The Planning Inspectorate

Appeal Decision

Hearing Held on 11 December 2018

Site visit made on 11 December 2018

by Richard S Jones BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 January 2019

Appeal Ref: APP/D0121/W/18/3206914
Former Weston Trade Centre, Knightcott Road, Banwell BS29 6HS

- 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 Bourton Ltd against the decision of North Somerset Council.
- The application Ref 17/P/2111/O, dated 14 July 2017, was refused by notice dated 12 January 2018.
- The development proposed is an outline application for demolition of existing buildings and redevelopment to provide up to 47no. dwellings with associated hard/soft landscape works, access improvements, parking and drainage.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was made in outline with matters relating to appearance, layout, landscaping and scale reserved for future consideration. I have determined the appeal on the same basis and treated the illustrative site plan accordingly.

3. The Council has confirmed that the supporting technical information provided in support of the appeal demonstrates a viable and sustainable drainage strategy for the proposal and on this basis has withdrawn its second reason for refusal. It was therefore confirmed at the hearing that drainage strategy drawing number EVY 0709/P1/003 Rev B would supersede proposed SUDS drainage plan drawing number 16.042 – 102. In consideration of this information I am also satisfied that an appropriate drainage strategy could be achieved to deal with the increased surface water disposal that would arise.

4. Additional and amended highways information was submitted to the Council in advance of the hearing, including revised access proposals and a revised illustrative site layout to reflect those changes, as well as a road safety audit. At the hearing it was confirmed that it is proposed that I supersede access arrangement and visibility splays drawing number 1744 01A with drawing numbers: 1744 04 Rev C; 1744 05 Rev B; 1744 TR01 Rev B; 1744 TR06 Rev A; 1744 TR07 Rev A; 1744 TR010 and 1744 TR011. It is also proposed that illustrative site layout plan 16.042-101 be replaced by 16.042 – 101A.

5. The Council confirmed at the hearing that the Parish Council and interested parties had been given opportunity to comment on the revised details and that

no written responses were received. I am therefore satisfied, in applying the 'Wheatcroft Principles', that I am able to accept the amended plans and determine the appeal on the basis of the same.

6. The Council also confirmed at the hearing that the road safety audit and the revised and additional drawings resolve its reasons for refusal 3, 4 and 5, relating to highway safety matters. Based on the same information and my observations on site, I find no reason to take a contrary position.

Main Issue

7. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

8. The appeal site is located on the south side of the A371/Knightcott Road, within the open countryside, approximately 265m to the east of the defined settlement boundary of Banwell. There are a number of commercial uses and residential properties in the vicinity, which comprise the small hamlet of Knightcott.

9. The site is currently used for vehicular sales and for open storage, primarily of cars, HGV's, buses and containers. Consequently, much of the appeal site is made up of areas of hardstanding and gravel, along with storage and office buildings. The site slopes moderately from its northern Knightcott Road frontage to the south. A public right of way (PRoW) cuts through the south east corner of the site.

10. The front part of the site adjoins existing built development, both to the east and west. The rear part of the site adjoins arable fields to the east which extend to the settlement boundary of Banwell. There is also an arable field to the south of the appeal site that rises up to High Street, a rural road. To the west the rear part of the appeal site abuts a manège and fields grazed by horses. The Mendip Hills Area of Outstanding Natural Beauty (AONB) is approximately 200m to the south of the appeal site.

11. The front part of the site benefits from an extant outline planning permission[1] for 10 dwellings granted in February 2016. The corresponding area of land was subsequently included within the Council's brownfield land register. An 'L' shaped area of the appeal site to the south of this land was granted planning permission in February 1990 for the open storage of tractors and agricultural machinery, together with the construction of a loading ramp. The Council has not included this part of the site within its brownfield land register. It contains no buildings whilst the loading ramp occupies a relatively small area. The area is hard surfaced but as stated in the glossary to the National Planning Policy Framework (the Framework) for previously developed land, it should not be assumed that the whole of the curtilage should be developed.

12. Land to the west and south of the area of the 1990 permission is also being used for open storage. Although the appellant explained that a Council Enforcement Officer visited the site in 2008, it was agreed at the hearing that there is no relevant planning history applicable to this site and no Certificate of Lawfulness had been sought for its use. In the absence of such evidence I

[1] Planning application ref: 15/P/0968/O

cannot conclude that this significant part of the appeal site amounts to previously developed land.

13. During the hearing the Council provided a Historic Landscape Characterisation plan for Knightcott and Banwell. The Council state that this shows the front part of the site to fall within the core settlement area of Knightcott. Because the colours used to define this are quite similar, it is very difficult to verify this in the plan Key. Moreover, the precise status of the plan is unclear. It therefore carries little weight. Nevertheless, the front part of the site is bounded by a mixture of land uses including commercial and residential. The approved 10 dwelling scheme would therefore essentially infill the ribbon pattern of development along this part of Knightcott Road where there is a relatively high degree of visual containment on both sides.

14. In contrast, the appeal scheme would clearly and significantly extend beyond this rear parameter of built development along Knightcott Road, into the parts of the site which are mostly bound by open pastoral fields. I recognise that layout is reserved for future consideration, but nevertheless, it has not been demonstrated that there is a reasonable prospect of designing a scheme for up to 47 dwellings on this site which would avoid appearing as a harmful projection of urbanising development into this area of countryside. I do not consider that the illustrated layout submitted does so. Even if the density were to be similar to that approved for the front part of the site, the effects at the rear would be markedly different. My findings on this matter are largely consistent with those of the Inspector in the dismissed appeal decision[2] for 33 dwellings at this site in February 2014.

15. The appellant confirmed during the hearing that the landscape and visual impact assessment (LVIA) considered two storey dwellings as a 'worst-case' scenario but would be happy for single storey dwellings in certain parts of the site. However, the harm identified by the previous Inspector related to a scheme with dwellings ranging from 5m to 9m in height.

16. I accept the findings of the LVIA insofar as the site is most visible from the relatively close-range views from the PRoW that cuts across the fields to the south and east. I appreciate that the PRoW does not provide an immediate link to the AONB, nevertheless, as highlighted by the Inspector for the land south of Knightcott Road appeal decision[3] there are very attractive views of Banwell Hill when walking along it. He further highlighted this to be a very alluring rural scene and the close impression of this part of the AONB to be of considerable quality. These observations are consistent with my own. That Inspector also highlighted that the path appeared to be popular with those out enjoying the rural scene. On this basis, I consider the LVIA has understated and the sensitivity of the visual receptors using the PRoW and should be categorised as high.

17. The LVIA does acknowledge that there would be significant adverse visual effects from direct views immediately adjacent to its boundaries, from the PRoW. It is stated that the view in these locations would change substantially, with built form visible above existing and new trees and hedgerows to the site's boundaries.

[2] Appeal ref: APP/D0121/A/13/2205742
[3] Appeal ref: APP/D0121/W/15/3138816

18. Notwithstanding that the increased visibility of the site in recent years has been caused by the removal of a significant amount of natural boundary screening, I accept that its present use detracts from the character and appearance of the area. Although the 1990 permission specifically refers to the open storage of tractors and agricultural machinery, I've not been made aware of any conditions which restrict the height of the storage or indeed precisely control what can and cannot be stored. Nevertheless, there are no structures of notable height in this part of the site. Whilst at the time of my site visit there were three containers stacked on top of each other, it was confirmed that this was carried out to assist in gauging scale. Indeed, there appeared to be no space constraints that would necessitate their stacking. Moreover, I have no evidence to suggest that this would be a common occurrence or the potential future direction of the storage business. Therefore, save for a number of larger vehicles, such as double decker buses, the items stored in the open are fairly low level.

19. Consequently, in views from the area around the access to the PRoW from Knightcott Road, the stored items were largely screened. In contrast the roofs and potentially the upper parts of the first floor of the dwellings would be visible above the screening, even with the double buffer provided by the public open space. The permanency of the housing would also draw much more attention than the open storage and would be conspicuous and visually intrusive in this highly attractive landscape setting with the AONB beyond.

20. In closer views from the east, the storage is more visible due primarily to the gap in the screen planting. However, this area would not benefit from the proposed open space buffer and the indicative layout shows flats close to this part of the boundary. I recognise that this could change but I have no indication that this part of the site would be undeveloped. Moreover, for the remainder of the length of this boundary, the storage is largely screened.

21. The harm would also extend beyond the area of the 1990 permission into land which presently has no lawful planning status for storage and as such has no fallback position. This includes the parts of the site which project furthest into the countryside setting and closest to the PRoW.

22. From the south the open storage is clearly visible in approaching views along the PRoW. However, at the time of my site visit the most obtrusive aspects were the stacked containers. These do not appear in viewpoint picture 7 of the LVIA and the visual effects of the storage is materially reduced. I accept that the approved 10 dwelling scheme would be visible in these views, however, those dwellings would be largely seen to infill the existing gap along the Knightcott Road frontage. Although the appeal scheme would not obstruct views of the wider, rolling landscape to the north, it would bring the built development significantly closer to the PRoW and would be much more dominant and intrusive. From High Street, public views of the development would be largely restricted to the field gate at the access point to the PRoW.

23. Against the current appearance of the site I agree with the findings of the LVIA that there would be a slight improvement to the visual effects from the North along Knightcott Road, although this would be compromised as views through the site to the lower parts of Banwell Hill would be obscured. The visual effect of the development from the PRoW, which in my judgement would be significant adverse, would clearly outweigh this benefit. Moreover, the visual

benefits from the north could be achieved from the implementation of the approved 10 dwelling scheme and without the harm arising from the projection of the current scheme.

24. The 2005 Landscape Character Assessment (LCA) referred to in the previous appeal decision and in the Council's first reason for refusal has been superseded by an updated version adopted in September 2018. The appeal site remains in the 'J2: River Yeo Rolling Valley Farmland' landscape character area, which is characterised by a generally peaceful pastoral landscape with intact hedgerows and hedgerow trees, a network of rural roads and scattered stone farmsteads. This assessment is essentially the same as that highlighted by the Inspector for the previous appeal decision.

25. The 2018 LCA does highlight that the character has been considerably urbanised to the west particularly beyond the M5. The overall strength of character is categorised as moderate and in good condition but weak to the west of the M5 and in declining condition. Although the site is situated towards the western extent of the J2 character area, it does not lie beyond the M5. In my judgement the area around the appeal site is largely reflective of the character assessment and there is no clear distinction in the LCA to indicate that the strength of character has been downgraded in this area.

26. The Council has drawn my attention to paragraph 6.3.7 of its Landscape Sensitivity Assessment which forms part of the evidence base for its new Local Plan. This refers, in part, to the land to the west of Banwell which forms the gap between the village and Knightcott for which it is stated has high sensitivity. In my view this primarily relates to the pastoral land immediately adjacent to the appeal site, rather than the appeal site itself. Moreover, the nature of this document is such that I am only able to attribute limited weight to it. Nevertheless, the Inspector dealing with the aforementioned appeal for the development of the adjacent pastoral land found it to form part of a valued landscape.

27. I accept that the site itself has few of the defining characteristics of the character area due primarily to its open storage use. However, for the reasons explained, it does not undermine the quality of the receiving landscaping to the degree suggested, whereas the proposal would be harmful to the setting of the adjacent valued landscape.

28. I have considered the appellant's proposals to overcome the previous Inspector's concerns regarding pressure from future occupiers to remove trees to improve sunlight and to achieve an outlook towards the AONB. Clearly, if many of these trees have already been removed or thinned, there would be no or lesser pressure for their removal. However, it is proposed to supplement the existing boundary screening with new planting, thereby returning the features likely to come under pressure.

29. I acknowledge that separating the enhanced boundary screening from the gardens of the nearest houses would assist in removing the direct threat to the removal of trees. However, these pressures are likely to continue on any management company, for the reasons highlighted. Moreover, any benefits derived over the previous scheme from addressing this issue would be outweighed by the additional harm arising from the increase in dwelling numbers and associated land take.

30. I have noted the intention to use extra heavy standard trees, which would accelerate the screening benefits. Nevertheless, the tops of the housing would still be very noticeable and uncharacteristic features which would undermine the quality of the receiving landscape. Moreover, the evidence before me does not demonstrate that this harm could be acceptably mitigated by utilising vernacular materials and design features.

31. Consequently, I consider that the LVIA has also understated the landscape effects and does not demonstrate that significant harm to the character, distinctiveness, diversity and quality of North Somerset's landscape would be avoided. Indeed, the previous Inspector's conclusions that such harm would arise and that the proposal would not conserve the rural pastoral character of landscape Area J2, are also applicable to the current appeal scheme.

32. For these reasons the appeal proposal would be significantly more harmful to the character and appearance of the area than the combined effects of the fallback position of the approved 10 dwelling scheme and the area of the 1990 permission for open storage.

33. The appellant has drawn my attention to two planning permissions, one at Roughmoor[4] and one at Waites Farm[5]. The former is for the conversion of the existing buildings into residential accommodation and would not therefore introduce new build housing to the west of the site.

34. For the latter, the permission is for the conversion and extension of an existing barn to create one dwelling, the replacement of two existing farm buildings with one new building creating a single dwelling and a further building to create two dwellings and the change of use of agricultural land to domestic gardens. On the basis of the plans provided to me, there does not appear to be a significant net increase in the extent of built form over the existing. Moreover, the buildings would all be located towards the Knightcott Road frontage, well within the existing parameters of built development.

35. Consequently, neither of these permissions would materially affect how the most harmful aspects of the proposed development in the southern part of the site would be perceived. They therefore carry very limited weight in its favour.

36. I therefore conclude that the proposal would result in unacceptable harm to the character and appearance of the area, contrary to Policy CS5 of the North Somerset Council Core Strategy (CS), Policy DM10 of the North Somerset Council Development Management Policies Sites and Policies Plan Part 1 (DMP) and to the 2018 LCA. These state, amongst other matters, that the character, distinctiveness, diversity and quality of North Somerset's landscape will be protected and enhanced.

Other matters

37. I note the Council's conclusion that the development would not be likely to result in a significant effect on the integrity of the North Somerset and Mendip Bats Special Area of Conservation. Based on the evidence before me, I find no reason to take a contrary position.

[4] Planning application ref: 16/P/1862/F
[5] Planning application ref: 16/P/2173/F

Planning Balance and Conclusions

38. It is common ground that the Council is unable to demonstrate a five year supply of housing land. The effect is that the tilted planning balance of paragraph 11d(ii) is triggered. It does not necessarily affect the weight which should be applied to the Council's housing policies. This is a matter for the decision-maker with paragraph 213 of the Framework stating that due weight should be given to relevant policies in existing plans according to their degree of consistency with it.

39. CS Policy CS14 deals with the distribution of new housing across the settlement hierarchy. It prioritises housing at Weston-super-Mare followed by the other Towns and then at 'Service' villages. It states priority will be given to the re-use of previously developed land (as does CS Policy CS1). However, for the reasons explained, this would not be applicable to a significant part of the appeal site.

40. Furthermore, although Banwell is identified as one of the 'service villages', the appeal site is situated some distance from the settlement boundary in the open countryside. CS Policy CS33 states that development outside the areas covered by other specified Policies will be strictly controlled to protect the character of the rural area and prevent unsustainable development. It continues to state that new residential development will be restricted to specific circumstances, none of which are applicable to the appeal proposal.

41. The location of the proposed housing would not therefore be consistent with CS Policies CS14 and CS33. Although these policies do not apply substantial weight to the value of utilising brownfield, they are otherwise consistent with the Framework and I attach significant weight to them.

42. In any case, the substantial weight for brownfield land in paragraph 118c) refers to land within settlements. Although the front part of the site could reasonably be considered to form part of the settlement of Knightcott, the rear part of the site clearly projects beyond the existing built core. Consequently, it would not be appropriate to apply substantial weight in favour of the land beyond that which already has planning permission for 10 houses.

43. Even on the basis that the land included within the 1990 planning permission is previously developed land, it should not be assumed that the whole of that curtilage should be developed. Moreover, the development and the extent of the harm would significantly extend beyond that which could be considered previously developed land. Consequently, this diminishes the support for the use of the same from the Framework and CS Policy CS1, in considering the scheme as a whole. It also diminishes the extent of the combined fallback position for 10 houses and open storage. Furthermore, it also limits the weight which can be applied to the arguments over the current appearance of the site, insofar as they apply to the areas which could not be considered as previously developed land.

44. Moreover, I note the previous Inspector's view was that he did not consider that appeal scheme would make effective use of land because it would result in a development that would harm the local landscape. I too have found that the current proposal would result in significant harm to the rural landscape character and appearance of the area, contrary to CS Policy CS5 and DMP Policy DM10.

45. Reference is made in the appellant's evidence to proposals for a 'garden village' as part of the Draft Joint Spatial Plan for the West of England (JSP) on greenfield land to the north-west of Banwell and that this would have a far greater visual and landscape impact than the appeal proposal. However, it was agreed at the hearing, having regard to the stage of the plan, that I should apply only limited weight to this proposal. I agree.

46. Nevertheless, I accept that the development would promote and support the development of under-utilised land and as such garners support from paragraph 118d) of the Framework. The proposal would also make a material contribution to the Government's objective to significantly boost the supply of homes, as set out in paragraph 59 of the Framework. In doing so the proposal would help address the shortfall in the Council's supply of housing and would increase the choice and range of dwellings available within the local market. Although outside of the settlement of Banwell, the site also benefits from a relatively sustainable location with access to services and facilities other than by the use of a private car.

47. The proposal is also supported by a Section 106 Obligation which covenants to provide not less than 30% affordable housing at the site, thereby meeting the requirements of CS Policy CS16. I am also satisfied that this aspect of the Obligation satisfies the 3 tests in Regulation 122(2) of the CIL Regulations 2010. I afford these aforementioned social benefits significant weight.

48. The Council has confirmed that the open space provision of the Obligation also complies with Regulation 122(2) and based on the evidence before me, I find no reason to disagree. This attracts limited weight in favour of the appeal proposal, as do the biodiversity benefits.

49. The development would support the construction industry and create some employment during the construction phase. Incoming residents would also help sustain local services and facilities. These economic benefits can be given limited to moderate weight.

50. The proposed highway improvements are necessary to make the development acceptable in planning terms and would primarily benefit future occupants of the proposed scheme. This aspect would therefore attract only limited weight in favour of the proposal.

51. I recognise that there have been changes to national and local planning policy since the previous appeal was dismissed at this site but how they affect the most harmful aspects of the development has not materially changed. Moreover, even though the tilted planning balance was also applicable in the previous case, the Inspector concluded that the appeal should not succeed. This relatively recent appeal decision therefore represents a material consideration of significant weight.

52. When all of the above is considered together, I find that the harm to the character and appearance of the area would significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies in the Framework taken as a whole. The proposal would not amount to sustainable development and the material considerations in this case do not warrant a decision other than in accordance with the development plan.

53. For these reasons, and taking all other matters into consideration, I conclude that the appeal should be dismissed.

Richard S Jones

INSPECTOR

Appearances

FOR THE APPELLANT:

Mr Rob Waycott	Appellant/Bourton Ltd
Mr Kit Stokes	Stokes Morgan Planning Ltd
Ms Rebecca Morgan	Stokes Morgan Planning Ltd
Ms Fiona Bennet	Highgate Transportation

FOR THE LOCAL PLANNING AUTHORITY

Mr Neil Underhay	Principal Planning Officer
Ms Natalie Richards	Principal Policy Officer
Mr Kevin Carlton	Project Officer

DOCUMENTS SUBMITTED AT THE HEARING

1. Section 106 Agreement.
2. Enlarged photo viewpoints.
3. Planning application 18/P/3189/OUT decision notice.
4. Drainage Strategy Drawing Number EVY 0709/P1/003 Rev B.
5. Two computer generated images showing views from the south and east.
6. Core Strategy Policy CS1.
7. Email from the Council to the appellant dated 5 December 2018 relating to a replacement bat roost condition.
8. Historic Landscape Characterisation Plan and Key.

DOCUMENTS RECEIVED FOLLOWING THE CLOSE OF THE HEARING

1. Email from the Council (copied to the appellant) dated 13 December 2018 with attached Core Strategy, Community Infrastructure Levy Regulation 123 List, the Development Contributions Supplementary Planning Document and a commentary on the Section 106 Obligation.
2. Email from the appellant (copied to the Council) dated 14 December 2014 with attached details of the planning permissions granted at Roughmoor, Well Lane, Banwell (ref: 16/P1862/F) and Waits Farm, Knightcott Road, Banwell (ref: 16/P/2173/F).