

Appeal Decision

Site visit made on 27 May 2020

by Rory Cridland LLB(Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 09 July 2020

Appeal Ref: APP/R3325/W/20/3245545

Land South of the Fox and Hounds Public House, Broadway, Charlton Adam

- 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 & Mrs Simon Small, Emma James & Sarah Stanley against the decision of South Somerset District Council.
 - The application Ref 18/03298/OUT, dated 4 October 2018, was refused by notice dated 12 November 2019.
 - The development proposed is described as "residential development of up to 24 no. dwellings, access via the existing Fox and Hounds public house access, provision of orchard, public open space and associated infrastructure".
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Decision

1. The appeal is allowed and planning permission is granted for residential development of up to 24 no. dwellings with access at Land South of the Fox and Hounds Public House, Broadway, Charlton Adam in accordance with the terms of the application, Ref 18/03298/OUT, dated 4 October 2018, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. The application was submitted in outline, with matters relating to appearance, landscaping, layout and scale reserved. I have dealt with the appeal on that basis, treating all plans as illustrative, except where they deal with matters of access.
3. The description of development set out in the application form includes matters that are reserved for future consideration along with other superfluous wording. As such, the description used in paragraph 1 above has been amended accordingly.

Application for costs

4. An application for costs was made by Mr & Mrs Simon Small, Emma James & Sarah Stanley against South Somerset District Council. This application is the subject of a separate Decision.

Main Issues

5. The main issues are:
 - (i) the effect of the proposed development on the character and appearance of the surrounding area;

- (ii) the effect of the proposed development on highway safety, with particular regard to pedestrian access; and
- (iii) whether the proposal makes adequate provision for foul drainage.

Reasons

Character and appearance

6. The appeal site is located in Charlton Adam, a rural Somerset village which has a mixture of both traditional and more modern properties, many of which front the road in a linear settlement pattern. The appeal site itself is located at the eastern side of the village and consists of an agricultural field to the rear of the Fox and Hounds public house. Unlike the historic core, the linear arrangement of dwellings along this part of the village has been eroded by more modern examples of backland development including along neighbouring Neville Close and Withy Hays Road.
7. The proposal would involve the erection of up to 24 dwellings (35% of which would be affordable). The Council is concerned that this number of dwellings would result in a layout at odds with the more linear pattern of the village. Similar concerns are raised by a number of other interested parties including The Charlton's Parish Council, local residents and the Campaign for the Protection of Rural England (Somerset) (CPRE).
8. However, even though the development would extend back, beyond the public house, introducing a considerable amount of built form to this open agricultural field and changing the appearance of the site considerably, it would have little impact on the overall character of the village. Indeed, there is little evidence of a strong linear character along this eastern approach, which only becomes pronounced beyond the Fox and Hounds public house.
9. Furthermore, although the site is visible from the road and a number of nearby properties, it is generally well contained within the wider landscape. It appears more related to the village than the surrounding countryside and unlike the fields further along Broadway, it makes only a limited contribution to the rural setting of Charlton Adam.
10. Similarly, when travelling west from the A37, the rural countryside setting is clearly apparent. However, as you reach the cluster of houses known as Broadway, residential development becomes more noticeable and Charlton Adam becomes visible in the distance, including the dwellings along Neville Close and Withy Hays Road. Views from this location would alter little; development would still be visible, albeit a little closer, but it would not materially alter the existing landscape. Any impact on the linear character of the village from this location would also be negligible. I am not therefore persuaded that the proposed development would materially alter the existing character of this part of the village or Charlton Adam more widely.
11. Concerns have also been raised that the proposal would close the historic gap between the nearby settlement of Broadway and Charlton Adam. However, I have seen nothing which would indicate that the appeal site forms part of a strategic gap intended to prevent the coalescence of these settlements. Likewise, there is no suggestion that the appeal site has been afforded any specific protection in the LP.

12. Accordingly, I find the proposal would be commensurate with the scale and character of Charlton Adam, would respect local context and preserve the character and appearance of the district. As such, I find no conflict with LP Policies SS2 or EQ2 which seek to guard against such harm.

Highway safety

13. The proposed access would involve upgrading the existing access off Broadway alongside The Fox and Hounds Public House. The Council has raised concerns with the provision of pedestrian access through the public house beer garden. However, this falls outside the site and is not intended to provide pedestrian access from the appeal site to Broadway.
14. Instead, drawing number A096493_SK03 Rev D shows pedestrian access onto Broadway via the upgraded access. While I note this does not include a footway providing access into the village, both Broadway and the village itself have few footways and a number of pinch points. Indeed, this is the case in many rural villages and acts as a warning to drivers to moderate their speed and remain alert for pedestrians.
15. While I note the views expressed by local residents that this stretch of road is already dangerous for pedestrians, in the present case the highway authority has acknowledge that Broadway does not have a high traffic flow. Having assessed the evidence, it has not raised any objection to either the amount of traffic likely to be generated or on pedestrian safety grounds. No robust evidence has been provided as part of this appeal which would lead me to conclude otherwise.
16. Consequently, I find that the proposed development would make adequate provision for pedestrian access. As such, I find it would accord with LP Policy TA5 which amongst other things requires new development to secure inclusive, safe and convenient access that addresses the needs of all users.

Drainage

17. LP Policy EQ7 restricts development that, on its own or cumulatively, would result in harm to water quality, amenity, health or safety other than in a limited number of circumstances. This includes where the potential adverse effects would be mitigated to an acceptable level by other environmental controls or by measures included in the proposals. Furthermore, LP Policy EQ7 makes clear that this may be achieved through the imposition of conditions.
18. The Council is concerned that the proposed development does not make sufficient provision to prevent the discharge of raw sewage into the drainage ditch running along the eastern boundary. These concerns are echoed by the Parish Council as well as a number of local residents.
19. However, while I note that Wessex Water has a consented overflow which discharges into the eastern ditch, the area is currently subject to an infiltration reduction plan and operational management action plan which is intended to alleviate the existing drainage problems in the area. Furthermore, Wessex Water has confirmed that the proposed development would not exacerbate the existing problems in respect of foul water drainage and that there is sufficient capacity within the receiving network to accommodate the proposed flows.

20. In view of the above, I see no reason that, subject to the submission of full details, the proposal should not make adequate provision for foul water drainage. Consequently, I find no conflict with LP Policy EQ7.

Other Matters

21. In reaching my decision, I have noted the concerns of local residents made both during the application stage and as part of this appeal. A number of these have been considered when reaching my conclusions on the main issues. Those which relate to need and developer profit are not material planning matters and do not alter my reasoning above.
22. My attention has been drawn to the Charlton's Community Plan. However, even though I do not have full details, the Parish Council has confirmed that it is not a Neighbourhood Plan and, as such, it does not form part of the LP. I have therefore afforded it limited weight.

Planning Obligations

23. The appellant has provided an executed section 106 unilateral undertaking ("the UU") which provides for 35% of the dwellings to be affordable. This is in response to identified needs and is supported by LP Policies SS6 and HG3 which, amongst other things, aim to secure affordable housing to be delivered on sites of 6 dwellings or more.
24. The UU also provides for contributions towards education provision. This is also supported by LP Policy SS6 which seeks to secure the provision of, or contributions to, education to accommodate the additional needs generated by new housing development.
25. In view of the above, I consider the obligations set out in the UU in respect of affordable housing and education provision meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and those set out in paragraph 56 of the National Planning policy Framework ("the Framework"). As such, I have taken them into account in reaching my decision.
26. However, while I note the inclusion of an obligation requiring the submission and approval of a Travel Plan, I do not consider this is necessary as no detailed explanation has been provided.

Planning Conditions

27. I have had regard to the various planning conditions suggested. In addition to the standard conditions in relation to commencement and reserved matters, I consider a condition specifying the number of dwellings is necessary in order to provide certainty.
28. For similar reasons, and in the interests of highway safety, I consider it necessary to attach a condition requiring the access to be provided in accordance with the approved plans. However, the approved plans already provide information on visibility splays and as such I do not consider a separate condition in respect of these is necessary.
29. Furthermore, I consider a condition in relation to the disposal of surface and foul water is necessary to ensure the site is suitably drained. However, I do not consider it necessary to include the level of detail suggested by the Council and have amended the condition accordingly. Likewise, I do not consider it

necessary for there to be a separate condition in relation to discharge of water onto the public highway.

30. I consider a condition requiring the submission of a Construction Environment Management Plan to be necessary in the interests of highway safety and to ensure that the development is carried out in a manner that is sensitive to the local environment.
31. Furthermore, while I consider a scheme to protect and improve biodiversity is necessary, I am not persuaded that the Council's five suggested conditions are all necessary to secure this. A condition requiring the submission, approval and implementation of a Written Scheme of Investigation is necessary in view of the site's close proximity to an area of high archaeological potential.
32. However, I do not consider the Council's proposed conditions in relation to tree protection measures, a Landscape and Ecological Management Plan, the service road, parking and turning areas, footpaths (including an additional footpath link from Broadway Road), drives, charging points, street lighting, entrance gates and areas of hard standing, are necessary as these matters can be adequately dealt with as part of the reserved matters.
33. Furthermore, the Framework¹ advises that conditions should only restrict national permitted development rights where there is a clear justification for doing so. I am not satisfied that the Council's suggested condition removing many householder rights is necessary as no detailed explanation for it is given.
34. A number of the above conditions need to be discharged before work commences on site as they relate to matters which need to be resolved on a fully coordinated basis.

Conclusion

35. I have found above that the proposal would not be harmful to the character and appearance of Charlton Adam and would not be detrimental to pedestrian safety. Likewise, I have found that the proposal makes adequate provision for foul drainage.
36. In the absence of any identified harm, I consider the current proposal complies with the development plan as a whole. Accordingly, for the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be allowed

Rory Cridland

INSPECTOR

¹ Paragraph 53.

SCHEDULE

Conditions

- 1) Details of the appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters.
- 4) The development hereby permitted shall be restricted to no more than 24 dwellings.
- 5) The development hereby permitted shall be carried out in accordance with the following approved plans:
Drawing number A096493_SK03 Rev D
- 6) No development shall take place until details of a surface and foul water drainage scheme together with a programme of implementation and maintenance for the lifetime of the development have been submitted to and approved in writing by the local planning authority.
- 7) No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) construction vehicle routes to and from the site;
 - viii) a scheme for recycling/disposing of waste resulting from construction works;
 - ix) delivery and construction working hours;
 - x) proposed phasing/timescales of construction; and
 - xi) proposed monitoring and timing of submission of monitoring reports.The approved CEMP shall be adhered to at all times during all phases of development.
- 8) No development shall take place other than in accordance with a Written Scheme of Investigation that shall have first been submitted to and approved in writing by the local planning authority.

- 9) Prior to occupation of any part of the development hereby permitted, a scheme of biodiversity improvements and protection, shall be submitted to and approved in writing by the local planning authority. The biodiversity improvements shall be carried out in accordance with the approved scheme and thereafter maintained in accordance with the programme agreed.

END OF SCHEDULE