
Appeal Decision

Site visit made on 20 March 2017

by Gareth W Thomas BSc(Hons) MSc(Dist) PGDip MRTPI

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

Decision date: 7th April 2017

Appeal Ref: APP/D3315/W/16/3162999

Land to the south of Knapp Lane, North Curry, Somerset

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Strongvox Homes against the decision of Taunton Deane Borough Council.
 - The application Ref 24/16/0042, dated 3 August 2016, was refused by notice dated 13 October 2016.
 - The development proposed is for residential development of 20 dwellings (including 5 affordable dwellings) and provision of public open space, children's play area and allotments (revised scheme to 24/16/0007).
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Decision

1. The appeal is allowed and planning permission is granted for residential development of 20 dwellings (including 5 affordable dwellings) and provision of public open space, children's play area and allotments on land to the south of Knapp Lane, North Curry, Somerset in accordance with the terms of the application, Ref 24/16/0042, dated 3 August 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 15.20.00; 15.20.01M; 15.20.02H; 15.20.03A; 15.20.04A; 15.20.05A; 15.20.06A; 15.20.07A; 15.20.08A; 15.20.09B; 15.20.10C; 15.20.12; 15.20.13; 15.20.14; 15.20.15; 15.20.16; 15.20.17; 15.20.18; 15.20.19; 15.20.20; 15.20.21; 15.20.22A; 15.20.23; 15.20.24; 15.20.25; 15.20.26; 15.20.27B; 15.20.28; 15.20.29; 15.20.30; 15.20.31, and ; 15.20.33A.
 - 3) No building hereby permitted shall be constructed above slab level until samples of all external surfaces of the development hereby permitted have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
 - 4) No building hereby permitted shall be constructed above slab level until sample panels measuring 1m x 1m of all new facing brickwork showing the proposed bricks, face-bond and pointing mortar have been provided on site and approved in writing by the local planning authority. The
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- development shall be carried out in accordance with the approved sample panels.
- 5) There shall be no obstruction to visibility greater than 300mm above adjoining road level in advance of lines drawn 2.4m back from the carriageway edge on the centre line of the access and extending to points on the nearside carriageway edge 43m either side of the access. Such visibility shall be fully provided before the development hereby permitted commences and shall thereafter be retained at all times.
 - 6) The proposed roads, including footways, pathways and turning spaces within the site shall be completed to consolidated base course level prior to occupation of any dwelling on site.
 - 7) No building hereby permitted shall be constructed above slab level until a scheme for the upgrading of footpath Ref 17/50 as identified in the Transport Assessment dated February 2016 prepared by Transport Planning Associates including provision for its connection into the site shall be submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until footpath Ref 17/50 has been upgraded and a suitable connection provided in accordance with the approved scheme.
 - 8) No dwelling shall be occupied until a Travel Plan, including a timetable for implementation and periodic review has been submitted to and approved in writing by the local planning authority. The Travel Plan shall be implemented as approved.
 - 9) No development shall commence until details of both hard and soft landscape works, including the positions, design, materials and type of boundary treatment to be erected, have been submitted to and approved in writing by the local planning authority. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the commencement of development, or as otherwise extended with the agreement in writing of the local planning authority. The agreed boundary treatment shall be completed before the building or area to which it relates is brought into use and shall thereafter be retained as such. Any trees or plants which within a period of 5 years from the completion of each agreed landscape phase die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
 - 10) A children's play area shall be provided and details of the equipment to be provided shall be submitted to and approved in writing by the local planning authority and the area laid out within 18 months of the date of commencement unless otherwise agreed in writing by the local planning authority and shall be used solely for the purpose of children's recreation.
 - 11) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the

assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 12) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed houses and finished levels of the bases of the attenuation pond and adjacent open space, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 13) The development hereby permitted shall not be commenced until details of a strategy to protect and enhance the site for wildlife has been submitted to and approved in writing by the local planning authority. The strategy shall be based on the recommendations of Ethos Environmental Planning's Ecological Assessment Report dated February 2016 and include:
- (i) Details of protective measures to avoid impacts on protected species during all stages of development;
 - (ii) A further survey for badgers;
 - (iii) Details of the timing of works to avoid periods of work when wildlife could be harmed by disturbance, and;
 - (iv) Measures for the enhancement of places of rest for wildlife.

Once approved the works shall be implemented in accordance with the approved details and timings of works, unless otherwise approved in writing by the local planning authority. The development shall not be occupied until the scheme for the maintenance and provision of the new bird and bat boxes and related accesses have been fully implemented. Thereafter the resting places and agreed accesses shall be retained for such purposes.

Application for costs

2. An application for costs was made by Strongvox Homes against Taunton Deane Borough Council. This application is the subject of a separate decision.

Preliminary matters

3. This proposal is a re-submission of a similar proposal that was recently dismissed at appeal¹. The Inspector at that appeal narrowed down her

¹ APP/D3315/W/16/3155452

objection to the design and siting of the proposed affordable housing units that comprised part of the development for 20 dwellings and opined that the development would cause harm to the character and appearance of the area. In so doing, she concluded that the development would not comprise sustainable development in the terms set out in the National Planning Policy Framework but only in the limited terms set out in her decision. Under other matters, the Inspector considered the issue of housing supply at considerable length despite the Council having only recently adopted its Site Allocations and Development Management Policies Plan (SADMPP) and her findings that there would only be limited conflict with Policy MIN7 that allocated the majority of the site for around 20 dwellings.

4. Although the appellant believes the Inspector had evidence before her that the Council was unable to demonstrate a five years' supply of deliverable housing sites, I do not intend to rehearse housing supply issues given that my colleague, correctly in my view, applied Paragraph 49 of the Framework but in so doing, narrowed her focus as stated above.
5. The Council draws my attention to the fact that the Inspector following Local Plan examination found that the Council "ought to be able to meet the requirements for housing set out in the adopted Core Strategy". Given the planning balance that was undertaken by the previous Inspector, which has not been disputed by either party in this appeal, I do not believe the outcome of the current appeal should hang on whether there is a demonstrable five years' supply of housing and this is reflected in the Council's reasons for refusal and in the main issues to this appeal.
6. The requirement to demonstrate a five year supply is not an upper limit.

Main Issues

7. The main issues in this appeal are:
 - the extent to which the scheme would breach the Council's settlement strategy for the area;
 - the effects on the character and appearance of the area, and;
 - the effects on conditions of highway safety.

Reasons

Settlement Strategy

8. The appeal site comprises a relatively flat field enclosed on each side by mature hedgerow on the north western edge of North Curry. Fronting Knapp Lane at a slightly higher level Lane, the site adjoins existing residential development on its north-eastern and eastern sides and a public footpath runs beyond the site's south western boundary linking Knapp Lane with Town Farm and Chapel Close. Beyond the public footpath are open fields.
9. The proposal would see the erection of 20 houses together with a children's play space (LEAP), allotments, public open space and an attenuation pond. The development would link with the public footpath at its southernmost point. Five of the twenty units would be affordable.

10. North Curry is identified as a Minor Rural Centre in the Taunton Deane Core Strategy (CS). Policy SP1 of the CS sets out the broad strategic housing requirement shared between a number of settlements, including North Curry. The SADMPP allocates land to meet the housing requirements and includes detailed development management policies. Within the SADMPP, the appeal site is identified as an allocated site for around 20 dwellings and in the design brief supporting SADMPP, it is explained that housing here should only be located on the north eastern half of the site with the remainder retained for recreational purposes, including informal open space and formal play area, sustainable drainage and landscaping buffer. The Inspector in the previous appeal concluded that whilst part of the development would protrude into the area that was intended to be set aside as a recreational buffer, including the 'softer' elements described above and would thereby be in conflict therewith, her overall conclusions, having considered the landscape evidence in some detail, was that the proposed buffer was sufficient in size to soften the impact of the built development proposed. Having considered the evidence before me, I agree with her findings and note that the "buffer" proposed in this appeal has actually been further extended.
11. In response to Inspector Kirby's concerns, the proposed layout in this appeal has been amended such that the previously rather isolated affordable housing element has now been relocated to within the site and the recreational buffer extended to include the balancing lagoon. In these regards, the revised scheme is therefore better aligned to the requirements set in the Design Brief that accompanies SADMPP Policy MIN7, particularly in terms of the extent of the landscape buffer. Following consideration of the appellants' landscape evidence, supported by a comprehensive site visit, like the Inspector before me, I too agree with the Council's Landscape Officer that the development can be satisfactorily assimilated into the local area with only minimal landscape and visual effects.
12. CS Policy SP1 requires new housing development within Minor Rural Settlements such as North Curry to include an appropriate balance of market and affordable housing. The Council considers that the lack of 2 bed open market housing would fail to promote social balance. However, this issue was not raised previously. I also note that the Council's Housing Enabling Officer was satisfied with the *mix proposed* and the affordable units that would be provided through a section 106 Obligation. I see no policy conflict with the proposed mix and cannot see any justification for this aspect of the Council's objection. Neither do I believe that the proposed mix would be significantly at variance with the National Planning Policy Framework that sets out to deliver high quality homes and widen opportunities for home ownership.
13. I therefore conclude that the proposal would not conflict with the settlement strategy set out in CS Policy SP1 whilst the scheme now before me would not undermine the requirements of Policy MIN 7 of the SADMPP, which seeks to ensure that development of this site incorporates, amongst other things, adequate strategic landscaping sufficient to prevent harm to the wider landscape.

Character and appearance

14. In summary, Policy DM1 of the CS requires proposals for development to not lead to unacceptable harm to the appearance and character of any settlement or street scene.
15. The Council's concerns in relation to this main issue relates to an alleged conflict in the design and appearance of the houses when compared to existing neighbouring dwellings. But this view is in direct conflict with the views expressed in the planning officer's report to Planning Committee that explained that the designs and materials of the houses would be in keeping with the village and not dissimilar to another nearby development.
16. The site is not within the designated North Curry Conservation Area (CA). The appellants' Historic Environment Assessment nevertheless explains that the village has a nucleated centre focussed around a village green and a range of 18th century terraced brick and rendered cottages that creates a strong local vernacular despite the perimeter setting of the CA having been built out with modern housing development. The traditional elements of the village comprising two storey terraced houses with steeply pitched roofs, narrow gables, porch features and simple casement windows are captured in the appellants' Design and Access Statement, which provide a template for the design submission. I would agree with the appellants that the design of the proposal reflects the character of traditional dwellings in the village through echoing the form, height of eaves and ridges, window types and use of traditional materials.
17. The Council's objection in this regard is unconvincing and is lacking in any evidence. By contrast, I am satisfied that the proposal respects the pattern, form and appearance of the village and its general densities and in turn reflects its scale and character. I conclude that the development as proposed complies with Policy DM1 of the CS and would protect the appearance and character of the area.

Highway Safety

18. It is proposed that the appeal site would be accessed from Knapp Lane, which provides 2.4m x 43m visibility in both directions. CS Policy DM1 seeks to ensure that additional road traffic created by new development proposals should not lead to overloading of access roads or create road safety problems.
19. It is noted that following the positive advice of the County Council's Highways Officer, the planning officer recommended approval of the application, concluding that the proposed additional traffic movements that would be created following implementation of the development would not constitute a severe impact in capacity and safety that would warrant an objection being made on highway grounds. This was the same conclusion reached on the previous scheme. In reality, this is an entirely new issue raised by the Council.
20. As part of the application, the appellant submitted a Transport Statement, which has been assessed by the local highway authority (LHA). The LHA in acknowledging the deficiencies of the junction of Knapp Lane with The Shambles, nevertheless considered that the proposal would not lead to an unacceptable increase in traffic at this junction.

21. The Council has not provided contrary evidence to demonstrate that the proposal would pose unacceptable risks to highway safety. It has however appended data and video stills that were supplied by interested parties that suggest that the traffic generation figures and nature of traffic using the narrow streets in North Curry, particularly the activities associated with farm vehicle movements are more extensive and different to the information included in the appellants' Transport Statement. However having received this late information, it is surprising to me that the Planning Committee did not defer consideration to enable this information to be considered. Instead, the Committee took this information on face value and introduced yet another new reason for refusal, which was also a departure from its previous view.
22. Whilst I have no reason to refute this late evidence, it does not affect my findings on the matter of highway safety. I accept that the nature of traffic using roads within North Curry and surrounding rural hinterland will inevitably include agricultural vehicles. I also accept that it would have been useful for the LHA to have been given the opportunity to comment on the additional information submitted by interested parties. However based on the corroborated evidence before me and what I observed during my lengthy site visit, I do not consider that the traffic generation arising from the proposed development would result in an adverse effect on highway safety. This was also the view of the previous Inspector and has been the consistent view of the local planning authority hitherto both in terms formulating its development plan and site allocation and in the determination of the previous planning application.
23. It is noted that the Transport Statement did not include details of a Travel Plan that would promote a range of measures to support and encourage sustainable travel and thereby reduce the use of private cars. Although there can be no guarantees as to its effectiveness given the rural nature of the area, it is appropriate to promote sustainable transport and I am satisfied that such Travel Plan can be secured by way of a planning condition.
24. I have not seen any compelling evidence that the proposed development would give rise to issues of highway safety either during construction or in operational phases of the scheme thereafter. Consequently, I conclude that the proposed development would comply with Policy DM1 of the CS.

Conditions and Obligations

25. A list of conditions has been suggested by the Council and some by the appellants. I have considered these against the advice contained in the Planning Practice Guidance (PPG) and have deleted some on the grounds of necessity whilst revised others for reasons of clarity. In addition to the standard time limit for commencement of development, I have attached a condition specifying approved plans to provide certainty. I have included conditions requiring prior approval of materials, including sample panels of facing brickwork to be constructed on site in the interests of character and appearance.
26. Conditions requiring the provision of a suitable access, the construction of roadways, footways, pathways and turning areas within the site to base course level early in the development and the provision of the upgrading of the footpath to provide satisfactory access to the village from the site are imposed in the interests of highway safety and amenity. A requirement for the

- submission and approval of a Travel Plan is necessary to promote sustainable transport modes.
27. In the interests of character and appearance and in order to properly assimilate the development into the local landscape, a landscaping scheme is necessary to include boundary treatment on site.
28. In order to fulfil the ambitions of the Design Brief, a condition is necessary to ensure that details of the children's play space are submitted for approval and the space subsequently provided is necessary in the interests of living conditions of future occupiers.
29. A condition is also imposed requiring the provision of sustainable surface water drainage measures in the interests of living conditions and to prevent flood risk. A condition for similar reasons is included that requires agreement to the finished levels of dwellings, the balancing pond and play area.
30. In order to protect wildlife and enhance wildlife habitats, a condition requiring the provision of suitable measures and further surveys is considered necessary.
31. I do not consider that a condition is necessary for obscure glazing to bathroom or hall windows as it would not serve a useful planning purpose and no such condition has been included. Neither do I consider that prior approval of small scale meter housing is necessary as serving a useful planning purpose.
32. A signed Unilateral Undertaking under section 106 of the Town & Country Planning Act is now in place. Paragraph 204 of the Framework, the Planning Practice Guidance and Regulation 122 of the CIL Regulations require that planning obligations should only be sought, and weight attached to their provisions, where they are: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
33. The signed s106 Agreement requires the provision of 25% of the dwellings to be affordable in perpetuity. It also requires the open space, including the LEAP and allotments to be provided in accordance with a scheme to be approved by the Council together with a the payment of a commuted sum equivalent to the costs of maintaining the land for 20 years in the event of the Council or its nominated body acquiring the land the subject of the open space
34. Support for the contributions in the Unilateral Undertaking is set out in Policies CP4 of the CS and Policy C2 of the SADMPP. I am satisfied that the proposed contributions are necessary, directly related, and fairly and reasonably related in scale and kind to the proposed development, in accordance with CIL Regulation 122. I have therefore attached weight to them in reaching my decision.

Conclusion

35. For the reasons set out above and having considered all other matters raised, I conclude that this appeal should be allowed.

Gareth W Thomas

INSPECTOR