



Appeal Decision

Site visit made on 22 May 2020

by Thomas Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 4 June 2020

Appeal Ref: APP/V3310/W/19/3240159

Four Forks House, Charlynch Road, Spaxton, Bridgwater TA5 1BJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mrs Christina Harrison-Flynn of Pogo Plum Ltd. against the decision of Sedgemoor District Council.
 - The application Ref 45/18/00014 ACN, dated 8 June 2018, was refused by notice dated 14 June 2019.
 - The development proposed is the demolition of the existing garage and erection of 13 dwellings (C3) with associated access works, pedestrian and cycling routes, parking, landscaping and drainage works.
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Decision

1. The appeal is dismissed.

Application for costs

2. The appellant has made an application for an award of costs against Sedgemoor District Council, which is the subject of a separate decision.

Preliminary matters

3. Application Ref 45/18/00014 ACN was originally for 15 dwellings. Six of those (40%) would have been affordable (as defined in Annex 2 to the National Planning Policy Framework, 'NPPF'). Spaxton is a 'tier three' settlement defined in the Sedgemoor Local Plan 2011-2032 (adopted 20 February 2019, the 'LP'), wherein LP policy T3a sets out that normally 40% affordable housing provision will be sought. The Spaxton Parish Housing Need Assessment of November 2017 points to the need for a total of six affordable homes in this location. There is no evidence before me as to how, if at all, such needs or supply have since changed.
4. The scheme before me is instead for 13 dwellings. That is reflected in the banner heading above, the description of development being drawn from the Council's decision notice. The principal plans and latest documents related to the current scheme are referenced in paragraphs 2.3.8 to 2.3.10 of the appellant's appeal statement. The Council has consulted upon them,¹ and there has also been the opportunity for comment at appeal. It remains that 40% affordable housing is proposed. Five affordable units are proposed on site, with the residual 0.2 accounted for by way of a financial contribution towards provision elsewhere. The latter, amongst other things, would be secured via a

¹ As set out in section 1.2 of the Council's appeal statement.

Unilateral Undertaking dated 13 February 2020 ('UU') were the appeal to be allowed.

Policy context

5. Each proposal must be determined on its merits in accordance with the development plan, which in this instance includes the LP referenced above, unless material considerations indicate otherwise. In overarching terms, LP policy S2 guides development proportionately to settlements of differing scales in the District. LP policy T3a accords support, conditionally, to infill and subdivision of plots within existing settlement boundaries of tier three settlements.
6. The settlement boundary for Spaxton is shown on LP inset (policies) map 28. Four Forks House falls within the settlement boundary, as does some of its plot. However the appeal site straddles the settlement boundary. To the rear of Four Forks House the settlement boundary is drawn along a line of veteran beech trees protected, along with others on site, via Tree Preservation Order ('TPO').² Therefore it appears that only proposed plots 1-3 would wholly be within the settlement boundary, the remaining 10 beyond.³
7. LP policy T3a sets different criteria depending on whether a scheme comes forward inside, or outside of but 'well related to', a tier three settlement boundary. A principal difference between the two scenarios is that in the latter case a scheme should fulfil a locally identified need for affordable housing. Insofar as the proposal relates to needs identified in the Spaxton Parish Housing Need Assessment and is for 40% affordable housing, the scheme meets those particular criteria.
8. There is some commonality between the other criteria for development within or outside settlement boundaries in respect of policy T3a. In both instances the policy sets out how development should integrate appropriately with its surroundings in terms of scale and design. Additionally, in respect of development outside of settlement boundaries, policy T3a sets out how development should relate well to the existing settlement in terms of character and accessibility, and also that development should at least maintain the local environment and landscape.
9. More broadly, LP policies D2 and D19 set out the Council's approach to promoting good design reflective of local distinctiveness. Policy D19 sets out that development should 'enhance the landscape quality wherever possible, or that there is no significant adverse impact on local landscape character...'. I will return to the phrasing of policy D19 in particular.
10. Likewise, paragraphs 127 and 170 of the NPPF are material. They set out how development should be sympathetic to local character and landscape setting, and that the intrinsic character and beauty of the countryside should be recognised. Although not formally protected on account of landscape character, the Quantock Hills AONB boundary being some 1.3 kilometres to the west at its

² The beech trees falling within group 'G1', the TPO dated 25 April 2018, with T1, T2, T3 and T5 nearer the site frontage also protected.

³ With reference to proposed site layout plan Ref 731.17.101 Revision G.

nearest, the landscape surrounding Spaxton is understandably valued by many local residents (as referenced in representations related to the scheme).

11. In addition to the NPPF, I have had regard to various other material considerations including the Planning Practice Guidance ('PPG'), the Spaxton Parish Plan (dated 21 October 2003) and the earlier Parish Village Design Statement (dated 16 July 2003). There is no indication, notwithstanding those non-statutory documents, that a neighbourhood plan is being actively prepared in this location, or that a review of the LP is yet sufficiently advanced that it may be accorded significant weight.

Main issue

12. Based on all I have read and seen, the main issue is the effect of the development proposed on the character and appearance of the area. In the event that I find that harm would result, I will then gauge whether or not any other relevant material considerations in favour of the scheme are nevertheless sufficient to justify allowing the appeal.
13. The appellant does not specifically challenge the consistency of LP policies T3a, D2 or D19 with the approach in the NPPF. Inherent in my reasoning above is that the provisions of both, insofar as they relate to this appeal, are essentially aligned. There is also no express challenge that the Council are presently unable to demonstrate a five year housing land supply ('5YHLS') with reference to NPPF paragraphs 11, 67 and 73 (albeit there is no substantive evidence before me on that matter).
14. I note, however, that the appellant challenges what she sees to be the Council's unreasonable position of finding 'significant' landscape harm resulting from the proposal, the adjective used in policy D19 as quoted above. I will address that issue in this decision, and the appellant's contention that the Council failed to 'properly judge' the relationship of the scheme to policy D2 in the associated costs decision.⁴

Extent of disputed matters

15. There is an important matter to clarify as regards the extent of the dispute between the main parties. The appellant is of the view that the Council's position implies that they are content with the scale, location and siting of the proposed development in respects plots 1-10 (notwithstanding that those plots are not readily severable from the scheme as a whole). Consequently, the appellant contends that only the effects of the dwellings proposed at plots 11-13 are in dispute.⁵ That position is further amplified by the appellant's position that, in referring to the effects of the proposal from viewpoints PV1, PV2 and PV3, as identified in the initial as opposed to subsequent Landscape and Visual Impact Assessment ('LVIA1', 'LVIA2'),⁶ the Council's approach at appeal is 'tantamount to the introduction of fresh evidence at the late stage and is considered to be unreasonable'.

⁴ As that relates principally to whether or not the Council's position was unreasonable, with reference to Corbett, R (On the Application Of) v Cornwall Council & Anor [2020] EWCA Civ 508.

⁵ Appellant statement of case, paragraph 4.3.5.

⁶ Both undertaken by Clark Landscape Design, LVIA1 dated May 2018, LVIA2 dated September 2019.

16. Again, I deal with the question of whether or not unreasonable behaviour has occurred in the separate costs decision. However, in so far as it is relevant to procedural fairness and the planning merits of the scheme, I have set out above how the appeal site straddles the development boundary for Spaxton. In that context, I accept that the Council states that there is a 'degree of logic' to plots 7-10, with reference to the prevailing settlement pattern.⁷
17. However on a plain reading of the Council's decision notice and case at appeal, it is not as black-and-white as the appellant contends. The Council are 'in particular', rather than exclusively, concerned over the effects that would result from the scheme in respect of plots 11-13.⁸ The decision notice draws no distinction between particular elements of the scheme. Moreover, as set out above several of the proposed dwellings would not fall within the established settlement boundary.
18. Furthermore, the dwellings proposed at plots 11-13 would be visible from 'PV1' as identified in LIVA1 in conjunction with others proposed (as shown in particular on three-dimensional modelling from that vantage point').⁹ Consequently, I have considered the effects of the scheme as a whole, rather than limited my assessment to elements of it.¹⁰ In the light of the foregoing reasoning that is an approach which is necessary, justified and fair.

Reasons

The appeal site

19. Four Forks House is a traditional double pile property built of local stone. The House falls within sprawling grounds, the appeal site amounting to approximately 0.72ha. Access is via Charlynch Road to the east, just beyond the crossroads with the High Street to the south. The plot has a frontage to both. Immediate neighbours are the Old Coach House, No 18 High Street, and on the opposite side of Charlynch Road the Larches and four recently constructed dwellings around it (related to an allowed planning appeal in 2016).¹¹
20. In part the site has the character of a well-established garden. Trees and vegetation along roadside frontages largely obscure Four Forks House from public vantage points to the east and south. However, as set out above, the settlement boundary is drawn around a line of beech trees to the north-west of the property. Having been consciously planted as such, and tying in with hedges, they likely represent the historic extent of the property's garden at some point previously.
21. The appeal site also includes what the Council describe as 'recently extended' garden northwards of those trees. Broadly, that area has a markedly different and open character compared to the mature garden closer to the House. The former has been levelled and subdivided into regular parcels. There appears to be no domestic planting within it. Aside from the grass having been cut, that

⁷ Council statement of case, paragraph 6.11.

⁸ Ibid., paragraph 6.17.

⁹ A mock-up which appears to be entitled '495497-2 VP1'.

¹⁰ Noting that section 79(1) of the Town and Country Planning Act 1990 as amended enables me to deal with the proposal as if made to me in the first instance.

¹¹ Ref APP/V3310/W/16/3149492.

element of the appeal site appears to have been largely left to its own devices for some time.

22. I understand that the northern area of the appeal site was previously used as a paddock. There is, however, no indication of when that use ceased, or as to what, if anything, has occurred there since. There is, for example, no certificate of lawfulness before me related to its incorporation as part of the residential land associated with Four Forks House. Whether or not the northern part of the site may be assessed as if residential garden, or curtilage, is somewhat academic in respect of character and appearance.
23. However the nature of the northern element of the appeal site is relevant to the weight that can be accorded to the re-use of brownfield land. Brownfield land, or previously developed land, is defined in Annex 2 to the NPPF. It excludes 'land in built-up areas such as residential gardens', albeit not in rural areas. Whilst garden and curtilage are not one and the same thing, the northern area of the site does not have the character of a residential garden. Although within the same ownership, it is some distance from the House, beyond intervening trees, and part fenced off from other elements of the site.
24. The topography declines from around the beech trees through the appeal site, reaching a low point a relatively short distance in the large field beyond. That situation reflects, as is noted paragraph 6.69 of the Sedgemoor Landscape Assessment and Countryside Design Summary (published 2003, the 'SLA'), the linear form of Spaxton set on a ridge running between streams leading to the River Parrett.
25. The landform rises from the fold in the adjacent field further northwards towards public footpath BW 30/6 and BW 7/7, which track broadly parallel with the orientation of the High Street. Aside from to the south-east, Four Forks is encircled by footpaths in the landscape (including BW 30/1 to the west connecting BW 30/6 to the High Street, and both BW 7/1 and BW 30/59 some distance towards the east).
26. Although one of three distinct areas of Spaxton, the cluster of buildings around Four Forks, as set out above, are included in the village settlement boundary. Four Forks as an entity originated from the early-to-mid eighteenth century onwards, later than properties around Splatt Lane and the Conservation Area. There is consequently some variety in the era and architecture of properties nearby, varying from traditional rural buildings such as the Old Coach House, to twentieth century semi-detached and terraced houses, such as Nos 1 to 18 High Street, to recent development (around the Larches in particular, as referenced above).
27. Nevertheless, properties at Four Forks fall principally to the south of the High Street and west of Barford Road (which maintains the line of Charlynch Road southwards). To the north of the High Street and west of Charlynch Road, as is the location of the appeal site, properties appear universally arranged in single plot depth. They are situated with varying degrees of regularity and spacing, petering out as Charlynch Road heads northwards giving way to good-sized agricultural fields. Those observations accord with SLA paragraph 6.68 and 6.69 which identify the importance of 'soft edges' to settlements, the 'organic street pattern', and of views between houses of the countryside beyond.

28. The appeal site falls within Natural England's National Character area profile No 146, 'Vale of Taunton and Quantock Fringes', and the SLA 'Quantock Foothills' landscape character area (the SLA being referenced in LP policy D19). Both describe the landscape as gently undulating, largely open and pastoral, with a dispersed settlement pattern along sunken ancient lanes. Insofar as the appeal site, particularly the northern element, is open and natural, it complements landscape character.
29. Those landscape characteristics are equally reflected in the Village Design Statement, at section three in particular. The Parish Plan also notes how footpaths tracking into the countryside are relatively well used. On account of its openness and the topography, I saw from various vantage points along footpath BW 30/6 how the appeal site is relatively prominent in the landscape, projecting beyond the line of the rear gardens to Nos 1 to 18 High Street.
30. Viewed from that perspective, the northernmost element of the site has greater visual affinity with the countryside rather than that of the settlement. The built form of Four Forks is not readily apparent when proceeding along footpath BW 30/6 and BW 7/7; comparatively few properties running along the ridge are readily apparent in the landscape, and their presence is softened by established boundary planting and trees.

The proposal

31. The proposal is to retain Four Forks and to create 13 homes of relatively modest scale and understated design. Aside from the dwelling proposed at plot 1, which would be served by a new driveway off the High Street, all would be accessed via the existing entrance to Four Forks House off Charlynch Road (albeit altered, widened and extended). Plots 1-3, where detached properties are proposed, would be broadly in line with the orientation of Charlynch Road and the High Street near the site's highway frontages.
32. Plots 4-6 and 7-10, both comprising terraced properties, would be arranged around protected beech trees. The beech trees themselves would be incorporated into around 885sqm of public open space. Plots 11-13 are more substantial detached properties. They would project in a linear manner northwards into what was formerly the paddock. Beyond them would be an area set aside for surface water attenuation, drainage and planting. A new footpath would also be created, arcing from the Charlynch Road access around the beech trees, thereafter tracking westwards roughly parallel to an existing footpath by Nos 13 to 18 High Street, connecting to the High Street.

The effect of the proposal

33. One dwelling within a plot 0.72ha, relatively and absolutely, represents a very low density; a scheme for 13 dwellings clearly represents a lower level of density than 15 as originally proposed. There is an off-set angle between the High Street and Charlynch Road, such that a linear continuation of properties close to the site frontage would be relatively consistent with the prevailing layout of properties here. As set out above there is no clear prevailing architectural coherence to dwellings nearby. LP policy T3a accords conditional support to infill and subdivision in tier three settlements, as has occurred at the Larches opposite.

34. I acknowledge that no trees protected via TPO would be lost by consequence of undertaking the development proposed, and that 30 or more new trees are proposed to be planted (including around the attenuation area).¹² The principal public vantage points from which the scheme would be visible are some distance away. PV4 in LVIA2, along footpath BW 30/6 is some 180m or so away, and there is some contextual development either side of the site. I also accept that nearby footpaths are not 'promoted routes', that the scheme would have a limited effect on the Quantock Foothills landscape character area as a whole, and that policy D19 is phrased such that 'significant adverse impacts' on local landscape character should be avoided.
35. However, in my view, the layout proposed would relate poorly to the prevailing pattern of nearby properties. As set out above the principal cluster of buildings comprising Four Forks, or its centre of gravity, falls to the south of the High Street and west of Barford Road. There are no comparable examples of clusters of homes to the north of the High Street and west of Charlynch Road as are proposed here (as opposed to a single plot depth linear arrangement, or more organic form). For that reason, and with regard to the characteristic 'soft edges' to the settlement, the arrangement of development proposed would be incongruous and appear unacceptably intensive. That would be particularly discordant when viewed from Charlynch Road around the widened access by PV1 identified in LVIA1, and also from nearby properties.¹³
36. Similarly the density proposed, in part on account of the proposed terraces of properties, would in my view be discordant; arguing in favour of the scheme relative to a proposal for 15 dwellings is not compelling. Creating 13 dwellings on a site of around 0.72ha represents a density of around 19 dwellings per hectare ('dph').¹⁴ That is an increase of some 40% compared to the scheme at the Larches,¹⁵ and would appear significantly greater than that which prevails around the fringes of Four Forks. For two further reasons, in my view, the scheme at the Larches carries negligible weight in favour of the proposal. Firstly it appears that the land to which the 2016 appeal there related is within the settlement boundary for Spaxton (and followed an earlier grant of outline consent). Secondly, the nearest public right of way in the landscape relative to that site, BW 30/59, is a greater distance away than is the case of BW 30/6 to the appeal site (such that the site is more visually enclosed).
37. Although no TPO protected trees would be directly affected, and replacement planting is proposed, the proposal would inevitably significantly alter the natural character of the appeal site as it stands. The creation of a footpath, access to plot 1, and widening access off Charlynch Road in particular would reduce the visual contribution that the site currently has towards a gradual transition to the surrounding countryside. Despite the distance between the appeal site and rural footpaths, on account of the open countryside and landform, the development proposed would nonetheless be readily apparent in the landscape beyond. From those vantage points, the scheme would appear as

¹² The appellant also says elsewhere that around 40 new trees would be planted, albeit the details thereof could legitimately fall to a landscaping condition were the scheme otherwise acceptable.

¹³ In my view there comes a point where the cumulative experience of multiple private vantage points becomes a legitimate matter of public interest.

¹⁴ $(1\text{ha}/0.72\text{ha}) \times 14$ (including the retention of Four Forks House).

¹⁵ $(1\text{ha}/0.36\text{ha}) \times 5$ (the site area given in the application form for application Ref 45/15/00027, including the retention of the Larches).

an uncharacteristic incursion into the countryside rather than logical addition to the prevailing form of the settlement.

38. Landscaping and planting could, I accept, reduce the visual prominence of the scheme. However such screening would take some time to mature and would inevitably be partial. Planting around the attenuation area is lower in the topography than plots 11-13, and as such those proposed dwellings would likely remain clearly visible in the landscape. Notwithstanding 'blackout' glazing proposed to the north-westwards facing elevation of the dwelling at plot 6, light spill is likely to affect the dark, tranquil nature of the countryside at times also. Whilst nearby rights of way are not promoted routes, the Parish Plan nevertheless notes how footpaths tracking into the countryside are relatively well used. Although not formally protected, in that context the landscape here nevertheless has some sensitivity to visual change, and would be adversely affected by the scheme.
39. Paragraph 4.3.23 of the appellant's appeal statement contends that 'when seen in the context of the vast expanse of the 'Quantock Foothills' landscape character area as a whole the impact could only be described as minor'. Whilst that may be the case, that landscape character area covers a substantial area and likely very few, if any, development schemes would fundamentally affect the characteristics of that area as a whole. I also note that LP policy D19 refers to 'local landscape character' more generally, rather than specifically to SLA-level areas.
40. I accept that 'significant', as used in policy D19, is not, in common use, always the antonym of insignificant. However significant does not have the same meaning as substantial, i.e. of great importance, as the appellant appears to contend. The ordinary definition of significant is important, or large enough, to have an effect or to be noticed. In my view that would undoubtedly be the case here given the foregoing reasoning. Moreover, the precise phrasing of policy D19 is that proposals 'should ensure that they enhance the landscape quality wherever possible or that there is no significant adverse impact on local landscape character...'. The policy is therefore geared towards enhancement and preservation. As set out above, albeit differently phrased, LP policies T3a and D2 similarly seek to ensure that development is consistent with local character.
41. Notwithstanding certain mitigating factors, for the above reasons, the layout, density and visibility of the scheme would have an adverse effect on the character and appearance of the area. In my view, in terms of landscape character, that effect may fairly be described as significant. As such I conclude that the proposal conflicts with the relevant provisions of LP policies T3a, D2 and D19, and with the relevant provisions of NPPF paragraphs 127 and 170 cited above.

Other matters

42. I have taken careful account of the concerns raised by nearby residents, which in particular relate to the potential for the proposal to result in adverse effects in terms of highway safety, the living conditions of those nearby, downstream flooding, and in respect of entailing disruption during construction. Some of those matters relate to revisions to the scheme described in paragraph 4

above, some to the provisions of the UU considered below, and it would be possible to address others via the imposition of suitably-worded conditions (were the development proposed otherwise acceptable).

43. There are several intricate land ownership and management issues associated with the proposal. The UU makes provision for the transfer of proposed public open space and the footpath to a management company. The nature of the former could, theoretically, be conditioned with regard to the specifications necessary to satisfy LP policies S3 and D34 in the event that I were to allow the appeal. I understand that the proposed footpath would need to cross a section of Council owned land,¹⁶ albeit that the appellant has ventured that a Grampian condition could address that issue.¹⁷ Further, the appellant proposes transferring control over an 'unused piece of land' to the rear of proposed plots 4-6 to the Old Coach House, arguing that approach would, insofar as the residential amenity of occupants of that property are concerned, bring the proposal in line with the relevant provisions of LP policy D25.
44. However even were I to find that the proposal would be acceptable as regards the concerns of those nearby, and otherwise, that would effectively be a neutral finding rather than one that would weigh positively in favour of allowing the scheme; adverse effects would be off-set rather than representing benefits of allowing the scheme.
45. Separately, I understand that a Spaxton Community Land Trust ('CLT') has been formed with the ambit of seeking to meet local affordable housing provision. I am told that the CLT is actively progressing work in that regard, albeit not via the scheme before me. Whilst I have noted that context, there is no indication as to the timing or certainty of work being taken forward by the CLT. To unduly delay a decision in prospect of other eventualities occurring at some future point in time would be unreasonable. Consequently work undertaken by the CLT has not influenced this decision.
46. I acknowledge that the proposal would have certain benefits, including in respect of housing provision, in supporting employment during construction, as future occupants would bring trade to nearby services and facilities, and in terms of CIL receipts related to the creation of 1,810 sqm of relevant internal floorspace. In that context I note that LP policy S2 aims towards 947 dwellings being delivered from tier three settlements over the plan period of 2011-2032.
47. The scheme also seeks to address an identified local housing affordable need. I further accept that NPPF paragraphs 68, 77 and 78 set out how small and medium sized sites can make an important contribution towards meeting housing requirements, that rural housing should respond to local circumstances and reflect local needs, and that appropriately located rural housing may support or enhance the vitality of rural communities broadly. NPPF paragraph 117 also promotes making as much use as possible of brownfield land.
48. However, set against the overarching housing requirements in LP policy S2 of 644 homes a year, the benefits of the scheme are comparatively modest. There

¹⁶ Title ST1306.

¹⁷ PPG Reference ID: 21a-009-20140306 indicates that such an approach may be appropriate, albeit not where there are 'no prospects at all of the action in question being performed within the time-limit imposed by the permission'.

is no contention that the Council are presently unable to demonstrate a 5YHLS or that affordable housing provision relative to needs at a District level is faltering. Fundamentally CIL is to help authorities to deliver infrastructure needed to support development in their area, and there is no indication that provision is lagging in that regard.¹⁸

49. The appellant avers that a smaller scheme would be likely unable to provide the quantity of affordable housing proposed, and that is true numerically based on a 40% requirement. However there is no substantive evidence before me, related to viability or valuation, in advance of that position (or indeed as to how circumstances have changed in terms of needs or supply since the Spaxton Affordable Housing Needs Survey). Given my reasoning in paragraphs 21 to 23 above, the benefits of the scheme in terms of the re-use of brownfield land are limited. The arguments in favour of the scheme are therefore without clear and precise substantiation.
50. More fundamentally the support accorded to delivering new housing in the development plan and NPPF is not at the expense of ensuring that all development integrates appropriately with its surroundings. As such the harm that would result from the scheme would outweigh any benefits; no other relevant material considerations are sufficient to justify taking a decision other than in line with the relevant provisions of the development plan.

Conclusion

51. For the above reasons, having taken account of the development plan as a whole, the approach in the NPPF, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Thomas Bristow
INSPECTOR

¹⁸ PPG Reference ID: 25-001-20190901.