



Appeal Decision

Site visit made on 5 October 2020

by Jonathan Manning BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29th October 2020

Appeal Ref: APP/Q3305/W/20/3251126

Land East of Somer Lea, Chilcompton, Somerset, BA4 3HE

- 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 Flower and Hayes Developments against the decision of Mendip District Council.
 - The application Ref 2019/3014/OTA, dated 13 December 2019, was refused by notice dated 11 March 2020.
 - The development proposed is erection of 7 number dwellinghouses with highway accesses derived off Somer Lea.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application was made in outline with all matters reserved for future consideration.

Main Issues

3. The main issues of the appeal are:
 - whether the appeal site offers a suitable location for the proposal, having regard to local and national planning policy;
 - whether the scheme would promote the use of sustainable modes of transport;
 - the effect of the proposal on the character and appearance of the area; and
 - whether the scheme would result in unacceptable flood risk.

Reasons

Whether an appropriate location having regard to local and national planning policy

4. The appeal site is located adjacent to the development limit boundary of Chilcompton. The scheme therefore conflicts with Policies CP1, CP2 and CP4 of the Mendip District Local Plan Part 1 (the LP) that seek to steer new development within identified development limit boundaries. However, the parties agree that the Council cannot demonstrate a five-year housing land supply and therefore the most important policies for determining the application are out-of-date. As a result, Paragraph 11 d) of the National

Planning Policy Framework (the NPPF) applies. This sets out that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. The 'tilted balance' is therefore engaged.

5. Given that the above policies that seek to restrict new housing development to within development limits are out-of-date the weight to be given to the scheme's conflict with them needs to be considered. The Council's most recent housing land supply statement identified that there is a 3.8 year housing land supply. It is therefore clear that the Council's spatial strategy is failing to provide for sufficient homes by some margin. I therefore consider that the conflict with Policies CP1, CP2 and CP4 of the LP should not weigh against the scheme. I will consider the sustainability of the proposal on its merits.

Sustainable transport modes

6. Chilcompton accommodates a broad range of local services and facilities and is identified as a primary village in Policy CP1 of the LP. The LP defines these as villages that offer key community facilities (including the best available public transport services) and some employment opportunities making them best placed to accommodate most new rural development.
7. Despite this, it was clear from my site visit that the majority of the local services and facilities in the village, including the Co-op shop, are located some distance to the south of the appeal site along the B3139. The appellant is of the view that the local services and facilities in Chilcompton are within a 800 metre walking distance of the appeal site. Manual for Streets (2007) notes that walkable neighbourhoods are typically characterised by having a range of facilities within 10 minutes' (up to about 800 metres) walking distance of residential areas, which residents may access comfortably on foot. However, Manual for Streets also sets out that this is not an upper limit and walking offers the greatest potential to replace short car trips, particularly those under 2 kilometres.
8. Local residents dispute the appellant's assertion in terms of the appeal site's distance to the main cluster of services and facilities and consider that they are well over 1 kilometre away in terms of walking distance. The appellant's view on walking distance appears to be based on a screen shot of google maps that has been inserted into the appellant's appeal statement. I am not convinced that having done so the map has remained to scale.
9. Having walked the route on my site visit, I am of the view that the distances set out in the local residents' representations are more realistic. This also appears to be supported by the Design and Access Statement (DAS) which supported the application, which states that the local pub, village hall, primary school, Co-op shop and medical surgery are between 13 and 17 minutes walk.
10. I am mindful that distance is not the only factor when considering whether walking is likely to be a feasible option for future residents of the scheme. The nature and attractiveness of the route will also play an important role. As set out above, I walked from the appeal site to the B3139 where the majority of services and facilities are located. There are no continuous footpaths along the route, with many narrow sections of road where one must walk along the road in close proximity to traffic. The route also only had patchy street lighting and

requires you to walk up Bowden Hill, which is relatively steep. Bearing all these factors in mind, I do not consider that walking would represent an attractive option to the majority of the local services and facilities in Chilcompton. For similar reasons, namely the narrow roads and steepness of Bowden Hill, I do not consider cycling would be an attractive mode of transport either.

11. There is an alternative route that utilises the Public Right of Way (PROW) to the south of the site. This would save some time and distance. However, it would not remove the need to travel along all of the narrow sections of road or up Bowden Hill. Further, the PROW is through fields with no lighting and, in itself, would not be an attractive route, particularly during the winter months.
12. In terms of public transport, the DAS refers to the 173 bus service and states that this offers journeys to Midsomer Norton, Radstock and beyond, including Bath and Wells, with access to the mainline railway to Swindon, South Wales, the South Coast and London. Further, the DAS notes that the closest bus stops are a 2 minute walk away.
13. I acknowledge that there are bus stops in relatively close proximity to the appeal site. However, to access these future residents of the scheme would still need to walk along narrow sections of road with no footpaths and patchy street lighting, close to traffic. Further, I do not have any information in terms of frequency of service and therefore it is not clear to me whether the service would offer a realistic option for future residents to commute to work for example. Having regard to the level of information before me, I am unable to conclude that the bus would represent an attractive alternative to the use of a private motor vehicle.
14. In conclusion on this matter and for all of the above reasons, I am of the view that future occupants of the scheme are likely to be heavily reliant on the use of a private motor vehicle for the vast majority of their day to day needs. The scheme does therefore not support the use of sustainable modes of transport as required by the NPPF. I consider that this weighs heavily against the scheme.
15. The appellant has noted that the proposed dwellings would be located close to many other dwellings who share the same level of access to local services and facilities. Whilst this is accepted, I am mindful that those dwellings would have been permitted sometime in the past during a different planning policy context. I am also not of the view that the presence of existing dwellings adjacent to the appeal site, whose occupants are more than likely heavily reliant on a private motor vehicle, provides any justification for permitting more housing that does not promote sustainable modes of transport.
16. I acknowledge that the Inspector for a previous appeal decision¹ on the appeal site for a similar development did not conclude that the appeal site was unsustainably located in terms of access to local services and facilities. However, the Inspector did not conclude that the site was appropriately located either. It is clear that this matter was not considered by that Inspector. The appeal decision does therefore not alter my findings.

¹ Ref. APP/Q3305/A/14/2222459

Character and appearance

17. The appeal site currently consists of a grass verge and part of an agricultural field. There are existing two-storey residential properties within the Somer Lea cul-de-sac to the west. To the north is Tunnel Lane with further residential development beyond and to the south is a single detached dwelling with fields beyond. To the east of the appeal site there are open fields that I observed rise up relatively quickly with countryside beyond.
18. Although there is one dwelling that extends further out into the field, I would not describe the site as 'infill' or 'rounding off' the cul-de-sac. Whilst this may not be a historic part of the village and the existing dwellings in Somer Lea have a suburban character dating from the 1970s, it was evident that this is a clear transition point from built development to the countryside that is separated by the road. Introducing further built development on the appeal site would erode this clear transition, causing harm to the character and appearance of the area. I am mindful that the Chilcompton Village Design Statement (2015) (the VDS) seeks to preserve such features.
19. Notwithstanding this, I do accept the appellant's view that the site is largely contained from the wider landscape by the steep sloping nature of the land to the east. As such, whilst there would be some harm to the character and appearance of the area, given its relatively enclosed nature, this would be limited.
20. In conclusion on this matter, the proposal would cause harm to the character and appearance of the area contrary to Policies DP1 and DP4 of the LP and the VDS. Due to the enclosed nature of the wider landscape, this carries a minor level of weight against the scheme.

Flood risk

21. The site is located in Flood Zone 1. However, the current Environment Agency long term flood risk map shows that there is a surface water flow route through the site from east to west which experiences flooding in medium and low risk events. This is shown on the second map within Appendix 10 of the appellant's statement.
22. Consequently, there is a need to provide an appropriate drainage strategy for the site. The appellant's final comments include further evidence on this matter, including soakaway testing. This confirms that water is likely to have to be attenuated above ground within the appeal site.
23. Whilst layout is a reserved matter, an indicative layout has been provided. However, this does not include an area for attenuation. It is unclear, from the evidence before me, how large such a feature would need to be and if this would affect the ability of the appeal site to accommodate 7 dwellings and associated infrastructure in a layout that would be acceptable. Given that I am unable to conclude that all necessary aspects of the appeal scheme can be delivered within the appeal site, I am of the view that it would not be appropriate to address this through either reserved matters or a planning condition.
24. In conclusion, I cannot be sure that the appeal scheme, including an appropriate drainage strategy, can be delivered in an acceptable manner, which would not increase flood risk within the appeal site or within the

surrounding area. The scheme therefore conflicts with Policy DP23 of the LP. This also weighs heavily against the scheme.

Other matters

25. The appellant has referred to several other appeal decisions² in support of their case. However, having looked at each of these, they all appear to be materially different to the specific circumstances and merits of this scheme and therefore I afford them little weight and they do not alter any of my conclusions set out above.
26. Interested parties have raised a large number of other concerns. However, as I am dismissing the appeal on other grounds, such matters do not alter my overall conclusion and have therefore not had a significant bearing on my decision.

Planning balance

27. It is agreed between the parties that the 'tilted balance' is engaged. The scheme would be located outside of the development boundary contrary to Policies CP1, CP2 and CP4 of the LP. However, for the reasons given above, this should not weigh against the scheme.
28. The scheme would provide 7 new market dwellings. Whilst I am mindful that the Council's housing land supply stands at 3.8 years and there is a general encouragement of small sites that can be delivered quickly within the NPPF (Paragraph 68), the provision of 7 market dwellings would only make a fairly modest contribution to addressing the sizeable shortfall. The appellant has also suggested that the new dwellings would enhance or maintain the vitality of Chilcompton. However, there is no evidence before me to suggest that the local services and facilities are struggling and I am mindful that Chilcompton has received a significant level of new housing development in recent times, as set out by several local residents. Given all of the above, I afford moderate weight to the social benefits of the scheme.
29. There would also be some economic benefits of the scheme, as set out in the appellant's statement. However, again, the benefits associated with 7 new market dwellings would be relatively modest. I therefore afford the economic benefits of the scheme limited weight.
30. The appellant is also of the view that there are numerous other benefits. However, these relate to the acceptability of the proposal in other regards and the lack of designations on the appeal site. I do not consider an absence of harm for other aspects of the scheme to represent benefits but are matters of neutral weight.
31. I have found that the scheme would not promote the use of sustainable modes of transport and local residents would likely be heavily reliant on a private motor vehicle. This carries a significant level of weight against the scheme. I have also identified that there would be minor harm to the character and appearance of the area.
32. Further, I am not satisfied that the scheme can be delivered within the appeal site whilst also providing a suitable drainage strategy. It is therefore not

² APP/Q3305/W/19/3236922, APP/U1105/W/18/3195007, APP/B3030/W/17/3169590 and APP/N1350/W/18/3208188.

possible to rule out an increase in flood risk within the appeal site or within the surrounding area. This also carries significant weight against the proposal.

33. When these are all weighed against each other, I consider that the identified harm significantly and demonstrably outweighs the benefits of the scheme.

Conclusion

34. For the reasons set out above and having regard to all other matters raised, the proposal conflicts with the development plan when considered as a whole. Further, the identified harm significantly and demonstrably outweighs the benefits of the scheme. The appeal is therefore dismissed.

Jonathan Manning

INSPECTOR