



Appeal Decision

Site visit made on 18 November 2019

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2019

Appeal Ref: APP/D1265/W/19/3233173

Land north of New Road, Shaftesbury SP7 8QL

- 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 G House of Nylo Homes Ltd against the decision of Dorset Council.
 - The application Ref 2/2018/0696/OUT, dated 18 May 2018, was refused by notice dated 7 June 2019.
 - The development proposed is to develop land by the erection of up to 23 No. dwellings, form vehicular accesses, parking and landscaping.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application has been made in outline with only access to be considered at this stage. Matters of appearance, landscaping, layout and scale have been reserved. Nevertheless, in support of the proposal, a Master Plan has been submitted showing an indicative layout and accompanying documents, including example 3D representations of the scheme. I have therefore had regard to these details as to what the appellant has in mind for the development.
3. During consideration of the application, the proposed number of dwellings was reduced to "up to 23" and the description of the development set out above reflects this amendment.
4. A signed and dated Agreement under S106 of the Town and Country Planning Act 1990 (as amended) has been submitted and I will consider this matter later.

Main Issues

5. In the light of the reasons for refusal, the main issues are:
 - the effect of the proposal on the character and appearance of the area,
 - whether the proposal would provide safe and convenient access to services, and
 - the effect of the development on heritage assets, in particular the setting of the Shaftesbury Conservation Area and the setting of the Grade II Listed drinking trough and conduit head.

Reasons

Character and appearance

6. Shaftesbury is the only hill top settlement in Dorset and the site is located towards a lower part of the northern scarp slope and overlooks the Blackmore Vale to the north. The expansive views out across rolling and undulating farmland leads to more gentle undulations further north. The landscape comprises small to medium sized irregular fields, laid to pasture and bounded by hedgerows and trees.
7. I have taken into account the analysis and conclusions set out in the Landscape and Visual Impact Appraisal (March 2019) including the assessment against the planning policies, and the identified features of the site in relation to its location falling within National Character Area 133 – Blackmore Vale and Vale of Wardour and Area 7 North Blackmore Vale Rolling Vales within The North Dorset Landscape Character Assessment 2008. In relation to Area 7, I note that some of the key characteristics identified for this Area, which are relevant to this site, are the irregular pattern of farmland, fields, copses, streams and dense hedgerows, some important views over the vale from high places and that the area provides a rural setting for Shaftesbury, which overlooks the area.
8. There is some development further up the slope, but north of the A30 in the general area of the site, the development becomes more sporadic and merges into the countryside beyond. While Enmore Court lies within the triangle of land adjoining the appeal site, and there is a stable building further down the slope, the site is generally open pasture land, with established hedge boundaries and mature trees. The area is affected to some extent by road noise and the proximity of the adjoining roads, however, the site itself, while not within a designated landscape, has an attractive rural character that is typical of the landscape of the surrounding countryside. The land is open to some views from the adjoining roads and the elevated nature of parts of the site means that it makes a valuable contribution to this section of the undeveloped northern scarp slope to the town. Despite the well-established boundaries to the triangular area of land, the site has a greater affinity with the surrounding countryside than the adjoining built development.
9. The proposed housing would be at a reasonably low density, such that the proposal could retain the existing structural landscaping and the inclusion of extensive further planting would be possible. However, the scheme would, in all likelihood, introduce residential development across the majority of the site, including the elevated areas along the southern section. In these circumstances, the development would appear as an incursion of built form extending away from the established pattern of Shaftesbury in this area, encroaching into open and attractive countryside. The extension of built form in this location, however well landscaped and the buildings laid out and articulated at the reserved matters stage, would harm the distinctive and sensitive character of this part of the northern scarp slope and thereby detract from the character and appearance of the area.
10. As a consequence, I conclude the proposal would harm the character and appearance of the area and would thereby conflict with Policies 4, 20 and 24 of the North Dorset Local Plan Part 1 (January 2016) (the Local Plan), saved policy SB4 of the North Dorset District-Wide Local Plan (2003) and the

Framework which seeks in this respect, amongst other things, to protect landscape character through retention of features that characterise the area.

Whether the proposal would provide safe and convenient access to local services

11. At the present time the footway along the B3081 does not extend to the site and it would be necessary to walk along the verge and to cross the road, which at the time of my visit, although only a snapshot in time, was busy including with HGV traffic. The proposal would extend the footway and incorporate a crossing. The point of the crossing would be within the 60mph zone and beyond the bend. However, the plans show that appropriate sight lines at the crossing would be achievable for pedestrians in relation to the speed survey data. The Council's Highway Officers have examined the information, including the safety audit, and do not raise objections to this element of the proposal. I have found no reason to disagree with this aspect of the proposal on safety grounds and therefore in any approval these works could be secured with a Grampian condition.
12. To gain access to the local services in the town centre by foot from the site it would be necessary to cross the B3081 via the new crossing, walk along the footway of the B3081 and also cross the road again in the vicinity of Nettlebed Nursery. There would then be a walk up the hill. I walked to and from the town centre at my site visit and I have noted the various submissions on this issue. The nature of the walk alongside parts of the busy B3081, the need to cross the road twice and the slope may mean that for some people this may not be an attractive proposition. However, overall, given the distance and the time that it would take to walk for most people, I consider that the site would have satisfactory access by foot to the facilities of the town centre, such that, on balance, occupants of the proposed housing would have an alternative to the private vehicle to access the centre of Shaftesbury.
13. In the light of the above analysis, I conclude the proposal would provide safe and convenient access to local services and therefore the development would comply, or not conflict, with policies 1, 2, 13 and 24 of the Local Plan and the Framework which seeks in this respect, amongst other things, to require developers to assess the impact of new development on the existing highway network, clarify its consequences and put forward mitigation measures.

Heritage assets

14. The Shaftesbury Conservation Area (the CA) is significant because of its historic buildings, street pattern and hilltop form. The site lies close to the Enmore Green section of the CA and this has some smaller cottages and a more rural feel at the edge of the town. The site is just outside the boundary of the CA which runs along the south western corner of the New Road frontage to the site.
15. The indicative layout shows a new access formed in this area and two dwellings with garages. It is likely that this layout, or in all likelihood any alternative layout for development in this area proposed at the reserved matters stage, together with the wider development of the sloping hillside, which in some views would be in the foreground to a section of the CA, would cause some limited harm by eroding part of the rural character to the setting of the CA.

16. The Grade II Listed drinking trough and conduit head is located just beyond the red-lined application site, adjoining the B3081. I am mindful of the duty to have special regard to the desirability of preserving listed buildings, their setting and features of special architectural or historic interest which they possess.
17. At the present time the drinking trough and conduit head is set back behind a grass verge and retains a reasonably undisturbed and rural appearance, despite the adjoining busy road. This listed structure would not be directly affected by the development, however, the footpath and crossing are proposed in this area and this would involve the loss of some of the green setting to this heritage asset. While the footway may allow the structure and its significance to be appreciated by the public, overall the surroundings in which the listed building would be experienced would become more suburban and thereby the setting and accordingly its significance would be harmed by the proposal.
18. The development would in this case lead to less than substantial harm to each of the heritage assets. In accordance with paragraph 196 of the National Planning Policy Framework (the Framework), this harm should be weighed against the public benefits of the proposal. The Framework requires that the harm to the setting of the CA and the setting of the listed building should have a clear and convincing justification and that great weight should be given to the conservation of designated heritage assets. However, for the reasons explained below, the public benefits of the scheme merit substantial weight and, in this case, outweigh the less than substantial harm to the setting of the heritage assets.
19. In the light of the above analysis, I conclude that whilst there would be harm to the setting of both heritage assets, the combined harm is outweighed by the public benefits. As a consequence, the scheme would comply with Policy 5 of the Local Plan and the Framework which seek, amongst other things, in the case of justifying less than substantial harm to a designated heritage asset the harm will be weighed against the public benefits of the proposal, including securing its optimum viable use.

Planning Balance and Conclusion

20. Policy 2 of the Local Plan identifies Shaftesbury as one of four main service centres that will be the main focus for growth, both for the vast majority of housing and other development. Policy 6 of the Local Plan sets out the housing distribution and that Shaftesbury will take at least 1,140 homes across the plan area up to 2031.
21. Enmore Court and the adjoining properties on the broadly southern side of New Road lie within the settlement boundary of Shaftesbury. However, the site itself is located in countryside outside the defined settlement boundary. In these circumstances, Policy 20 of the Local Plan sets out that development will only be permitted if it is a type appropriate for the countryside, or there is an overriding need. The scheme would not meet these requirements and therefore would be contrary to Policy 20.
22. While I consider that the policies concerning the protection of the natural environment and local character are Framework compliant and not out of date, the Council is unable to demonstrate a 5 year supply of deliverable housing land. As a consequence, the policies which set the settlement boundary and the

distribution of housing are considered to be out-of-date and the harm resulting from the conflict with these policies, including Policy 20 of the Local Plan, carries limited weight. In accordance with paragraph 11 of the Framework, the presumption in favour of sustainable development is engaged and 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 taken as a whole.

23. In this case, the scheme would deliver residential development on a windfall site in a location adjoining the settlement boundary of a main town where growth is to be focused. The Framework indicates that small and medium sized sites can make an important contribution to meeting the housing requirements of an area, and are often built out relatively quickly. There would be social and economic benefits to the area during construction and in subsequent occupation, with houses that could exceed space standards and have reasonably sizeable gardens. The proposal would therefore make a worthwhile contribution to housing delivery in the Plan area, in the circumstances where a Framework compliant supply of housing land cannot be demonstrated. I attach moderate weight to these benefits of the housing as 23 units are proposed, even if the lowest figure of housing land supply which has been quoted in the various submissions is considered.
24. I afford substantial weight to the provision of not less than 35% of the units as affordable dwellings, in excess of the 30% policy requirement set out in Policy 8 of the Local Plan, as the evidence indicates that this would make a meaningful contribution to helping deliver local affordable housing. This affordable housing obligation is included within the planning agreement and this would meet the tests set out in paragraph 56 of the Framework.
25. The other contributions set out in the signed and dated S106 Agreement are also 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. Given their scale, that they would generally mitigate the impacts of the development or meet policy requirements, I afford these obligations moderate weight.
26. I am conscious that at the moment local residents in the vicinity of the site, if they wish to walk to and from the centre of Shaftesbury, are required either to cross the A30 or cross the B3081 and walk along a section of verge, and where on the broadly northern side of the B3081 there can be limited visibility of on-coming traffic. The provision of the crossing and the section of connecting footway would be a safety benefit to these residents and given the number of dwellings that are presently in this area, I afford this benefit moderate weight.
27. There are also likely to be some ecological benefits, including from the additional planting, that would be incorporated into the development in accordance with the submitted Biodiversity Mitigation Plan and Ecology Report. I attribute this matter limited weight as the site is already a green space with existing biodiversity.
28. Taking all these matters into account, cumulatively, I attribute the benefits of the scheme substantial weight. However, I have also found that there would be less than substantial harm to the setting and significance of heritage assets and the proposal would harm the character and appearance of the area. In respect of this latter harm, I consider that the incursion of residential

development into open and attractive countryside on this part of the northern scarp slope of Shaftesbury would be particularly harmful. The harm is such that it would fail the Framework requirement to recognise the intrinsic character and beauty of the countryside and I attribute this matter significant weight.

29. Notwithstanding all the benefits that would accrue from the proposal, the adverse impacts of the scheme would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. The proposal would not therefore be sustainable development.
30. Furthermore, because the proposal would conflict with policies for the protection of the natural beauty and local character, there would be conflict with the development plan when considered as a whole. There are no material considerations that outweigh the identified harm and associated development plan conflict. I therefore conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR