



Appeal Decision

Site visit made on 31 October 2023

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th November 2023

Appeal Ref: APP/W3330/W/22/3313793

Land at Munty Cottage, Churchstanton TA3 7RH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Messrs Jones & Clark against the decision of Somerset West and Taunton Council.
 - The application Ref 10/21/0029, dated 3 November 2021, was refused by notice dated 23 November 2022.
 - The development proposed is described on the application form as, "Single self-build dwelling".
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Decision

1. The appeal is dismissed.

Application for costs

2. The appellants made an application for costs. This application for costs has been dealt with in a separate decision.

Preliminary Matters

3. Although the application form refers to Lower Munty, the postal address is Churchstanton, which has been used in the banner header above.
4. Differing to the description of development in the banner header above, the Council's decision notice accurately describes the development as shown on the supporting plans as, "Demolition of outbuilding and erection of 1 No. dwelling with associated works". I have used this description in my consideration of the appeal since it best describes the proposed development in precise and concise terms.

Main Issues

5. The main issues are:
 - whether the appeal site would be a suitable location for new housing, with particular regard to the settlement strategy for the area and the accessibility of services and facilities; and
 - the effect of the proposed development on the character and appearance of the area, having particular regard to the appeal site's location within the Blackdown Hills Area of Outstanding Natural Beauty (AONB).

Reasons

Location

6. The appeal site is a parcel of land located opposite and associated with Munty Cottage. Part of the site is occupied by a large corrugated / wooden-clad shed and a static caravan, with much of the remainder of the site comprising hardcore and green space.
7. The site is located outside of any of the settlements identified in Policy SP1 of the Adopted Taunton Deane Core Strategy 2011 – 2028: Development Plan Document (adopted 2012) (Core Strategy) and accordingly for the purposes of planning policy the site is to be treated as being within the open countryside.
8. Policy SB1 of the Taunton Deane Adopted Site Allocations and Development Management Plan (adopted 2016) (DMP) provides that, amongst other things, proposals in such areas must be assessed against Core Strategy Policies CP1, CP8, and DM2, unless 2 criteria apply. It has not been suggested that either of these 2 criteria apply and accordingly the proposal falls to be assessed against the above-mentioned policies.
9. In this regard, Policy DM2 of the Core Strategy, which relates to development in the countryside, lists the uses for which development outside of the defined settlement limits will be supported. The proposed development does not fall within any of the uses listed within Policy DM2. The proposal's conflict with Policy DM2 would undermine the delivery of the Council's settlement strategy for the area. Bearing in mind that paragraph 15 of the National Planning Policy Framework (the Framework) provides that, amongst other things, the planning system should be genuinely plan-led, this conflict is a matter of critical importance which weighs heavily against the proposed development.
10. Reference has been made to Blackdown Farm Services, but few details have been provided to illustrate the type and amount of any employment opportunities which this business might offer to the future occupiers of the proposed new dwelling. The site is situated within walking distance of the Alternative Education Centre and Churchstanton Primary School. However, the route to the Primary School involves walking on roads with no footway or street lighting, likely making journeys to and from the school unattractive, particularly for journeys undertaken with young children.
11. It is clear, then, that there are very limited services and facilities nearby to serve the day-to-day needs of the future occupiers of the proposed new dwelling, and that the local highway conditions are far from ideal with respect to accessing Churchstanton Primary School on foot. In other words, there are limited local services available for the proposed new dwelling to support, with respect to paragraph 79 of the Framework, which provides that, amongst other things, to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.
12. Thus, to access even basic services and facilities, such as shopping and mainstream secondary education (for example), the future occupiers of the proposed new dwelling would be required to travel further afield. In this respect, the main parties have focussed on Churchinford, which is said to be approximately 2km away from the site. Whilst the route to Churchinford is likely trafficked, it too involves walking along roads without the benefit of

footways or street lighting, which would likely make walking or cycling an unattractive prospect particularly in the winter and during the hours of darkness. Moreover, I have not been referred to bus services which might enable Churchinford to be accessed by public transport from near the site.

13. The evidence therefore indicates that Churchinford is not easily accessible by sustainable modes of transport, meaning that in all likelihood it would be accessed by the future occupiers of the proposed new dwelling by private vehicles.
14. I have had regard to appeal decision Ref APP/X1925/W/22/3290692. Whilst I note that the circumstances involved in that appeal decision bears some similarities with the appeal proposal, the key difference is that in paragraph 7 of that decision the Inspector stated that the nearest village would provide the necessary services for day-to-day living. This is not the case with respect to Churchinford, as whilst the appellants have highlighted that Churchinford benefits from a community shop with a Post Office and a café, a village hall, a Public House, and a monthly produce market, I note that more substantial shopping facilities suitable for regular weekly or bi-monthly food shopping have not been identified, nor have any healthcare, education, or employment destinations been identified at Churchinford.
15. Hence, the available services in Churchinford, as a 'village nearby' in the terms of paragraph 79 of the Framework, are limited. I have not been provided with information which might demonstrate that the services available in the relevant village considered in appeal decision Ref APP/X1925/W/22/3290692 are comparable with those in Churchinford. That appeal decision therefore does not change my findings.
16. Hence, the future occupiers of the proposed new dwelling would likely be required to travel further afield to access the required services and facilities for day-to-day living. Again, given the lack of public transport options identified, travel to destinations beyond Churchinford would likely be undertaken by private vehicle.
17. Taking all of the above into account, the future occupiers of the proposed new dwelling would in all likelihood be required to undertake multiple journeys beyond Churchinford by private vehicle in a typical week, in order to access the required services. I have taken account of paragraph 105 of the Framework which provides that, amongst other things, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, but in this case the availability of such solutions for the future occupiers of the proposed new dwelling would be very limited in scope, considering their likely daily needs.
18. Accordingly, considering *Braintree*¹, whilst due to its location near to a cluster of buildings in residential use the site is not isolated in the terms of paragraph 80 of the Framework, and the regional settlement pattern is dispersed with sporadic development, given my findings above the proposal would not comply with part a. of Policy CP1 of the Core Strategy which provides that, amongst other things, development proposals will be required to demonstrate that the issue of climate change has been addressed by reducing the need to travel through locational decisions.

¹ *Braintree DC v SSCLG & Ors* [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610

19. In the context of this appeal it is not my role to provide a formal determination as to whether the site comprises previously developed land. Nevertheless, the evidence indicates that the buildings on site could not be considered to be in agricultural or forestry use, and that this has been the case for several years. As these are not agricultural or forestry buildings, for the purposes of this appeal decision I consider that the site does constitute previously developed land in the terms of the definition given in the Glossary to the Framework.
20. Even so, although Policy SP1 provides that, amongst other things, proposals should maximise opportunities to make best use of previously developed land, equally Policy SP1 provides that, amongst other things, proposals should make efficient use of land and follow a sequential approach, prioritising the most accessible and sustainable locations. Considering this in the light of my findings above, the proposed development would not comply with Policy SP1 when considered as a whole.
21. I therefore find that the appeal site would not be a suitable location for new housing, with particular regard to the settlement strategy for the area and the accessibility of services and facilities. It would conflict with Policy SP1 of the Core Strategy which provides that, amongst other things, proposals should make efficient use of land and follow a sequential approach, prioritising the most accessible and sustainable locations and maximising opportunities to make best use of previously developed land where possible, and with part a. of Policy CP1 of the Core Strategy which provides that, amongst other things, development proposals should result in a sustainable environment, and will be required to demonstrate that the issue of climate change has been addressed by reducing the need to travel through locational decisions.
22. The proposal would conflict with Policy DM2 of the Core Strategy which lists the uses which will be supported outside of defined settlement limits. The proposal would also conflict with Policy SB1 of the DMP which seeks to, amongst other things, maintain the quality of the rural environment and ensure a sustainable approach to development.

Character and appearance

23. The wider area is rural and many of the buildings near the site reflect this character. In addition to the dwellings found on the opposite side of the road and an area in residential use at North Munty Farm to the north-west of the site, a scrapyard and the Alternative Education Centre lie to the west of the site. The buildings at the Alternative Education Centre, as far as can be seen from public vantage points, commonly have an agricultural appearance and the group of dwellings opposite the site exhibit a mix of stone and render, with mostly tiled roofs, and uncluttered elevations, resulting in a charming rustic appearance, reflective of farmhouses.
24. I observed that, at the time of my site visit, many of the roadside trees and areas of hedges shown on the left of the photograph of Viewpoint 02² given in the submitted Landscape and Visual Impact Assessment³, were no longer present, meaning that quite clear views of the front of the site were visible from some distance to the west of the site. Indeed, I observed that the existing shed on site was visible from the road near the entrance to the Alternative

² Viewpoint 02: Munty Lane, West of Development Site

³ Landscape and Visual Impact Assessment (Steele Landscape Design) (2021)

Education Centre. Hence, the proposed new dwelling, which would be sited partly on the footprint of the existing shed, would occupy a prominent position in the street scene in views from the west of the site.

25. Whilst the contemporary design ethos is noted, and I have taken account of section 3.3 of the Council's Design Guide⁴ which provides that, amongst other things, sensitive design solutions can be innovative and do not necessarily replicate the existing, the proposed new dwelling would incorporate large areas of timber cladding which would visually reflect the appearance of utilitarian structures, such as agricultural buildings. Furthermore, the proposed zinc roof, even though it would somewhat replicate the colour of the materials present on the roofs of nearby dwellings, would nevertheless serve to reinforce the utilitarian aesthetic of the dwelling.
26. Although the Council's Landscape and Green Infrastructure Officer stated that they had no objection in principle to the proposed development, I share their concerns that the glazed first floor balconies would conflict with the character of the context. However, as these balconies would not be visible from the road, this aspect of the proposed development would have a limited impact on the appearance of the local area. Even so, the proposed new dwelling would contain an assortment of windows and dormers of varying sizes and styles on its southern elevation, which would undermine the coherence of the design as a whole.
27. Taking all of the above into account, although the proposed new dwelling would replace the aging shed and static caravan on site which presently offer little in the way of aesthetic appeal, and a landscaped garden would be introduced, the proposed new dwelling would starkly contrast with, and thereby serve to noticeably and unduly distract from, the traditional appearance of the nearby dwellings which make a highly positive contribution to local distinctiveness. It would likely take several years for maturing trees and hedgerows to adequately screen the proposed new dwelling. As a result, I consider that the proposed new dwelling would not respond sensitively to the appearance of the character area in which it is located, in conflict with the advice given in section 3.3 of the Design Guide.
28. The conclusions of the LVIA are based on the presumption that the proposed new dwelling would constitute high quality design, which as explained above, would not be the case. Accordingly, the LVIA does not change my findings.
29. The Blackdown Hills Area of Outstanding Natural Beauty Management Plan 2019 – 2024 (Management Plan) highlights that the landscape pattern of the AONB is punctuated by a wealth of small villages, hamlets and isolated farmsteads of architectural value and distinctive character.
30. Whilst, as demonstrated in the LVIA, the visual impact of the proposed development would be localised, it is important to note that, as stressed in the Management Plan, villages, hamlets, individual buildings and their settings form a vital element of the character of the Blackdown Hills. In this regard, given the adverse impacts identified above, the proposed development would not reinforce local distinctiveness, as required by Policy PD2 of the

⁴ Design Guide: For a zero carbon, healthy, resilient and distinctive environment (adopted 2021)

Management Plan. As a result, the natural beauty of the AONB would not be conserved, in conflict with the statutory purpose of the AONB⁵.

31. Few details have been provided to illustrate the prevailing context in relation to planning application Ref 18/1867/FUL (East Devon District Council). As it has not been demonstrated that this example is directly comparable with the circumstances of the appeal proposal, it does not change my findings.
32. I therefore find that the proposed development would have an unacceptable and harmful effect on the character and appearance of the area, and that it would not conserve the natural beauty of the AONB. It would conflict with part d. of Policy DM1 of the Core Strategy which provides that, amongst other things, proposals for development, taking account of any mitigation measures proposed, will be required to ensure that the appearance and character of any affected landscape, settlement, building or street scene would not be unacceptably harmed by the development, and with Policy DM4 of the Core Strategy which provides that, amongst other things, a sense of place will be encouraged by addressing design at a range of spatial scales.
33. The proposal would conflict with Policy CP8 of the Core Strategy which provides that, amongst other things, the Borough Council will conserve and enhance the natural environment, and with part A. of Policy D7 of the DMP which provides that, amongst other things, new housing shall create a high standard of design quality and sense of place by creating places with locally inspired or otherwise distinctive characteristics and materials.
34. The proposed development would also conflict with paragraph 130 c) of the Framework which provides that, amongst other things, planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).

Other Matters and Planning Balance

35. Paragraphs 84 and 85 of the Framework relate to local business and community needs, rather than housing, and accordingly do not provide support for the proposed development.
36. I have had due regard to the aims of the Public Sector Equality Duty contained in the Equality Act 2010 (as amended), with respect to the protected characteristics of age and disability (in relation to the requirement for specific provision for a family member with mobility concerns). However, as these relate to personal circumstances which can change over time, and it has not been demonstrated that a less harmful scheme could not meet the needs of the applicants' family, these matters have been given limited weight in support of the proposed development.
37. The proposed new dwelling would contribute to the Government's objective of significantly boosting the supply of homes, and would in principle contribute to housing choice and mix in the local area, albeit it has been stated that the purpose of the proposed new dwelling is for the appellants to live in themselves, with additional accommodation for a family member.

⁵ As set out in s85 of the Countryside and Rights of Way Act 2000 (as amended).

38. The proposed development would provide work for construction professionals. The future occupiers of the proposed new dwelling would likely contribute to the local economy (including to services and facilities found further afield beyond Churchinford and via Council tax payments) and to the local community.
39. The submitted Ecological Appraisal⁶ provides broad recommendations for enhancement to increase biodiversity value post-development, in relation to a proposed barn conversion on site, but as few details have been provided to quantify the scale of any net gains for biodiversity, this matter has been given limited weight in support of the proposed development.
40. Photovoltaic panels would be fitted to the roof of the proposed new dwelling, and it would be insulated to passive standards and heated via an air source heat pump, with mechanical ventilation and heat recovery systems also in operation. A rainwater harvesting system would aim to reuse 'grey' water. Hence, once built, the proposed new dwelling would minimise the draw on local and national resources.
41. The above-mentioned considerations would be in compliance with a number of the Council's development plan policies, and relevant paragraphs of the Framework. In particular, paragraph 69 of the Framework provides that, amongst other things, small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. In terms of the design of the dwelling itself, the proposed new dwelling would accord with section 5.2 of the Design Guide, which refers to the Council's declaration of a Climate Emergency and its commitment to work towards carbon neutrality by 2030, and with section 5.3 of the Design Guide, which advocates Lifetime Homes standards.
42. However, although I have found on the first main issue above, that for the purposes of this appeal decision the site does constitute previously developed land, part a. of Policy DM1 of the Core Strategy requires that proposals for development should be in sustainable locations. Following my findings on the first main issue above, that the appeal site would not be a suitable location for new housing, part a. of Policy DM1 does not provide support for the proposed development. Similarly, as the site is not suitably located for new housing, paragraph 120 c) of the Framework, which relates to the value of using suitable brownfield land within settlements for homes, does not provide support for the proposed development, nor does paragraph 69 c) of the Framework, which relates to the development of windfall sites, as both sub-paragraphs refer to 'suitable' sites / land.
43. Although Policy SP4 of the Core Strategy seeks to deliver at least 1,500 net additional dwellings in the rural areas, Policy SP4 makes clear that the focus in the first instance is on the Major Rural Centres and secondly on Minor Rural Centres. The site does not fall within the settlement boundary of any of these areas (including Churchinford). Similarly, Policy CP4 of the Core Strategy provides that, amongst other things, new housing should be delivered consistent with the settlement hierarchy established in Policy SP1, whereas, as explained above, the site is located outside of any of the settlements identified in Policy SP1. Accordingly, these policies provide limited support for the proposed development.

⁶ Ecological Appraisal (Quantock Ecology Ltd) (May 2021)

44. Moreover, the 'sustainability trap' issue referred to by the appellants is a matter which relates to wider forward-planning considerations at the strategic plan-making scale, which are not directly before me, and in any event the proposal's contribution of one new dwelling would have a limited impact in resolving this issue. Few details have been provided to illustrate to what degree the proposed development would support digital sustainability. Furthermore, although reference has been made to the proposed new dwelling being a self-build project (which is supported by paragraph 62 of the Framework), no mechanism is before me to secure this. The collective benefits of the proposed development have therefore been given no more than moderate weight in favour of the scheme.
45. The proposed development would cause adverse impacts with respect to the matters considered on both main issues above. These matters relate to the fundamentals of the planning and development process. I am also mindful that paragraph 176 of the Framework provides that, amongst other things, great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs which have the highest status of protection in relation to these issues.
46. Considering the great weight given to the adverse impacts of the proposed development when set against the moderate weight given to its collective benefits, as a matter of planning judgement I find that the matters advanced in support of the proposed development, do not, either individually or collectively, outweigh the adverse impacts identified, nor the conflict with the development plan identified. It follows that the proposed development would conflict with the development plan when considered as a whole, including Policy SD1 of the Core Strategy which seeks to, amongst other things, secure development that improves the economic, social and environmental conditions in the area.
47. The appellants' have drawn attention to the 5-year housing land supply figure of 4.04 years, found in the submitted SHELAA⁷. However, the Council has confirmed that a subsequent SHELAA⁸ has now been produced, which gives a figure of 5.16 years for the former Taunton Deane Local Planning Authority Area. This latter figure has not been disputed by the appellants. On this basis, I consider that the Council can demonstrate a 5-year supply of deliverable housing sites. This matter therefore does not provide additional support for the proposed development.
48. Overall, I find that none of the other considerations, which include the Framework, indicate that this appeal decision should be taken otherwise than in accordance with the development plan.

Conclusion

49. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR

⁷ Somerset West and Taunton Strategic Housing Employment Land Availability Assessment (2022)

⁸ Strategic Housing & Employment Land Availability Assessment Somerset West And Taunton Area (2023)