



Appeal Decision

Site visit made on 28 October 2024

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 November 2024

Appeal Ref: APP/E3335/W/24/3338836

**Land east of Somer Lea, The Street, Chilcompton, Radstock, 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 Mr R Thorner of Flower and Hayes Ltd against the decision of Somerset Council.
 - The application reference is 2023/1332/OUT.
 - The development proposed is the erection of residential development up to 7 dwellings, new highway accesses, ancillary buildings and associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The original application was for outline planning permission, with all matters reserved, albeit a drawing was submitted that depicts a layout and section (drawing ref: 191_SK_13). Both the Council and the appellant have referred to this drawing as being illustrative, with all matters being reserved. For the avoidance of doubt I have considered the appeal on the same basis, that is, all matters being reserved for future consideration.

Main Issues

3. The main issues in this case are:-
 - the effect of the proposal upon the character and appearance of the area;
 - whether the site would be in a suitable location for residential development having regard to national and local planning policy; and
 - whether the proposal would result in an unacceptable flood risk.

Reasons

Character and Appearance

4. The appeal site is positioned to the eastern side of a residential cul-de-sac and comprises a deep grass verge and part of a large pasture field that sweeps steeply uphill towards a former railway line. The houses along Somer Lea are mostly semi-detached of similar ages and styles, with a detached house and its garden at the end of the cul-de-sac. There are two protected beech trees near

to the junction of Somer Lea with Tunnel Lane, and there are other mature trees and hedges growing along either side of the lane.

5. Notwithstanding the appellant's description of the site as being infill, I would concur with the findings of the Inspector for a previous appeal on the site (Ref: APP/Q3305/W/20/3251126), in that the scheme would neither be infill nor rounding off of the cul-de-sac. Although the detached dwelling and its garden extends into the field, the property has a clear visual link and relationship with those nearby, as it continues the row of houses at the end of the cul-de-sac.
6. The linear nature of the site could allow the provision of a row of houses as shown on the illustrative drawing, and this would reflect the position of those to the other side of the cul-de-sac. Near to the appeal site the village has an essentially linear nature, being informed by the roads and the river. Fields and paddocks are near to the rear of the buildings and there is a clear and defined transition between the built realm and the countryside. The abrupt immediacy of this relationship is a feature of the area, with the preservation of views of the countryside around the village being a key aim of the Chilcompton Village Design Statement (2015) (DS).
7. As identified by the previous Inspector, the site would be largely contained from the wider landscape by the steep slope that exists beyond the appeal site, and the nearby trees and hedgerows could be retained so as to maintain the distinctive verdant nature of the area. Despite this containment, the scheme would erode the clear transition that exists between the countryside and the built realm. As such there would be harm to the character and appearance of the area, but given the relatively enclosed nature of the site, this harm would be modest.
8. The appellant has drawn my attention to outline permission for an urban extension to a nearby town (application ref: 2021/1480/OTS). A scheme for up to 270 dwellings would be of a significantly different size to that proposed and would extend a large town rather than a village. Given this fundamental and significant difference, this permission does not form a binding precedent for allowing the appeal.
9. The scheme would result in harm to the character and appearance of the area, and the suggested conditions would not overcome this harm. There would be conflict with the requirements of Policies DP1, DP4, and DP7 of the Mendip District Local Plan Strategy and Policies (2014) (LP), and the guidance in the DS. These seek, amongst other things, attractive places, development that contributes positively to the maintenance and enhancement of local identity and distinctiveness, and that which does not significantly degrade the quality of the local landscape, thereby reflecting objectives of the National Planning Policy Framework (the Framework).

Location

10. Chilcompton has a variety of community facilities, public transport services, and employment opportunities, albeit many of these, including the village shop, are not near the appeal site. It might be that many would be within a 13 – 17 minutes walk away, as described by the appellant, but although the Street is lit, the footways are intermittent, and in places the road is narrow. Pedestrians and cyclists would have to be alert to passing traffic at all times, including taking avoidance measures. As this is a main route through the village walking

or cycling along it to nearby services may not be an attractive option for some, and particularly so given the steep hill that exists to the south.

11. For this appeal the appellant has provided details of the bus services that future occupiers could use, pointing out the proximity of nearby bus stops and that hourly services occur every day apart from Sundays to nearby towns and cities. The frequency of the service would provide an alternative option to using private vehicles, and there is a public footway to one side of the Street that would afford pedestrians with a safe route to the bus stop.
12. Walking or cycling to nearby facilities, services and employment may not be an attractive option for some future residents, but the proximity of the nearby bus stops and the frequency and range of the service, would provide an alternative to private vehicles. Future residents would also bring the benefit of enhancing or maintaining the vitality of the rural community. On balance the scheme would be the sustainable places sought by LP Policy DP7 and the Framework.

Drainage

13. There is a surface water flow route through the site, resulting in medium to low risk flood events. Testing has demonstrated that soakaways would not be viable on the site, and a Surface Water Management Plan has been devised by the appellant to protect the development from upstream surface water flood risk and also to reduce downstream flood risk. Runoff generated by the scheme would go into an on-site attenuation tank with restricted discharge into the River Somer. Parking areas would be permeable paved, and an earth bund or land drain would be constructed at the eastern boundary of the site to intercept runoff from the upstream catchment, directing it to nearby vegetated areas.
14. Despite all matters being reserved, the illustrative layout has been used to provide a preliminary drainage layout. Nevertheless, the particular circumstances of this case are that a number of uncertainties remain, and it is unclear whether these issues could be satisfactorily addressed through reserved matters and conditions. These uncertainties include that the Surface Water Management Plan has been based on illustrative amounts of proposed permeable paving. Who would own and manage the attenuation tank, bunds, and drains, has not been established, and if privately managed, no details of how this is to occur or who will undertake ongoing management and maintenance has been provided. Consent to connect to either the highway drainage network or to that of Wessex Water has not been established, nor has it been demonstrated that existing infrastructure and the River Somer could accommodate the flows arising from the development.
15. Furthermore, the land rises towards the east and it could be that any engineering works, including land levelling or raising, could impact upon water flow. The illustrative layout shows the attenuation tank outside the root protection areas for the protected trees, but these areas are tightly drawn and do not reflect that the trees are growing on a bank near to a road, factors which would impact upon their root spread. In addition, in the nine years since the appellant's arboricultural report (Hillside Trees Ltd 2015) the protected trees would have grown. Whilst the appellant considers conditions could protect the trees, having regard to the linear nature of the site they would pose constraints to any development near to them, and how they would be impacted by the scheme has not been demonstrated with any certainty.

16. Given these concerns, it cannot be assumed that the proposed approach would be adequate to deal with surface water run-off on-site for the lifetime of the development and that it would not cause flooding, including to elsewhere. This is a significant harm that weighs heavily against the scheme. There would be conflict with the requirements of LP Policy DP23 which requires amongst other things, that development will be expected to incorporate appropriate water management measures to reduce surface water run-off and to ensure that it does not increase flood risk elsewhere, objectives which reflect those of the Framework.

Other Matters

17. Local residents have raised a number of concerns, including increased traffic levels in the area, insufficient parking, loss of a public footpath, and impacts upon privacy. However, following my findings on the main issues, I have no need to consider these matters further.

Planning Balance

18. The Council cannot demonstrate a five-year housing land supply, and the Framework requires that in such circumstances planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.
19. An additional, up to seven, open market dwellings would make a small but important contribution to the Council's housing supply, given the level of significant shortfall of provision in the Council's area (at about 3.76 years). Future occupiers would make a modest contribution to supporting local services and facilities and their viability, and they would have alternative means of transport to the private car. In addition to these modest social, economic, and environmental benefits, there would be modest, albeit time limited, economic benefits arising from the construction of the dwelling and from the New Homes bonus.
20. Weighing against these benefits would be the modest harm to the character and appearance of the area, and the significant harm deriving from the uncertainties surrounding the drainage strategy. These weigh heavily against the proposal, and particularly so with the drainage matters as it remains unresolved as to whether the development would result in an increased flood risk, both within the site and the surrounding area. LP Policies DP1, DP4, DP7, and DP23 are broadly consistent with the Framework, as the Framework also requires development to be sympathetic to local character, to reduce surface water run-off, and to ensure that it does not increase flood risk elsewhere.
21. The appellant has also pointed out that there are no historical or environmental designations upon the site. However, the absence of any such harms is not a benefit of the scheme, but rather a matter of neutral weight.
22. Whilst a key aim of the Framework is to significantly boost the supply of housing, when read as a whole the Framework does not suggest this should happen at the expense of other considerations. The adverse impacts in this case amount to cumulative harm which carries substantial weight and this significantly and demonstrably outweighs the modest social, environmental and economic benefits that arise from the scheme, including the weight from the

provision of up to seven additional homes, when assessed against the policies in the Framework as a whole. It follows that the presumption in favour of sustainable development does not apply.

Conclusion

23. For the above reasons the adverse impacts arising from the scheme would significantly and demonstrably outweigh the aforementioned benefits, and the suggested conditions would not overcome these harms. The scheme would conflict with the development plan when considered as a whole, and there are no other considerations, including the requirements of the Framework, that outweigh this finding.
24. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR