



Appeal Decision

Site visit made on 16 April 2024

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 April 2024

Appeal Ref: APP/D1265/W/23/3328969

Nutkins Hollow (B3165 Mutton Street to Hawkmoor Hill), Marshwood, Dorset DT6 5QJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs P Mears against the decision of Dorset Council.
 - The application Ref is P/FUL/2022/07578.
 - The development proposed is erection of a row of terraced cottages to create 3no dwellinghouses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 19 December 2023 the Government published a revised National Planning Policy Framework (the Framework). There have been no fundamental changes relevant to the main issues in this appeal. The references in my decision to the paragraphs in the Framework relate to this new document.
3. On 22 November 2023, all designated Areas of Outstanding Natural Beauty (AONBs) in England and Wales became "National Landscapes" (NLs). I have therefore referred to the Dorset AONB as the Dorset National Landscape. However, for the avoidance of doubt, the legal designation and policy status of these areas are unchanged and I have proceeded on this basis, continuing to refer to the AONB where relevant.

Main Issues

4. The main issues in this appeal are:
 - Whether the appeal site is a suitable location for the appeal scheme having regard to the spatial strategy for housing in the development plan;
 - Whether the appeal site is a suitable location for the appeal scheme having regard to the accessibility of services and facilities;
 - Whether the proposed development would preserve the setting of the Grade II listed Bottle Inn;
 - The effect on the character and appearance of the area; and
 - The effect of the proposed development on the integrity of the River Axe Special Area of Conservation (SAC).

Reasons

Location

5. Policies SUS1 and SUS2 of the West Dorset, Weymouth and Portland Local Plan 2011-2031 adopted October 2015 (LP) set out the development strategy in the plan area. It steers development towards larger settlements and those smaller settlements with defined development boundaries which can support development to meet the needs of the local area.
6. Marshwood is not included in the list of settlements with defined development boundaries and the appellant does not dispute this. This confirms that the more restrained approach to new development in Policy SUS2(iii) is applicable to the appeal site where development outside defined development boundaries is strictly controlled due to environmental constraints and the need to protect the countryside. Policy SUS2 iii) permits some development but the exceptions listed in the policy do not apply to the appeal proposal. Policy HOUS6 of the LP sets out a range of 'other' residential development permitted outside defined development boundaries but none of those listed are applicable to the proposal before me.
7. The proposal would introduce new housing into the countryside in a way which would not adhere to the distribution of development policies of the development plan including Policies SUS1, SUS2 and HOUS6. This would undermine the planned approach to the distribution of development and be harmful, given the public interest in having a genuinely plan led system that provides consistency and direction.

Access to services and facilities

8. Marshwood has a primary school, church, garage, children's farm and the Bottle Inn public house. These are dispersed along the B3165 which does not have a bus service. Occupiers of the proposed dwellings would be well placed to visit the Bottle Inn adjacent to the appeal site but the other services and facilities on offer could only be reached by walking and cycling along the B3165. Whilst they would be within a walkable distance, the lack of footways and lighting means that this would not be possible or desirable for all occupiers to do so. The nearest convenience store is in Hawkchurch which is approximately three miles away. The erection of three dwellings on the appeal site could support that service as set out in Paragraph 83 of the Framework but the lack of a bus service means that access to this and larger centres would be by car. Therefore, the appeal site is not well located in terms of access to services and facilities to meet the daily needs of occupiers.

Character and Appearance

9. The proposed layout indicates a hard surfaced area at the front of the site to provide access, turning and parking for six vehicles. The Council are concerned that the appeal scheme would be car-focused and that it would make no positive provision for pedestrians and cyclists to move around the site. Given that the proposal relates to just three dwellings and that the speed of vehicles entering the site would be very low, I do not find that the layout would be a hindrance to pedestrians or cyclists. The provision of parking to the south of the dwellings would mean that cars dominate the frontage of the development. However, I saw that many of the properties located along the B3165 have

parking provision to the front. With regards to the appeal site, this is set well back from the road and behind established planting such that the dominance of cars would not be apparent from the road.

10. Turning to the design of the properties themselves, I saw during my site visit that rendered elevations under a slate roof with brick detailing to chimneys and around windows, together with a simple canopy over the front door were commonplace in the vicinity of the appeal site. In this respect, the appeal proposal would not appear out of character.
11. The appellant accepts that further landscaping could be incorporated within the site and that replacing the proposed close-boarded fence with a post and rail fence and hedge planting would be more appropriate to the site's rural location. Both of these could be secured by condition. This would ensure that views from the public footpath would be preserved in line with Policy UMV4 of the Upper Marshwood Vale Neighbourhood Plan, made December 2019.
12. I have taken into account the Design and Sustainable Development Planning Guidelines Supplementary Planning Document (SPD) adopted February 2009 which sets out ten overall objectives aimed at achieving high standards of design which are in keeping with local character. However, in the absence of specific paragraphs being drawn to my attention by the Council, I find no grounds to conclude that the proposal would be contrary to the SPD. I also find no conflict with Policies ENV10 and ENV12 of the LP or Framework Paragraphs 131, 135 and 139 which seek to achieve high quality design which contributes positively to local distinctiveness.

Setting of the listed building

13. The Bottle Inn public house is a Grade II listed building with colour washed walls under a thatch roof. Thought to have originated from the eighteenth century, the list description describes internal features such as the bread oven, ham storer and inglenook settle. Its significance therefore derives from its vernacular architecture and historic interest.
14. The significance of a heritage asset derives not only from its physical presence but also from its setting. The Glossary to the Framework defines the setting of a heritage asset as the surroundings in which it is experienced.
15. The listed building is set back from the B3165 and orientated at a slight angle to it. Other than parked vehicles on the open area to the front of the building, there is an uninterrupted view of the listed building, when approaching eastwards along the B3165 from the west. Whilst some may have been removed over the years, the existing trees and hedges, including those surrounding the appeal site, provide a rural backdrop to the building and there are expansive landscape views from the B3165 northwards. This reinforces the listed building's vernacular rural character. The listed building therefore derives some significance from its setting within the rural landscape and the appeal site contributes to that. The appeal site therefore lies within the setting of the listed building.
16. However, in my view, the setting of the listed building has already been compromised to some extent by a flat roof extension to the rear connecting to a sizeable single storey building which projects eastwards, in the area between the historic part of the building and the appeal site. The single storey elongated

design with twentieth century window detailing is at odds with the vernacular design of the listed building. This introduces development into the area surrounding the listed building and would be clearly visible in the foreground of development on the appeal site.

17. As a result, appreciation of the heritage significance of the Bottle Inn as an eighteenth-century thatched Inn does not depend upon the appeal site remaining undeveloped. The proposed dwellings would be visible from the B3165. However, they would set well back from the road behind the elongated garden of the Bottle Inn. Existing trees and hedges would be retained and new planting could be secured by way of a condition. The roof would be hipped and finished in slate which would appear recessive against the surrounding trees. The two end properties would be orientated so as to reduce the overall mass of the building when viewed from the road. The rural setting of the listed building could still be appreciated.
18. Accordingly, I conclude that the development of the appeal site in the manner shown on the submitted drawings would have a neutral effect on the setting of the listed building and no conflict with Policy ENV4 of the LP which seeks to protect heritage assets from harm, would arise.
19. In reaching this conclusion I have had regard to section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires that I have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. I have also had regard to Paragraph 205 of the Framework in respect of the great weight that should be given to the asset's conservation. As I have not identified harm, Paragraph 208 is not engaged.

Habitats

20. The appeal site lies within the hydrological catchment of the River Axe Special Area of Conservation (SAC). The SAC has been designated for its water courses of plain to montane levels with *R. Fluitantis* and an important fish community including Sea lamprey *Petromyzon marinus*, Brook lamprey *Lampetra planeri* and Bullhead *Cottus gobio*.
21. The interest features of the SAC are considered unfavourable, or at risk, from the effects of eutrophication caused by excessive phosphates largely derived from the discharge from wastewater treatment works. The proposed development is likely to add phosphates to the SAC via the wastewater treatment effluent generated by occupation of the three proposed dwellings. This would result in a likely significant effect upon the designated features of the River Axe SAC either on its own or cumulatively with other similar development, without avoidance measures. As the competent authority, I am required to carry out an Appropriate Assessment pursuant to the Habitat Regulations.
22. Currently there is no strategic approach to mitigation for phosphorus in the River Axe SAC. Therefore, the proposed development would result in an adverse effect upon the integrity of the European Site, unless the appellant can demonstrate phosphorus neutrality.

23. The appellants Technical Note 1 (TN1) submissions¹ indicate that there would be a net reduction in the level of phosphates entering the River Axe SAC, even if the appeal proposal were permitted, if the septic tank proposed as part of the planning permission for the glamping site² on the adjacent land was replaced with a package treatment plant (PTP).
24. The appellant indicates in the appeal statement that a PTP was installed in 2019 and was one of the 'material operations' which constituted commencement of the glamping permission and currently takes waste from the mobile homes on the appeal site. However, TN1 dated February 2023 states that the mobile homes are currently discharging to a septic tank and that a PTP to serve the glamping site is 'proposed'.
25. No details of the installed PTP have been provided and I do not know if the calculations provided in TN1 relate to that model. I do not know where it is located and whether the installation of a treatment plant in place of a septic tank would conflict with the approved details for the glamping site. Thus, on the basis of the information provided I cannot be certain that the appellant's proposal would achieve phosphorus neutrality.
26. Therefore, the proposed development is likely to contribute to an increase in phosphates in the River Axe SAC and would result in an adverse effect upon the integrity of the European Site. I have considered whether there are any imperative reasons of overriding public interest but there are not.
27. The proposal would cause harm to the River Axe SAC with particular regard to the discharge of phosphates. Accordingly, the proposal would conflict with Policy ENV2 of the LP and Framework Paragraph 186 which seek to safeguard internationally designated wildlife sites from development which could adversely affect them.

Other considerations

28. The appeal site is located outside but adjoining the Dorset National Landscape (DNL). From what I have seen and read, including the Council's consideration of the impact of the proposal on the DNL, I am satisfied that the proposal would conserve its natural beauty and no conflict with Policy ENV1 of the LP would arise.
29. The Council say they have a housing land supply for the West Dorset and Weymouth and Portland areas equivalent to 5.28 years. The appellant does not dispute this but considers that the figure should be recalculated in relation to the whole of the unitary authority area. The appellant has not provided an indication of what they believe the housing land supply position to be. I will return to this in the planning balance.
30. The appellants indicate that they intend to occupy one of the dwellings and that this would assist with running the adjacent glamping site. In addition, the dwellings would be 'starter homes' for young families and towards the 'affordable' end of the price range in the local area. The proposal has support from, amongst others, the parish council who wish to see a legal obligation in

¹ Technical Note 1: Nutrient Neutrality: Phosphates by Condon Drew Associates dated 19 December 2022 and updated 22 February 2023

² LPA Ref: WD/D/18/002718 Change of use of agricultural land to caravan/camping site. Erect workshop/storage building and use existing buildings for site office, shower/toilets

place to allow local people priority. However, the appeal is not accompanied by an obligation to secure either of these and therefore I have given this limited weight as a benefit of the proposal.

31. There would be benefits to the local economy arising from the construction and occupation of the dwellings with increased patronage of local facilities, including the newly re-opened Bottle Inn and those in nearby settlements such as Hawkchurch and Raymonds Hill. It would also enable the glamping business to open. The dwellings would be energy efficient and provide biodiversity enhancements. Together I give these benefits moderate weight.
32. The appellant refers to the appeal site as being 'brownfield' or previously developed land. I saw at my site visit that the land currently appears to be used for storage. However, I do not have sufficient details regarding what the lawful use of the site is. As I have not been provided with evidence that is conclusive on the matter, I give this limited weight.
33. The Council have powers to require untidy land to be improved and therefore I give very limited weight to the development of three dwellings as a means of achieving this.
34. My attention has been drawn to other permissions granted in Marshwood. Policy UMV5 of the NP allocates land at the Colmer Stud Farm site for a village shop, community hub, green space, a car park and the erection of up to four dwellings. I understand that planning permission has now been granted. However, given that this was a specific allocation in the NP and that the proposed community facilities have not yet come to fruition, I have given this very limited weight in my consideration of the appeal. It is not within the scope of this appeal for me to consider whether the approved scheme sufficiently addresses the policy requirement in respect of the size of the dwellings.
35. With regards to the permission granted for the conversion of a barn in Marshwood³, the Council have confirmed that Policy UMV7 of the NP permits the residential conversion of existing buildings and therefore this carries very little weight in my consideration of the appeal proposal.
36. The first reason for refusal refers to paragraph 80 of the Framework (now Paragraph 84) which relates to isolated dwellings in the countryside. In *Braintree*⁴ it was held that the phrase 'isolated homes in the countryside' connotes a dwelling that is physically separate or remote from a settlement. I have set out above that Marshwood has a number of community facilities and the appeal site is located adjacent to the Bottle Inn. All these facilities are located within 300m of the appeal site and notwithstanding my findings regarding the use of the private car, this does not indicate to me that the dwellings on the appeal site would be isolated in the context of Paragraph 84 of the Framework. I therefore find no conflict in this respect.
37. That said, the Framework does not state that a proposal must be approved if it is not isolated. The Framework needs to be read as a whole including the section on promoting sustainable transport. Whilst there is a growing move towards electric vehicles and online shopping, this would not negate the need for people to travel to access services such as health and education. The erection of three new dwellings on the appeal site would not reduce emissions

³ LPA Ref: WD/D/18/001264

⁴ *Braintree District Council v SSCLG & Ors* [2017] EWHC 2743 (Admin)

as set out in Paragraph 109 of the Framework. The Framework seeks to promote walking, cycling and public transport and I have found that opportunities to do so in respect of the appeal proposal would be limited.

Planning Balance

38. I have found that the appeal proposal would have a neutral effect on the setting of the listed building and would not harm the character and appearance of the area. There are also moderate benefits which would ensue from the proposed development.
39. However, even if the Council could not demonstrate a five year housing land supply, the presumption in favour of sustainable development in Policy INT1 of the LP and Framework Paragraph 11.d) is not engaged. This is because I have found that the appeal proposal would lead to a likely significant effect on the integrity of the River Axe SAC which cannot be mitigated. This provides a clear reason for refusing the development proposed⁵.
40. I have also found that the proposal would introduce new housing into the countryside in a way which would not adhere to the distribution of development policies of the development plan. The appeal site is not well related to services and facilities, meaning that occupiers would be reliant on the private car for most of their journeys. This would undermine the objectives of the spatial strategy.
41. Accordingly, the proposal would conflict with the development plan. A proposal should be determined in accordance with the development plan unless material considerations indicate otherwise. The cumulative benefits of the proposal are not of sufficient strength to outweigh the conflict with the development plan.
42. I have considered other matters raised by interested parties including, but not limited to, the existing mobile homes on site, highway safety and flood risk but given that I have identified harm in respect of the main issues, these are not matters on which my decision turns.

Conclusion

43. I have found that the proposal would conflict with the development plan as a whole. There are no material considerations that outweigh this conflict and consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal is dismissed.

Alison Fish

INSPECTOR

⁵ See Footnote 7 and Paragraph 188 of the Framework