



The Planning Inspectorate

Room 1404
Tollgate House
Houlton Street
Bristol BS2 9DJ

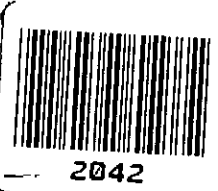
Direct Line 0117 - 987 8927
Switchboard 0117 - 987 8000
Fax No 0117 - 987 8139
GTN 1374 - 8927
E-mail ENQUIRIES.PINS@GTNET.GOV.UK

David R Pearce BSc FRICS
Land, Development and Planning Consultants
Lavender Cottage
Nettleton
CHIPPENHAM
Wiltshire
SN14 7NS

Your Ref:
LDC 108
Our Ref:
T/APP/J3910/A/97/281587/P9

AD 2042

Date: 12 NOV 1997



Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6
APPEAL BY MR M OSBORNE
APPLICATION NO: N.97.0242.F

1. I have been appointed by the Secretary of State for the Environment to determine this appeal against the decision of the North Wiltshire District Council to refuse planning permission for the erection of 2 no. dwellings and garaging, improvements to the highway and provision of parking facilities on land at Brook End, Luckington, Wiltshire. I conducted a hearing into the appeal on 14 October 1997.
2. Although the application submitted to the Council referred to improvements to the highway and provision of parking facilities, these works related to land outside the application site, although on land owned by your client. The Council determined the application insofar as it related to the two dwellings and garages, which would be located within the appeal site. I have determined the appeal on this basis, although I note that the works outside the site have now received planning permission. The use of reconstructed stone described on the application form has since been amended to natural stone and the Council confirmed that their objection to the proposed materials has now been resolved.
3. From the evidence given at the hearing, the written representations made and my inspection of the site and its surroundings, I consider that the principal issues in this appeal are the impact of the proposal on, firstly, the character and appearance of its surroundings, which are included within the Cotswold Area of Outstanding Natural Beauty (AONB) and the Luckington Conservation Area and, secondly, on highway safety.
4. The development plan consists of the approved North East Wiltshire Structure Plan incorporating Alterations 1 and 2 (1991) and the adopted North Wiltshire Local Plan (1993). Both documents distinguish between different types of village. Structure Plan policy H17 provides for small groups of houses within villages with a defined range of facilities and the Local Plan shows their frameworks, within which policy H8 normally permits new housing where it meets certain criteria. The appeal site is outside the defined framework of Luckington. In other villages, Structure Plan policy H18 and Local Plan policy H9 provide for very limited housing development within their physical limits where it would be in scale and character with the settlement. Policy H10 of the Local Plan does not normally permit new dwellings in the countryside outside the physical limits or framework of a settlement defined on the proposals map. Policies C3 and C7 together restrict new development in the



AONB to that essential to the rural economy or desirable for the enjoyment of the area's amenity, subject to criteria designed to reduce its impact on the landscape. Policy B2 reflects the duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas.

5. The North Wiltshire Local Plan Review has completed its inquiry stage. Policies RH10 and 11 reflect adopted policies H9 and H10 while extending the range of criteria which new development should meet, while policies RC2 and RB3 are similar to adopted policies C3 and B2 respectively. I have given weight to the emerging Local Plan in accordance with paragraph 48 of Planning Policy Guidance note (PPG)1 "General Policy and Principles".

6. You argue that the site is within the limits of Brook End and that policy H9 is therefore applicable to this appeal, while the Council contend that H10 is the relevant policy as it relates to development in the countryside outside villages. The Council accept that there is an element of confusion in the explanatory text to these policies in that the terms "settlement" and "village" are used interchangeably. However, the wording of policy H9 itself refers to "villages not the subject of proposal H8", while that of H10 relates to the countryside "outside the physical limits or framework of a settlement as defined on the proposals map". While Brook End is undeniably a settlement, it possesses no facilities normally associated with a village and its framework is not defined on the proposals map. I do not therefore consider that policy H9 relates to this appeal and in my judgement the relevant policy of the development plan is H10. I am required to decide this appeal having regard to the development plan and to make my determination in accordance with it unless material considerations indicate otherwise.

7. The Council conceded that one such material consideration is the advice in PPG7 "The Countryside - Environmental Quality and Economic and Social Development", published after the development plan, that "sensitive infilling of small gaps within small groups of houses....may be acceptable, though much would depend on the character of the surroundings". They agreed that such development can be accepted in principle within settlements to which policy H10 applies, and the explanatory text to policy RH11 of the emerging Local Plan also envisages that in some locations small groups of dwellings may be acceptable in very small settlements. You quoted three examples of recent permissions in such settlements. I therefore consider that infill development may be acceptable within settlements subject to policy H10 where it is in keeping with the character and appearance of its surroundings.

8. Brook End is a settlement of some 15 properties, located at the bottom of a steep valley and hidden from all but close views. Although there is some relatively modern development, including your client's bungalow, the hamlet consists largely of traditional cottages, both detached and in short terraces, sited close to the carriageway of the narrow lane which terminates at a ford to the south. The site is in a gap some 45 metres wide between one of these cottages and the bungalow to the north. Because of the proximity of these buildings and of steep banking both on the opposite side of the lane and across the stream to the east, the site appears to be an integral part of the hamlet rather than of its landscaped setting. I am satisfied that it can be properly regarded as a small gap within a small group of houses in the terms of PPG7.

9. The site is currently occupied by a long sectional concrete building some 6 metres from the carriageway and a tall implement shed faced in concrete blockwork and sited on the highway boundary. In my opinion, these buildings are jarring elements in an otherwise pleasant street scene. Your client is proposing to replace them by two detached stone houses set close together some 3 metres back from the highway. Together with their drives, these would occupy almost the whole width of the gap and in my view they would therefore reflect the traditional pattern of development of Brook End. The Council is concerned that the

houses would be higher than the cottage to the south by about 0.4 metres but I saw that the site is slightly lower than the cottage and so I consider that in views along the lane, the new and existing houses would appear to be of similar heights. Moreover, you have confirmed that it could be possible to lower the site by up to 0.5 metres as part of a detailed consideration of levels. The Council also object to the proposed gables on the front elevations as being out of character with traditional development, but I saw that similar features exist on 4 of the cottages and that others, including the extension under construction next to the site's southern boundary, possess gabled dormers. I therefore consider that the siting, height and design of the houses would harmonise with their surroundings.

10. You pointed out that restrictive policies relating to development in the AONB can be in conflict with housing policies, in that new housing can be permitted in villages within it. The Council accepted this conflict but confirmed that development is only permitted where it would not harm the landscaped setting of villages. In my view Brook End is such a small group of houses that it should be regarded as an integral part of the landscape and I consider that the pattern of traditional buildings close to the highway is part of the character of the AONB. In 1984 an appeal relating to an outline application for a dwelling occupying part of the site and land to the north was dismissed as the Inspector considered, amongst other matters, that the proposal before him would be to the detriment of the AONB. However, it differed from the current scheme in several respects, in that it involved a single dwelling within the gap and would have only resulted in the demolition of part of one of the buildings on the site. Moreover, the policy framework now permits infill development in such settlements in some circumstances. In my judgement the circumstances of this appeal differ from those in 1984 and I consider that the replacement of the existing buildings by housing which reflects traditional development at Brook End would enable the character of this part of the AONB to be conserved and enhanced.

11. The Luckington Conservation Area was designated in 1992 and this factor has also changed the policy framework since the previous appeal was dismissed. PPG15 "Planning and the Historic Environment" advises that "*Many Conservation Areas include gap sites, or buildings that make no positive contribution to, or indeed detract from, the character or appearance of the area; their replacement should be a stimulus to imaginative, high quality design, and seen as an opportunity to enhance the area.*" In my opinion, the site in its present condition and the existing buildings on it are seriously detrimental to the Conservation Area. I consider that the replacement of these buildings by the sensitive scheme which is proposed would both accord with advice in PPG15 and positively enhance the character and appearance of the Conservation Area.

12. In my opinion, the proposal would be well-related to the pattern and design of traditional properties in Brook End and, notwithstanding the provisions of policy H10, would be the type of sensitive infill development envisaged by PPG7 in such settlements.

13. I now turn to the issue of highway safety. Brook End is served by a narrow lane with an average width of some 3 metres and without footways. Over much of its length it is impossible for two vehicles to pass, and at times its effective width is further reduced by on-street parking, particularly serving those properties with no off-street space. In addition the lane possesses no turning facilities and, unless they use private drive entrances, vehicles have to reverse some distance before they can turn at the crossroads in the northern part of the hamlet. I saw that in particular commercial vehicles have to carry out these manoeuvres, which take place past cottages whose doors open directly on to the carriageway. In my view, these factors combine to produce hazardous conditions, and in my judgement traffic generated by any additional development would cause an unacceptable increase in these hazards.

14. Both parties accepted that improved turning and parking facilities would be required to address the existing hazardous situation before any additional traffic could be safely accommodated on the lane. Your client has received planning permission for the construction

of a parking and turning area on his land opposite the site, and for parking spaces to serve two other properties further to the north. These latter spaces are to be constructed in the near future. You agreed that the dimensions of the approved turning area would not permit service vehicles to adequately manoeuvre within it, but confirmed that it could be extended within land controlled by your client. In my judgement, the provision of these facilities would enable the existing hazards to be reduced to such a level that the traffic generated by the proposal would have no material impact on the safety of users of the lane.

15. The Council is also concerned about the use of the junctions on the B4040. They accepted that traffic flows on this stretch of main road are significantly less than those shown in their traffic count which was taken some 8 kilometres away, and included commuter and commercial traffic which do not use the road near Brook End. Moreover, it was agreed that recent traffic management measures in Malmesbury have reduced the number of goods vehicles using the road. I consider that this part of the B4040 is lightly trafficked and the Council, Parish Council and local residents confirmed that they knew of no accidents ever having occurred on this stretch of road.

16. Traffic from Brook End and from Sherston using the C93 joins the B4040 at one of two acute junctions, which allow safe use in one direction only. One of the elements of the existing use of these junctions is your client's agricultural traffic based at the appeal site, and the Council accepted that the use of the junctions by these slow moving vehicles is hazardous. They also accepted that this use would cease if the appeal is allowed. Both parties agreed that the visibility available at these junctions was below the standards recommended in PPG13 "Transport" but in view of the number of properties served by them, the reduction in use by agricultural traffic and the good safety record on this part of the main road, I consider that the additional traffic generated by 2 dwellings would have no material impact on the safety of the users of the main road. In my judgement, therefore, the proposal would not adversely affect highway safety, either on the lane within Brook End or on the B4040.

17. I conclude that the proposal would not harm the character and appearance of its surroundings, which are included within the Cotswold Area of Outstanding Natural Beauty. Moreover, it would enhance the Luckington Conservation Area and would have no material impact on highway safety. I therefore find it acceptable and I shall allow the appeal.

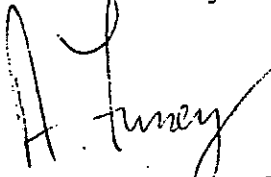
18. As I consider that a turning head and off street parking are essential to overcome objections on the grounds of highway safety, I shall require these to be provided and amended to cater for commercial vehicles before development commences. Details of ground and floor levels were supplied at the hearing, but the Council had no opportunity to consult the Environment Agency over their suitability in an area subject to flooding. I shall therefore impose the Council's suggested condition to enable this matter, and the height of the houses in relation to existing properties, to be adequately considered. I consider that the other conditions suggested by the Council are necessary in view of the sensitivity of the site, the possibility of flooding and the need to avoid pressure for parking on the highway. However, I consider that the suggestion that a sample panel of stonework be submitted can be encompassed in a requirement for the submission of details of all materials for approval.

19. The Council is concerned that the proposal would establish a precedent for more development at Brook End, but I consider that any other possible sites are either so small as to result in inappropriately cramped development or contain buildings of value to the Conservation Area. In my view, these factors, together with the particular circumstances of the proposal, prevent a precedent being set. I have taken into account all the matters raised in the representations, including the details of the discussions with the Council regarding housing land supply and the events leading up to the decision on the application. However, neither of these matters, nor any of the other matters raised, is sufficient to outweigh the conclusions which have led to my decision.

20. For the above reasons and in exercise of powers transferred to me, I hereby allow this appeal and grant planning permission for the erection of 2 no. dwellings and garaging on land at Brook End, Luckington, Wiltshire in accordance with the terms of the application (No N.97.0242.F) dated 24 January 1997 and the plans submitted therewith, subject to the following conditions:

1. the development hereby permitted shall be begun before the expiration of 5 years from the date of this letter;
 2. the development hereby permitted shall not commence until the parking spaces and turning area approved under planning permission N.97.0753.F have been provided, the turning space enlarged in accordance with revised details which shall have been approved by the local planning authority;
 3. no development shall commence until details of existing and proposed ground levels and of the finished floor levels of the dwellings and garages hereby permitted have been submitted to and approved by the local planning authority. The development shall be carried out in accordance with the approved details;
 4. no development shall commence until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved by the local planning authority. Development shall be carried out in accordance with the approved details;
 5. notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), the houses hereby permitted shall not be extended or altered, no building, enclosure, swimming or other pool shall be formed within their curtilages, and no garages shall be erected other than those expressly authorised by this permission;
 6. neither dwelling shall be occupied until the parking facilities have been constructed in accordance with the approved plan. The facilities shall thereafter be retained for such use.
21. An applicant for any consent, agreement or approval required by a condition of this permission has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the authority fail to give notice of their decision within the prescribed period.
22. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than Section 57 of the Town and Country Planning Act 1990.
23. Your attention is drawn to the provisions of Section 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires consent to be obtained prior to the demolition of buildings in a conservation area.

Yours faithfully



Antony Fussey JP BSc(Hons) DipTP MRTPI
Inspector

APPEARANCES

FOR THE APPELLANT

Mr D R Pearce BSc FRICS Planning Consultant, of Land, Development and Planning Consultants, Lavender Cottage, Nettleton, Chippenham, Wilts SN14 7NS.

Mr M Osborne The appellant, of Brookend, Luckington, Wilts.

FOR THE PLANNING AUTHORITY

Mr D Holliday Senior Planning Officer, North Wiltshire District Council.

Mr J E Harding Senior Assistant, Highway Development Control Section, Wiltshire County Council.

INTERESTED PERSONS

Mr L Werrett Chairman, Luckington Parish Council, of 15 Holletts Gardens, Luckington, Wiltshire.

Mr J Thomson District Councillor, of East Lodge, Pinkney, Malmesbury, Wiltshire.

Mr R Boutflower Brookend Cottage, Luckington, Wiltshire.

Mr K Findlay Osbornes, Brook End, Luckington, Wiltshire.

Mr T Osborne 24 Ormeau Way, Devizes, Wiltshire.

Mr P Story Southend Farm, Luckington, Wiltshire.

DOCUMENTS

- 1 - List of persons present at the hearing.
- 2 - Council's letter of notification of the hearing and list of persons notified.
- 3 - Letters of representation.
- 4 - Extract from adopted Local Plan, showing paragraph 2.18.
- 5 - Correspondence between Wiltshire County Council and the Department of the Environment.
- 6 - Notes of Housing Round Table Session 16 July 1996.
- 7 - Local planning authority's submission to Local Plan inquiry.

- 8 - Appendices 1 - 9 to Mr Holliday's statement.
- 9 - Appendices A - D to Mr Holliday's supplementary statement.
- 10 - Appendices I - IV to Mr Pearce's statement.
- 11 - Appendices 1 - 5 to Mr Harding's statement.
- 12 - Conditions suggested by the Council.

PLANS

Application plans

- A - LDC.108.01C Site layout and location plan.
- B - LDC.108.02C Plot 1 (floor plans only).
- C - LDC.108.03A Plot 2 (floor plans only).
- D - LDC.108.04 Street elevation.
- E - LDC.108.020 Plot 1: elevations.
- F - LDC.108.030 Plot 2: elevations.
- G - LDC.108.40 Garage details.

Other plans

- H - Local Plan proposals map.
- I - LDC.108.05 Proposed car parking and turning area.
- J - LDC.108.01E Levels and sections.
- K - Set of plans showing the boundary of the AONB and sites of recent planning permissions.