

Appeal Decision

Hearing held on 30 November 2016

Site visit made on 30 November 2016

by Rory Cridland LLB (Hons), Solicitor

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

Decision date: 26 January 2017

Appeal Ref: APP/F0114/W/16/3154927

Land South of Loves Hill, Timsbury, Somerset BA2 0ES

- 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 Mrs E Russell & Mrs M Osborne against the decision of Bath & North East Somerset Council.
 - The application Ref 15/04980/OUT dated 5 November 2015, was refused by notice dated 9 May 2016.
 - The development proposed is the erection of up to 45 dwellings, construction of new vehicular access and provision of associated highway and drainage infrastructure, open space and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development above is taken from Section E of the appeal form, which differs from that of the original application. It was confirmed at the hearing that this altered description has been agreed by the main parties.
3. The application is made in outline with matters relating to appearance, landscaping, layout and scale reserved for later consideration. I have therefore treated all plans as illustrative other than where they relate to access.
4. The Council's emerging Placemaking Plan has been submitted for examination with an interim report expected in the near future. However, while I note the views of local residents, and acknowledge the time and effort of those involved in developing the candidate sites, that plan is not yet adopted policy and remains at a relatively early stage of development. Furthermore, I understand that there are a number of outstanding objections to the identified sites within Timsbury that are yet to be resolved. I therefore agree with the main parties that the Placemaking Plan should be afforded limited weight in the determination of this appeal.

Background and Main Issues

5. The appeal site is located on the western edge of Timsbury, a village designated within Policy RA1 of the Core Strategy¹ (CS) as suitable for expansion by around 50 new homes during the plan period. The site itself was identified within the Bath and North East Somerset (BNES) Strategic Housing

¹ Bath and North East Somerset Core Strategy (2014)

Land Availability Assessment (2013) (SHLAA) as a potential site for housing. However, the site was subsequently disregarded and not carried forward for inclusion in the more recent Placemaking Plan.

6. The Council accepts that, subject to the imposition of appropriate conditions or planning obligations, the means of vehicular access proposed and the impact on the road network are acceptable. Furthermore, it considers that, in view of its location adjoining the settlement, there are no strategic policy reasons to resist the principle of development on this site. Nevertheless, although it is satisfied that the indicative layout demonstrates that a development of the scale proposed is achievable, it raises concerns regarding the impact on the character and local distinctiveness of the landscape, the village itself and on the nearby non-designated heritage asset known as Lynch House.
7. I therefore consider the main issues to be the effect of the proposal on the character and appearance of the surrounding area and on Lynch House.

Reasons

Character and Appearance

8. The appeal site lies just outside the housing development boundary of Timsbury and is situated on the western edge of a natural plateau upon which much of the village has developed. It forms part of the 'Hinton Blewett and Newton St Loe Plateau lands'². Although the land rises to the north, it slopes steeply south towards the Cam Brook Valley ("the Valley") while undulating more gently along its western edge.
9. The site itself consists of an open field separated by a mature hedge which runs centrally from north to south. It is screened along its southern and western boundaries by field hedges and a number of mature trees which partially obscure the site in views from the surrounding area. The northern part of the site is crossed by a public right of way which continues out towards the neighbouring field and provides access to the wider network of footpaths within the Valley. It is accessed via an existing field gate which fronts onto Loves Hill Road, a narrow, enclosed lane which is characteristic of roads in this part of the county. It forms part of the less well developed western approach to the village and, although enclosed by mature vegetation along the boundary, it occupies a prominent position on the brow of the hill.
10. CS Policy CP6 seeks to, amongst other things, conserve and enhance the distinctive character of the area. Likewise, Policy NE1 of the BNES Local Plan³ (LP) restricts development which does not either conserve or enhance the character and local distinctiveness of the landscape. The appellant has argued that this policy does not accord with the guidance set out in Paragraph 113 of the National Planning Policy Framework ("the Framework") in that it is not a criterion based policy. However, the Framework does not preclude policies being set out in this manner. Furthermore, its purpose and intended outcome is generally consistent with the Framework as a whole which seeks to conserve and enhance the natural environment. As such, I afford it considerable weight.

² As identified in the Council's adopted Supplementary Planning Guidance entitled 'Rural Landscapes of Bath and North East Somerset: A Landscape Character Assessment' (2003)

³ Bath and North East Somerset Local Plan (including minerals and waste policies) (2007)

11. The proposed scheme would result in significant alterations to Loves Hill Road in order to provide safe access. It would involve the removal of around 80 metres of hedging with the plans indicating replacement hedging being sited further back to accommodate the necessary highways improvements. Cumulatively, these modifications, while acceptable in highway terms, would significantly alter the existing approach to the village, resulting in a modern, urban form of development.
12. The appellant has submitted a Baseline Landscape and Visual Impact Appraisal ("BLVIA") which asserts that the proposals conform to the existing pattern of settlement and which indicates that the site itself is not visible through the existing boundary hedge⁴. However, it is the high hedges along the site boundary which positively contribute to the overall sense of enclosure along this rural approach and which are a key characteristic of roads within the local landscape⁵. While I note that the BLVIA considers the overall sensitivity of the visual receptors to be medium-low, the removal of a large section of this screening would expose the site, significantly eroding the distinctive character of the western approach. Although the plans indicate replacement hedging, this would take some time to become fully established and provide a comparable level of screening. In the intervening period the site would be far more open and its *impact* on the western approach would be considerable.
13. Turning then to the visual impact from the nearby Public Footpath (FP) CL21/31, the site would be visible to walkers both when approaching the field and from within the site boundary. While I acknowledge that the site is obscured along its western boundary by existing hedging, much of which the plans indicate would be retained, as the BLVIA recognises, the proposed dwellings would nevertheless be visible above the hedge. With walkers having a high susceptibility to change, even with the additional landscaping proposed, the impact of the change would be considerable. The new dwellings would be visible above the hedge line and would appear in stark contrast to the existing rural outlook which contributes significantly to the overall setting of Lynch House (a matter to which I return below). They would appear as a prominent addition to the surrounding landscape which would further erode the rural character of this side of the village.
14. I note that the appellant's Landscape and Visual Impact Statement (LVIS) asserts that views towards the village from the wider area are limited by landform, vegetation and existing built form. This is supported by a number of photomontages which indicate that views of the site from within the Valley itself are limited and, to a large extent, screened by the existing boundary vegetation. Nevertheless, while I acknowledge that the screening and set back position would go some way to reduce the visibility of the site within the wider landscape, I do not agree that the proposed dwellings would appear indistinct. Instead, the upper levels of the proposed houses would be clearly identifiable from a number of vantage points including Paulton Hill and areas of higher ground to the south of the Cam Valley.
15. While I acknowledge that it would, to some extent, appear as an extension to the village, the appeal site forms an integral part of the surrounding

⁴ Other than at the site access

⁵ Supplementary Planning Guidance entitled 'Rural Landscapes of Bath and North East Somerset: A Landscape Character Assessment' (2003)

landscape, providing a degree of separation between the more urban settlement to the east and the wider rural landscape. Its extension westward would close the gap between the existing dwellings in Greenvale Drive and the more rural landscape to the west. This would detrimentally impact on the landscape and result in the loss of an existing feature which currently makes a positive contribution to rural character. Furthermore, while I note that the plans indicate additional landscaping along the southern boundary, the existing screening is not particularly dense. As such, I am not convinced that it would be sufficient in the short to medium term to mitigate the resultant harm.

16. On balance, I find that the proposed dwellings would negatively impact on the distinctiveness of both the character of the village itself and its wider landscape setting. Consequently, I consider that the proposal would fail to conserve or enhance both the distinctive character of the area or the wider landscape and, as such, would be in conflict with CS Policy CP6 and LP Policy NE1.

Lynch House

17. The Council has raised concerns regarding the impact of the proposal on the setting of Lynch House, an attractive 18th century isolated field barn which is situated to the south west of the appeal site and identified by the Council as a non-designated heritage asset. Its significance is derived from its agricultural origins as a rural farm building with its isolated position forming an intrinsic part of the building's rural and agricultural history. It is visible from a number of public vantage points, including the existing access along Loves Hill Road and FP CL21/31, and positively contributes to the rural character of this part of Timsbury. Furthermore, it is highly prominent from within the Valley itself and makes a valuable and positive contribution to the wider landscape. In wider views, it appears as an integral part of the landscape with both its rural and historical significance clearly evident.
18. The proposal would close the gap between the existing dwellings in Greenvale Drive and the more rural setting of Lynch House. I have already found above that the closing of this gap would have a detrimental impact on the character of the landscape. For similar reasons, I consider it would be harmful to the rural and isolated setting of Lynch House. The introduction of more modern, urban development in close proximity to this heritage asset would materially alter its setting, removing the existing sense of isolation which significantly contributes to its overall significance and prominence. Furthermore, when viewed from FP CL21/31, the upper levels of the proposed dwellings would be prominent within the landscape. They would appear in stark contrast to the rural and isolated setting of Lynch House and would exacerbate the detrimental impact on its significance within the wider landscape.
19. The appellant's Heritage Statement recognises that the building and its curtilage has remained unchanged for more 150 years. However, it suggests that it lost its sense of relative isolation during the early to mid-19th century as a result of its use as a dwelling. In support of this, I have been provided with an extract of the 1886 edition Ordnance Survey (OS) map which labels the building as 'Lynch Cottage'. While it is generally accepted that OS maps provide a good indication that a particular feature shown existed when the land was surveyed, they do not provide conclusive evidence that a particular building was used for a particular purpose and are therefore of limited evidential value.

Furthermore, I have not been provided with any information on the extent of the alterations to the original building and as such cannot fully assess their impact. Nonetheless, it is clear from viewing the building that alterations are likely to have been limited and have not compromised its isolated setting. It still appears as an isolated late 18th century field barn which has retained its open and rural setting, giving it a sense of relative isolation in respect of its relationship with both the village and the wider landscape.

20. Paragraph 135 of the Framework advises that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. Furthermore, in weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement is required having regard to the scale of any harm or loss and the significance of the heritage asset itself. In addition, the Framework makes clear that *all* heritage assets are an irreplaceable resource and that in determining applications, decision makers should take account of the desirability of new development making a positive contribution to local character and distinctiveness.
21. In this case, I consider the impact of the proposal on the setting of Lynch House to be significant. It would materially alter the setting of that asset, impacting on its significance both in close up views and within the wider landscape. In eroding its isolated setting, the proposal would have a considerably negative impact on both the setting of the asset and its wider contribution to local character and distinctiveness.
22. Accordingly, I consider the proposed scheme would fail to conserve or enhance the historic environment or make a positive contribution to local character and distinctiveness. This would be contrary to both CS Policy CS6 and the guidance set out in the Framework.

Other Matters

23. The parties agree that the proposal would alter the relationship between the site and Greenhill House, a non-designated heritage asset located on the north side of Loves Hill Road. However, the Council accepts that any impact would be minimal and would not affect the setting or significance of that building. Likewise, the parties agree that there would be no perceptible impact on the Grade II listed gates, piers and flanking walls of nearby Rosewood Manor, which is situated some distance to the north of the appeal site. I agree with that assessment and have seen nothing which would lead me to conclude otherwise. A lack of harm in this respect does not, however, weigh positively in favour of the proposal.
24. My attention has been drawn by a number of local residents to the potential impact on the surrounding highway network. However, while I note that the conclusions of the appellant's Transport Statement have been challenged by a number of interested parties, no robust evidence has been submitted to demonstrate that the methodology employed or conclusions reached are materially flawed. Accordingly, I concur with the Council that, with suitable improvements to the access, any resultant impacts on the local highway network can be adequately mitigated.

Planning balance

25. Timsbury is identified by the CS as suitable for an additional 50 dwellings during the plan period. However, it is silent as to where these dwellings are to be located. Paragraph 14 of the Framework advises that in where the development plan is silent, there is a presumption in favour of granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
26. The scheme would deliver a substantial proportion of Timsbury's housing allocation for the plan period on what the Council accepts is a sustainable site. Furthermore, I have been provided with a Unilateral Undertaking which would secure 40% of the dwellings as affordable homes. This would make a meaningful contribution towards addressing the village's currently unmet affordable housing need. I afford these benefits a considerable amount of weight.
27. In addition, it would provide a number of other benefits, including the provision of jobs during construction (including a scheme of targeted recruitment and training), improvements to the highway network, public open space and access to the countryside. However, the majority of these are site generated and are intended to mitigate the harm which would result directly from the proposal itself. Likewise, the appellant has pointed to the increased use of local facilities which would support the rural economy. While I acknowledge that the addition of such a sizeable number of dwellings to the village would contribute to the local economy, there is no robust evidence which would indicate that it would have any material impact on its overall vitality. As such, I afford these benefits limited weight.
28. Nevertheless, I have found above that the proposal would be materially harmful to the distinctive character of both the village itself and the wider landscape. Furthermore, I consider it would have a considerably negative impact on the setting of Lynch House, eroding its isolation and materially impacting on its significance within the landscape. On balance, I consider that, taken together, the resultant harm would significantly and demonstrably outweigh the benefits set out above.

Conclusion

29. For the reasons set out above, I conclude that the appeal should be dismissed.

Rory Cridland

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mrs E Russell	Appellant
Dr George Nash	Heritage Consultant
Mr Paul Harris CLMI	Landscape Consultant
Mr Andrew Winstone DipTP MRTPI	Planning Agent

FOR THE LOCAL PLANNING AUTHORITY:

Mr Chris Gomm	Planning Officer
Ms Caroline Waldron	Landscape Officer
Mr Andrew Sharland	Landscape Architect

INTERESTED PERSONS

Mr W Bertram	Local Resident
Mr J Griffin	Local Resident
Mr P Griffiths	Local Resident
Ms V Packham	Timsbury Parish Council
Mr C Gittins	Timsbury Parish Council
Mrs S Clarke	Local Resident
Mr T Arnold	Local resident

ADDITIONAL DOCUMENTS SUBMITTED AT THE HEARING

The Timsbury Letter (published by Timsbury Parish Council (Feb 2016)).