
Appeal Decision

Site visit made on 24 May 2016

by Robert Gully MEng CEng MICE

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

Decision date: 15 June 2016

Appeal Ref: APP/R3325/W/16/3145191

Land adjacent to Chessels Lane, Chessels Lane, Charlton Adam, Somerton, Somerset TA11 7BJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant outline planning permission.
 - The appeal is made by Mr P Soundy against the decision of South Somerset District Council.
 - The application Ref 15/05436/OUT, dated 3 December 2015, was refused by notice dated 28 January 2016.
 - The development proposed is erection of a detached dwelling and creation of a new vehicular access onto Chessels Lane.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appeal relates to an outline application for which all matters were reserved except access.

Main Issue

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

Reasons

4. The appeal proposal would lie along Chessels Lane where it runs between the existing property of Craigmere immediately to the north, and Fields End Farm which lies a significant distance further south beyond the intervening agricultural land. Along this length Chessels Lane is narrow and bounded by consistent established hedgerows on both sides. The quarry to the east is not readily visible or evident and hence the lane here has a strong rural character with a clear absence of development.
 5. The bulk of dwellings within the village on Chessels Lane, including the property Chessels, are two-storey. However, Craigmere and Little Chessels, the latter of which lies behind the garden to Chessels, are single storey dwellings such that they are not as readily visible as other properties. Furthermore, on the approach to the village along the lane from the south, the hedgerow to the lane continues part way along the roadside boundary of Craigmere. This further diminishes the prominence of that property and means
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that the roofs and chimneys of the two storey properties beyond it are the first strong signal of the developed village core on that side of the road. Overall, whilst the garden wall and layby to the front of Chessels diminish the rural character of the lane there, the dwelling at Chessels remains the first readily visible indicator of reaching the edge of the village.

6. The proposed entrance would sit on the narrow rural stretch of the lane, beyond the dwelling at Chessels and the layby to its frontage. Furthermore, the visibility splay would extend some distance further south. The tapering setback of the hedgerow would significantly alter the consistent narrow undeveloped feel of the lane. Even with replacement planting at the back of the visibility splay, which would establish over time, the widening of the road would be in contrast to the existing character. The entrance to the appeal site would afford direct views of residential development, in stark contrast to the existing constrained lane, from which glimpses are currently obtained into a clearly agricultural setting beyond the village edge.
7. The overall effect would be to significantly alter the existing character and appearance of the lane and field behind to one of a more urbanised nature. Although the harm would be localised, the consistent appearance of the lane maintains an important rural character which separates the edge of the village and Fields End Farm, which would be eroded along a significant length by the proposal. The introduction of the proposal would cause unacceptable harm in this respect.
8. I note the appellant's submissions regarding the context provided by proximity to Craigmere. For the reasons stated above, Craigmere is not readily visible on arriving in the village and therefore the proposal would be seen to significantly extend development and alter the character on the west side from the property Five Farthings southwards. Notwithstanding this, the argument of a shared boundary with existing residential development on one side only is not a compelling one. Whilst it does provide some context for onward development, it is an argument that could be easily repeated to continuously extend development outwards on most roads, causing cumulative harm to the countryside. I have considered this case on its merits and I do not give proximity to Craigmere significant weight, particularly given the limited prominence of the dwelling in the view from the lane outside the village, its expansive garden which lies on the opposite side of the property to the village, and the access track which further separates it from the appeal site.
9. There is no evidence to suggest that the fallback position identified by the appellant relating to hedgerow removal to an agricultural field would be implemented for any other reason than to facilitate the appeal proposal. Therefore, to my mind, the removal of the hedgerow remains a direct consequence of the appeal proposal, and as a result the issue of fallback should be given limited weight in this case.
10. The appellant has made extensive submissions in relation to the effect on landscape character. Whilst I acknowledge that the effect outlined above would be localised, I note that the documents referenced by the appellant support the importance of hedgerows in the area. For example, the Natural England document¹ refers to key characteristics being '*Winding rural lanes, bounded by verges and hedgerows, connecting villages and hamlets...*', which

¹ National Character Area profile: 140. Yeovil Scarplands, Natural England

to my mind is a good description of Chessels Lane to the south of the appeal site. Furthermore, the appellant's submission references a 1993 South Somerset District Council document 'The Landscape of South Somerset' and states that '*it is the hedge which is most notable in this relatively tree-less landscape*'. I accept that the value of the short length of hedge in the wider undesignated landscape is limited, such that its loss would not cause significant harm to landscape character. However, the above observations reinforce my earlier findings that the proposal would cause unacceptable harm to local character and appearance on the lane, which is representative of the prevailing character of the area.

11. Policy EQ2 of the South Somerset Local Plan (2006 – 2028), adopted 2015, the 'Local Plan', is a general policy applicable to all development. It requires high quality development, which promotes local distinctiveness and preserves or enhances the character and appearance of the district. It does not relate to housing supply and therefore does not fall to be considered against the latter part of paragraph 49 of the National Planning Policy Framework (the Framework). On this basis I find no reason to reduce its weight as an up-to-date development plan policy.
12. For the reasons set out above, I have found that the appeal proposal would fail to reinforce local distinctiveness and respect the local context in which it sits, which would be contrary to criteria in Policy EQ2. Whilst it would accord with other criteria in the policy, including one relating to landscape character, the harm caused to local character and appearance would be sufficient to conflict with the policy as a whole.

Other Matters

13. I note that the appellant, the Council and some interested parties have made submissions which reference Policies SS1 and SS2 of the Local Plan. South Somerset District Council acknowledge that, despite the recent adoption of the Local Plan, they cannot demonstrate a 5 year supply of deliverable housing sites. Policies SS1 and SS2 of the Local Plan are not referenced in the Council's reasons for refusal. Notwithstanding this, the officer's report identifies that these policies '*have an important (although not exclusive) function of determining the housing supply*'. Therefore, the policies clearly fall within the remit of paragraph 49 of the Framework and should be considered out-of-date in this case. I therefore afford them limited weight.
14. The range of services set out by the appellant in the local vicinity is supported by the Council's decision² at the former stables at Cedar Lodge in the same village. Having observed the relationship between the two villages of Charlton Adam and Charlton Mackrell and the location of facilities to meet basic daily needs, I see no substantive reason to conclude that the location of the appeal site would be significantly less sustainable than the aforementioned application.
15. The appellant has submitted a signed Section 106 agreement relating to an affordable housing contribution, required by Policy HG4 of the Local Plan. However, a recent Court of Appeal judgement³ has reinstated the Written Ministerial Statement (WMS) of 28 November 2014 as national planning policy

² Application reference 14/02726/OUT (included in the appellant's Appendix 8 to their appeal statement)

³ Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559; [2016] EWCA Civ 441.

in respect of affordable housing contributions for small scale developments. This change is reflected in updated paragraphs in Planning Practice Guidance (including paragraph ID 23b-031-20160519), which states that '*affordable housing and tariff style planning obligations (section 106 planning obligations) should not be sought from small scale and self-build development.*' As a single dwelling the appeal proposal would be captured by the exclusion in the WMS and the guidance. Both the appellant and the Council have had an opportunity to consider this matter in subsequent submissions.

16. In the supporting text to Policies HG3 and HG4, the Local Plan acknowledges that the threshold for contributions to affordable housing was understood to be at risk of change pending legal proceedings. In particular it notes that '*Policy HG3 and Policy HG4...remain part of the local plan until it is shown conclusively that the policy is replaced by the Government's approach*'. Whilst formal alteration of the Local Plan has not occurred in this respect, it is clear that the Council intended to abide by the Government's confirmed position following legal proceedings.
17. Although I accept the appellant's assertion that there would likely be an on-going need for affordable housing in South Somerset, the WMS is clear that contributions should not be sought in this case. My interpretation of the WMS and the Local Plan is that the obligation would no longer be necessary to make the development acceptable in planning terms, as the relevant Local Plan policy is not aligned with current national policy, nor is the obligation any longer directly related to the development by means of the same policy. In this respect the planning obligation fails to meet two of the tests set out in the Framework (paragraph 204) and I therefore give it limited weight in the planning balance.
18. Although a third party raised matters relating to the ecological value of the hedgerow, insufficient evidence was included for me to conclude that a risk of significant harm would be likely.

Conclusion

19. I have found that the proposal would not protect or enhance the natural environment in respect of its effect on character and appearance. On this basis, it would conflict with the environmental aspect of sustainable development identified in the Framework. Whilst there would be economic and social benefits from the provision of a new dwelling and its contribution to the shortfall in housing supply these would be modest and would be significantly and demonstrably outweighed by the harm caused.
20. I therefore dismiss the appeal.

R Gully

INSPECTOR