



## Appeal Decision

Site visit made on 11 July 2017

**by Rory Cridland LLB (Hons), Solicitor**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 22<sup>nd</sup> August 2017**

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### **Appeal Ref: APP/R3325/W/17/3171212 Triways, Foldhill Lane, Martock TA12 6PQ**

- 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 Martock Farms Ltd against the decision of South Somerset District Council.
  - The application Ref 16/02783/OUT, dated 24 June 2016, was refused by notice dated 30 January 2017.
  - The development proposed is residential development of up to 24 dwellings.
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### **Decision**

1. The appeal is allowed and planning permission is granted for residential development for up to 24 dwellings at Triways, Foldhill Lane, Martock TA12 6PQ in accordance with the terms of the application, Ref 16/02783/OUT, dated 24 June 2016, subject to the conditions set out in the attached Schedule.

### **Preliminary Matter**

2. The application was submitted in outline, with matters relating to appearance, landscaping and scale reserved. I have dealt with the appeal on that basis, treating all plans as illustrative, except where they deal with matters of layout and access.

### **Application for Costs**

3. An application for costs was made by Martock Farms Ltd against South Somerset District Council. This application is the subject of a separate Decision.

### **Main Issues**

4. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.

### **Reasons**

5. The appeal site is located on the western edge of Martock and consists of a triangular parcel of agricultural land bounded by hedgerows and trees. It is physically divided from the developed edge of the village by a dismantled railway line and it forms part of the wider countryside setting. Public footpaths run along the south and eastern boundaries with part of the eastern footpath passing within the site itself. A care home has recently been built opposite the appeal site which consists of a large complex of structures, the residential nature of which is clearly visible.

6. Policy SD1 of the South Somerset Local Plan 2006-2028 (LP) sets out a presumption in favour of sustainable development. Furthermore, LP Policy EQ2 requires new development to achieve high quality design which promotes local distinctiveness and preserves or enhances the character and appearance of the area.
7. The proposal would involve the development of 24 dwellings 35% of which would be affordable. This would make a meaningful contribution to the housing supply at a time when the Council is unable to demonstrate a 5 year supply of deliverable housing sites. Being on the edge of the settlement and in close proximity to other dwellings and nearby services, it would also provide a number of other social and economic benefits both during construction and into the future. However, the Council is concerned that the proposed development would breach a natural settlement boundary and be detrimental to the landscape.
8. I do not agree with the position taken by the Council. The care home situated opposite is similarly sited south of the railway and is clearly residential in character. It is highly visible on Foldhill Lane and within the wider landscape. This has to a large extent compromised the effectiveness of the dismantled railway line to act as boundary to this part of Martock. I do not therefore agree that development south of this line would appear as an alien or incongruous extension to the built form of the village or would materially impact on its character or setting.
9. Furthermore, while I note that the wider area is identified in the Council's Peripheral Landscape Study for Martock<sup>1</sup> as an area of high landscape sensitivity with a low capacity to accommodate built development, the appeal site itself is well screened on all sides by mature dense vegetation. Furthermore, layout proposed affords a number of opportunities for landscape enhancements which would provide a good deal of mitigation in terms of its landscape impact. Overall, I am satisfied that, with a suitable scheme of landscaping, the proposal can be accommodated with only a minimal impact on the surrounding landscape.
10. Consequently, I find no conflict with LP Policies EQ2 or SD1 which, taken together, provide a presumption in favour of sustainable development provided it does not result in harm to the character and appearance of the surrounding area.

### **Other Matters**

11. The Council has referred to LP Policy EQ1 in its decision notice which aims to support proposals which help mitigate the impacts of climate change. However, the Council has not provided any specific details in respect of its concerns and I have seen nothing which would lead me to conclude that the proposal would be in conflict with the general aims of this policy. As such, I have not considered it in my reasoning above.
12. In reaching my conclusions, I have noted the drainage concerns expressed by local residents, the detailed submissions from the Parish Council as well as the comments provided by the Parrett Internal Drainage Board. However, it appears that with a number of relatively simple and cost effective solutions

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<sup>1</sup> (2008).

existing flows can be managed effectively. Accordingly, I am satisfied that any harm can be guarded against by means of a condition requiring further details to be approved by the Local Planning Authority prior to the commencement of development.

13. Furthermore, in respect of the concerns raised regarding the number of houses already approved, the housing allocation for Martock is expressed as a minimum and I am not persuaded that the number of new dwellings in Martock has reached a level that would justify withholding permission on these grounds.
14. In addition, I have seen no robust evidence to indicate that there would be any material highway safety issues, any material impact on local ecology or that it would place an unacceptable strain on local facilities. Similarly, I am not persuaded that there would be any material harm to local residential amenity.
15. Furthermore, I note that none of these concerns form part of the council's reasons for refusal. In the absence of any robust evidence to indicate otherwise, I am not persuaded that they provide sufficient grounds to justify withholding permission for the development proposed.

### **Planning Obligations**

16. The Council has identified a need for affordable housing in its most recent Housing Assessment (2009). LP Policy HG3 sets a target of 35% for schemes of the size proposed. Furthermore, it has also identified a need for contributions in respect of outdoor play and youth facilities, playing pitches and changing rooms in accordance with LP Policy HW1. These items are specifically excluded from the Council's CIL regime.
17. The Council has provided a detailed justification for the contributions sought and on the evidence before me, it appears that the need for the contributions arises from the development and satisfies the 3 tests in Regulation 122(2) of the CIL Regulations 2010.
18. As part of this appeal the appellant has provided a duly executed legal agreement which secures the obligations identified above. I am therefore satisfied that the development makes adequate provision in respect of these matters and would not be in conflict with LP Policies HG3 or HW1.

### **Planning Conditions**

19. I have had regard to the various planning conditions that have been suggested by the Council. In addition to the standard conditions regarding the submission and approval of reserved matters, a condition requiring the development to be carried out in accordance with the proposed access arrangements and layout are necessary in order to provide certainty.
20. Furthermore, conditions requiring further details for surface water and foul drainage are necessary in the interests of flood prevention and public health while those in respect of visibility splays, technical specifications for the proposed highways, gradients of drives, and the submission of a Construction Environmental Management Plan and Travel plan are appropriate in the interests of highway safety. I do not however consider it necessary to impose a further condition in respect of actual drive gradients as they are already subject to approval by the local planning authority.

21. Conditions in respect of archaeological works are necessary in view of the site's proximity to the areas of archaeological interest while those in respect of respect of pollution and contamination are necessary in view of the site's former use.
22. However, while details of measures for the enhancement of biodiversity are appropriate in order to mitigate the impact on local ecology, I do not consider a condition requiring a scheme of landscaping to be appropriate as this can be dealt with as part of the reserved matters. I am also not persuaded that a restriction on the number of dwellings would be necessary as the information is already set out in the approved plans.
23. I have, however, modified the wording of some of the conditions proposed in order to more effectively guard against the risks identified or to provide more precision and certainty.
24. A number of these conditions will need to be discharged before work commences on site as they relate to matters which need to be resolved on a fully coordinated basis.

**Conclusion**

25. For the reasons set out above, I conclude that the appeal should be allowed.

*Rory Cridland*

INSPECTOR

## SCHEDULE

### 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 site and layout hereby approved shall be as shown on drawing Nos 14022-1 Rev C and 14022-2 Rev M.
- 4) No work shall commence on site until a surface water drainage scheme based in sustainable drainage principles (including highways drainage), and land drainage scheme for the site, together with a programme of implementation and maintenance for the lifetime of the development have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 5) None of the dwellings hereby permitted shall be occupied until scheme for the disposal of sewage has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) None of the dwellings hereby permitted shall be occupied until the access hereby approved, including proposed off-site improvements, has been constructed in accordance with drawing no C14411/T05 Revision B. The access shall thereafter be maintained at all times.
- 7) The proposed estate roads, footways, footpaths, tactile paving, verges, junctions, street lighting, sewers, drains, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car, motorcycle and cycle parking, and street furniture shall be constructed and laid out in accordance with details to be approved by the local planning authority in writing before their construction begins.
- 8) There shall be no obstruction to visibility greater than 300mm above adjoining road level in advance of lines drawn 2.4m back from the carriageway edge on the centre line of the access and extending to points on the nearside carriageway edge 82m either side of the access. Such visibility shall be fully provided before the development hereby permitted is brought into use and shall thereafter be maintained at all times.
- 9) Prior to the commencement development, a Measures Only Travel Plan is to be submitted to and approved in writing by the Local Planning Authority. The Travel Plan should include soft and hard measures to promote sustainable travel as well as targets and safeguards by which to measure the success of the plan. There should be a timetable for implementation of the measures. The measures should continue to be implemented as long as any part of the development is occupied.
- 10) Details of measures for the enhancement of biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The

biodiversity enhancement measures shall be implemented in accordance with the approved details before any part of the development hereby permitted is first brought into use, unless otherwise approved in writing by the local planning authority.

- 11) No development shall take place until a Written Scheme of Investigation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions – and:
  - i) the programme and methodology of site investigation and recording;
  - ii) the programme for post investigation assessment;
  - iii) the provision to be made for analysis of the site investigation and recording;
  - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
  - v) the provision to be made for archive deposition of the analysis and records of the site investigation;
  - vi) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
- 12) Any historic or archaeological features not previously identified which are revealed when carrying out the development hereby permitted shall be retained in-situ and reported to the local planning authority in writing within 14 working days of their being revealed. Works shall be immediately halted in the area/part of the building affected until provision shall have been made for the retention and/or recording in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
- 13) 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.
- 14) No development shall commence until an assessment of the risks posed by landfill gas shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified practitioner in accordance with British Standard BS10175 and shall assess whether any gas protection measures are required. Where measures are required the details shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the details so approved.
- 15) No development shall take place, until a Construction Management Plan has been submitted to, and approved in writing by the local planning authority. The Plan shall provide for:
  - i) Construction vehicle movements to and from the site;

- ii) the parking of vehicles of site operatives and visitors;
- iii) loading and unloading of plant and materials;
- iv) storage of plant and materials used in constructing the development;
- v) wheel washing facilities;
- vi) measures to control the emission of dust and dirt during construction;
- vii) measures to mitigate construction impacts;
- viii) details of pollution prevention measures;
- ix) a scheme for encouraging the use of public transport amongst contractors;
- x) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
- xi) delivery, demolition and construction working hours.

The approved Construction Management Plan shall be adhered to throughout the construction period for the development.

END OF SCHEDULE