT11 9BY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Land Allocation Ltd against the decision of Dorset Council.
  - The application Ref P/OUT/2020/00414, dated 19 November 2020, was refused by notice dated 21 October 2021.
  - The development proposed is up to 20 dwellings, including access.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application was made in outline with all matters except access reserved for future consideration. The majority of the submitted plans were as such marked as indicative. That being so I am satisfied that it was clear that the remainder were also intended to be considered on this basis. The site is nonetheless subject of constraints, including its shape and the incorporation of a watercourse, which together limit scope for variation of the layout shown. As the latter is therefore likely to closely reflect that which would be presented in clearance of the reserved matters, I attach significant weight to the details shown.
3. The description of development in the banner heading above is an edited version of that provided on the application form, omitting superfluous details.

### Main Issues

4. The main issues are whether the site is a suitable location for the proposed development in relation to:
  - the character and appearance of the area, including trees; and
  - the ability of future occupants to access facilities and services by means other than private vehicles; andthe acceptability of the development in relation to:
  - flood risk;
  - archaeology; and
  - biodiversity.

## Reasons

### *Background*

5. Policy 2 of the North Dorset Local Plan Part 1 2016 (the Local Plan) sets out the spatial strategy for the former North Dorset District Council area. Through use of settlement boundaries this seeks to achieve a sustainable distribution of development by focusing new housing on 4 towns, with Stalbridge and 18 larger villages identified as suitable for growth to meet local needs. Winterbourne Kingston is classified amongst the latter. As the site falls outside the settlement boundary, it is located within the countryside for Local Plan purposes.
6. Policy 20 of the Local Plan further restricts housing outside settlement boundaries to that which is affordable, or for which there is an overriding need for a countryside location; something that Policy 2 terms development that would 'enable essential rural needs to be met'. As the development, comprising both affordable and market housing, would not meet any of these exceptions, it would conflict with Policies 2 and 20. In this regard the Council has raised objections in relation to the effects of the development on the character and appearance of the area, and the ability of future occupants to access services and facilities by means other than private vehicles.

### *Character and appearance*

7. The site is a long linear strip of land used for horse grazing. This is orientated roughly north-south, and a large proportion of it is reasonably narrow in width. Within this context the southern part of the site straddles the floodplain of the River Winterbourne, incorporating a section of the low-lying river valley, whilst ground levels rise markedly towards the north.
8. The track which runs the length of the site is aligned at its southern end with Plumbley Meadows, which in turn adjoins West Street. The latter forms one of the framework of lanes which provide the basic layout of Winterborne Kingston. From West Street much of the site is visible, and from here it is currently perceived to form part of the rural setting of the village. This sense is amplified in views from Plumbley Meadows and from the public footpaths which run through and across the southern part of the site. Indeed, whilst the southern boundary of the site, and the eastern boundary of the northern part of the site each form appreciable edges to the existing developed area of the settlement, other boundaries border open land.
9. The plans show that housing would be laid out across the site in 3 groups which would be located in its southeastern, central and northern parts. The access road serving these groups would form a linear connection with Plumbley Meadows, in much the same way as the existing track.
10. Housing in the southeast corner of the site would stand adjacent to existing housing to its south. This would however provide little sense of integration in itself, as the development would otherwise be clearly perceived as falling beyond the established developed edge. In this regard it would form a both conspicuous and intrusive incursion into the open valley bottom.
11. The ribbon of housing indicated through the centre of the site would again be clearly located outside an established developed edge. This, in combination with its locally prominent position on rising ground, and separation from

- housing in the southern part of the site, would cause it to appear both disconnected from and poorly integrated with the rest of the settlement. Viewed from West Street and adjacent footpaths the ribbon would indeed be perceived as an obtrusive, sprawling suburban incursion of built form into the surrounding landscaping setting.
12. The sense of disconnection, incursion and intrusion would be particularly pronounced in relation to the detached cluster of dwellings indicated in the northern part of the site. At this, the most topographically exposed point, the cluster would be almost entirely surrounded by open agricultural land. There would be little sense of relationship with large modern structures which exist at North Farm some distance towards the east, and it is unlikely that the suggested presentation of the cluster as a 'farmstead group' would lessen the sense of intrusion. Given its distance from West Street the cluster would indeed lack any clear sense of connection with the rest of the settlement.
  13. The appellant makes reference to 2 other parts of the village, one in West Street, the other in East Street, each held to be of comparable character. However, though housing along Stoney Lawn some distance towards the west does form an incursion into the valley bottom, it does not extend across the River and up the slope opposite. Indeed, nowhere does residential development accessed from West Street currently straddle the River. Whilst scattered cottages and agricultural buildings do exist along East Street, their layout, which is partly of historic origin, does not bear a clear resemblance to that indicatively shown for the site. East Street does not otherwise form a context within which the proposed development would be viewed. These existing developments do not therefore provide a basis upon which to consider the appeal scheme to be acceptable.
  14. The site contains some attractive boundary trees and hedging. These make a positive contribution to both its character, and to that of the rural setting of the village. Though the retention of boundary vegetation is indicated on the plans, the indicative layout appears incompatible with this objective. This is given the close proximity of dwellings to trees shown through the narrow central section of the site in particular, which would give rise to likely adverse impacts on roots, and on the living conditions of future occupants. Each could result in loss of trees. Though the appellant states that the issue falls outside the scope of the application, it is nonetheless necessary to establish the extent to which the development could be undertaken without adverse effects prior to a grant of outline planning permission. In the absence of evidence other than the indicative plans, I cannot be satisfied that the development could be achieved without placing boundary trees and vegetation at risk, and so too the positive contribution that they make to the rural setting of the village. Their potential loss would amplify the harm identified above.
  15. The site has limited exposure within the broader landscape. However, whether or not the adverse effects of the development would be appreciable from afar, this would not alter the harm that the development would cause in relation to its immediate setting.
  16. The development has been promoted as providing a context within which opportunities could be taken to improve the existing landscaping of the site. This would however only be in relation to those parts not built on, and my findings above indicate that any such benefit could be significantly offset by

loss of existing trees. It is otherwise clearly the case that somewhat more meaningful improvements could be achieved through the ordinary management of the site in its current use.

17. For the reasons outlined above I conclude that the site would be an inappropriate location for the proposed development insofar as it would harm the character and appearance of the area. It would therefore conflict with Policy 24 of the Local Plan which seeks to secure development designed to improve the character and quality of the area within which it is located, and Policy 4 of the Local Plan, insofar as this seeks to protect the landscape character of the area, including characteristic features.

#### *Travel*

18. Winterbourne Kingston supports a limited range of services and facilities, which include a primary school, pub and church, but little else. Occupants of the development would therefore need to travel elsewhere in order to access other day-to-day services and facilities.
19. No realistic scope would exist for pedestrian access to larger settlements, and the roads between would be unlikely to provide routes attractive or safe for cyclists. This is given the distances involved, topographical challenges on the route the Blandford Forum, and the necessity of using a combination of narrow unlit lanes and larger, busier, but similarly unlit A roads.
20. The village does however have a weekday bus service connecting it with larger settlements. Its existence means that future occupants of the development would not be wholly dependent on use of private vehicles to access services and facilities elsewhere. At weekends the use of private vehicles would however be essential, and this could also be favoured at other times. Such use of private vehicles could generate harmful exhaust emissions.
21. Insofar as the Local Plan identifies the settlement as suitable for growth to meet local needs, it is apparent that such adverse environmental effects are considered acceptable within this context. In this regard I have been provided with no indication of what the level of local need for housing is. The Parish Council however indicates that the settlement has so far accommodated 30 new dwellings during the plan period, out of a minimum figure of 825 apportioned to Stalbridge and 18 larger villages within the Local Plan. It is stated that a further 20 would mean that the village would accommodate 10 more than an equal share. However, aside from the fact that 825 represents a baseline figure, Policy 6 of the Local Plan, which outlines housing distribution, does not indicate that development should be shared equally between Stalbridge and the 18 larger villages. Ten dwellings would otherwise be a modest amount within context. Based on the evidence before me, there therefore appears to be no reason in principle why the village could not accommodate a further 20 dwellings.
22. Given that the development would be located just outside the settlement boundary, it is apparent that the environmental impacts of travel would be much the same as if it was located inside. This is because the options for travel would be the same, as would the distances travelled in private vehicles in order to access services and facilities elsewhere. The environmental effects of the development in relation to travel would not therefore be unacceptable.

23. For the reasons outlined above I conclude that, notwithstanding identified conflicts with the Local Plan, the site would be an appropriate location for the proposed development to the limited extent that its environmental effects related to travel would be acceptable. This does not indeed alter the inappropriateness of the location in relation to the effects of the development on the character and appearance of the area as established above.

#### *Flood risk*

24. The site is bisected by the River Winterbourne. The river appeared dry at the time of my visit, but at other times it poses a risk of flooding, and adjacent parts of the site fall within Flood Zones 2 and 3. The proposed dwellings could all be positioned within parts of the site falling within Flood Zone 1. However, those in the northern part of the site would require access across the River, and thus passage through Flood Zone 3b, the functional floodplain.
25. To avoid impacts on floodplain flow conveyance or storage, the access road would be built to closely match existing ground levels. It would therefore be vulnerable to flooding, and unlikely to remain operational and safe for users in times of flood. Though the northern part of the site would also be accessible from the public footpath along the River, this would be similarly subject of flooding. At times of flood occupants of dwellings in the northern part of the site would be at risk of being cut off and stranded. Set within this context my findings in relation to access to services and facilities above are somewhat academic, as no normal means of access would exist at such times.
26. The Planning Practice Guidance (PPG) indicates that where developments contain different elements of vulnerability the highest vulnerability category should be used unless the development is considered in its component parts. Except where the access road would follow the established line of a footpath in the southern part of the site, it would serve the sole function of providing vehicular and pedestrian access to the proposed dwellings. Though 'essential' within this limited context, it would not constitute 'essential infrastructure' in any broader strategic or functional sense. It would otherwise clearly form an integral component of the development. As such, in common with the dwellings, and indeed reflecting the reality of the situation as outlined above, the access road would be 'more vulnerable' to flooding.
27. The Council additionally notes that parts of the site may be vulnerable to surface water and ground water flooding that could compromise the indicative drainage scheme. Though the risks are in part theoretical, in the absence of evidence to the contrary, they could amplify the overall flood risk.
28. In view of the above it is necessary to consider the scheme in relation to both the Sequential and Exception Tests, as set out within the National Planning Policy Framework (the Framework) and PPG. In this context the PPG clearly indicates that more vulnerable development should not be permitted within Flood Zone 3b. Given its consequent ineligibility for the Exception Test, even if the proposal did pass the Sequential Test, it would be incapable of progressing further. As stated by the Environment Agency, such development is unacceptable in principle and does not draw support from the Framework. That being so, there is no need for me to reach any definitive conclusion in relation the Sequential Test, and the matter could clearly not be resolved by the imposition of conditions.

29. For the reasons outlined above I conclude that the development and its occupants of would be placed at unacceptable risk from flooding. The development would therefore conflict with Policy 3 of the Local plan, which generally seeks avoidance of development in areas at risk of flooding.

#### *Archaeology*

30. Paragraph 194 of the Framework states that where a site has the potential to include heritage assets with archaeological interest local planning authorities should require developers to submit an appropriate desk-based assessment (DBA) and, where necessary, a field evaluation. Though a DBA has been undertaken, this has not been followed by a field evaluation.
31. The DBA establishes the potential of the site to contain remains of prehistoric and Roman date, together with later, less significant features relating to medieval and post-medieval agriculture. Though the DBA considers it unlikely that remains within the site would be of greater than local significance, the Council has provided a number of additional reasons why the site could hold greater potential. In the absence of any evidence to the contrary, I see no reason to doubt the validity of these reasons. The need for a field evaluation has therefore been established.
32. In the absence of a field evaluation, the potential of the site to contain heritage assets of archaeological interest cannot be fully understood, and the nature of any potential effects cannot be established. This is clearly not a matter that can be properly addressed by condition given that the acceptability of the scheme must first be established. In the absence of necessary evidence, this is not possible.
33. For the reasons outlined above I conclude that the appellant has failed to demonstrate that the effects of the scheme in relation to archaeology would be acceptable. It is not therefore possible for me to find that the development would comply with Policy 5 of the Local Plan, which generally reflects national policy in relation to conserving and assessing effects on the significance of heritage assets.

#### *Biodiversity*

34. Amongst other things Policy 4 of the Local Plan seeks to enhance the natural environment of North Dorset and the ecosystem services it supports through the protection of environmental assets. Whilst the Council assesses compliance by applying the Dorset Biodiversity Protocol (DBP), neither this nor the requirement to produce a 'Biodiversity Plan' is explicitly referenced within Policy 4, or its supporting text.
35. The application was instead accompanied by a Preliminary Ecological Assessment whose only notable finding was that the site supported a low population of grass snake. No need for further survey work was identified, and precautionary measures were outlined. Though National England notably indicated that the scheme should be determined in line with the DBP, given the above, it is unclear why the available evidence was incapable of separate consideration. Indeed, the evidence provided does not show that the scheme would be likely to have any adverse effects in relation to biodiversity on site.
36. The application was additionally supported by evidence identifying the potential to achieve net gains for biodiversity. Though this assumes the retention of



boundary trees, clear scope for broader enhancement of biodiversity is otherwise identified. This could be further developed within the context of the reserved matters.

37. In an appeal concerning a site in Owermoigne, an Inspector found that the absence of a certificate approving a Biodiversity Mitigation and Enhancement Plan prevented him from concluding that there would be no adverse effect on biodiversity. However, whilst I have been provided with limited details of the evidence considered in that case, the appeal was assessed against policies within the West Dorset, Weymouth and Portland Local Plan 2015, which is not applicable to the current appeal site. The Owermoigne appeal does not therefore provide grounds for me to consider that the evidence submitted in relation to the current appeal is inadequate.
38. Insofar as the decision notice additionally references paragraphs of the Framework, and insofar as these paragraphs relate to decision making, they provide no cause for me to alter my findings above.
39. For the reasons set out above I conclude that the development would not have an unacceptable effect in relation to biodiversity. It would therefore comply with Policy 4 of the Local Plan insofar as this generally seeks to secure the enhancement of ecosystem services, including gains in biodiversity. The development would however remain in overall conflict with Policy 4 given my findings in relation to character and appearance.

### **Other Matters**

40. The provision of 20 additional dwellings, 40% of which would be affordable, would inevitably make a numerically positive contribution to the broader supply of housing. However, the claimed benefits of this are nonetheless incapable of overcoming fundamental concerns in relation to flood risk, and would not otherwise outweigh the harm I have identified.
41. The scheme would conflict with the development plan taken as a whole. Recent appeal decisions have however established that the Council lacks a demonstrable 5-year supply of deliverable housing sites, with supply estimated at around 4.35-4.58 years. Recent performance in the Housing Delivery Test has also fallen below 75%. Consequently, the Framework indicates that for the purposes of decision making the policies most important for determining the application are 'out-of-date'.
42. Even so, and despite the fact that the Local Plan relates to a defunct district, I am satisfied that the policies with which I have identified a conflict are broadly consistent with those relating to the sustainable location of development, design, the countryside, flooding and heritage set out within the Framework. When assessed against the Framework itself, my findings in relation to flooding in any case provide a clear reason for refusing planning permission. Insofar as it has been invoked by the appellant, the 'tilted balance' is not applicable.
43. The site lies within 5km of the Dorset Heathlands Special Protection Area, and the Dorset Heaths Special Area of Conservation and Ramsar sites (the habitats sites). Considered in combination with other plans or projects the development would have a likely significant effect on the integrity of the habitats sites due to the increased population that the additional dwellings would support, and the associated generation of recreational activity. To this end an Appropriate

Assessment has been undertaken by the appellant, who has further sought to secure mitigation for the scheme within a submitted Unilateral Undertaking (UU). The UU also seeks to secure financial contributions towards health and education, albeit the need for the latter is contested. Other contributions sought by the Council have been omitted. Had I been minded to allow the appeal and the circumstances existed in which planning permission could be granted it would have been necessary to examine these matters in further detail. However, as I am dismissing the appeal for other reasons no further consideration is required.

### **Conclusion**

44. For the reasons set out above the effects of the development would be unacceptable, giving rise to conflict with the development plan. There are no other considerations which alter or outweigh these findings. I therefore conclude that the appeal should be dismissed.

*Benjamin Webb*

INSPECTOR