



Appeal Decision

Site visit made on 30 August 2022

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2022

Appeal Ref: APP/Q3305/W/22/3296599

Land adjacent to Station Road, Wanstrow, Shepton Mallet BA4 4SZ

- 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 B Dennett against the decision of Mendip District Council.
 - The application Ref 2020/2510/OTS, dated 4 December 2020, was refused by notice dated 13 January 2022.
 - The development proposed is described on the appeal form as 'outline planning permission with some matters reserved for erection of 4 no. dwellinghouses with details of access and layout'.
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of 4 no. dwellinghouses on land adjacent to Station Road, Wanstrow, Shepton Mallet BA4 4SZ in accordance with the terms of the application, Ref 2020/2510/OTS, dated 4 December 2020, subject to the conditions set out in the attached Schedule.

Applications for costs

2. An application for costs was made by the appellant against Mendip District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The description in the banner heading is taken from the Council's decision notice and it is also the description used on the appeal form. It differs from the description shown on the application form as the scheme has been revised since it was initially submitted to the Council. The Council undertook consultation on the changes and the description represents the scheme on which the Council based its decision. I have proceeded on the basis that no party would be prejudiced by the use of this description in my decision.
4. The proposal is in outline with access and layout being the only matters for which approval is sought. As such, I have had regard to the proposed site plan drawing number 20035-3 revision L dated 14 August 2020 insofar as it indicates the details of the access and layout.

Main Issues

5. The main issues in this appeal are:
 - Whether the appeal site offers a suitable location for housing having regard to the spatial strategy for housing in the development plan;

- Whether the appeal site offers a suitable location in terms of access to services and facilities;
- Whether the appeal proposal provides a suitable strategy for the disposal of surface water; and
- Whether the scheme would provide suitable living conditions for future occupiers having regard to contamination.

Reasons

Development Plan

6. The appeal site, forming part of a larger field, is located at the southern end of Wanstrow, with existing residential development along its northern boundary and on the opposite side of Station Road, the main road through the settlement. Wanstrow does not have a defined settlement limit and therefore, for the purposes of this appeal, is located in the open countryside.
7. Core Policies 1 and 2 of the Mendip District Local Plan Part 1: Strategy and Policies 2006-2029, adopted 15 December 2014 (LP) steer development towards principal settlements and primary and secondary villages with strict control over development in the countryside to ensure that housing is provided in locations which are accessible by a range of transport modes and that the open countryside is protected for its intrinsic value.
8. Core Policy 4 of the LP allows some development in the countryside but there is no dispute between the main parties that the exceptions listed in the policy do not apply to the appeal proposal. The appeal scheme would introduce new housing into the countryside in a way which would not adhere to the countryside policies of the development plan including Core Policy 4. This would harmfully undermine the spatial strategy for the location of housing contained in the development plan.

Location

9. Wanstrow is a relatively compact settlement with the main road running through its centre. Its main facilities consist of a garage, a public house, a village hall and play area and the church. A rare breeds centre with a café and shop lies a short distance to the south of Wanstrow.
10. The village hall offers exercise classes and a post office service operates from there for a brief time once a week. A bus service also operates from Wanstrow although only one way on a Friday. The limited range of services on offer and the lack of regular public transport options means that occupiers of the dwellings would be reliant on the private car to reach essential services and facilities in nearby settlements.
11. However, with the exception of the rare breeds centre, the facilities in Wanstrow are all located within a short, level and lit walk from the site. Short sections have no dedicated pavement and whilst I have had regard to the Parish Council's view regarding highway safety, there are sufficient places to provide pedestrian refuge from passing vehicles along these stretches.
12. Therefore, whilst occupiers of the proposed dwellings would be heavily reliant on the private car for most journeys, there are opportunities for occupiers of the dwellings to access some services on foot, particularly those relating to

social activities and as such, they would not be reliant on the car for every journey. I have had regard to paragraph 105 of the National Planning Policy Framework (the Framework) which acknowledges that options for sustainable transport solutions will vary between urban and rural areas and that this should be taken into account in decision-making. I shall return to this in the planning balance.

Drainage

13. The appeal site forms part of a relatively level, larger undeveloped green field. The introduction of development and hardened surfaces will increase the impermeable areas of the site therefore the volume of surface water runoff from the development. The appeal site is in an area identified as Flood Zone 1 with a low probability of flooding and I have not been advised that it is in a critical drainage area.
14. The Council refer to known historic incidents of flooding in Wanstrow and I understand that they have produced a Flood Risk Management Programme which identifies a catchment area where potential opportunities and measures to reduce flood risk exist. However, that document is not before me and I have not been provided with any specific details of how it relates to the proposal at the appeal site.
15. A drainage strategy was submitted with the planning application. It assumes that an infiltration-based drainage scheme is unlikely to be feasible for the site and proposed an attenuation-based strategy as the alternative. It also assessed the feasibility of different sustainable urban drainage systems (SUDS) and advised that if infiltration testing proved favourable, the infiltration techniques could be utilised.
16. On the basis of the information before me, including that the appellant owns the wider field with the drainage ditch which the field currently drains to, I am satisfied that a drainage scheme could be designed which would not increase flood risk on site or elsewhere. Given that this is an outline application, this can be adequately controlled by conditions which would include requirements for the details of the capacity of the downstream channel, infiltration testing and a maintenance programme to be agreed with the Council.
17. As such, the appeal proposal accords with Policy DP7 and DP23 of the LP insofar as they require the use of SUDS to reduce surface water run-off and ensure that flood risk is not increased elsewhere.

Contamination

18. The appeal site is located in one part of a large field to the south of the former police station which is now a residential dwelling. There is colloquial/anecdotal information relating to the burning and burial of a cow with anthrax in the field next to the police station. The appellant points out that there was also a field next to the police station to the north which has subsequently been developed for housing.
19. From the information before me, I cannot be certain that there is anything more than a slight possibility of contamination on the appeal site. Nevertheless, given that the proposal is for residential properties I have taken a precautionary approach. Accordingly, it would be appropriate and reasonable to require investigations and any necessary mitigation, to be carried out prior to

any construction work taking place by means of pre-commencement conditions. The appellant has indicated that this would be acceptable. This approach was advocated by the Council's Land Contamination Officer.

20. I find that the proposal with the necessary conditions would comply with Policy DP8 of the Mendip District Local Plan Part 1: Strategy and Policies 2006-2029, adopted December 2014 insofar as it requires that development does not give rise to unacceptable adverse environmental impacts on public health and safety.

Other Matters

21. Various concerns have been raised by interested parties. I have no substantive evidence before me which suggests that there is insufficient capacity for the foul drainage from the site to be discharged to the mains sewer.
22. Access falls to be considered at outline stage. I note that the Highway Authority do not share the views of interested parties that the development would pose an unacceptable risk to highway safety. The appellant's access statement indicates that vehicles travelling from the south are likely to exceed the speed limit and the proposed visibility splays have taken this into account. The uncontrolled pedestrian crossing point would enable occupiers of the appeal site to cross the road onto the existing pavement on the west side of the main road.
23. Interested parties express concern that this will reduce the availability of on-street parking. However, I observed that many of the properties in the vicinity of the appeal site have off-street parking. Moreover, the works would only result in a small area of Station Road being unavailable for on street parking. As a result, there would be no harm to highway safety as there would be little risk of motorists parking dangerously on account of the pedestrian crossing.
24. I have nothing before me to suggest that the noise from vehicles associated with four additional dwellings would harm the living conditions of nearby residents, especially given existing noise conditions, which includes that generated by traffic on the A359.
25. The planning system is concerned with land use in the public rather than private interest. In this instance it has not been demonstrated that the impact on property values and private views would be matters of public interest. This is highly unlikely given the limited scale of the proposal. As such, this is a point of little weight.
26. There is nothing before me to suggest the effect on the living conditions of neighbours would be inherently prejudiced by the appeal scheme. Thus, the effect on the privacy of neighbouring occupiers could reasonably fall to be considered at the reserved matters stage in this instance.

Planning Balance

27. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of a planning application must be made in accordance with the development plan unless material considerations indicate otherwise. The Framework is a material consideration in planning decisions.

28. There is no dispute between the main parties that the Council cannot demonstrate a five-year housing land supply, with their supply standing at 4.1 years. The housing land supply position means that relevant policies for the supply of housing should be deemed out of date and paragraph 11 (d) of the Framework applied. This means that planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
29. As an adverse impact, I have identified that the provision of housing in this location would run contrary to the spatial strategy for housing in the development plan. However, a rigorous application of Core Policy 4 would frustrate attempts to remedy the housing shortfall. That said, policies restricting development in the countryside to ensure that the intrinsic character and beauty of the countryside is not harmed and that development is delivered in locations where people can access a range of services and facilities are consistent with the Framework. As such, the conflict I have found with Core Policy 4 carries moderate weight.
30. The appeal scheme would result in a housing development encroaching into an agricultural field and consequently there would be some harmful urbanisation, albeit limited in extent. However, the proposed dwellings could be enclosed by new native hedging which would provide a sense of the village tapering into the countryside. This effect would be reinforced by the ability to retain the mature tree and provide wildflower grassland between two groups of houses. Moreover, the development would have a sensitive layout, being single plot depth and arranged to follow the linear pattern of the village. The new housing would also broadly mirror and balance the layout of the existing houses on the western side of Station Road. As a result, and subject to sensitivity at the reserved matters stage, the appeal scheme would be a natural extension of the village in what could be a pleasant, softly landscaped context. Accordingly, there need be no inherent overall harm to the character and appearance of the area from erecting four dwellings at the appeal site.
31. In addition, the proposal would deliver several benefits. One of those benefits is that it would boost the supply of housing. The development is small scale and paragraph 69 of the Framework suggests it is likely that this could be built out quickly. It would result in a modest contribution of four dwellings to the supply of housing and I afford this moderate weight.
32. Economic benefits would also arise from the construction and occupation of the four dwellings. Paragraph 79 of the Framework states that housing should be located where it would support local communities. Wanstrow is a discernible settlement and thus an identifiable rural community. It is reasonable to expect, given the easy walking distance to services and facilities in Wanstrow, that the occupiers of the four dwellings would use some local facilities and that modest economic and social benefits would arise therefrom. The proposed dwellings could also support the vitality of this community. I have therefore given this moderate weight.
33. The Council refer to two appeal decisions¹ in one of the District's Primary Villages. In those cases, the Inspectors found that despite being in close proximity to facilities and services in the village, the proposed development would still promote the use of the private car. However, it seems to me that

¹ APP/Q3305/W/20/3251126 and APP/Q3305/W/20/3254721

the circumstances surrounding those appeals are quite different to those at the appeal site as walking distances were greater along roads with no footpaths, patchy street lighting and relatively steep gradients and I give these limited weight accordingly.

34. When taken cumulatively, the moderate adverse impacts of the appeal scheme would not significantly and demonstrably outweigh its moderate benefits. This is a material consideration that indicates the appeal should be determined otherwise than in accordance with the development plan.

Conditions

35. I have had regard to the advice in the Planning Practice Guidance and the conditions set out in the Council's officer report. The appellant has had sight of those conditions and has not indicated that I should not impose them. I have undertaken some minor editing of those conditions in the interests of precision and clarity without changing their overall substance. In respect of the pre-commencement conditions, I sought the views of the Council and the appellant on some revised wording.
36. It is necessary in the interests of safeguarding the character and appearance of the area and the living conditions of neighbours to ensure that the reserved matters are submitted and approved. It is also necessary to require compliance with the submitted plans but only in relation to access and layout as these are not reserved matters.
37. Given my findings above in respect of drainage, it is necessary to impose a condition requiring the details of a scheme to be submitted, approved and implemented. Additionally, it is also necessary to impose conditions dealing with any as yet unknown land contamination that may be present in the interests of safeguarding living conditions
38. In the interests of highway safety, it is necessary to impose conditions to secure the provision of the access, turning, parking, visibility splays, footways and pedestrian crossing prior to occupation of the dwellings, together with prohibiting the discharge of surface water onto the highway. It is also necessary to impose a condition requiring a Construction Method Statement in the interest of safeguarding highway safety and the living conditions of neighbours.
39. In the interests of safeguarding and enhancing biodiversity and providing an acceptable layout, it is necessary to impose a condition requiring the protection of the retained tree and the conditions recommended by the Council's Ecologist except for one which relates to licensing requirements which is covered by separate legislation.
40. I have not attached a condition suggested by the Council requiring the submission of further plans relating to the parking and turning layout and the provision of an electric vehicle charging strategy. Layout falls to be considered at this outline stage and I note that the Highway Authority as statutory consultee have not raised an objection to this. I have not been directed to any planning policy that specifically requires electric vehicle charging points and therefore I am not satisfied, based on what is before me, that a condition requiring them would be necessary and reasonable.

Conclusion

41. The proposed development would be contrary to the development plan but in this instance material considerations, namely the Framework, indicate the proposal should be determined otherwise than in accordance with the development plan. Thus, for the reasons given, the appeal has succeeded.

Alison Fish

INSPECTOR

Schedule of Conditions

1. Details of the appearance, landscaping 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 to be approved.
4. The development hereby permitted shall be carried out in accordance with the following approved plans: 20035-4 Revision A and 20035-3 Revision L.
5. No development shall take place until a scheme for the protection of the retained tree and the appropriate working methods (an arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained tree shall be carried out as approved. [In this condition "retained tree" means the existing tree which is to be retained in accordance with the approved plans and particulars.]
6. No site clearance, preparatory work or development shall take place (including ground works and vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The approved CEMP shall be adhered to and implemented throughout the construction period.
7. No development shall commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, shall have been submitted to and approved in writing by the local planning authority. The scheme shall include results of infiltration testing and an assessment of the capacity of the downstream channel and structures to accommodate additional flows from the site, along with details of groundwater levels and soakaway design, in accordance with Building regulations Part H, to verify

whether or not soakaways will be suitable for the development. Where soakaways are found to be suitable, details of the soakaways to be installed shall be provided. If the infiltration test results or ground water levels demonstrate that soakaways are not appropriate, an alternative method of surface water drainage shall be detailed and justified. Discharge from the site shall be restricted to greenfield rates of runoff with attenuation provided up to the 1 in 100 year plus 40% climate change event. The submitted details shall also include a timetable for its implementation and a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

8. No development shall commence until an assessment of the risks posed by any contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The assessment shall include a survey of the extent, scale and nature of contamination and the potential risks to human health, property (existing or proposed) including buildings, adjoining land; ground waters and surface waters and ecological systems.
9. No development shall take place where (following the risk assessment required by condition 8 above) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out [and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority] before the development is first occupied.
10. Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.

- 11.No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:
- a) provision of access for construction vehicles;
 - b) provision of contractors' parking/compound;
 - c) loading and unloading of plant and materials;
 - d) storage of plant and materials used in constructing the development;
 - e) wheel washing facilities;
 - f) measures to control the emission of dust and dirt during construction;
 - g) construction hours.
- The development shall thereafter be constructed in accordance with the approved Construction Method Statement.
- 12.Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have first been submitted to and approved in writing by the Local Planning Authority. Such provision shall be installed prior to first occupation of the proposed development and permanently retained thereafter.
- 13.The vehicular accesses hereby approved shall not be brought into use until they have been constructed in accordance with details shown on Drawing No. 20035 - 3 Rev L. The vehicular accesses shall thereafter be permanently retained in accordance with the approved plans.
- 14.No occupation of the development shall commence until the visibility splays shown on Drawing No. 20035 - 3 Rev L have been provided. There shall be no on-site obstruction exceeding 300mm above ground level within the visibility splay. The visibility splay shall be permanently retained thereafter.
- 15.No part of the development hereby approved shall be first occupied until the footway along the site frontage and the uncontrolled pedestrian crossing facility as shown on Drawing No. 20035 - 3 Rev L have been constructed and fully implemented in accordance with a design and specification which shall be first submitted to and approved in writing by the Local Planning Authority.
- 16.No external lighting shall be erected or provided on the site until a 'lighting design for bats' has been submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting will be installed (including through the provision of technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their resting places. All external lighting shall thereafter be installed in accordance with the specifications and locations set out in the design, and these shall be maintained thereafter in accordance with the approved details.
- 17.No new external lighting, other than that shown in the approved 'lighting design for bats', shall be installed within the boundary of the application site unless in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority.

End of Schedule