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# Appeal Decision

Site visit made on 27 October 2015

**by H Baugh-Jones BA(Hons) DipLA MA CMLI**

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

**Decision date: 22 January 2016**

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**Appeal Ref: APP/R3325/W/15/3049412**

**Land to rear of 24 High Street, Wincanton, Somerset BA9 9JF**

- 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 Mr David Thackeray against the decision of South Somerset District Council.
  - The application Ref 15/00284/FUL, dated 13 January 2015, was refused by notice dated 23 April 2015.
  - The development proposed is erection of 9 No. dwellings.
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## Decision

1. The appeal is dismissed.

## Procedural matters

2. Since the application was determined, a High Court judgement of 31 July 2015<sup>1</sup> resulted in the Court making a Declaration Order on 4 August 2015 confirming that the policies in the Ministerial Statement of 28 November 2014 made by the Secretary of State for Communities and Local Government must not be treated as a material consideration in the exercise of powers and duties under the Planning Acts. Consequently, paragraphs 012-023 of the Planning Practice Guidance (PPG) on planning obligations have been removed. Accordingly, the Council now requires the appeal scheme to make provision for affordable housing and contributions to community facilities. Whilst this is accepted by the appellant and a draft Unilateral Undertaking (UU) has been submitted, I do not have a duly executed planning obligation before me. As these matters have been set out in detail in the evidence, I have therefore reflected them in the main issues.
3. It is apparent from the planning history that the site was occupied by a number of buildings that have since been demolished. I note that the Council questions the legality of the demolition works. However, such matters fall outside the scope of this appeal and the Council can seek remedy by other means. Consequently, I do not need to have regard to this matter in my decision.

## Main Issues

4. The main issues in this appeal are (i) whether the proposal is acceptable in the absence of any mechanism to provide affordable housing and any additional need for community facilities arising from the development and (ii) whether the

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<sup>1</sup> West Berkshire District Council and Reading Borough Council v Secretary of State for Communities and Local Government [2015] EWHC 2222 (Admin)

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proposal makes adequate provision for parking such that it would avoid compromising highway safety.

## **Reasons**

### *Affordable housing and community facilities*

5. Policy HG3 of the South Somerset Local plan (2015) (LP) requires developments of 6 or more new dwellings to provide on-site affordable housing at a rate of 35%. The policy also provides for off-site contributions where this would make a scheme unviable. The appellant has accepted the requirement for affordable housing and proposes that it would be met on-site. Accordingly, in the absence of any information to the contrary, and given that the LP has been recently adopted after having been found sound by the examining Inspector, I have no reason to doubt the need for affordable housing in South Somerset. Furthermore, given the modest dwellings proposed, I am satisfied that on-site provision would be possible without the need for material alterations to the proposed development.
6. The Council has also set out a requirement for capital contributions totalling £14,202 towards community facilities including equipped play space, youth facilities, playing pitches and changing rooms. Additionally, related revenue contributions totalling £5,400 are also sought. LP policy SS6 requires development to contribute to infrastructure delivery where necessary which the Council seeks to secure by means of planning obligations.
7. I have reviewed the Council's evidence relating to these contributions and they appear to me to be generally in line with LP policy HW1 that requires provision to be made for a range of outdoor and community facilities where a need would be created by new housing development. The proposed development of five 2-bed and four 1-bed dwellings would generate a sufficient number of occupants to place additional pressure on existing facilities.
8. The detailed requirements for the targeting of contributions are set out in the Council's Infrastructure Delivery Plan (2012) and I note that the Council has been specific in identifying local projects towards which, contributions would be directed. The contributions sought would prevent deterioration to the quality of facilities arising from additional pressure on their use. I am therefore satisfied that they would be necessary to make the development acceptable, would be directly related to the development, and fairly and reasonably related to it in scale and kind.
9. Importantly, the Council has confirmed that the requirements set out in relation to the appeal scheme would not amount to the pooling of more than 5 contributions and no evidence to the contrary has been submitted. Consequently, I am satisfied that the proposed contributions would accord with Regulation 123 of the Community Infrastructure Levy Regulations 2010 (CIL Regulations).
10. Taking all this into account, the affordable housing requirements and the community facilities contributions meet the tests set out in paragraph 204 of the National Planning Policy Framework (the Framework), Planning Practice Guidance (PPG) and CIL Regulation 122(2).
11. However, and notwithstanding the above, whilst I recognise that a planning obligation has been prepared by means of a UU, I do not have a final signed

copy before me. Therefore, in the absence of a duly executed planning obligation, as the situation stands, the appeal proposal would fail to make provision for necessary affordable housing and other relevant contributions. This being the case, the appeal proposal conflicts with LP policies HG3, HW1 and SS6.

*Parking and highway safety*

12. The appeal proposal would provide a total of 6 on-site parking spaces. It would therefore be reasonable to expect that the parking needs of future occupiers and their visitors would in part be reliant upon the use of the adjacent public car park. This is part of a series of linked car parks that sit behind High Street.
13. Significantly, the scheme before me is no different to that permitted on appeal (ref APP/R3325/A/11/2149309) although the main issues dealt with in that case were broader in scope. However, I note the conclusion within my colleague's decision that the modest level of proposed parking would not result in future occupiers being disadvantaged or that there would be a significant level of overspill parking that had a knock-on effect on the town centre.
14. However, in the intervening period between the date of my colleague's decision and this appeal, the Council adopted its Local Plan. LP Policy TA6 sets out that parking provision should be design-led and based upon site characteristics, location and accessibility. The policy requires development to meet the parking standards set out in the Somerset County Council Parking Strategy (2012) (the Parking Strategy). Further, LP policy TA5 seeks to ensure that traffic generated by development does not result in detrimental effects on the highway network or the character of an area. It is therefore clear that the development plan policy basis for assessing the proposal has changed since determination of the previous appeal.
15. As the starting point for my decision must be the statutory development plan, the appeal proposal falls short of the parking requirements set out in LP policy TA6 when reading across Chapter 5 of the Parking Strategy which relates to residential parking standards. These seek to strike a balance between discouraging over-reliance on the car whilst ensuring adequate provision to prevent inappropriate parking and therefore cluttered streets. I have no evidence to suggest that the Parking Standards are not credible.
16. Nevertheless, the actual physical circumstances relating to the development and its surroundings are no different to those considered by my colleague and his decision still has relevance to the current appeal.
17. I made my site visit during late morning and observed that whilst the car parks were busy, there were parking spaces available. Notwithstanding this, occupiers of the proposed dwellings would be most likely to require parking outside of working hours and I am satisfied that there would be sufficient availability of spaces to meet any parking need generated by the development during these times.
18. Taking into account the current evidence, the decision of my colleague and the continued public parking availability, I have reached the conclusion that, on balance, given the site specific circumstances, the level of car parking needs generated by the development would not result in detrimental effects that supported a dismissal of the appeal on highway safety grounds. Consequently,

there would be no overall conflict with LP policies TA5 and TA6. Further, Framework paragraph 32 is clear that development should only be refused on transport grounds where the residual cumulative impacts of development are severe and I do not consider that this would be the case here.

19. The matter of the future security of parking has been raised. However, this would be a matter for the appellant to address with the car park owner and as I have not been provided with any evidence to show that there is any risk in this regard, I therefore give this argument only very limited weight.

### **Other matters**

20. The appeal site is located within the Wincanton Conservation Area (CA) and directly to the rear of Nos 22 and 24 High Street which are Grade II listed. The site is currently of derelict appearance and therefore detracts from both the character of the CA and the immediate setting of the listed building. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act (the Act) 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of CAs in the exercise of planning functions. Further, in considering the impact of a proposed development on the significance of a designated heritage asset or its setting, paragraph 132 of the Framework requires great weight to be given to its conservation, setting out that the level of weight given should be proportionate to the asset's importance.
21. The design of the proposed dwellings, would be well-related to the general character of No 22 by way of their form, materials and fenestration. This would also be the case in relation to No 24 although the listing description makes it clear that this building has been much altered during the 20<sup>th</sup> Century. The current appearance of the appeal site detracts from the setting of the listed building and from the character and appearance of the CA.
22. Moreover, the Inspector in the previous appeal did not find that harm to the significance of these heritage assets would arise from the proposal and I have no reason to take an alternative view. For this reason and those given above, I consider that the appeal scheme would not result in harm to the significance of designated heritage assets.

### **Conclusions**

23. I have not found that the proposed level of parking would result in any materially detrimental effects on highway safety. Further, there would be no harm to the significance of designated heritage assets. However, the absence of a duly executed planning obligation means that the appeal scheme would not secure necessary affordable housing and contributions to community facilities.
24. For the above reasons and having had regard to all other matters raised, the appeal does not succeed.

*Hayden Baugh-Jones*

Inspector