
Appeal Decision

Site visit made on 16 November 2020

by John Wilde CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 08 December 2020

Appeal Ref: APP/Q3305/W/20/3254721

**Land north of White Hayes Cottage, The Street, Chilcompton, Somerset
BA3 4HN**

- 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 Mr Thorner (Flower & Hayes Ltd) against Mendip District Council.
 - The application Ref, 2020/0330/OTA, is dated 13 February 2020.
 - The development proposed is the erection of residential development, new highway access, ancillary buildings and associated works.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The application was made in outline with all matters reserved for later determination.

Main Issues

3. The main issues are:-
 - a) Whether or not the proposed development would be in a suitable location with respect to access to services and facilities,
 - b) The effect of the proposed development on
 - i. the character and appearance of the area,
 - ii. flooding in the local area
 - iii. highway safety,
 - iv. protected species,
 - v. archaeological remains, and
 - c) Whether or not the proposed development would make suitable provision for education, affordable housing, public open space, sustainable urban drainage, travel plan measures and public footpath provision.

Reasons

Location

4. The appeal site is a field that lies at the very northern end of the settlement of Chilcompton. The site has existing properties to the west, on the other side of The Street, and immediately to the south, although to the north and east it is bordered by fields. Notwithstanding its proximity to existing housing, the site is outside of the boundary of the settlement and in planning terms is therefore within the countryside.
5. Chilcompton is classified as a Primary Village in the Mendip District Local Plan Part 1 Strategies and Policies (LP). Primary Villages are described as those with at least a primary school, a community venue, a shop able to meet a range of daily needs and a 'journey to work' bus service.
6. Core Policy 1 (CP1) of the LP advises that to enable the most sustainable pattern of growth in the district, the majority of development will be directed towards the five principal settlements of Frome, Glastonbury, Shepton Mallet, Street and Wells. In Primary Villages such as Chilcompton CP1 makes clear that new development should be tailored to meet local needs. The policy also specifies that development in the countryside will be strictly controlled.
7. The proposed development would therefore conflict with CP1 by virtue of being in the countryside. Furthermore, as I have not been provided with evidence to show that the proposed development has been tailored to meet local needs, even if the appeal site was within the settlement boundary, conflict with CP1 would also occur.
8. Chilcompton is a relatively large settlement and is spread out along a number of roads with the main facilities, a Co-op, school, pubs, village hall and sports pitches on the B3139 (Wells Road) some way from the appeal site. The walk from the appeal site to the nearest pub takes about fifteen minutes and is partly uphill, with an absence of footways along several stretches. The Co-op is further still and it follows that walking to the various facilities would be unlikely except in extremely clement weather. It is likely therefore that most trips to facilities would be by private car, and this would be along the relatively narrow roads which in turn could inhibit residents from walking or cycling. I acknowledge that there are two bus stops within easy reach of the appeal site, one with a service to Wells and one to Bath with buses running approximately hourly.
9. Notwithstanding the latter however, overall, given the spatial arrangement of the village, the distance to the various facilities and the gradients and lack of footways, I conclude that the appeal site cannot be deemed to be in an accessible location.

Character and appearance

10. Policy DP1 of the LP requires that all development proposals should contribute positively to the maintenance and enhancement of local identity and distinctiveness.
11. As previously stated, the appeal site is on the very northern edge of the village and is a field surrounded on two sides by further fields. The site slopes down to the road with a copse at its eastern limit and an existing hedgerow to the

north. The site therefore has a very rural aspect which would be replaced by a new housing estate. By virtue of the location the proposed development would be seen as an adjunct to the village rather than fully integrated within it. This cannot be seen as contributing positively to the enhancement of local identity and therefore conflict with DP1 would exist.

12. Having said that, policy DP1 also makes clear that where a development proposal would adversely affect or result in the loss of features or scenes recognised as being distinctive, this will be balanced against the significance of the feature or scene to the locality, the degree of impact the proposal would have upon it, and the wider benefits which would arise from the proposal if it were approved. I will return to this later.
13. Policy DP4 of the LP states that proposals for development that would significantly degrade the quality of the local landscape will not be supported. There is a caveat to this though, in that the policy makes clear that any decision making will take into account, amongst other things, the need for the development to take place in that location. Once again, I will return to this later in my planning balance.

Flooding

14. The Lead Local Flooding Authority (LLFA) raised concerns regarding the lack of a viable surface water drainage strategy (SWDS) for the proposed development. However, during the appeal process such a document was provided by the appellant. Although relatively brief this document confirms that surface water runoff from the site would be attenuated and be discharged downstream of any residential areas at risk of flooding. It also takes into account the upper end allowances for climate change and contains Micro Drainage modelling reports and a drainage maintenance plan. In light of this, and also taking into consideration the drainage condition proposed by the Council should I allow the appeal, I consider that there would be no significant increase in flooding in the area and therefore no conflict with policy DP23 of the LP. This policy requires, amongst other things, that development will incorporate appropriate water management measures to reduce surface water runoff and ensure that it does not increase flood risk elsewhere.

Highway safety

15. In respect of highway safety, the County Highways Officer commented that both a Transport Statement (TS) and Travel Plan (TP) should have accompanied the planning application, with the TS setting out the transport and highway issues associated with the proposed development.
16. During the appeal process a TS has been supplied. The TS looks at a range of issues including trip generation and accidents. Traffic from the proposed development would divide as it leaves the site with a maximum of 17 trips being generated in any one direction in the peak hours. This would amount to a vehicle movement about every three and a half minutes. There have been no personal injury collisions in the last five years. Overall, the TS concludes that there will be no significant traffic impact and that the low level of additional pedestrian demand would be adequately mitigated by the new footway proposed to the south of the proposed access and by a TP.

17. The application was in outline, and consequently the final mix of house types is not known. It seems to me therefore that the appropriate time for a TP would be at reserved matters stage, and this has been included in a condition proposed by the Council.
18. Overall, given the findings of the TS and in the absence of any significant evidence to the contrary, I conclude that the highway issue is not one upon which this appeal should fail. Consequently, there would be no conflict with policy DP9 of the LP, which seeks to ensure, amongst other things, that development proposals make safe and satisfactory provision for access by all means of travel.

Ecology

19. The Council were concerned that, whilst an ecological appraisal had been carried out which found that there was a likelihood of bats and dormice on or transiting the site, no actual surveys had been carried out. However, I have now been supplied with an Ecological Survey (ES), carried out by Crossman Associates, which confirms the existence of various species of bat including the Greater and Lesser Horseshoe Bats, although no Dormice were observed.
20. The survey recommends a series of mitigation measures including a maximum lighting level along the northern and eastern boundaries of the site and landscape buffers and planting. The Council have also suggested conditions requiring a Landscape and Ecological Management Plan and a lighting design that could encapsulate the findings of the ES. In light of these measures there would be no conflict with policies DP5 or DP6 of the LP. The former of these requires that development proposals ensure the protection, conservation and, where possible, enhancement of internationally designated species. The latter requires that applicants provide all necessary information to enable compliance with the Habitats Regulations.

Archaeological remains

21. The Council consider that the appeal site could contain underground heritage assets and as such further archaeological assessments should be carried out. In respect of this I have been supplied with a Gradiometer Survey carried out by Southwest Geophysical and Floatation Services on behalf of the appellant. This survey noted a linear trend running ESE-WNW across the site and also the possibility of two filled in mineshafts. No other historical assets were recorded. I also note that the Council have suggested a pre-commencement condition requiring a scheme of archaeological work. In light of these matters there would be no conflict with policy DP3 of the LP. This seeks to ensure, amongst other things, that proposals affecting a heritage asset demonstrate an understanding of the significance of the asset.

Planning Obligation

22. I have been supplied with a signed and dated Unilateral Undertaking (UU). This would ensure the provision of ten affordable houses, with eight of these being rented and two being in shared ownership. This is in line with the requirements by the Council under policies DP11 and DP19 of the LP.
23. The UU would also result in the provision of Public Open Space and a contribution of £14551.36 towards a Multi-Use Games Area, in accordance with policy DP16 of the LP. The UU also provides for an education contribution of

£239,036 in line with policy DP19 and a contribution of £1000 towards the Council's costs of monitoring the agreement. I also note that the UU provides for the preparation of a Travel Plan and a sustainable drainage scheme.

24. The presence of the UU therefore overcomes the third main reason for refusal as detailed at the top of this decision letter.

Previous decisions

25. My attention has been drawn to several previous decisions. In the Butleigh decision¹ I note that the site was allocated for housing in the emerging Local Plan, and although this plan is not yet adopted the Inspector attached significant weight to this matter. The proposed development at Colyton² involved the removal of a condition to allow for residential use of four holiday lets and was in a different authority. The Eakring decision³, also in a different authority, involved nine eco houses and the inspector gave considerable weight to their environmental performance, low running costs, controlled occupancy and by the creation of an ecologically enhanced publicly enhanced green space. The Sadberge⁴ decision was in a different authority and involved the erection of only one bungalow. Overall, I consider that these decisions involve sufficient differences to the development before me such that they do not constitute, either individually or in combination, a compelling precedent for allowing the current appeal.

Planning balance

26. The Council cannot demonstrate a five year supply of housing sites and consequently, by virtue of footnote 7 of the national Planning Policy Framework (the Framework), planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
27. The benefits would be significant, with up to 32 new dwellings added to the Council's housing stock. I also give considerable weight to the ten affordable units that would result. These matters would go towards achieving the Framework's aim of significantly boosting the supply of homes. There would also be benefits in respect of the economic and social aspects of sustainability.
28. Issues such as flooding, highway safety, ecology and archaeology are required by policy and are therefore neutral in the planning balance.
29. Against the considerable benefits has to be balanced the adverse effects. In this respect I have found that the proposed development would not be in an accessible location and would therefore conflict with policy CP1 and also with the environmental limb of sustainability.
30. There would also be harm in respect of character and appearance and potential conflict with policies DP1 and DP4. In respect of policy DP1 the proposal would not contribute positively to the maintenance and enhancement of local identity as required by paragraph 1 of the policy. In terms of paragraph 3 of the policy, I have discussed the benefits of the appeal above. The site itself is of a very

¹ APP/Q3305/W/19/2326922

² APP/U1105/W/18/3195007

³ APP/B3030/W/17/3169590

⁴ APP/N1350/W/3208188

rural nature and topography and is on the very edge of the village, bordered by fields, the degree of impact would therefore be significant.

31. Under paragraph 3 I also have to take into account the need for the proposal to be in this location. I have already taken into account that the Council cannot demonstrate a five year supply of housing sites, the supply being 3.8 years, which is significantly below that required. However, I also note that, in the LP, Chilcompton was allocated 70 dwellings between the years 2006 and 2029 and that up to 2017 156 dwellings had already been completed or granted consent. Therefore, whilst acknowledging the deficit in the Council's 5 year housing land supply and the need to significantly boost housing, I am not persuaded that there is an absolute need for the proposal to take place in this location. It follows that conflict with policy DP1 exists. Given that policy DP4 also requires a balance between harm and the need for the development to take place in the particular location, conflict would also exist with this policy.
32. In arriving at this conclusion, I note that paragraph 78 of the Framework makes clear that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities and that development in one village may support services in a nearby village. However, I have been given no evidence to show that the vitality of Chilcompton is in any way compromised. In fact, the required educational contribution is because the local school is at capacity.

Conclusion

33. Overall, given the conflict with policies CP1, DP1 and DP4, and more particularly my conclusions regarding the location of the appeal site with respect to local services, I conclude that the adverse effects identified significantly and demonstrably outweigh the benefits. The proposed development cannot therefore be deemed to be sustainable development and, taking into account all other matters raised, the appeal should be dismissed.

John Wilde

INSPECTOR