

<p>KINTBURY 17/00981/ OUTMAJ</p> <p>PINS Ref 3183931</p>	<p>Land South of Irish Hill Road and North of Holt Road Kintbury Baylight Properties Ltd</p>	<p>Hybrid application seeking planning permission for: (1) Outline planning permission for the erection of 40 dwellings (14 x 2 bed, 8 x 3 bed and 18 x 4 bed) with associated landscaping and parking with matters of Access and Layout to be considered. (2) Change of use of land to public open space</p>	<p>Dele. Refusal</p>	<p>Dismissed 1.6.18</p>
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Preliminary matters

The appeal proposal is expressed as a 'hybrid' application, seeking permission in outline for the proposed dwellings, landscaping and parking, and full permission for the change of use of part of the site to public open space.

In respect of those elements for which permission is sought in outline, the proposal includes details of access and layout only. All other details are reserved. In so far as the submitted plans and documents contain details of these other matters, it is agreed that these are illustrative.

The appeal application was for a scheme involving 40 dwellings, and was dealt with by the Council on that basis. Prior to the inquiry, the appellants sought to substitute an alternative scheme of 32 dwellings. Having regard to the 'Wheatcroft principles', the Inspector considered that this would have been significantly different from the proposal on which the Council made its decision. He therefore informed the parties that he would not accept the proposed change. He dealt with the appeal on the basis of the original, 40-dwelling proposal.

The appeal is accompanied by a Section 106 undertaking, which provides for affordable housing and on-site public open space, including a commuted sum for long-term maintenance. At the inquiry, the Council confirmed that, in view of this undertaking, Refusal Reason 1 (RR1) would no longer be pursued.

In addition RRs 4 and 5, relating to matters of highway safety, were withdrawn prior to the inquiry, in the light of an appeal decision on another site in Kintbury, known as land north of Irish Hill.

The inquiry sat on four days, 17-20 April, 2018. The inquiry remained open pending the receipt of written closing submissions, and was formally closed on 24 April.

Relevant Policies

The development plan for the area includes the West Berkshire Core Strategy (the WBCS), adopted in July 2012, and the Housing Site Allocations (HSA) Development Plan Document, adopted in May 2107.

Kintbury is identified in Policy ADPP1 of the WBCS as a Service Village, which is the third tier of the settlement hierarchy. Service Villages are described as having a more limited range of services than the urban areas or the Rural Service Centres, with some limited development potential.

The appeal site is outside the settlement boundary for Kintbury, and is therefore in the countryside. Inside settlement boundaries, Policy C1 of the HSA states a presumption in favour of development; but outside, the presumption is reversed. There is no dispute that the development now proposed contravenes this part of Policy C1. The same policy also requires all developments, either outside or within settlements, to avoid harming the relationship to the countryside, and to contribute to the rural area's character and distinctiveness.

The site is also included in the North Wessex Downs Area of Outstanding Natural Beauty (AONB), where WBCS Policy ADPP5's 'Environment' provisions state that development will be expected to conserve and enhance the AONB's distinctiveness and sense of place, and preserve its remoteness, tranquillity and dark night skies. WBCS Policy CS19 also seeks to conserve and enhance the diversity and distinctiveness of the District's landscape, and requires developments to respond to the key landscape characteristics identified in the relevant landscape character assessments.

Main Issues

The main issues in the appeal relate to:

- the effects of the proposed development on the landscape;
- and whether the Council can demonstrate a 5-year housing land supply.

Reasons for decision

Landscape impact

The appeal site lies on the edge of the village of Kintbury, overlooking the Kennet Valley. The surrounding countryside comprises a mosaic of rolling, open fields, with low hedgerows, punctuated by small woodlands and shelter belts. The topography is undulating, with wide, sweeping views in most directions. The scenic quality of the landscape is high, as recognised in its national-level designation as an AONB.

The area is crossed by numerous public rights of way. The Inspector saw on his visits that the Kennet and Avon Canal is a popular route for leisure boating, walking, and riding. From Shepherd's Bridge, public footpath KINT/28/1 and HAMS/14A/1 connects the towpath route to Kintbury, and to a network of other attractive paths around Irish Hill. National Cycle Route No. 4 runs through Kintbury, following Irish Hill Lane. This combination of recognised scenic quality together with a high level of public access and recreational use, justifies treating this area of countryside, to the north and east of Kintbury, as a valued landscape.

The appeal site currently forms part of this landscape. Although the site abuts the village, it does so at the very extremity of the built-up area. Not only is the site adjoined by open fields on three sides, but to the north of Irish Hill Road, the open land continues westwards, leaving the site almost encircled by the countryside. Furthermore, whilst the existing built development has mainly been confined to the plateau area, at the appeal site the land starts to slope away from the village, connecting it visually with the shallow valley to the east, and exposing it to views from this direction. On the site's outer boundary, there is only a sparse hedge, providing little or no sense of containment. In all these respects, the appeal site has only a weak relationship with the built up area. Rather, it appears as connected with, and as an integral part of, the surrounding countryside and landscape.

This integral relationship between the appeal site and the adjoining countryside is appreciated in both the inward and outward views, to and from the village. In particular, on leaving the village along either Holt Road or Irish Hill Road, the site is viewed in the foreground of a series of panoramas, in which the rolling open land seems to come right up to the village edge in one continuous sweep. The same effect is seen from the opposite perspective, in the views from the Canal towpath, and from footpath HAMS/14A/1, and from near Irish Hill House. All of these public views serve to illustrate the sense of continuity and connectedness between the site and the wider landscape, and the site's role as an integral part of that landscape.

The proposed development would introduce 40 houses, together with roads, parking areas, amenity spaces and gardens. Features of this type are primarily associated with urban development and built environments rather than with the countryside. The appeal site would therefore become urbanised, and would cease to contribute to the attractive open landscape that exists now. The development would thus result in the direct loss of a sizeable expanse of open countryside from the AONB.

In addition, due to its exposed position, the development would have a direct visual impact on the inward and outward views that he had identified. Seen at close range, it would block part of the wide panoramic views that are available from the edge of the village. From distant viewpoints to the north and east, the development would appear on or just below the skyline. In this position, it would extend the visible presence of the settlement, into the countryside, and would appear as an unduly dominating feature. Consequently, the changes that the development would bring to this part of the AONB would cause serious harm to its landscape quality and value.

The planting of trees on the part of the appeal site which is proposed to become public open space, in the form of informal parkland, would soften the development to some degree, and could possibly be designed to bear some resemblance to the small woodlands that are seen nearby. But, as the appellants themselves acknowledge, such planting would not be likely to screen the development altogether, especially at night. And even if it did, this would not change the fact that open land, forming an integral part of the landscape would be taken from the AONB and urbanised. The harm to the valued landscape could therefore not be overcome.

The Inspector accepted that the existing urban edge, along the backs of the properties in The Pentlands, is somewhat abrupt. The proposed new planting, and indeed the proposed development itself, would hide the existing array of trampolines and conservatories, and present a tidier transition between the village and the countryside. But this is an argument that could be applied with equal force almost anywhere around the periphery of this or other settlements. Set against the loss of valued landscape, this argument is not persuasive.

The appellants argue that Kintbury's eastern edge is less sensitive than any other options for expanding the village. But this appeal is only concerned with the appeal site. Comparisons with any other sites are therefore neither possible nor relevant.

The Inspector appreciated the appellants' desire to achieve a development of the highest quality in terms of design, layout and materials. But even if that aim were fulfilled, it would not alter the conclusions set out above. In any event, in the present outline application, the only details that are not reserved are access and layout. From the details that were before him, it seems to the Inspector that the proposed layout, involving four terraced blocks set at right angles to the village edge, would be unsympathetic to the location. Consequently, none of the submitted details persuade him that the scheme's architectural quality would be likely to outweigh the harm to the landscape.

The Inspector noted the appellants' contention that the appeal proposal is not 'major development', in terms of paragraph 116 of the NPPF2. That paragraph requires major development to be refused other than in exceptional circumstances. He was also mindful that the Council, for reasons of its own, was prepared to treat the alternative scheme for 32 dwellings at the appeal site as non-major. However, the Inspector could only consider the scheme that is before him, and he must do so on its own merits. Having regard for the nature of the proposal and its local context, he considered that the appeal scheme represents major development, and therefore if permission were being granted, paragraph 116 would be relevant. But in any event, NPPF paragraph 115 requires that the conservation of the AONB's landscape and scenic beauty should be given great weight in all cases. The Inspector had regard to the advice in these paragraphs in reaching his decision.

To conclude on this issue, for the reasons set out above, the Inspector found that the proposed development would cause substantial harm to the character and appearance of the rural landscape around Kintbury. As such, it would not conserve or enhance the North Wessex Downs AONB's scenic beauty, distinctiveness or sense of place, nor help to preserve its tranquillity or dark skies. In all these respects the scheme would conflict with WBCS Policies ADPP5 and CS19. In addition, the development would also harm the relationship between the settlement of Kintbury and its countryside setting, contrary to the relevant provisions in HSA Policy C1

Housing land supply

The Council's position on housing land supply is based on their latest published report. The base date adopted in the report is 1 April 2017, which is the last date for which actual completions data is available. The requirement side of the calculations is based on an objectively assessed need (OAN) figure of 665 dwellings per annum, which is derived from the most recent SHMA. The figure has then been adjusted to include the backlog since 2013, using the 'Sedgefield method', and a 5% buffer has been added to the whole. For the 5-year period 2017-22, this gives a total requirement of 4,118 dwellings. For completeness, the Council also shows an equivalent calculation for the 6-year period 2017-23, which is 4,783 dwellings.

Since the SHMA was carried out, the Council has agreed to work with the neighbouring authorities of Bracknell Forest and Wokingham to jointly find solutions to the problems identified by Reading Borough Council, in meeting its housing needs. But this is a matter to be addressed in the forthcoming local plans for all of these authorities. In West Berkshire District, a Local Plan Review has been commenced, but as yet this is only at a very early stage. For the time being, the Inspector was satisfied that the Council is justified in using the OAN identified in the SHMA as the basis for its 5-year supply calculations.

With regard to the choice of period, what NPPF paragraph 47 seeks is a calculation based on five year periods. The supply for year 6, which in this case is 2022-23, is intended to be part of a separate calculation for years 6-10. He also agreed that there are advantages to basing the calculations on the most accurate information possible. In the present case both of these considerations favour the use of the 2017-22 period. But there is also merit in the argument that the purpose of the exercise is to look ahead rather

than back, and clearly the first year of that period has now gone. He also noted that the agreed table which was helpfully prepared by the respective housing witnesses at the inquiry, is based on a period extending to 2023. In the circumstances, it seemed to him that the alternative calculation for 2017-23 represents a useful additional 'sense-check', and he had therefore had regard to it, alongside the NPPF - compliant 5-year calculation for 2017-22.

No other elements of the Council's methodology relating to the requirement side are disputed. Set against these alternative requirement figures of either 4,118 or 4,783 units, the Council claims a deliverable supply of 4,434 units for 2017-22, and 4,990 units for 2017-23. The surplus is therefore either 316 or 207 dwellings, equating to a supply of 5.5 years or 5.3 years respectively.

The appellants' challenge to the Council's supply-side figures focuses on seven sites. In all of these cases, the dispute relates to the numbers of dwellings that can be counted as deliverable within the relevant 5 or 6 year period, rather than whether the sites can be delivered at all. Four of the sites have either outline or full planning permission, and in these cases it seemed to him reasonable to start from the assumption that such sites are likely to be deliverable, unless there is clear evidence to the contrary.

The first of these sites with permission is the Sterling Industrial Estate, where the Council anticipates 167 dwellings by the end of March 2021. The development is said to be dependent on decontamination and a new link road. However, there is evidence that, once the remedial works are commissioned, they can be completed within a 20-week period. Those works have yet to be submitted for discharge, and will need to be agreed by the Environment Agency, but there is no evidence of any impediment to that process being started in the near future. Grant aid of £1.5m has recently been secured through the Housing Infrastructure Fund. Whilst this funding could be withdrawn if the project were delayed, at present there is no reason to expect that situation to arise. Advance demolition works have apparently already taken place. None of the evidence relating to these matters demonstrates that the numbers of dwellings anticipated by the Council are not deliverable within the relevant 5 or 6 year period.

Another of the sites with planning permission is the land known as Hilltop, where the Council expects 200 completions by March 2022, and 300 in total by March 2023. These delivery rates assume that there will be two housebuilders involved, whereas only one has been identified so far. But the site comprises two separate land parcels, divided by a major road, and connected only by a pedestrian / cycle underpass. Each of the two parcels has its own independent vehicular access. The site therefore lends itself well to two separate developer outlets, and there is no evidence to suggest that it cannot or will not be developed in this way. To my mind this is therefore a reasonable assumption. It is not known whether the developer currently identified is contractually bound yet, and no evidence that work has started on reserved matters. But neither these nor any of the other matters raised appears to preclude the Council's assumptions from being achieved.

The Market Street redevelopment scheme has full planning permission. The Council's figures assume 232 dwellings, by the end of March 2022. The Council has entered into a development agreement with Grainger PLC, to carry out the scheme, and the latter has recently made a substantial payment to the Council under the terms of that agreement. Parts of the site are currently still in use as car parks and a bus station, and there are said to be unexpired leases for these uses. However, there was no information before the Inspector as to the length of those leases, nor the costs of acquiring the relevant interests, if that should be necessary. The Council has reserved its position regarding the possible use of compulsory purchase powers, but there is nothing to suggest that such powers will need to be used. A new bus interchange at Wharf Road is needed, to replace the existing facility, but this is said to be a relatively small-scale development. Planning permission for the new interchange has been granted, and some of the details reserved by condition have also been approved. There is no evidence that the delivery of the new interchange cannot be completed within the required timescale. Decontamination works are thought to be required, but again there is no evidence that these are likely to cause undue delay. Again therefore, there is insufficient evidence to justify any disagreement with the Council's suggested housing delivery.

The other disputed site with planning permission is land east of Salisbury Road, Hungerford, where the Council relies on 100 dwellings by March 2022. The Inspector noted that this site took longer than normal to reach outline permission, due to issues over landscape impact, and he accepted that the detailed design and layout may be contentious too. But this does not mean that the reserved matters stage must take as long as the outline; indeed that would be an unusually long period for determination, and none of the evidence before him justified such an assumption. Issues relating to archaeology and water supply remain

to be dealt with under conditions, but these are fairly commonplace, and there is no evidence that they are likely to cause delay. Yet again, he found nothing of substance to support any departure from the Council's delivery figures.

All in all therefore, the Inspector found no clear or convincing evidence to rebut the reasonable presumption that these four sites with planning permission are able to deliver the numbers of dwellings suggested in the Council's land supply statement.

The other three disputed sites, which do not have planning permission, are at Lamden Way, Lynch Lane, and Bath Road. Within the period 2017-22, the Council estimates that these three sites will deliver 179 units, whereas the appellants say 70 units. Alternatively, for the period 2017-23, the Council's figure is 220 units, and the appellants' is 159. The maximum difference between the parties is therefore only 109 units over the period to 2022, or 61 units over the extended period to 2023. This compares to the surpluses of 316 or 207 units respectively in the Council's figures. In the light of his earlier conclusions, these relatively small numbers in dispute on the sites without permission are clearly insufficient to reduce the supply to less than 5 years' worth, on any basis. Consequently, it is not necessary for him to consider these last three sites any further.

The Inspector noted the appellants' other points relating to land supply. The rate of house-building that is needed across the District exceeds anything that has been achieved since at least 2008. But that issue is implicitly acknowledged in the requirement for a 5% buffer, and is already addressed through that mechanism. There is no evidence that adding yet another site to the supply would increase the overall delivery rate any further. Beyond 2023 the identified supply dwindles somewhat, but this can be addressed through the forthcoming local plan review. The medium and longer term supply may depend on the large allocation at Sandleford Park, which has evidently proved problematic so far, but again there appears to be enough time before then for the issues to be addressed in a plan-led way. In any event, he was satisfied that the approach that the Council has taken is an appropriate one in this case.

In the light of all the above, the Inspector concluded that, on this occasion, the Council has adequately demonstrated that the supply of land for housing in West Berkshire exceeds 5 years. Based on the above figures, the surplus above the District's 5-year requirement is in the region of 150 - 300 dwellings. Although this is not a large number, it is sufficient to satisfy the NPPF's requirement in this regard.

Other Matters

Service Village status

Kintbury has a reasonable range of local facilities including a school, a doctors' surgery, a station, a village hall, three pubs and a few small shops. As a Service Village, it is in principle a location where some development is permissible, albeit limited in scale, in line with the strategy embodied in WBCS Policies CS1 and ADPP1 and the 'Housing' provisions of Policy ADPP5.

However, this does not mean that there is policy support for development at the appeal site. It is true that Policy ADPP1 envisages development either within or adjacent to settlements. But the same policy also states that development in the open countryside will only be permitted for identified needs. In addition, Policy CS1 makes it clear that development will be within settlement boundaries unless on allocated sites, and both that policy and Policy ADPP5 refer to this process taking place through an Allocations DPD. And furthermore, all of these policies are to be read alongside HSA Policy C1, with its presumption against development outside settlements.

To the Inspector's mind, it is clear that what these policies seek to promote, in terms of development at the Service Villages, is a plan-led approach to site selection. None of the relevant policies support ad-hoc developments on unallocated sites outside of settlement boundaries.

Local housing needs in Kintbury

In recent years, the amount of housing development that has taken place at Kintbury has been relatively small. A sizeable development took place at Inglewood, which is within the Parish, but this is some way outside the village itself, and occupation is limited to over-55s. Only one small site was allocated in the HSA, at Leyland Grove, and this alone is unlikely to satisfy the needs arising from the existing community. The appeal scheme would enable some of those needs to be met locally.

However, the District's OAN is assessed at District-wide and HMA levels, and in policy terms there is no requirement for each village to meet its own needs. Indeed, within the AONB, Policy ADPP5 prioritises landscape considerations, and acknowledges that some housing needs may have to be diverted to settlements outside the AONB, for environmental reasons. For the reasons already explained, the Inspector found that there is an adequate housing supply at District level, and in this context the benefits of providing more housing at Kintbury carry limited weight.

Development plan policies' out-datedness and consistency with the NPPF

The WBCS was prepared prior to the publication of the NPPF in March 2012. Its overall housing target of 10,500 dwellings, equating to 525 per annum, was derived from the regional strategy and structure plan policies of that time, before those plans were revoked. The housing target was therefore not related to any measure of OAN. The Examining Inspector, reporting shortly after that date, noted that this approach was not NPPF-compliant, but allowed the plan to be adopted, subject to provision for an early review. Subsequently, the SHMA has shown the OAN to be 665 dwellings per annum. Although the Council is working towards a new local plan that will fill the gap, it is a long way behind the 3-year timescale that the WBCS Inspector envisaged.

Although the WBCS housing policies, including CS1 and ADPP1, do not preclude a higher number of dwellings from being built, they are not designed to achieve that aim. The HSA, as a 'daughter document', seeks only to provide sufficient housing to satisfy the WBCS target. The fact that there is currently a 5-year supply of housing land means that NPPF paragraph 49 is not engaged, but that is not the only way that policies can be out-of-date. There is therefore some force in the appellants' argument that the development plan's housing policies are no longer fully up-to-date.

In the present appeal however, the policies that are of principal relevance are those where the Inspector had found a direct conflict, namely Policies C1 and CS19, and the Environment provisions of Policy ADPP5. None of these are concerned with housing, but rather with protecting the countryside and the landscape. As such, these policies seemed to him to be generally consistent with the NPPF. The outdatedness of the housing policies therefore does not affect the weight that is afforded to these more relevant policies.

With regard to the settlement boundaries, he appreciated that the boundaries were drawn with a view to meeting only the housing requirements of the WBCS. But the Council's land supply calculations take account of the OAN, and even on that basis, a 5-year land supply has been demonstrated, despite the settlement boundaries. Furthermore, in the case of Kintbury, given the village's location wholly within the AONB, it seemed to him that the boundary here plays an especially important role, in safeguarding the nationally-designated landscape, consistently with the aims of NPPF paragraphs 115 and 116. To his mind this gives this particular boundary an added importance, over and above that of simply protecting the countryside as a whole.

The Inspector therefore concluded that none of the policies that he had identified as being relevant to this appeal should be given reduced weight. Nor did he find that the provisions of NPPF paragraph 14, relating to policies which are absent, silent or out-of-date, are relevant in this appeal.

Benefits of the development

The legal undertaking provides for 11 of the proposed dwellings to be affordable housing. This provision, equating to 40%, accords with Policy CS6 of the WBCS. The split between social rented and shared ownership tenures is agreed by the Council. This affordable housing would be a significant benefit of the scheme.

With regard to public open space, the undertaking requires this to be provided in accordance with a plan which is to be agreed subsequently. The quantity is not stated in the undertaking, but if this were as shown on the application plans, it would amount to about a third of the site. A play area could be secured by condition. So too could the new footpath links shown on the submitted plans, alongside Irish Hill Road, and crossing the site to Holt Road. All these facilities would potentially be of some benefit to the public.

The proposed planting scheme for the open space area could incorporate native species and new habitats, adding to the area's network of green infrastructure. A long term management regime is provided for in the undertaking. These provisions, would represent a net benefit in terms of biodiversity.

The development would also have some benefits to the local economy, in terms of the construction and supply industries, and related consumer spending.

Planning Balance and Overall Conclusion

The appeal proposal conflicts with HSA Policy C1 and WBCS Policies CS19 and ADPP5, due to its location outside the settlement boundary, and its highly damaging impact on the landscape of the North Wessex Downs AONB. No policies support development in this location. The scheme is therefore contrary to the development plan.

West Berkshire District has a 5-year supply of housing land, and the policies most relevant to the appeal are up-to-date and consistent with the NPPF. But in any event, given its location in the AONB, the appeal site is subject to restrictive NPPF policies, including paragraphs 115 and 116. The 'tilted balance' provisions in the 4th bullet-point of NPPF paragraph 14 are therefore not engaged.

Although the development would provide some benefits or potential benefits, in terms of affordable housing, economic impact, open space, footpaths, and new habitats, these are relatively minor compared to the serious harm that would be caused to a nationally important landscape. Notwithstanding the above conclusions regarding the applicability of the tilted balance, in this case the Inspector found that the benefits are outweighed significantly and demonstrably, by the harm to the AONB and loss of countryside, and the resulting policy conflicts that he had identified.

The Inspector took account of all the other matters raised, but none changes the balance of these findings. He therefore concluded that planning permission should be refused.

The appeal is accordingly dismissed.

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