



# The Planning Inspectorate

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Wiltshire Council  
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Your Ref: 19/02147/OUT  
Our Ref: APP/Y3940/W/19/3236860  
Further appeal references at foot of letter

17 November 2020

Dear Sir/Madam,

Town and Country Planning Act 1990  
Appeals by Greystoke Land Limited  
Site Address: Land North of St George's Road, Semington, Wiltshire, BA14 6JN

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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Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

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 service. It would be appreciated if you could take some time to complete this short survey, which should take no more than a few minutes complete:

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

Yours faithfully,

***Jenni Ball***

Jenni Ball

*Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - <https://www.gov.uk/appeal-planning-inspectorate>*

Linked cases: APP/Y3940/W/20/3253180



## Appeal Decisions

Hearing Held on 21 October 2020

Site visit made on 26 October 2020

**by Patrick Hanna MSc MRTPI**

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

**Decision date: 17 November 2020**

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### **Appeal A Ref: APP/Y3940/W/19/3236860**

#### **Land north of St George's Road, Semington BA14 6JN**

- 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 Greystoke Land Limited against the decision of Wiltshire Council.
  - The application Ref 19/02147/OUT, dated 26 February 2019, was refused by notice dated 6 August 2019.
  - The development proposed is residential development of up to 26 dwellings (of which 50% would be affordable) with associated car parking, access, internal roads, public open space (including retention of the existing WWII Pill Box), landscaping, drainage and other associated infrastructure.
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### **Appeal B Ref: APP/Y3940/W/20/3253180**

#### **Land north of St George's Road, Semington BA14 6JN**

- 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 Greystoke Land Limited against the decision of Wiltshire Council.
  - The application Ref 20/01306/OUT, dated 11 February 2020, was refused by notice dated 14 May 2020.
  - The development proposed is residential development of up to 20no. entry-level affordable dwellings with associated car parking, access, internal roads, public open space, landscaping, drainage and other associated infrastructure.
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#### **Decision (Appeal A)**

1. The appeal is dismissed.

#### **Decision (Appeal B)**

2. The appeal is allowed and outline planning permission is granted for residential development of up to 20no. entry-level affordable dwellings with associated car parking, access, internal roads, public open space, landscaping, drainage and other associated infrastructure at land north of St George's Road, Semington BA14 6JN in accordance with the terms of the application, Ref 20/01306/OUT, dated 11 February, subject to the conditions in the attached schedule.

#### **Procedural Matters**

3. There are two appeals at this site. They differ only in the extent of the application site boundaries and the amount and type of housing proposed. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

4. Both applications seek outline planning permission with all matters reserved for future consideration. The appellant submitted Appeal A on the basis of an increased provision of affordable housing (100% as opposed to the original 50% that the application was determined upon). However, following objection from the Council, this increase was withdrawn. I shall determine this appeal on the basis of the scheme decided by the Council.
5. The Wiltshire Housing Site Allocations Plan (WHSAP) was adopted by the Council in February 2020, after the start date for Appeal A. The parties were given the opportunity to make any observations arising.
6. Two matters cited in the Council's reasons for refusal were not subsequently pursued by the Council. Firstly, following submission of additional ecological information, the fourth reason in Appeal A and the second reason in Appeal B are now proposed to be dealt with by means of conditions. Secondly, the fifth reason in Appeal A and the third reason in Appeal B, relating to affordable housing and infrastructure, were agreed to be addressed by planning obligations. I return to these matters later in this decision.

### **Main Issues**

7. Given the above, the main issues are:
  - for Appeal A, whether the proposed development would be in an appropriate location, having regard to the development plan and national policies relating to housing<sup>1</sup>; and
  - for Appeal A and Appeal B, the effect of the proposals on the character and appearance of the surrounding area, with particular regard to size and relationship with the settlement of Semington.

### **Reasons**

#### ***Location (Appeal A)***

##### *Policy*

8. The appeal site adjoins the built-up area of Semington, which is identified in the Wiltshire Core Strategy (January 2015)(WCS) as a large village. The settlement strategy for Wiltshire is set out in Core Policy (CP) 1 of the WCS. This identifies that large villages are settlements with a limited range of employment, services and facilities, and that development will be limited to that needed to meet the housing needs of settlements and to improve employment opportunities, services and facilities.
9. The accompanying text states that settlement boundaries for large villages will be kept up to date as part of the WHSAP. The most recent settlement boundary for Semington was adopted in February of this year, and the appeal site lies outside of this. The settlement boundary is adjacent to the appeal site along its southern extent, but the eastern extent of the appeal site is separated from the settlement boundary with the exception of a small length abutting.
10. CP 1 states that development outside these boundaries will be strictly controlled. The delivery strategy in CP 2 also states that development will not be permitted outside the limits of development (effectively, the settlement

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<sup>1</sup> The main parties agree that Appeal B meets the locational policy tests set out in paragraph 71 of the Framework.

boundary) apart from rural exception sites. Whilst such exceptions, as detailed in CP44, could include delivery of affordable housing, the policy is explicit in limiting such exception sites to 10 dwellings or fewer. The proposal is therefore in the countryside in policy terms.

11. The appellant argues that the proposal would help meet the housing needs of the settlement, the North and West Housing Market Area (HMA) and Wiltshire as a whole. CP 2 provides indicative housing requirements across settlement areas which, in this case, is the Melksham Community Area (MCA). The spatial strategy for the MCA is addressed by CP 15, setting a housing requirement of 2,370 homes until 2026. Table 4.10 of the WHSAP identifies a total of completions and developable commitments during that period of 2,717 units. The housing requirements are also exceeded even if urban areas in the MCA are excluded, the figures for the remainder being 130 and 159 respectively. Allocations at large villages have only been made where indicative levels are not met and, as such, there is no WHSAP housing allocation for Semington.
12. The WCS confirms that these figures are indicative only and are not a ceiling. Their purpose is to clarify the Council's intentions in the knowledge of likely constraints in terms of market realism, infrastructure and environmental capacity. Paragraph 4.26e of the WCS is clear that the disaggregation of housing to community areas is not intended to be prescriptive or inflexible. As such, there is no reason why housing cannot be provided in the MCA to redress shortfalls in other community areas within the region, and contribute to the HMA. This is particularly so in light of the agreed shortfall in five year housing land supply across the Wiltshire region. However, whilst I return to this issue in the planning balance, CP 2 is clear that new homes should be delivered in a sustainable pattern that limits the need for development on greenfield sites.
13. With regard to scale, the policy justification for CP 1 defines small housing sites within villages as involving less than 10 dwellings. Whilst provision of 26 units may not be disproportionate to the existing village of around 400 houses, the proposal nonetheless goes beyond that WCS definition, thereby undermining the spatial strategy.
14. Although the Wiltshire Strategic Housing and Economic Land Availability Assessment (2017) may indicate scope for development at the site, this is a plan making document which, having been considered through the examination process, did not result in the site being allocated for housing in the WHSAP. It is not within the scope of this s78 appeal to review that process or decision.
15. Paragraph 71 of the Framework is cited by the appellant as being a material consideration that encourages affordable housing for first time buyers and rental adjacent to settlements. However, given that Appeal A is not an entry level exception site, and that such sites are in concept an exception to policy, this does not in itself justify other types of scheme.

### *Sustainability*

16. Semington has a primary school, public house, village hall, mobile post office and recreational facilities. However, it has no shop, with the nearest indicated as being within the principal settlement of Trowbridge and the market town of Melksham/Bowerhill. Furthermore, whilst employment opportunities may exist at Bowerhill some 2 to 3 km away, and in larger settlements, there are limited options within the village itself. Therefore, residents of the development would

certainly have to travel outside of the village to shop. It is also very likely that residents would have to travel outside of the village for work.

17. Bus services are available from the Turnpike, as detailed by Stagecoach, albeit that this bus stop is some 800 metres distant, and good cycle facilities are available to Bowerhill in particular. However, given the distances involved in walking to the bus stop, or cycling to Bowerhill or elsewhere, these options are unlikely to be the regular choice for day-to-day trips, particularly everyday top-up shopping. Instead, it is more likely that residents would be overly reliant on use of the car for such day-to-day trips, even taking into account linked trips, and notwithstanding that residents of urban areas often have to travel similar distances. Accordingly, the proposal would conflict with the settlement strategy aim to deliver a sustainable pattern of development in order to address the decline in employment opportunities, facilities and services in villages that has been brought about by ease of car travel to larger centres.

#### *Other decisions*

18. A previous proposal for up to 72 dwellings, occupying the whole of the same field, was refused by the Council. The subsequent appeal<sup>2</sup>, reduced to 50 units, was dismissed in December 2017 following a public inquiry. That decision concluded, amongst other things, that the development would not have been in an acceptable location and of an appropriate scale. The appellant distinguishes the current appeals from the earlier scheme in a number of ways, which I return to in the course of this decision. In terms of this main issue, the current proposal for 26 units would, as a matter of logic, bring additional residents to the settlement which would in turn positively contribute to the vitality of Semington. However, whilst the reduction in units may result in a theoretical reduction in the need for travel or reliance on local employment, the likely reliance of those residents on the car would remain unchanged, including for employment purposes.
19. The Council approved the Hannick Homes development for 24 dwellings to the south of St George's Road in 2017. Extracts have been provided from the officer report indicating that the Council concluded that Semington was a sustainable location. The appellant argues that this is inconsistent with the Council's approach to the current proposals, however the Council respond that this decision was a balanced planning judgement in light of acknowledged development plan conflict, which it is rightly entitled to do. The appeal decision for Alderbury<sup>3</sup> was determined whilst the WHSAP was only a consultation draft that attracted very little weight. In any case in determining this appeal I am required to assess the proposal against development plan policy and on its merits, which I have done.

#### *Conclusion on first main issue*

20. Overall, I conclude that, for Appeal A, the proposed development would not be in an appropriate location, having regard to the development plan and national policies relating to housing. As such, the proposal conflicts with CPs 1, 2 and 15 of the WCS, the WHSAP, and paragraph 15 of the Framework; the further reference in the reason for refusal to paragraph 12 and up-to-date plans is now addressed in the planning balance.

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<sup>2</sup> Appeal decision APP/Y3940/W/16/3164255

<sup>3</sup> Appeal decision APP/Y3940/W/18/3200041

***Character and appearance (Appeal A and Appeal B)***

21. The appeal sites relate to part of an agricultural field, which bounds the built up part of Semington with St George's Road and the Grade II listed former St George's Hospital to the south and southeast. The orchard, tennis courts and parking to the east are separated from the field by a public footpath. Next to the footpath lies a World War II pill box, a non-designated heritage asset. The western boundary is loosely defined by scrub vegetation with open countryside beyond. To the north, the appeal sites both have undefined boundaries, with the land sloping down to the north towards the Kennet and Avon Canal, and with views over open agricultural land divided and crossed by a further network of public footpaths and byways. Although the field and its surrounds do not benefit from any landscape designations, the field nevertheless contributes to the intrinsic character and beauty of the countryside in the area.
22. Whilst the appeals are in outline, with all matters reserved, the effect of the proposals would be to extend the edge of the settlement into the open countryside at the highest part of the site. The proposals relate to only part of the field, notwithstanding that a hedge may have split the field historically, such that the boundaries of the appeal sites are artificially defined in visual terms. Appeal B is considerably smaller than Appeal A, as it fits the criteria for entry-level housing as set out in paragraph 71 of the Framework, that is, not larger than one hectare or more than 5% of the size of the existing settlement.
23. The field provides a rural setting for the settlement, in both visual and functional terms, particularly as seen from the canal. At the time of my site visit, hedge trimming had only been carried out sporadically. Some views were therefore restricted by unusually tall hedges, although the normal trim height for each hedge was evident from the layer of wounded wood.
24. Although the existing dwellings to the west of St George's Place may have an open interface with the countryside, this edge of the settlement is not prominent from the canal corridor. Whilst the Council is concerned about any replacement hedge along St George's Road to facilitate the new access, I find this would be acceptable within the context of what would be a new urban setting.

*Canal corridor*

25. The canal is in active use, and its towpath also serves as a recreational path for walkers and cyclists. A swingbridge over the canal represents a junction between footpaths. The elevated height afforded by the swingbridge offers wider views across the surrounding countryside and encourages, indeed at times forces, recreational users to pause and appreciate the pastoral surroundings. Further to the west of the swingbridge, the principle elevation of the former St George's Hospital becomes increasingly visible with the fields to the foreground, including the appeal site, providing a rural setting for this listed building, albeit that its setting is somewhat compromised by existing development. The well trod path of SEMI 6 runs diagonally across an open field leads down to the canal, and affords clear views back to the site.
26. From these locations, the existing St George's Road buildings are seen as being located behind the top of the slope. The slope of the appeal field and sites is clearly apparent, with ground rising from the canal towards the sites. Even though the proposals would maintain the character and landscape setting of

Semington, in that it would remain a village enclosed by open countryside, the development of the appeal sites would appear as a stark extension to the existing soft edges of the settlement.

27. The slope would result in the proposals being seen as having a greater overall height of built development than currently exists, particularly as seen from the swingbridge and to its west, albeit marginally less so for Appeal B. Although the existing development would provide a backcloth, and the proposals would not necessarily need to break the existing skyline, the slope of the sites could create a more prominent and harder edge to the settlement than currently exists, albeit marginally less so for the smaller Appeal B, thereby causing harm as seen from these views.

#### *Footpath SEMI 9*

28. The character of the footpath to the east of the site, SEMI 9, with the orchard and mature planting to the east, and open countryside to the west, is semi-rural, and represents the existing visual boundary of the settlement. The Appeal A proposal would fundamentally change the character of the southern section of this route. The proposed development would enclose the path to the west and as a result restrict the existing wide views of the countryside and wider extent of the canal corridor. This urban intervention could create a stark contrast with the open aspect into the orchard and tennis courts that would be maintained within the eastern, settlement side of the path, and which softens the existing settlement edge.
29. The smaller size of Appeal B ensures that views from the southern section of footpath SEMI 9 would remain largely open, with the proposal only intruding to a moderate degree in the view to the immediate west. Nonetheless, the unusual shape of the site would result in the main developable area appearing remote from the main built up area of the existing settlement to the east.

#### *Indicative proposals*

30. My conclusions on the above matters are reinforced by the indicative concept layouts. A proposed corridor of public open space is shown adjacent to SEMI 9 to mitigate the urbanising effect on this path and the pill box, and provide views of the former hospital from the swing bridge. However, in doing so, the proposed development areas would become visually separated from the settlement, particularly as seen from the canal corridor. The provision of single storey dwellings to the northern developable area of Appeal A would not adequately mitigate loss of views towards the canal corridor from the SEMI 9 footpath. The footpath descends the slope at approximately the same rate as the appeal site, such that any height of dwelling would restrict views.
31. For both appeals hedge and tree planting is indicatively proposed along the western boundaries of the appeal sites, with reinstatement of the historical hedge to the north. The masterplan for Appeal B shows what could be an unacceptably hard northern boundary to the appeal site. In both cases the effect of planting would be limited given the change in ground levels and the consequential greater overall height of the development as a whole. Although such mitigation could be slightly more effective for Appeal B it would not fully alleviate harm. Even were structural landscaping provided outside of the appeal sites, the developments would still be seen as a separate protrusion that would be disassociated from the existing settlement, given the indicative open space.

Again, this separation would be particularly evident from the swing bridge and west along the canal corridor.

#### *Other decisions*

32. The appellant argues that both proposals address the specific concerns raised by the Inspector at the previous 2017 appeal relating to character and appearance. However, despite the significant reduction in scale of the proposal, I find that even the most reduced scheme Appeal B causes harm. The Hannick Homes scheme can be distinguished from the current scheme in this regard in that although it was outside the settlement boundary, it was not found to cause harm in terms of character and appearance.

#### *Conclusion on second main issue*

33. I conclude that both proposals would have a significant adverse effect on the character and appearance of the surrounding area, with particular regard to size and relationship with the settlement of Semington. Although the harm arising from Appeal B is marginally less harmful than Appeal A, the effect is nevertheless significant. The proposals are contrary to CPs 51 and 57, and paragraph 170 of the Framework. Together, these policies require new development to protect landscape character and relate positively to its landscape setting and the existing pattern of development.

#### **Other considerations**

##### *Planning obligation (Appeal A)*

34. A bilateral planning obligation under s106 has been provided in respect of Appeal A, dealing with calculation and payment of contributions to education, open space, play areas, leisure, and waste facilities; provision of at least 30% affordable housing, including requirements for mix of tenure and space standards; and maintenance of open space. CPs 3, 43 and 52 and Policy PL4 of the Leisure and Recreation Development Plan Document require all new housing developments of this scale to address the demand for these provisions that would result from the proposal.
35. Therefore, on the evidence before me, these obligations are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development. I am therefore satisfied that the obligation meets the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 (CIL), having regard to the relevant development plan policies and the Framework, insofar that it meets the minimum policy requirement for residential development.
36. However, the proposal for Appeal A is described as being for 50%, which is above the 30% level of affordable housing that is necessary to make the development policy compliant, notwithstanding that the policy wording is for "at least 30%". No mechanism by way of an obligation has been presented to me to secure such additional provision. I do not agree that the appellant's suggestion to secure the additional 20% by condition would be reasonable or enforceable, given the legal certainty required to secure delivery.

### *Planning obligations (Appeal B)*

37. For Appeal B, two planning obligations have been submitted; a bilateral obligation and a unilateral undertaking. Appeal B is for an entry-level exception site under the terms of paragraph 71 of the Framework. The main parties agree that the proposal meets the policy tests that such sites should be adjacent to existing settlements, proportionate in size to them, and not compromise protected areas or important defined assets.
38. Annex 2 to the Framework defines entry-level exception sites as those that provide entry level homes suitable for first time buyers (or equivalent, for those looking to rent). The Framework also requires that the proposal should provide for one or more of the types of affordable housing defined in the same annex. Accordingly, the bilateral obligation provides for 100% delivery of social rented, affordable rented and intermediate housing, and does so for qualifying persons that are first time buyers (or equivalent/similar). It also deals with mix and tenure and space standards for those units, as well as calculation and payment of contributions to education, open space, play areas, leisure, and waste facilities, and maintenance of open space. For the same reasons given above in respect of Appeal A, and with regard to the policy in paragraph 71 of the Framework, I am satisfied that this obligation is CIL compliant.
39. The unilateral undertaking differs from the bilateral obligation in additionally offering starter homes and discounted market sales housing in order to fully reflect the Annex 2 definition of affordable housing. The Council declined to be a signatory to this on the basis that starter home regulations are not yet in force. Regardless, whilst the undertaking ensures that the starter homes qualifying persons should be first time buyers, it does not do the same for the other affordable housing options provided for. Overall, this would allow the option to implement standard affordable housing provision, which would not comply with the requirement of para 71 to provide for first time buyers.
40. Nonetheless, I am satisfied that the bilateral obligation meets the minimum policy requirements for an entry level exception site, in accordance with paragraph 71 of the Framework, and is therefore the obligation on which my decision is based.

### *Ecology*

41. The Council's evidence highlights specific concerns raised by its ecologist relating to the adequacy of survey information in respect of protected species, including bats. To this end, additional ecological information was provided which concludes that four species of bat were recorded; a single Bechstein's bat; high levels of Myotis along the western boundary of the field; low numbers of Lesser Horseshoe along the western boundary; and low numbers of Greater Horseshoe along the western boundary with occasional numbers at the pill box. The western boundary alongside the proposed development is scrub of considerably lower value to bats than the more northerly section of the field which is further from the appeal sites, particularly Appeal B. Accordingly, mitigation is not identified by the appellant's ecologist as being necessary.
42. At the hearing, the Council explained that, whilst its ecologist had some ongoing concerns relating to methodology and lack of a parameters plan, it maintained no objection on these grounds and that outstanding matters could be addressed by condition. Nonetheless indicative planting is proposed to

bolster the western boundary, to enhance the value for foraging and commuting bats, and precautionary mitigation in the form of a sensitive lighting scheme by condition has also been agreed between the parties. On the basis of the evidence before me, I am satisfied that the extent to which protected species may be affected by the proposed development has been adequately outlined and can be satisfactorily addressed. Any specific provisions for swifts or other species could be addressed at the reserved matters stage.

### *Other matters*

43. Interested parties are concerned that Appeal B is the wrong location for an affordable housing scheme, for the same reasons outlined above for Appeal A. However, Appeal B complies with the locational and scale requirements of paragraph 71 of the Framework, is not objected to by the Council on that basis, and there is no evidence before me to indicate otherwise. The size of the individual proposed houses, and corresponding household size and number of bedrooms, is a matter reserved for future applications. Reference has been made to another refused rural exception site at Wotton Bassett, however, full details are not available to me and, in any case, I must determine the appeal on its merits. Concern is raised over the impact of the proposals on the pill box, which was constructed as part of a network of WWII defences along the canal, but both appeals would maintain visual links from the pillbox to the canal, such that neither proposal would have any material direct or indirect adverse effect on this asset.
44. St George's Road is a narrow road, with pinch points, however the Council do not raise concerns regarding this matter, and I see no evidence to suggest that either proposal would result in an unacceptable impact on highway safety or that the residual cumulative impacts on the road network would be severe. As the appeals are in outline, there is no reason why detailed proposals cannot be designed to satisfactorily address drainage capacity and risk of flooding. Any impact upon the local school, and play areas, would be addressed by the planning obligation. Objections refer to the proposals setting a precedent for future development in the wider field. However, in determining these appeals, I am required to assess the current proposals on their individual merits.

### ***Planning balance***

45. Unlike the previous dismissed appeal, the Council is currently unable to demonstrate a five year supply of deliverable housing sites. As such, the relevant policies for the supply of housing should be considered as out-of-date according to paragraph 11(d) of the Framework. The so called 'tilted balance' is therefore triggered. As a result, there is no need for me to assess whether policies that are most important for determining the application are out-of-date, as suggested by the appellant.
46. Although the exact five year housing land supply figure is in dispute, the shortfall is agreed by the main parties to be within the range of between 4.40 and 4.62 years, or between 810 and 1279 homes. The difference between these figures is not material in applying the balance, notwithstanding that the appellant considers that the current Covid 19 pandemic will have a further negative effect. There is no clear indication from the Council how long this shortfall might persist.

47. Affordable housing is a benefit to be weighed in the planning balance. The Council refer to over-delivery of units within the MCA, and third parties cite those provided at the Hannick Homes site. However, the appellant's affordable housing statement concludes there is a shortfall in delivery across the region, an increasing number of people seeking affordable housing year on year in the region, and higher than average house prices in Semington with just 7% of housing stock in Semington being affordable. Whilst there is dispute over the need for affordable housing in Semington itself, the parties agree that there is need within Wiltshire and the country as a whole. For Appeal B, the provision of 20 affordable homes for first time buyers would contribute to delivering a sufficient supply of homes in accordance with Section 5 of the Framework. I ascribe this benefit substantial weight<sup>4</sup>.
48. For Appeal A, I conclude that the benefits from the policy compliant provision of at least 30% affordable housing would be significant. For the reasons given above, only very limited weight can be given to the additional 20% proposed. The Framework's emphasis on the delivery of housing also requires me to attach significant weight to the provision of market housing in Appeal A, given that small and medium sized sites can make an important contribution to meeting housing requirements.
49. Moderate weight is given to the benefits arising from expenditure on construction, and in the supply chain, as well as to the economic benefits from increased spending from economically active residents and the associated contribution to vitality of the village. In attaching weight I have taken into account the current Government drive to increase housing supply and boost spending as part of the economic recovery from the global pandemic. The potential that either scheme could create new construction jobs is a matter of limited weight, as are intended native planting and biodiversity enhancements.
50. Provision of financial contributions towards off-site community infrastructure, including public open space, is required to mitigate the development and meet policy requirements. As such this attracts neutral weight. The lack of harm to the setting of the listed building and the non-designated heritage asset, flood risk, drainage, and highways matters, are also neutral in the planning balance.
51. However, I have also found harm arising from the proposals. Both Appeal A and Appeal B would result in significant adverse effects on the character and appearance of the surrounding area, with particular regard to size and relationship with the settlement of Semington. Whilst Appeal B is marginally less harmful, it remains significant. In addition, for Appeal A, harm arises from the inappropriate location of the development, having regard to the development plan and national policies relating to housing.
52. For Appeal A, I find that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Therefore, the proposals would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework.
53. For Appeal B, I conclude that the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. This is a material

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<sup>4</sup> The scale of weights ascribed in this decision is; limited, moderate, significant, substantial.

consideration of sufficient weight to indicate that the appeal should be determined otherwise than in accordance with the development plan.

### **Conditions (Appeal B)**

54. A list of agreed suggested conditions was submitted. The application was in outline, so reserved matters conditions are necessary to ensure that the development achieves satisfactory scale, layout, appearance, landscaping, and access (Conditions 1, 2 and 3). Condition 4 defining the plans is necessary in the interests of certainty. In order to ensure that the development is in keeping with its surroundings, Conditions 5 and 6 are attached relating to landscape implementation and maintenance. Condition 7 is imposed to secure adequate drainage of the site. Condition 8 requires the Landscape and Environmental Management Plan to identify responsibilities for on-going management of features of landscape and ecological importance.
55. To protect sensitive ecological areas during construction, Condition 9 is necessary. Condition 10 ensures adequate mitigation is implemented for protected species with regard to lighting. Biodiversity enhancement measures are secured by Condition 11 to ensure that biodiversity objectives for the development are met. The footpath required by Condition 12 is necessary in the interests of highway safety.
56. At the hearing the Council indicated that the suggested condition for conservation of the WWII pill box originated from the previous 50 unit scheme. Given that Appeal B has no direct or indirect impact on the asset, there is no policy basis for such a condition. Minor amendments have also been made to the wording of some conditions, and duplication removed, for clarity and to ensure accordance with the tests set out in paragraph 55 of the Framework.

### **Conclusion (Appeal A)**

57. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

### **Conclusion (Appeal B)**

58. I conclude that outline planning permission should be granted subject to the conditions in the attached schedule.

*Patrick Hanna*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT

Killian Garvey	of Counsel, Kings Chambers (instructed by David Hutchison)
David Hutchison BSc(Hons) DipTP MRTPI	Pegasus Group
Paul Harris CMLI	MHP Landscape
Alexander Heath MCIEE	Grassroots Ecology

### FOR WILTSHIRE COUNCIL

Ruaridh O'Donoghue BA(Hons) MA	Senior Planning Officer
Chris Roe MSc MRTPI	Spatial Planning Manager
William Harley BSc(Hons) CLMI	WH Landscape

### FOR SEMINGTON PARISH COUNCIL

Dr William Scott	Local Resident
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## **DOCUMENTS**

- 1 Site Walk Plan
- 2 Ecological Information Note, Grassroots Ecology, dated 8 October 2020.
- 3 Ecological Information Note, Grassroots Ecology, dated 19 October 2020.
- 4 Statement of Common Ground (5-Year Housing Supply), dated 20 October 2020.
- 5 Matters Still in Dispute (Appeal A)
- 6 Matters Still in Dispute (Appeal B)
- 7 CIL Compliance Statement
- 8 Wiltshire Housing Site Allocations Plan
- 9 Wiltshire Core Strategy Core Policy 15
- 10 Wiltshire Core Strategy Core Policy 44
- 11 Wiltshire Core Strategy Chapter 5 Area Strategies
- 12 Agreed suggested conditions
- 13 Standing Advice for Protected Species, Natural England
- 14 Signed Planning Obligation under s106, dated 20 October 2020 (Appeal A).
- 15 Signed Planning Obligation under s106, dated 20 October 2020 (Appeal B).
- 16 Signed Planning Obligation by Unilateral Undertaking under s106, dated 20 October 2020 (Appeal B).

**Schedule of conditions (Ref: APP/Y3940/W/20/3253180 – Appeal B)**

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 2) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 3) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plan: P18-2321\_01-02 (Site Location Plan).
- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. All hard landscaping shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the local planning authority and maintained thereafter.
- 6) Before the development is first occupied a schedule of landscape maintenance for a period of five years shall be submitted to and approved in writing by the local planning authority. The schedule shall include details of the arrangements for its implementation. Maintenance shall be carried out in accordance with the approved schedule.
- 7) No dwelling hereby permitted shall be occupied until surface water drainage works (including surface water from the access and driveways) shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
  - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii) include a timetable for its implementation; and,
  - iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by

any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

- 8) No development shall take place until a Landscape and Ecological Management Plan (LEMP) has been submitted to, and approved in writing by the local planning authority. The content of the LEMP shall include, but not necessarily be limited to, the following information:
- i) Description and evaluation of features to be managed;
  - ii) Landscape and ecological trends and constraints on site that might influence management;
  - iii) Aims and objectives of management;
  - iv) Appropriate management options for achieving aims and objectives;
  - v) Prescriptions for management actions;
  - vi) Preparation of a work schedule including an annual work plan capable of being rolled forward over a five year period;
  - vii) Details of the body or organisation responsible for implementation of the plan;
  - viii) Ongoing monitoring and remedial measures;
  - ix) Details of how the aims and objectives of the LEMP will be communicated to future occupiers of the development.

The plan shall also set out how contingencies and/or remedial action will be identified, agreed and implemented where the results from monitoring show that the conservation aims and objectives of the LEMP are not being met. The LEMP shall be implemented as approved.

- 9) No development shall take place (including any site clearance or ground works) until a Construction Environment Management Plan has been submitted to and approved in writing by the local planning authority. The Plan shall provide for:
- i) Risk assessment of potentially damaging construction activities;
  - ii) Identification of any biodiversity protection zones;
  - iii) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements);
  - iv) The location and timing of sensitive works to avoid harm to biodiversity features;
  - v) The times during construction when specialist ecologists need to be present on site to oversee works;
  - vi) Responsible persons and lines of communication;
  - vii) The role and responsibilities on site of an ecological clerk of works or similarly competent person;
  - viii) Use of protective fences, exclusion barriers and warning signs; and
  - ix) Ongoing monitoring, including compliance checks by a competent person during construction and immediately post-completion of construction works.

The approved Construction Environment Management Plan shall be adhered to throughout the construction period for the development.

- 10) No external lighting shall be installed on site until plans showing the type of light appliance, the height direction and position of fitting, illumination levels and light spillage in accordance with the appropriate Environmental Zone standards set out by the Institute of Lighting Engineers in their publication Guidance Notes for the Reduction of Obtrusive Light (ILE, 2005), or any updated version of the guidance, have been submitted to and approved in writing by the Local Planning Authority. The submission shall:
- i) Identify those areas within the vicinity that are particularly sensitive for foraging or commuting bats;
  - ii) Show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications, including a Lux plot) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places; and
  - iii) Specify luminaries, heights and positions of fittings, direction and other features, e.g. cowls, louvres or baffles.

The approved lighting shall be installed and shall be maintained in accordance with the approved details and no additional external lighting shall be installed.

- 11) Prior to or alongside the submission of the reserved matters, details of biodiversity enhancement measures to be undertaken within the site shall be submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented in full within a timeframe to be agreed in writing with the local planning authority and maintained thereafter.
- 12) No dwelling hereby permitted shall be occupied until a properly consolidated and surfaced footpath of two metres width has been provided across the site frontage to the east of the access.

End of Schedule