
Appeal Decision

Site visit made on 11 November 2013

by Gareth Symons BSc Hons DipTP MRTPI

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

Decision date: 10 December 2013

Appeal Ref: APP/R3325/A/13/2197541

Land west of Newtown Road, Langport, Somerset

- 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 C Perrin against the decision of South Somerset District Council.
 - The application Ref: 13/00314/OUT, dated 18 January 2013, was refused by notice dated 24 April 2013.
 - The development proposed is up to 36 dwellings (C3) on approximately 1.7ha; open space recreation land (D2) including children's play area and seating/viewing area on approximately 2ha; surface improvements to footpath L13/53; drainage works; access; community car parking; associated estate roads; footpaths and landscaping; retention of woodland and orchard.
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Decision

1. The appeal is allowed and outline planning permission is granted for up to 36 dwellings (C3) on approximately 1.7ha; open space recreation land (D2) including children's play area and seating/viewing area on approximately 2ha; surface improvements to footpath L13/53; drainage works; access; community car parking; associated estate roads; footpaths and landscaping; retention of woodland and orchard, on land west of Newtown Road, Langport, Somerset, in accordance with the terms of the application Ref: 13/00314/OUT, dated 18 January 2013, subject to the conditions set out in the schedule at the end of this decision.

Application for Costs

2. An application for costs made by Mr C Perrin against South Somerset District Council is the subject of a separate Decision.

Preliminary Matters

3. The application was refused for three reasons. They were, in short, concerns about the effects of the proposed development on (1) the character and appearance of the area, (2) highway safety, and (3) flooding. Since then further negotiations have taken place with the Local Highway Authority (LHA) and the Environment Agency (EA) who have now both withdrawn their objections to the development. In the absence of technical objections by these statutory consultees the Council no longer contests reasons for refusal 2 and 3.

4. The EA withdrew its objection before the appeal was submitted and so this was known to all persons beforehand. It is also clear that the LHA had changed its stance on the application before any appeal submissions were due. The LHA objection was withdrawn due to an amended access plan being submitted. The only change this plan introduces is a right turn layout into the site to avoid interrupting traffic flows on the main road. Otherwise it is based on a similar T-junction arrangement with the access proposed in the same place. This plan does not materially change the appeal scheme. In view of this background, no persons have been prejudiced by the shift from three reasons for refusal down to one and I am able to take into account the amended access plan.
5. Despite there still being local concerns about highway safety matters and flooding, nothing persuades me from the judgements of the LHA and the EA that these aspects of the scheme are now acceptable subject to imposing relevant planning conditions.

Main Issue

6. The appeal site is outside the development boundary for Langport as identified in the South Somerset Local Plan. However, the Council accepts that it does not have a supply of specific deliverable sites sufficient to provide five years worth of housing. In this circumstance the National Planning Policy Framework (the Framework) states that relevant policies for the supply of housing should not be considered up-to-date. Housing applications should also be considered in the context of the presumption in favour of sustainable development.
7. The main issue is therefore whether the proposal would give rise to any adverse impact on the character and appearance of the area that would significantly and demonstrably outweigh the benefits of the scheme, when assessed against the policies in the Framework taken as a whole, or whether specific policies in the Framework indicate that development should be restricted.

Reasons

8. In pre-application discussions and after the application had been submitted the Council's landscape architect gave his opinions about the impact of the development on the local landscape. His thoughts on the appeal scheme set the scene as follows:

"The application proposal indicates a partial development of the field, with built form primarily concentrated in its southeast corner. This arrangement infers a relationship with the town's existing development pattern, where housing lays on the opposite (east) side of the Newtown road, and a paddock's distance to the south. It also places the greater part of the housing layout on relatively level ground adjacent (to) the road, and in most part avoids the steeper slopes that fall toward the open moor. The northern portion of the field is indicated as being dedicated to public open space, along with additional planting to buffer views from the north, similarly the site's steeper ground facing North Moor, along with an existing woodland and orchard area, is incorporated into open space.

By concentrating development adjacent (to the) existing town housing in the southeast corner and avoiding the most sensitive ground as evaluated by the application's landscape assessment, I can see that the proposals before us

broadly respond to the inherent constraints and sensitivities of the site that derive from its landscape context. There are elements that need finer resolution, for example the potential for massing that might accrue from plots 12-22 on the falling land to North Moor, but in the most part I consider the overall layout to have sought to work with the local topography and settlement pattern, whilst offering a significant mitigation package to counter the potential landscape impacts”.

9. These opinions are broadly consistent with the findings of the appellant’s landscape architect. I also agree with them. The concentration of the houses in the southeast corner would relate well to the existing built up edge of the town and they would not materially project out into the countryside. The outer edge of the development would probably be seen from the lower ground of the moor but that would not be much different to seeing the existing line of housing on the ridge along Newtown road. The arc of open space and landscaping around the new houses means that they would sit comfortably into the landscape even when seen from higher ground or further away. The final layout of the development has been reserved for later approval. Thus the Council would be able to ensure that the houses would, as indicated, be in the corner of the site at that later stage.
10. It is recognised that the views of the Council’s landscape architect were not unqualified. He referred to the Council’s Peripheral Landscape Study – Langport/Huish Episcopi, March 2008 and how the site’s open aspect currently presents a clearly visible and emphatic non-developed and contrasting stop to Langport’s built form. The study referred to was a review of the town’s immediate surrounds which had the objective of identifying land that has the capacity for development. The study indicates that the appeal field has a low capacity to accommodate built development. Consequently the Council has previously advised against development of the land and the impending local plan, guided in part by the peripheral study, indicates a direction of growth to the southeast of the town. The landscape architect’s comments were thus reflective of the emerging local plan identifying less sensitive sites with a higher capacity to accommodate development. Consequently, he considered that the peripheral study set out landscape grounds on which to base a refusal.
11. However, the Government’s aim is to boost significantly the supply of housing and given the Council’s lack of housing supply the need to do that is now. Therefore, even if other sites may come forward via the new local plan, which the Council and objectors might prefer, if there is no landscape reason to resist the appeal scheme now then it should come forward now. On this point the comments of the Council’s landscape architect at pre-application stage are noted. These are “...*the detail layout does appropriately respond to site specific landscape sensitivities, and the landscape strategy set out within the landscape and visual report provides a suitable basis for a detailed proposal. Consequently, should there be a time when there is a need for further housing in the town, then development in the form indicated might be permissible”.* With the time and need for housing now, there is no reason in principle to resist the appeal scheme.
12. Langport is clearly also a place where the Council is considering allocating new land for housing development due to the range of services and facilities that the town has. These new houses would therefore be sustainably located. The scheme also proposes a range of house types including affordable housing of

varying sizes and tenure to meet the needs of different households. The Council did not raise any other objections following consultations about a range of other matters that include archaeology, foul and surface water drainage, climate change and wildlife. There were no objections to the development by Natural England and Council's ecologist considered that the development would not give rise to significant impacts on protected species which are also subject to protection under different legislation.

13. I have read and carefully considered the views of objectors, including those from Huish Episcopi Parish Council and Langport Town Council, on these and other matters. I recognise that a decision taken contrary to the views of local people would not be what they wanted me to do. However, local opposition by itself is not a reason for withholding planning permission and nothing else raised outweighs my finding that this site can come forward for development.

Other Matters

14. The appellant has submitted a planning obligation in the form of a unilateral undertaking under s106 of the Town and Country Planning Act 1990 as amended. This covers matters such as the provision of 35% affordable housing, retention of the woodland, on site open space and play area provision. It also commits to paying various sums of money as contributions towards infrastructure needs arising from the development such as education and community provision. All contributions are agreed between the parties except for the relevant education contribution. To cover this disagreement within the appeal timetable the undertaking has been drafted so as to incorporate the contribution sought, but with a clause added such that should the appointed Inspector agree that this obligation does not meet the tests required of obligations then it will be considered deleted.
15. At the application stage, Somerset County Council advised the LPA that whilst there were presently a small number of unfilled places at the local Huish Episcopi Primary School, its roll was forecast to exceed capacity by 2015 through demographic factors alone. As 36 houses would be expected to generate demand for seven primary school places a financial contribution of £85,799 was sought based on £12,257 for each place.
16. However, the appellant has pointed out that the published 2012 School Organisation Plan indicates that at 2013 there is a surplus of 12 unfilled places at Huish Episcopi Primary School as well as a large number of surplus places in most of the other schools in the Huish Episcopi area amounting to an overall surplus of 88 places at 2013. This surplus has risen in the published 2013 School Organisation Plan to 21 surplus places at May 2013 at Huish Episcopi Primary School and 117 surplus places in the wider Huish Episcopi area.
17. Neither the LPA nor Somerset County Council has countered these figures. It would seem therefore, on the face of it, that the money requested to fund the cost of school places is unfounded. There is also no information to show how the figure of £12,257 is made up. I cannot in these circumstances find that the education contribution is necessary to make the development acceptable in planning terms, that it is directly related to the development or fairly and reasonably related in scale and kind to the development. I have therefore not taken the education obligation into account. I am though content with the other aspects of the undertaking.

Conditions

18. The proposed conditions have been considered against the advice in Circular 11/95 *The Use of Conditions in Planning Permissions*. Apart from the standard outline planning permission conditions, the conditions are necessary in the interests of highway safety (4, 5 & 6); ensuring that open space is managed and maintained and wildlife protected (7); to prevent flooding (8); to ensure that construction is appropriately carried out primarily to safeguard the amenities of local residents (9); and to protect and record any archaeological remains (10).
19. Conditions relating to landscaping and tree planting have not been imposed as these can be covered at the reserved matters stage. Some of the conditions repeated the same matter and foul drainage can be dealt with under different controls. A travel plan is not needed as the site is in a sustainable location and I see no justification for it.

Conclusion

20. This housing application would be for sustainable development and I attach significant weight to the presumption in favour of sustainable development. Having regard to the absence of a five year housing supply, the proposal would not give rise to any adverse impacts that would significantly and demonstrably outweigh the benefits of the scheme, when assessed against the policies in the Framework taken as a whole. There are also no specific policies with the Framework to indicate that development should be restricted. I therefore conclude that the appeal should succeed.

Gareth Symons

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins 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 three years from the date of this decision.
- 3) The development hereby permitted shall begin not later than two 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: Location Plan entitled 'Red Line Plan' dated January 2013; Potential Right-hand Turn Lane – Layout 1 Drawing no. 1589/02. No part of the development hereby permitted shall be occupied until the access shown on Drawing no. 1589/02 has been provided. There shall be no obstruction to visibility greater than 300mm above adjoining road level within the splay areas shown on Drawing no. 1589/02. Such visibility splays shall be retained as such thereafter.
- 5) Details of the following, and a timetable for their implementation, shall be submitted to and approved in writing by the local planning authority before their construction begins: Estate roads, footways, tactile paving, cycleways, bus stops/laybys, verges junctions, street lighting, retaining walls, service routes, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car/motorcycle/cycle parking, and street furniture. These elements of the scheme shall be carried out in accordance with the approved details and timetable.
- 6) The proposed roads including footpaths and turning spaces where applicable shall be constructed in such a manner as to ensure that each dwelling before it is occupied shall be served by a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.
- 7) The development hereby permitted shall not be commenced until an 'Open Space and Wildlife Management Plan' has been submitted to and approved in writing by the local planning authority. The Plan shall detail the long term management aims and specific work prescriptions to achieve those aims, including landscape maintenance, informal recreation provision and management and habitat management. It shall include mechanisms for periodic monitoring, review and update of the Plan. The approved Plan shall be implemented in accordance with its content, unless varied in writing by the local planning authority.
- 8) No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system and the results of the assessment provided

to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- (i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - (ii) include a timetable for its implementation; and
 - (iii) provide 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.
- 9) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the construction period. The Statement shall provide for:
- (i) the parking of vehicles of site operatives and visitors;
 - (ii) loading and unloading of plant and materials;
 - (iii) the storage of plant and materials used in constructing the development;
 - (iv) the construction access point;
 - (v) construction vehicle movements and routes to and from the site;
 - (vi) construction operation and delivery of building materials hours;
 - (vii) wheel washing facilities;
 - (viii) measures to control the emission of dust and dirt during construction.
- 10) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been previously submitted to and approved in writing by the local planning authority.