The Planning Inspectorate

Appeal Decision

Site Visit made on 22 March 2021

by David Wyborn BSc(Hons), MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 April 2021

Appeal Ref: APP/D0121/W/21/3266596
Summervale, Moor Lane, Backwell BS48 3LL

- 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 D Abruzzo against the decision of North Somerset Council.
- The application Ref 19/P/1747/OUT, dated 8 July 2019, was refused by notice dated 10 July 2020.
- The development proposed is an outline application for the erection of 9no. dwellings with access and layout for approval with matters of appearance, landscaping and scale reserved for subsequent approval.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application has been made in outline with access and layout for consideration at this stage. Matters of appearance, landscaping and scale of the development have been reserved for subsequent consideration.

Main Issues

3. The main issues are:

   - whether the development plan would support the proposed residential development in this location, and
   - the effect of the proposal on the character and appearance of the area.

Reasons

Whether the development plan would support the proposed residential development in this location

4. Policy CS14 of the North Somerset Council Core Strategy January 2017 (the Core Strategy) sets out the strategic approach to the distribution of housing across the plan area. The policy establishes a hierarchy with the focus of development at the larger settlements, service villages and then other settlements such as infill villages. The policy explains that settlement boundaries will define the area within which residential development will be acceptable in principle, subject to compliance with other policies in the plan.

5. Policy CS32 of the Core Strategy identifies the service villages and this includes Backwell. This policy allows new development within or adjoining the settlement boundaries, subject to a range of criteria.

6. In this case, the proposed residential development would be located on land to the rear of Summervale. The site would be separated from the settlement boundary broadly to the north by the intervening field and, other than the access, it would be separated from the settlement boundary on the broadly south eastern side of Moor Lane by Summervale itself. In these circumstances, the site would not adjoin the settlement boundary and, therefore, the proposal would not meet with the requirements of Policy CS32 of the Core Strategy which would allow for new residential development.

7. The appellant has provided examples of other residential sites at Churchill, another service village, which have been permitted. It is argued these examples demonstrate the Council's approach to the application of Policy CS32 of the Core Strategy and the interpretation of whether a site is adjoining the settlement boundary. I have carefully examined the location of these sites in relation to the settlement boundary at Churchill. It seems to me, on the information available, that most of the sites have a reasonable extent of red lined site boundary that adjoins the Churchill settlement boundary, with only the road intervening. In these circumstances, I do not consider that they provide a comparable situation with the present appeal.

8. The exception appears to be for the two dwellings at Pudding Pie Lane[1], where the units would be set back from the road and only the access is close to the settlement boundary. Consistency in decision making is important. However, I do not know the precise situation on the ground with this site at Churchill and whether it appears, given the surroundings and the layout of other buildings and features, to adjoin with the settlement and the defined boundary. In this present appeal case, my assessment on the ground is that the site for the proposed development is separated both physically and visually from the settlement boundary such that the site cannot reasonably be considered to adjoin the boundary for the purposes of Policy CS32 of the Core Strategy. I therefore attribute limited weight to the other examples of development and their association with the settlement boundary at Churchill in support of the present appeal.

9. Accordingly, the appeal site would fall to be considered as 'residential development elsewhere' under Policy CS33 of the Core Strategy. This sets out the limited circumstances when new residential development may be acceptable in the countryside. The proposed nine open market dwellings would not meet with any of the exceptions listed under Policy CS33. For completeness the evidence indicates that the site is not allocated for development in the Backwell Neighbourhood Plan. Consequently, the scheme would be contrary to the development plan approach for the location of new housing.

10. In the light of the above analysis, I conclude that the development plan would not support the proposed residential development in this location. In particular, the proposal would not accord with Policies CS14, CS32 and CS33 of the Core Strategy which, amongst other things, sets the approach to development within and beyond the settlement boundary of service villages.

Character and appearance

11. Summervale, together with its existing buildings to the rear, and the dwellings on either side, are reasonably well grouped. They are positioned in fairly

[1] 20/P/1072/FUL

sizeable plots and the three dwellings have a relationship to Moor Lane. To the rear of these buildings the land is reasonably open and undeveloped, although the appeal land does include a polytunnel.

12. Even though the new housing development broadly to the north is apparent from the appeal site the location of the new estate appears visually and functionally to be related to the settlement. The comprehensive development approach of the new estate includes parts with a gently curving pattern of roads and associated residential layout and for the new housing to be integrated with the village.

13. In contrast, the appeal site appears detached from the built form of the village and has a greater affinity with the immediately surrounding open land with its verdant qualities.

14. The appeal site would be developed in isolation and create a reasonably narrow extension of development away from the existing buildings within this section of Moor Lane. Even with a comprehensive landscaping scheme at the reserved matters stage, the proposed single and two storey dwellings would appear conspicuously as being out on a limb in relation to the general built form in the surroundings and would form an arbitrary incursion into this largely undeveloped green space.

15. In terms of the layout of the site, which is a matter for consideration at this stage, there would be a reasonably long access drive from Moor Lane past the existing dwelling followed by the fairly straight road to the individual properties. This would not create an attractive accessway to the dwellings and the drive would be experienced by users as an overly dominant linear and suburban feature. This layout may be a function of the shape of the site but it would not reflect the generally more informal relationship of buildings and roads often found in the surrounding area. Accordingly the scheme would not respond positively to the existing local character and identity of the nearby parts of the village.

16. Consequently, because of the location and layout, even with a well-designed and landscaped development agreed at the reserved matters stage, the scheme would not add to the overall quality of the area as required by the National Planning Policy Framework (the Framework) approach to achieving well-designed places.

17. Accordingly, I conclude that the scheme would harm the character and appearance of the area and thereby would conflict with Policy DM32 of the North Somerset Council Development Management Policies - Sites and Policies Plan Part 1 (July 2016). This policy seeks, amongst other things, that the design and planning of development proposals should demonstrate sensitivity to the local character, and the setting, and enhance the area taking into consideration the existing context.

Habitats Site

18. The evidence indicates that the site lies on the boundary between Band A and Band B of the North Somerset and Mendip Bats Special Area of Conservation (SAC) Consultation Zone for Greater Horseshoe Bats. The site is approximately 2.1km from the nearest component unit of the SAC which is designated due to

the presence of internationally important populations of breeding and hibernating Greater Horseshoe bats and hibernating Lesser Horseshoe bats.

19. Bat surveys have been undertaken and indicate a high level of activity by horseshoe and other bat species which are considered to be using the site for foraging and commuting. The residential development of the site, therefore, could, either alone or in combination with other sites, have the potential to have a likely significant effect on the SAC.

20. I have had regard to the appellant's Ecological Impact Assessment, the advice from Natural England and the Council's Natural Environment Officer. The layout has been designed to ensure that a suitable bat habitat would be provided on the site including with the new native species rich hedgerow, the areas of unmanaged neutral grassland and the provision of the planting within the Sustainable Drainage area. The precise details, based on the submitted layout plan, could be secured at the reserved matters stage.

21. Additionally, it would be necessary to ensure that the site can be kept sufficiently dark so as to remain accessible to foraging Horseshoe bats. To ensure that this requirement is met, it would be necessary for details to model predicted light spill from internal and external light sources. Some of this would depend, for instance, on the orientation of the windows of the dwellings and details of PIR sensors and light fittings. This would need to be addressed with a suitable design of the dwellings and related specifications at the reserved matters stage. With the layout as proposed, including with the spacing between buildings and the provision of the landscaped and garden areas, a suitable dark environment should be able to be demonstrated at the reserved matters stage.

22. Consequently, when undertaking an appropriate assessment, I am satisfied that the layout as proposed would allow suitable mitigation, both in terms of habitat provision and lighting, to be secured at the reserved matters stage such that the scheme would not, alone or in combination, adversely affect the integrity of the SAC. Accordingly, the scheme would meet with the requirements of the Conservation of Habitats and Species Regulations 2017.

Planning Balance and Conclusion

23. The development would be on a site which would not be supported by policies for the location of residential development and, even taking into account the details which could be submitted at the reserved matters stage, the scheme would cause harm to the character and appearance of the area. It is such that the proposal would conflict with the development plan when considered as a whole.

24. The information indicates that the Council is unable to demonstrate a 5 year supply of deliverable housing land and that the supply of about 4.2 years can be shown. This is a fairly substantial shortfall. In these circumstances, and because in accordance with paragraph 177 of the Framework an appropriate assessment has concluded that the development would not adversely affect the integrity of the habitats site, the presumption in favour of sustainable development as set out in paragraph 11d of the Framework is engaged. This indicates that planning 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.

25. Due to the Council's housing land supply position, the location of the site outside the Backwell settlement boundary is not definitive in this case. Backwell is defined as a service village and has a fairly good range of facilities and services such as two schools, medical facilities and some retail. In particular, the site is within a practical walking distance of the railway station and bus stops on the main road, with much of the route via footways with street lighting.

26. The County Highway Authority has recommended a number of conditions to ensure that the route is improved between the site and the junction of Moor Lane and Long-Thorn. These works would be important and beneficial to the overall scheme and assist with future occupiers of the development, and other local residents and walkers generally, being able to walk more safely and conveniently to the station, the bus stops and to the other local facilities and services. In these circumstances, the site occupiers would be provided with a genuine choice of transport modes other than by the private vehicle.

27. There would also be other benefits of the scheme and these include the social and economic benefits during construction and in subsequent occupation. The development of the site for residential development would provide a boost to housing supply on a windfall site. The scheme is one that can be considered a small to medium sized site and therefore could be built out relatively quickly and by a smaller builder, adding to the mix and type of housing available in the locality. On the basis of all the benefits of the scheme, including the boost to housing supply, as nine units would be delivered I consider that the collective benefits afford moderate weight in favour of the scheme.

28. Due to the location of the site and the ability to access local services and facilities other than by the private car I attribute the conflict with the locational policies of the development plan limited weight. I have taken into account the comments of the Inspector in the recent appeal decision for a housing scheme at Bleadon[2] which has been drawn to my attention. His findings included that it is very far from certain that the Council is going to be able to meet its housing requirement without development taking place on some sites that do not fit with its existing policies for the distribution of new housing and infill villages

29. However, the present appeal scheme, even taking into account the details which could be submitted at the reserved matters stage, would harm the character and appearance of the area and from my reading of the Bleadon appeal decision the harm in this case would be greater. The harm I have identified would be caused by reason of the arbitrary incursion of development into the countryside and by the proposed layout which would not reflect local character and identity. These are matters which would be a significant drawback of the development and would not represent the provision of a well-designed place satisfactorily integrated with the surrounding village. I attribute substantial weight to this harm which would conflict with a policy of the development plan and the Framework. This harm could not be addressed by conditions or details at the reserved matters stage. It is such that collectively the harm that would result from the proposal should be attributed substantial weight, notwithstanding my findings in relation to the limited weight to be attributed to the conflict with the locational policies of the development plan.

[2] Appeal Ref: APP/D0121/W/20/3259109 Land off Purn Way, Bleadon, Weston-super-Mare, BS24 0QK

30. I have taken into account all the objections to the scheme, including from local residents, the Parish Council, the Backwell Residents Association and the Mendip Society. I have addressed the key issues which have been raised in the earlier sections of this decision. In particular, while I note that many concerns are raised regarding the potential effects from the increased use of Moor Lane resulting from the development, I attach significant weight to the advice of the Highway Authority and their judgement that with the recommended conditions the proposal would be acceptable in this respect.

31. Drawing all these points together, I consider that the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. As a consequence, the proposal would not constitute sustainable development and this weighs heavily against the scheme.

32. For the reasons given above, there are no material considerations that indicate the proposal should be determined otherwise than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR