



Appeal Decision

Hearing held on 21 October 2008

Site visit made on 21 October 2008

by **Stephen Amos** MA(Cantab) MCD
MRTPI

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

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Decision date:
30 October 2008

Appeal Ref: APP/R3325/A/08/2079977

Land at Goldwell Farm, Yeovil Road, Crewkerne, Somerset, TA18 7NS

- 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 the late Mr & Mrs W E Taylor against the decision of South Somerset District Council.
- The application Ref 08/01554/OUT, dated 31/03/08, was refused by notice dated 30/06/08.
- The development proposed is to "erect 10 houses".

Application for costs

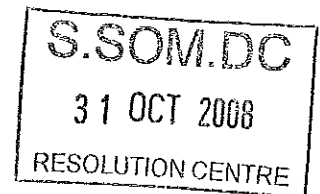
1. At the hearing an application for costs was made by the late Mr & Mrs W E Taylor against South Somerset District Council. This application is the subject of a separate decision.

Decision

2. I dismiss the appeal.

Procedural and preliminary matters

3. It was confirmed at the hearing that access, layout and scale are to be considered at this stage. Appearance and landscaping are reserved matters.
4. A previous appeal also involving an outline proposal for 10 houses was decided in April 2006 (Ref: APP/R3325/A/05/1184241). Design, external appearance and landscaping were reserved under the definition of reserved matters applying at that time. Siting and means of access were not reserved. The drawings were apparently the same as those before me, save that the current drawings specify the proposed eaves height (4.2m) and ridge height (7.7m).
5. There is dispute about the planning status of the existing building which is located to the north west of the track through the site. I was told that this is in use by an agricultural contractor. The appellants consider this to be a use within Class B1 and B8 of the Town and Country Planning (Use Classes) Order 1987, as amended. Use for Class B1 and B8 purposes was approved in 2002 (Application No. 02/02886/COU). The Council on the other hand considers the building to be in sui generis use, or alternatively that it is in unauthorised Class B1/B8 use, as conditions on permission 02/02886/COU which required certain matters before commencement of development, or before the bringing into use of elements of the development, have not been complied with. The available evidence does not permit me to make any conclusive remarks about these



matters, but it is unnecessary for me to do so. The Council has not sought to invoke policy in the South Somerset Local Plan 1991-2011 (SSLP) which seeks to protect employment uses. However, the Council accepted that the site is not in use as a farmyard in connection with the appellants' agricultural holding, there being other buildings elsewhere which serve that purpose. As a result, notwithstanding the comments of Merriott Parish Council, no issue arises with respect to the potential displacement of the farmyard or the construction of a new yard on agricultural land elsewhere.

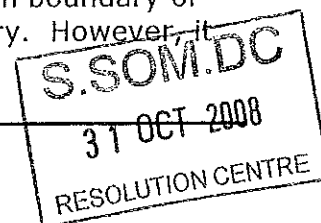
6. Although the address of the site was stated as Higher Easthams Hill Farm on the decision notice, and as Higher Easthams Farm on the appeal form, I have used the address of Goldwell Farm given on the application form. That was also the address used at the time of Application No. 02/02886/COU.

Main issue

7. The main issue is the effect on the character and appearance of the area.

Reasons

8. The earlier appeal was dismissed on the basis of policies in the adopted Crewkerne Local Plan, as the site was located outside the development limit of the settlement. That position has changed with adoption of the SSSLP. The Council has accepted that the site is now within the defined settlement boundary, and so development of this land is acceptable in principle.
9. The Council had no objections to the part of the scheme on the south east side of the track through the site. Three dwellings would be built there as an extension to the existing buildings. The existing and proposed dwellings would together form a "horseshoe" plan arrangement. This part of the site is largely shielded by existing buildings and vegetation from public viewpoints, and the proposed dwellings would lie beyond the existing properties as seen along the site access. Subject to satisfactory resolution of the details of matters of appearance and landscaping, this part of the scheme would not have any materially adverse implications for the character and appearance of the area, even allowing for the mainly rural nature of the surroundings.
10. The part of the development which would lie to the north west of the track would comprise a terrace of 7 dwellings. One of these would be at right angles to the others, thereby creating an L-shaped footprint for the overall building. These dwellings would in part replace an existing non-traditional farm building.
11. The cladding of this existing building has deteriorated, and its poor condition combined with its relatively elevated position makes it something of an eyesore, particularly as it is seen in part from the north west across the intervening agricultural land. However, it is not unduly apparent in closer views, as it is set back from the track through the site, and there is screening vegetation on its south western side, adjacent to part of its rear elevation, and in the form of a willow tree in front. There would be some visual benefits arising from its removal as part of the proposal, but those benefits must be weighed against the impact of the proposed development.
12. The terrace would be sited roughly 7.5m from the north western boundary of the land, whereas the farm building directly abuts that boundary. However, it



would be longer than the existing building, as it would extend further towards the north east. Based on the ridge height given on the submitted drawings, the terrace would also be higher than the existing building. As a result of those factors, it would have a greater prominence than the existing building as seen from the north west. Most of the width of the site as seen from that direction would be filled by building, and a relatively hard urban edge would be created, even taking into account that the gardens of the houses would lie between the new building and the north western site boundary. Based on what was said at the hearing, the rear boundary of those gardens is likely to be marked by close boarded fencing, possibly in combination with hedging. Such boundary treatments would themselves form quite a harsh urban feature in relation to the rural surroundings.

13. The application plans did not show any intended landscaping to this side of the site. Visualisation drawings produced for the appeal showed an area of planting outside the site, but this did not form part of the submitted proposal. The land needed for that planting is in the same ownership as the appeal site, and so a condition could be attached to require such planting. However, I am not convinced that in practice satisfactory landscaping could be created, retained and maintained in that location over the long term even with such a condition. There could be no guarantee that future owners of land outside the site would be prepared to retain and maintain planting for the benefit of future residents of the site, and it is questionable whether a condition requiring them to do so would be reasonable or realistically enforceable. Even if practical difficulties could be overcome, the planting would be likely to take a significant time to mature to an extent which would satisfactorily mitigate the visual impact of the development. In addition, the suggested planting would be outside the settlement boundary, and I cannot be certain of the policy implications of that, given that such landscaping was not part of the proposal as determined by the Council.

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14. Whether or not landscaping could be introduced to soften or screen the scheme from the north west, the visual effect as seen from Ashlands Road must also be considered. The existing agricultural building is not prominent from this point. By extending built development further towards the north east, and by removing the willow tree, the proposed terrace would be more prominent and apparent as seen along the site access, even allowing for the screening effect of the trees and other vegetation alongside the sunken footpath to the south west of the site. The view into the site would be dominated by substantial areas of hardstanding, including the access road, the adjoining footpath and a visually unbroken row of 12 car parking spaces. That would contribute to the creation of a visually harsh and urban form of development, which would be alien and discordant in relation to its rural surroundings. In that respect, it must be borne in mind that the site is in a location where the intensity of development decreases towards the settlement boundary, with the existence of extensive areas of open space in the form of the verges to Ashlands Road and open space within the grounds of Wadham School.

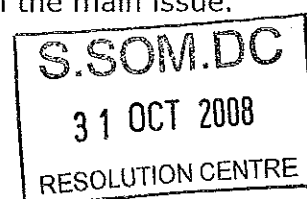
15. I have concluded that the proposed development would be markedly out of keeping with the predominantly rural character of the surroundings of the site, and that it would cause material and significant harm to the character and appearance of the area. That harm would outweigh any visual benefits arising

from removal of the existing building and its associated uses. The proposal would conflict with the criterion of LP policy ST5 which expects proposals to respect the form, character and setting of the locality. It would also conflict with the design expectations of LP policy ST6. In the terms of that policy, the proposal would not respect the form, character and setting of the settlement or local environment, and it would not preserve or complement the key characteristics of the location. It would not respect or relate to the character of its surroundings, including in the form and scale of the proposed development.

16. In reaching those conclusions, I have noted that the appellants have put forward an alternative option at the appeal stage, which would involve the erection of lower buildings of single storey height. That suggestion was not considered by the Council at application stage. Although it would lessen the impact of the scheme to some extent, it would rely on the same arrangement of hardstanding areas, and so would not sufficiently mitigate the harmful visual effects of the proposal to justify altering my conclusion on the main issue.
17. I have also taken account of the appellants' contention that the application subject of this appeal addressed the only matter found to be unacceptable in the earlier appeal, being the location of the site outside the settlement boundary. However, that decision did not contain any detailed analysis of the submitted details of the proposal, and my reading of it does not justify a conclusion that the Inspector found the proposal to be acceptable in its effect on the character and appearance of the area. Notwithstanding that siting and means of access were not reserved, it is evident from paragraph 1 that the layout drawing was treated as illustrative. Moreover, the statement in paragraph 5, that potential existed to enhance the present appearance of the site with a good standard of residential design, layout and landscaping, did not go as far as to state that the submitted layout would provide a good standard in those respects. The view expressed that the proposal could have a beneficial effect on the landscape, fell short of stating that it would have such an effect, and the wording used did not convey that a beneficial effect on the landscape would be dependent only on the quality of the design, external appearance and landscaping details at the reserved matters stage.
18. Having regard to the points considered above, I do not accept that the issue of the effect on the character and appearance of the area has been determined as being acceptable by virtue of the previous appeal decision. For the reasons I have given, I have found the effect of the proposed development on the character and appearance of the area to be unacceptable.
19. It was suggested that a split decision could be made, to allow the 3 houses to the south east of the track through the site, but that part of the scheme is not truly severable from the rest, as it would rely on part of the parking provision to the north west of the track. Therefore, a split decision would not be appropriate. I have taken account of all other matters raised, including that the site is previously-developed land, and is in a sustainable location for access to the town centre, schools and public transport. I have found nothing which is of sufficient weight as to override the harm I have identified on the main issue.

Stephen Amos

Inspector





Appeal Decision

Site visit made on 4 November 2008

by Neil Pope BA (Hons) MRTPI

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

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Decision date:
11 November 2008

Appeal Ref: APP/R3325/A/08/2079340

53 and 55 Severalls Park Avenue, Crewkerne, Somerset, TA18 8DR.

- 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 R E Pearce Properties Ltd against the decision of South Somerset District Council.
- The application Ref. 07/05213/FUL, dated 12 November 2007, was refused by notice dated 12 February 2008.
- The development proposed is the demolition of a pair of houses and the erection of thirteen flats and one house.

Decision

1. I dismiss the appeal.

Main issue

2. The main issue is the effect upon the character and appearance of the area.

Reasons

3. The appeal site lies at the end of Severalls Park Avenue and at the junction with Valley Road. I understand that Severalls Park Avenue was built in recognition of the sacrifice and suffering of the soldiers who served in the First World War, as 'Homes fit for Heroes'.
4. Some of the houses within Severalls Park Avenue have been altered and extended over the years. Nevertheless, the largely matching pairs of modest-sized, semi-detached dwellings within this part of the street, and the symmetry in the layout of the buildings, including the enclosure created by the siting of the houses relative to the road, are important attributes of the character of the street. Together with the avenue of trees, the open space along the axis of the road and the impressive War Memorial, there is a degree of formality within the street. This creates a pleasant and distinctive character. I agree with the Crewkerne Civic Society that it also provides a strong sense of place.
5. Established national¹ and local² planning policies include a requirement for new development to be of a high quality and good design, and create or reinforce local distinctiveness. In addition, the Government's best practice guide for the

¹ Planning Policy Statement 1 'Delivering Sustainable Development' (PPS1) and Planning Policy Statement 3 'Housing' (PPS3)

² Policy STR1 of the Somerset and Exmoor National Park Joint Structure Plan Review 1991-2011 (SP) and policies ST5 and ST6 of the South Somerset Local Plan (LP)

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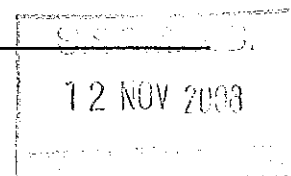
design and layout of new housing³ encourages the creation of a distinctive sense of place.

6. The new building would be set back further from the edge of Severalls Park Avenue than the existing pair of semi-detached houses. The space created in front of the building and the siting of this replacement block relative to neighbouring dwellings would disrupt the symmetry in the layout of the houses within the street. It would erode the pleasing sense of enclosure and formality that exists along this section of the street. The proposal would be an inappropriate response to the distinctive qualities of the area.
7. The scheme would comprise two linked blocks. However, the very large new mass of building would be readily apparent from the street and the public amenity area, known as Happy Valley, to the rear. This would contrast awkwardly with the scale of the adjacent modest-sized dwellings. The proposal would stand out as a discordant and harmful addition to the street scene of Severalls Park Avenue and would loom large above Happy Valley, especially during the winter when there would be less foliage on the boundary trees. It would seriously harm the character and appearance of the area and would fail to create or reinforce local distinctiveness.
8. The communal parking area at the rear of the site would be overlooked from some of the windows in the new building. Nevertheless, this sizeable area would include a long row of parking spaces that would be unbroken by any form of landscaping. This would appear as a harsh element of the overall scheme, especially when seen alongside the adjacent block of garages that lie to the rear of 51 Severalls Park Avenue. This new parking area would be rather uninviting and would not comprise good design. Furthermore, given its proximity to Happy Valley, I share the Town Council's concerns that this aspect of the scheme could create an environment for anti-social activity.
9. Planning permission exists for a two storey house within the garden of 55 Severalls Park Avenue (Ref. 08/00862/FUL). That dwelling would however be significantly smaller than the appeal building and would face Valley Road rather than Severalls Park Avenue. It is materially different to the proposal before me. Whilst some interested parties have also raised the issue of precedent, there is nothing before me to indicate that there is any significant pressure for similar development elsewhere within the street. In any event, I am required to determine this appeal on its own planning merits.
10. I conclude on the main issue that the proposal would seriously harm the character and appearance of the area. It would conflict with the provisions of SP policy STR1, LP policies ST5 and ST6, PPS1, PPS3 and the Government's best practice guide on housing design.

Other Matters

11. The proposal would entail the more efficient use of previously-developed land for housing. The new dwellings would be well-related to services and facilities and the development would include a mix of different sized units. Whilst this would accord with aspects of established national and local planning policies for housing, as I have noted above, both PPS3 and the development plan also

³ By Design Better Places to Live. A companion guide to PPG3



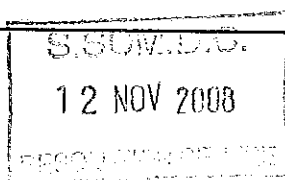
- require new development to be of a high quality and good design. Given my findings in respect of the main issue, the proposal would be at variance with the overall thrust of established national and local planning policies.
12. Part of the site abuts a belt of tree planting that runs along the side of Happy Valley. This area of planting and adjacent parts of the appeal site is likely to provide a habitat for wildlife. The Council's Ecologist has drawn attention to the likelihood of bats or other protected species being present in or around the appeal site. Also, some residents have drawn my attention to badger setts within this belt of planting. I agree with the Council's Ecologist that there is a reasonable likelihood that the proposal could affect protected species.
 13. PPS9⁴ and Circular 06/2005⁵ set out the Government's approach to protecting biodiversity. In essence, paragraph 99 of the Circular provides that where there is a reasonable likelihood of protected species being present and affected by development it is essential that surveys are undertaken before planning permission is granted. Only in exceptional circumstances should surveys be undertaken after permission has been granted.
 14. The appellant's agent has argued that this matter has been raised at a late stage in the proceedings and a planning condition should be imposed to address this. The comments of the Council's Ecologist were however forwarded in July 2008, as part of the Council's Questionnaire. An adjoining occupier also wrote in connection with the appeal to request the need for a wildlife survey prior to a decision being taken. Whilst the Council's planning officer recommended that this issue be addressed by way of a condition, there are no exceptional circumstances to justify such an approach. Although my decision does not turn on this issue, the absence of a protected species survey lends weight to the arguments for withholding permission.
 15. Other papers sent as part of the Questionnaire demonstrate that the proposal would be likely to increase the pressure on scarce recreational facilities (playing pitches, strategic facilities and equipped play areas) and youth facilities. The development could therefore diminish the quality of existing recreational and community infrastructure to the detriment of the existing community.
 16. The Council's Senior Leisure Facilities Officer has advised that a financial contribution of £17,055 is required towards the provision of playing pitches to meet the needs of residents of the proposed development. In addition, a further contribution of £6,659 would be required to provide for necessary strategic recreational facilities. The Council's Senior Play & Youth Facilities Officer has also advised that a financial contribution would be required for equipped play facilities and youth facilities to meet the needs of incoming residents. Paragraph 33 of PPG17⁶ provides that planning obligations should be used to address such matters.
 17. The Council has also suggested planning conditions to address these matters. However, paragraph 13 of the Annex to Circular 11/95⁷ advises that permission cannot be granted subject to a condition that an applicant enters into a

⁴ Planning Policy Statement 9 'Biodiversity and Geological Conservation'

⁵ Biodiversity and Geological Conservation - Statutory obligations and their impact within the planning system

⁶ Planning Policy Guidance Note 17 'Planning for Open Space, Sport and Recreation'

⁷ The Use of Conditions in Planning Permissions

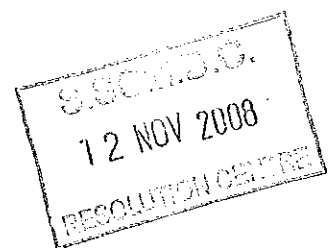


planning obligation under Section 106 of The Town and Country Planning Act 1990 (as amended). Paragraph 83 of the Annex to Circular 11/95 also advises that no payment of money can be required when granting permission. There is no planning obligation before me. Once again, whilst my decision does not turn on this issue, permission should be withheld in the absence of any proper mechanism to secure necessary off-site contributions towards recreational and community infrastructure.

18. I note the concerns of some neighbours regarding the increase in traffic that would be associated with the development, as well as concerns over drainage and water supply. However, there is no technical evidence to refute the observations of the Highway Authority or the Council's Engineer, both of whom recommended the use of planning conditions to avoid any future difficulties.
19. The proposed access driveway to the intended parking area at the rear of the new flats would run along the common boundary with 51 Severalls Park Avenue. As a consequence, numerous motor vehicles would pass very close to the front and side wall, as well as the garden, of this neighbouring dwelling. I agree with the occupiers of this adjacent dwelling that the proposal would be likely to cause significant noise disturbance and unacceptably erode their living conditions. This further supports the case for withholding permission.
20. At present it is possible to see into the front garden of 51 Severalls Park Avenue from the street. It is not a secluded area of private amenity space. First floor windows to habitable rooms in the proposed development would be set back an adequate distance from this neighbouring property. There would be no significant loss of privacy for the occupiers of No.51.
21. There would be no facing windows in the proposed flank wall nearest to 1 Valley Road. Further into the site, one small bedroom window would be provided in the upper floor of the new building. This would face the rear garden of this neighbouring dwelling. There would also be a small bedroom window and larger kitchen and bathroom windows at first floor level. However, these would all be set back from the boundary. Conditions could be used to control the type of glazing/opening mechanisms to the bathroom and kitchen windows so as to limit overlooking. Given established planning policies that aim to secure the more efficient use of urban land for housing, on balance, the loss of privacy within the rear garden of 1 Valley Road would not be so great as to justify withholding permission. Nevertheless, this would not overcome or outweigh the harmful effects that I have identified above.
22. Having regard to all other matters raised, I conclude that the appeal should not succeed.

Neil Pope

Inspector





Appeal Decision

Site visit made on 4 November 2008

by **Neil Pope** BA (Hons) MRTPI

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

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Decision date:
11 November 2008

Appeal Ref: APP/R3325/A/08/2080347

Six Acres, Broadshard, Crewkerne, Somerset, TA18 7NJ.

- 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 Peter Moody against the decision of South Somerset District Council.
- The application Ref.08/02098/FUL, dated 28.4.08, was refused by notice dated 26.6.08.
- The development proposed is described as "porch to garage."

Decision

1. I allow the appeal, and grant planning permission for a porch to garage at Six Acres, Broadshard, Crewkerne, Somerset, TA18 7NJ. The permission is granted in accordance with the terms of the application, Ref.08/02098/FUL, dated 28.4.08, and the plans submitted with it, subject to the following conditions:
 - 1) the development hereby permitted shall begin not later than three years from the date of this decision;
 - 2) the materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building;
 - 3) notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no openings shall be inserted in the side (north western) elevation of the enlarged building without the prior written consent of the Local Planning Authority.

Reasons

2. The proposed extension would comprise a very modest addition to the existing garage. It would reduce the narrow gap between the flank wall of this garage and the wall of the car port to the neighbouring dwelling ('Bankside') but would not entail the loss of any important open space. The development would be largely hidden from public view and would not intrude into the garden settings of either property. The scheme would not create any cramped effect within the street scene or harm the quality of the local environment.
3. The main bulk of the proposal would be screened from 'Bankside' by the flank wall and roof of the existing car port. The small part of the enlarged building that would extend beyond the rear wall of this car port would be of a limited height and mass. It would not appear overbearing or harmfully interrupt the outlook from the rear of this neighbouring dwelling. The proposal would be set

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down below the roof ridge of the existing garage and its siting to the north east of 'Bankside' would be most unlikely to result in any significant loss of light.

4. The development would not harm the character or appearance of the area and would not unacceptably harm the residential amenities of the occupiers of 'Bankside'. The proposal would accord with the provisions of policies ST5 and ST6 of the South Somerset Local Plan.
5. There is no cogent evidence to indicate that ground conditions are unstable or that the proposed excavations would undermine the foundations of 'Bankside'. Some space would be retained between the flank wall of the neighbouring car port and the enlarged garage and maintenance issues are dealt with under separate legislation. I note that the Council did not object on this basis.
6. To safeguard the character and appearance of the area and the amenity of neighbouring residents it would be necessary to attach planning conditions requiring the use of matching materials and the removal of permitted developments for openings in the side elevation of the enlarged building.
7. Having regard to all other matters raised, I conclude that the appeal should succeed.

Neil Pope

Inspector

