

Town & Country Planning Act 1990

NOTIFICATION OF REFUSAL of Outline Planning

Application Reference Number: 19/07039/OUT

<p>Agent Bryan Jezeph Consultancy Ltd The Gallery 3 South Street Titchfield Fareham PO14 4DL</p>	<p>Applicant English Rural Hsg Assoc & Waveland Ltd Oak Walk Martlesham Road Little Bealings Woodbridge IP12 6LX FAO Neil Campbell</p>
<p>Particulars of Development: Outline application with some matters reserved for residential development of 10 affordable dwellings and 10 self build plots (access only)</p>	
<p>At: Land north of the Winterslow Road Porton and East of Salisbury to London Railway Line</p>	

In pursuance of their powers under the above Act, the Council hereby REFUSE TO GRANT PERMISSION for the development referred to in the above application and plans submitted by you, for the following reason(s):

- 1 The site for 20 dwellings lies outside the settlement boundary for the large village of Porton.

The site is identified in 'Figure 1 - Table of Preferred Sites' on page 42 of the Neighbourhood Plan and comprises site P1A and P1B. However, policy 19 of the Neighbourhood Plan encourages/facilitates the provision of 'no more than' 'approximately 32 dwellings' through the plan period (2015-2026). The housing requirement has been met so the development is contrary to policy 19 of the Neighbourhood Plan.

In the absence of the site being allocated or included within the revised settlement boundary of the draft Wiltshire Housing Site Allocations Plan, the proposal conflicts with the sustainable development principles of the Settlement and Delivery Strategies in Core Policy 1, Core Policy 2 and Core Policy 4 of the Wiltshire Core Strategy. The NPPF requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. In this case there are no material considerations or significant public benefits that would outweigh the policy presumption against the development.

The development will require the removal of the hedgerow to the site frontage to accommodate highways visibility splays and cyclepath and as the site slopes the

houses will be at a higher level to the road (or require significant excavation/hard landscaping to accommodate the development). The application site lies within the Special Landscape Area. Saved Policy C6 and Core Policy 51 require developments to protect, conserve and where possible enhance landscape character. The site is currently an open field and paragraph 170 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by protecting the intrinsic character and appearance of the countryside. The site is considered to contribute to the rural character of the locality and the development of this greenfield site for residential development is considered to be unjustified in policy terms and therefore, the development would represent an unnecessary incursion into the landscape setting, to the detriment of its existing open rural character. Furthermore, the LPA can demonstrate a 3 year supply of housing land, so the tilted balance is not engaged.

The conflict with the development plan is not outweighed by other considerations, including the Framework. The development would therefore conflict with Paragraphs 2, 11, 14, 170 and 213 of the National Planning Policy Framework which set out a presumption in favour of sustainable, plan-led development in relation to housing supply and would be contrary to saved Policy C6 of the Salisbury District Local Plan (annex D of the Wiltshire Core Strategy), Core Policies 1, 2, 4, 51, 57 of the Wiltshire Core Strategy and Policy 19 of the Neighbourhood Plan.

- 2 This site is of archaeological interest as it lies close to the historic core of Porton and in a landscape which has a high potential for archaeological remains. It is considered that this site has the potential to contain heritage assets of archaeological interest and field evaluation is necessary to reveal the impact of the proposed development on any buried archaeology. In the absence of a field evaluation, it is considered that insufficient information has been submitted to demonstrate that the development will not have an adverse impact on heritage assets of archaeological interest, contrary to Wiltshire Core Strategy Policy 58 and guidance within the NPPF (paragraph 189).
- 3 In the absence of a legal agreement, the relevant contributions and mitigation related to the provision of on site affordable housing units, contributions to Primary Education and off-site recreational open space provision, and provision of waste and recycling facilities cannot be secured, contrary to saved policies PS5 and R2 of the Salisbury District Local Plan (annex D of the Wiltshire Core Strategy), CP3 and CP43 of the Wiltshire Core Strategy, and the adopted Planning Obligations DPD, and policy WCS 6 of the Wiltshire and Swindon Waste Core Strategy.
- 4 Insufficient information has been submitted in relation to ecology to determine the application. In particular the omission of an ecological parameters plan and identification of key ecological principles. Further details in respect of ecological avoidance, mitigation, compensation (where applicable) and enhancements including on site plans; and details of key ecological principles are required. Without such detail the council considers that the proposal will have an adverse and harmful effect on the ecology at the site contrary to core policy 50 and 52 of the Wiltshire Core strategy.

INFORMATIVES: It should be noted that reason 3 for refusal, could be overcome if all the appropriate parties agree to enter into a Section 106 Agreement contributing to waste and recycling containers, off-site open space and education contributions and on-site affordable housing provision.

In accordance with paragraph 38 of the National Planning Policy Framework (NPPF), this planning application has been processed in a proactive way. However, due to technical objections or the proposal's failure to comply with the development plan and/or the NPPF as a matter of principle, the local planning authority has had no alternative other than to refuse planning permission.

Signed

Sam Fox

Director Economic Development & Planning

Dated: 20 December 2019

REFUSAL OF PERMISSION FOR DEVELOPMENT

If the applicant wishes to have an explanation of the reasons for this decision, it will be given on request and a meeting arranged if necessary.

1. Appeals

If the applicant is aggrieved by the decision of the Local Planning Authority to refuse permission for the proposed development, he/she may appeal to the Secretary of State for the Environment in accordance with Section 78 of the Town and Country Planning Act, 1990. Appeals must be made on a form which is obtainable from The Planning Inspectorate, Customer Support Unit, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN, (Telephone 0117 372 6372). Alternatively forms can be downloaded from the web site: www.planning-inspectorate.gov.uk or accessed via the Planning Portal: <http://www.planningportal.gov.uk/planning/appeals>. Changes introduced by the Government in April 2009 mean that an appeal relating to the refusal of a stand-alone application for householder development (such as an alteration/extension to a house; or a garage or other outbuilding proposed within the garden) must be made within 12 weeks of the date of the refusal. All other appeals, including householder appeals for extensions to listed buildings that are accompanied by an appeal against a refusal of listed building consent must be made within 6 months of the date of the refusal. The Secretary of State has power to allow a longer period for the giving of a notice of appeal but he will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal. The Secretary of State is not required to entertain an appeal if it appears to him that permission for the proposed development could not have been so granted by the Local Planning Authority, having regard to the Statutory requirements, to the provisions of the Development Order, and to any Directions given under the Order. A copy of the appeal documents should be sent direct to the Council using the following email address: planningappeals@wiltshire.gov.uk.

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. [Further details are on GOV.UK.](#)

Appeal where an enforcement notice has been issued

Article 33 (2) (b) & (c) of the Town and Country Planning (Development Management Procedure) (England) Order 2010, provides that a shorter time limit to appeal to the Secretary of State shall apply where an enforcement notice has been served, as follows:-

'Type A appeal', 28 days from— the date of the notice of the decision or determination giving rise to the appeal; or expiry of the specified period;

'Type B appeal', 28 days from the date on which the enforcement notice is served;

['Type A appeal' means an appeal in respect of an application relating to land and development which are the same or substantially the same as the land and development in respect of which an enforcement notice—

(a) was served no earlier than 2 years before the application is made;

(b) was served before— (i) the date of the notice of the decision or determination giving rise to the appeal; or (ii) the expiry of the specified period; and

(c) is not withdrawn before the expiry of the period of 28 days from the date specified in sub-paragraph (b);

'Type B appeal' means an appeal in respect of an application relating to land and development which are the same or substantially the same as the land and development in respect of which an enforcement notice—

(a) is served on or after— (i) the date of the notice of the decision or determination giving rise to the appeal, or (ii) the expiry of the specified period;

(b) is served earlier than 28 days before the expiry of the time limit specified— (i) in the case of a householder appeal, in paragraph (2)(a) of the Order; or (ii) in any other case, in paragraph (2)(d) of the Order; and

(c) is not withdrawn before the expiry of the period of 28 days from the date on which the enforcement notice is served.]

2. Purchase Notices

If permission to develop land is refused, whether by the Local Planning Authority or the Secretary of State, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state, and cannot be rendered capable of reasonably beneficial use by the carrying out of any development which has been, or would be, permitted, he may serve on the District Council in which the land is situated a Purchase Notice requiring that Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act, 1990.

3. Compensation

In certain circumstances a claim may be made against the Local Planning Authority for compensation, where permission is refused by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act, 1990.