



Appeal Decision

Site visit made on 16 November 2020

by Neil Pope BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 November 2020

Appeal Ref: APP/Q3305/W/20/3255745

Land west of Flowerstone, Station Road, Binegar, Wells, Somerset, BA3 4UQ.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr R Thorner of B & R Thorner Ltd against Mendip District Council (the LPA).
 - The application Ref. 2020/0505/OTS, is dated 26 February 2020.
 - The development proposed is residential development of 13 dwellings with ancillary works and meadow.
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Decision

1. The appeal is dismissed and outline planning permission is refused.

Preliminary Matters

2. Matters relating to appearance and scale have been reserved for subsequent consideration.
3. The LPA has informed me that had it determined the application it would have refused outline planning permission for the following reasons:

1. The site lies in the countryside, outside the defined Development Limits of the village, where development is strictly controlled. The proposal would not accord with the Council's plan-led approach for the allocation of new housing within the District. The proposed development would have only limited benefits for housing supply across the district, local economic activity or for extending the range of facilities available to the local community. Notwithstanding the identified shortfall in the Council's five year housing land supply, the tilted balance of Paragraph 11 (d) of the National Planning Policy Framework is not engaged. This is due to the adverse impact of the proposal on the setting of the Grade II parish church and the open setting of the village. These limited benefits do not override the requirements of Policy CP1 in regard to the spatial strategy for the District or Policy CP2 in regard to the Site Allocations process. The development would therefore be contrary to policies CP1 and CP2 of the Mendip District Local Plan 2006-2029, Part 1: Strategy and Policies (Adopted December 2014) and the National Planning Policy Framework.*

2. The proposed development, by reason of its domestic appearance and suburban layout, would fail to be compatible with the overall landscape character, visual amenities and the pattern of features of the local landscape and would be at harmful odds with the rural setting of the nearby listed building, Holy Trinity Church and churchyard, causing harm (albeit 'less than

substantial' harm) to their significance. The development would therefore be contrary to policies DP3 and DP4 of the Mendip District Local Plan 2006-2029, Part 1: Strategy and Policies (Adopted December 2014) and the National Planning Policy Framework, including Chapter 12.

3. The submitted planning obligation is flawed and inadequate to secure, under Section 106 of the Town and Country Planning Act 1990 as amended, the provision of public recreational open space or affordable housing necessary to make the development acceptable in accordance with policies DP11 and DP16 of the Mendip District Local Plan 2006-2029, Part 1: Strategy and Policies (Adopted December 2014) and the National Planning Policy Framework.

4. In support of the appeal, the appellant has submitted a Unilateral Undertaking (UU) under the provisions of section 106 of the Town and Country Planning Act 1990 (as amended). Amongst other things, this includes provision for some of the dwellings to be made available as affordable housing, a financial contribution towards the off-site provision of public open space and provision for managing the proposed meadow.
5. If the appeal was to be allowed and outline planning permission granted, it would be necessary to assess the UU against the provisions of paragraph 56 of the National Planning Policy Framework (the Framework) and Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.
6. Both main parties agree that the LPA is unable to demonstrate a minimum of five years' worth of housing supply, as required by the Framework. It is also agreed that the LPA has only 3.8 years supply and this amounts to a significant shortfall (over 750 dwellings).
7. The appeal site forms part of the settings of the grade II* listed Holy Trinity Church and the grade II listed dwelling known as Englewood (listed as The Old Rectory)¹. The main parties agree that the proposal would result in less than substantial harm to the significance of the Church of the Holy Trinity².

Main Issue

8. The main issue is whether the public benefits of the proposal would outweigh the less than substantial harm to the significance of the Church of the Holy Trinity, as well as any harm to the significance of Englewood and, if so, whether this harm and any harm to the character and appearance of the area would significantly and demonstrably outweigh the benefits of the proposal.

Reasons

Planning Policy

9. The development plan includes the Mendip District Local Plan Part 1: 2006-2029 (LP), which was adopted in 2014. My attention has been drawn to numerous policies. The most important policies to the determination of this appeal are CP1 (spatial strategy)³, CP2 (distribution of housing growth), DP3 (heritage conservation) and DP4 (landscapes).

¹ The provisions of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 are engaged.

² On behalf of the appellant, I have also been informed that the settings of the two separately grade II listed 17th century monuments within the churchyard would be harmed.

³ Binegar/Gurney Slade is identified as a Secondary Village. The appeal site lies outside the settlement limits, as defined on the LP Proposals Map, and forms part of the countryside.

10. The proposed development would be at odds with the provisions of policies CP1 and CP2. However, given the above noted housing land supply position, including the shortfall in supply, I attach only limited weight to this policy conflict. I also note that the appeal site is immediately adjacent to a settlement that has been identified as suitable for some further growth.
11. LP policies DP3 and DP4 are consistent with the provisions of sections 16 and 15 respectively of the Framework. Any conflict with these policies would therefore carry full weight in the overall planning balance.
12. My attention has been drawn to the emerging Mendip District Local Plan Part II (eLP). I understand that the appeal site was promoted as a housing site but the LPA is not proposing to include it as part of the eLP. Instead, it is proposed that a site in Gurney Slade is allocated for a minimum of 11 dwellings. I note that some hearing sessions were held in 2019 as part of the Examination of the eLP and there has been consultation in respect of Main Modifications. I also understand that further hearing sessions are scheduled for November 2020. The eLP carries only limited weight.

Public Benefits

13. The proposed development would help address the shortfall in housing land supply within the district. It would increase the choice of homes available in the local housing market and the proposed affordable units would assist in meeting the housing needs of the community. Occupiers of the proposed dwellings would be likely to make use of local services and businesses. The development would also help support the construction industry. The proposed meadow would have the potential to increase biodiversity and ecological interests. These social, economic and environmental benefits can be given considerable weight in the heritage and overall planning balance.

The Church of the Holy Trinity and Englewood

14. The significance of the Church of the Holy Trinity⁴ is derived from its special architectural and historic interest. This includes its 15th century Perpendicular style three-stage tower, three-bay nave, two bay chancel and transept, as well as much of its fabric and its role as a place for religious worship within this part of rural Somerset.
15. This designated heritage asset, which is of more than special interest, has an extensive setting. There have been changes to this setting over time⁵. However, as noted by Historic England, this church has retained a relatively rural setting and a sense of independence from the surrounding development through the open fields to the north, east and the south. The rural setting to the south is principally through the appeal site and adjoining fields to the west.
16. As I saw during my visit, the church tower remains as a 'beacon' for worship within this rural area. The unspoilt open qualities of the appeal site and its tranquil character maintains the countryside setting to this listed building and assists in affording an appreciation and understanding of the special interest of the Church of the Holy Trinity. The site makes a small, but positive contribution to the significance of this designated heritage asset.

⁴ This building dates from the 13th century and was substantially rebuilt in the 15th and 19th centuries.

⁵ These include the former railway, the row of circa 1950s houses along the western side of Station Road and a new dwelling (Meadow View) adjacent to the southern end of the appeal site.

17. The appeal site also forms part of the setting of the two listed monuments within churchyard. The significance of these listed buildings is primarily derived from their association with notable former residents of the parish, as well as their historic fabric. The appeal site does not assist in affording an appreciation or understanding of these designated heritage assets and makes a neutral contribution to their significance.
18. The significance of the early 19th century Englewood is derived from its special architectural and historic qualities. These include its irregular plan form, rendered walls, timber sash windows, chimneys, original fabric and former role as a rectory and associations with the neighbouring church. There is an important open view of this former rectory from the path on the western side of the church. However, the mature trees along the southern and south eastern sides of the garden to Englewood largely screen this dwelling in views to and from the appeal site. The appeal site makes a neutral contribution to the significance of this former rectory.
19. The proposed meadow would be provided at the northern end of the appeal site and on the opposite side of the road (Station Road) to the church. This would result in the nearest new dwelling being set back approximately 60 metres from the southern edge of Station Road. The existing roadside hedge would be maintained to a height of 2m and the new access road into the site would be landscaped. Whilst appearance is a reserved matter, the new buildings could be designed and finished to reflect the local vernacular. The appellant's architect has given thoughtful consideration to the impact of the proposed development upon the setting of the grade II* listed church..
20. However, notwithstanding the best endeavours of the architect, the development would markedly change the character and appearance of the appeal site. The new buildings and estate road would considerably erode the unspoilt open qualities of much of the site. Its tranquil rural character would be considerably diminished and largely replaced by suburban development, including hard surfaces, domestic paraphernalia, artificial lighting and much residential activity. In views from and across the churchyard to the north, as well as more limited views from the south of the site, the development would intrude into and disrupt the attractive countryside/rural setting of the church. It would detract from an appreciation and understanding of the heritage interest of this listed building and would not preserve its setting.
21. I agree with the main parties and Historic England that, in the context of the Framework, the proposal would result in less than substantial harm to the significance of the Church of the Holy Trinity⁶. If there is a sliding scale of harm within this category the proposal would be towards the middle. However, less than substantial harm to the significance of a grade II* listed building does not amount to a less than substantial planning objection. Great weight must be given to a asset's conservation and the more important the asset, the greater the weight.

Heritage Balance

22. When the less than substantial harm to the significance of the church that I have identified above is weighed with the public benefits of the proposal I find

⁶ There would be no harm to the significance of Englewood or the two listed monuments within the churchyard.

that matters are very finely balanced. In this instance, the balance just tips in favour of an approval and the development accords with LP policy DP3.

Character and Appearance

23. This 0.66 ha site lies within the 'Mendip Plateau' Landscape Character Area (LCA), as defined within the Landscape Assessment of Mendip District (1997). The sections of drystone walls along some of the boundaries of the site, the rectilinear shape of the field/paddock, its open qualities and the long views across this field⁷, reflect some of the key characteristics of this LCA. As I noted during my visit, the unspoilt green open qualities of the appeal site and its boundary walls and hedges allow the countryside to penetrate into the heart of the settlement and make a very pleasing contribution to the setting of Binegar.
24. In meeting the LPA's housing requirement and in addressing the shortfall in supply some countryside is going to have to be made available for new development. This will inevitably result in some adverse landscape and/or visual impacts. However, that is not to say that all fields on the edges of all settlements should be released for housing. As noted above, the LPA as part of the eLP has already considered the possible release of the appeal site and has identified a more appropriate site for new housing in Gurney Slade.
25. Even if the site at Gurney Slade does not come forward for housing, the proposed development of the appeal site would considerably erode its unspoilt open qualities, tranquil charm and countryside character. It would introduce a more tightly grained pattern of development in a suburban style cul-de-sac arrangement. This would be at odds with the existing loose grain pattern of development and some of the key landscape characteristics of this LCA.
26. The proposed meadow, which would be sandwiched between Station Road and the new houses, would all but extinguish the historic field shape⁸. In all likelihood, by virtue of its very modest size and close proximity to new housing, it would become an amenity space, such as a dog walking facility, used by those living alongside. It would have a different character to other larger fields surrounding the village and would be separate from the countryside. Moreover, the new houses and sections of the estate road would be apparent in long views from the north and south of the site and would erode the countryside setting of Binegar. The proposed development would have a significant adverse effect upon the character and appearance of the area.
27. The evidence before me does not demonstrate that the appeal site forms part of a valued landscape to which paragraph 170(a) of the Framework applies. Nevertheless, the proposed development would be incompatible with the pattern of natural and man-made features of the LCA and would significantly degrade from the quality of the local landscape. It conflicts with the provisions of LP policy DP4.
28. Furthermore, the proposal fails to recognise the contribution the site makes to the intrinsic character and beauty of this part of the countryside. Notwithstanding the potential to increase biodiversity and ecological interests the development would be at odds with the objectives of the Framework for conserving and enhancing the natural environment.

⁷ Including those to the north along Station Road and from the public rights of way to the north of the church.

⁸ I note that until the 1950s the site formed part of a much larger field unit known as 'Ostrey Ground'.

29. The harm to the character and appearance of the area that I have identified above, including the setting of Binegar, weighs heavily against granting planning permission.

Planning Balance/Overall Conclusion

30. When the less than substantial harm to the significance of the Church of the Holy Trinity and the harm to the character and appearance of the area that I have identified are placed in the overall planning balance I find that the adverse impacts significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole. This leads me to conclude that the appeal should not succeed.

Neil Pope

Inspector