



## Appeal Decision

Site Visit made on 23 July 2021

by **S Edwards BA MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 6 September 2021**

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**Appeal Ref: APP/D1265/W/21/3275130**

**Land at Kingston Lane/Frizzel's Hill, Hazelbury Bryan, Sturminster Newton DT10 2DY**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission
  - The appeal is made by Planning Base Ltd against Dorset Council.
  - The application Ref 2/2020/1331/OUT, is dated 22 September 2020.
  - The development proposed is erection of 4 no. dwellings.
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### Decision

1. The appeal is dismissed and planning permission for the erection of 4 no. dwellings is refused.

### Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) published on 20 July 2021 sets out the Government's planning policies for England. Policies within the Framework are material considerations which should be taken into account for the purposes of decision-making from the date of its publication. The parties were given the opportunity to comment on this matter, and I have had regard to the updated Framework in determining this appeal.
3. The application was submitted in outline, with all matters reserved for subsequent determination. I shall therefore proceed on this basis, treating the submitted plans for indicative purposes.
4. The appeal is against the Council's failure to give notice, within the prescribed timescales, of a decision on an application for planning permission. However, the Council has confirmed that, had it been in a position to determine the application, planning permission would have been refused.

### Main Issue

5. The main issue is whether the appeal site constitutes a suitable location for the proposal, having particular regard to local and national planning policies which seek to restrict residential development in the countryside, and the effect on the landscape character and appearance of the area.

### Reasons

6. The appeal site is located within an area of rural character, and forms part of Hazelbury Bryan, a large parish comprising seven distinct hamlets separated by open fields. The site itself comprises an undeveloped green field on the edge of Kingston, which is prominently sited at the junction between Kingston Lane and

Frizzel's Hill. Its intrinsic attractiveness reinforces the rural hinterland in which the hamlet is situated.

7. Policy 2 of the North Dorset Local Plan Part 1<sup>1</sup> (LPP1) sets out the core spatial strategy for this area, and identifies Blandford, Gillingham, Shaftesbury and Sturminster Newton as the four main towns which are to be the focus for growth, both for the vast majority of housing and other development. Hazelbury Bryan is identified as one of the 18 larger villages which, alongside Stalbridge, are to be the focus for growth to meet the local (rather than strategic) needs outside of the four main towns. This approach is considered to be broadly consistent with the Framework, in that it seeks to encourage development in the most sustainable and accessible locations.
8. The appeal site lies outside the defined boundary of Hazelbury Bryan, which was established as part of the Neighbourhood Plan<sup>2</sup> made for this area. For planning policy purposes, the site is therefore subject to countryside policies where development will be strictly controlled unless it is required to enable essential rural needs to be met. No substantive evidence has been presented to demonstrate that the appeal scheme constitutes one of the types of development which are considered permissible in the countryside.
9. Furthermore, and in the absence of substantive information to the contrary, there is no overriding need for the proposed development to be located in the countryside. Even if I were to accept that the site lies within the village by reason of its proximity to the settlement boundary, I cannot be certain, having regard to the available evidence, that the appeal scheme would meet a local need which could not be met elsewhere in the area, simply because of the Council's current lack of housing land supply.
10. Whilst there are some limited facilities within the parish of Hazelbury Bryan, future occupiers of the development would in all likelihood have to travel further afield, notably to access shops, employment and healthcare services. The roads in the area are typically narrow, unlit and do not generally include a footway. Consequently, walking and cycling are unlikely to be perceived as attractive alternatives to private motor vehicles. Furthermore, I have been presented with little evidence suggesting that regular and frequent bus services to larger settlements are available within proximity of the site. Overall, there is a greater likelihood that, for the majority of journeys, people would rely on the private car, which is the least sustainable mode of transport, to access most everyday services and facilities.
11. It is noted that the appeal site does not fall within one of the defined gaps which were identified as part of the preparation of the Hazelbury Bryan Neighbourhood Plan to maintain gaps between the hamlets but as detailed above, it is also outside the settlement boundary for Kingston. It may be argued that the development of the appeal site would not lead to the coalescence of the separate hamlets. However, the undeveloped nature of the site, together with its topography and prominence in distant views, make an important contribution to the rural character of the hamlet and its wider setting.

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<sup>1</sup> January 2016.

<sup>2</sup> November 2018.

12. Despite the level of screening provided by the existing vegetation and the additional benefit resulting from the proposed landscaping, the construction of four dwellinghouses on the site would be visible, notably from distant views. Whilst the proposed dwellings would be sited within proximity to existing residential development, they would stand out as a significant intrusion of built development in the countryside, which would erode the contribution made by the site to the spacious and open rural character of the area.
13. My attention has been drawn to a recent planning approval near the appeal site. I do not have the full details of this particular scheme, but I understand that this is a brownfield site which will be subject to redevelopment for housing. On the basis of the available evidence, I am not therefore convinced that the circumstances of this approval constitute a direct parallel to the proposal before me.
14. For the foregoing reasons, the appeal site would not constitute a suitable location for the proposal, having regard to local and national planning policies, which seek to restrict residential development in the countryside, and by virtue of the harm it would cause to the rural character of the locality. The proposed development would consequently conflict with Policies 2, 4 and 20 of the LPP1 and Policy HB1 of the Hazelbury Bryan Neighbourhood Plan. Amongst other things, Policies 4 and HB1 seek to protect and enhance the landscape character of the area through retention of the features that characterise the locality.

### **Planning Balance**

15. The Council is presently unable to demonstrate a five year supply of deliverable housing sites and the Housing Delivery Test for 2020 indicates that the delivery of housing has been substantially below the housing requirement over the previous three years. In such circumstances, paragraph 11d) of the Framework states that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, permission should be granted unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole. The Council's submissions confirm that it only has 3.3 years of housing land supply, which represents a considerable shortfall.
16. As detailed within the Framework<sup>3</sup>, due weight should be given to policies in existing plans, according to their degree of consistency with the Framework. Whether a policy becomes out-of-date is therefore a matter of pure planning judgment. To do so, the Courts have confirmed that the basket of policies from the development plan which constitute those most important for determining the application has to be identified.
17. In this instance, Policies 1, 2, 4, 20 of the LPP1 and Policies HB1 and HB13 of the Hazelbury Bryan Neighbourhood Plan are considered to be the most important policies for determining the application. These policies are considered to be largely consistent with the Framework, in that they seek to focus development in the most sustainable and accessible locations, whilst respecting and enhancing the landscape character of the countryside. Overall, the basket of the most important policies for the determination of the proposal before me,

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<sup>3</sup> Paragraph 219.

taken as a whole, is not out-of-date, and the tilted balance as set out in paragraph 11d) of the Framework is therefore not engaged in this instance.

### **Conclusion**

18. The appeal proposal would enable the construction of four dwellings, and support the local economy to some degree. However, the site is located in an area where residential development would not normally be considered acceptable, and the appeal scheme would adversely affect the rural character of the locality, to which I ascribe great weight. For the reasons detailed above, there are no material considerations which indicate that the appeal should be determined, other than in accordance with the development plan. The appeal is dismissed.

*S Edwards*

INSPECTOR