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# Appeal Decision

Site visit made on 14 September 2016

**by R J Marshall LLB DipTP MRTPI**

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

**Decision date: 14 November 2016**

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**Appeal Ref: APP/R3325/W/16/3145768**

**Land off Station Road, Lower Ansford, Castle Carey, Somerset**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by conditions of a planning permission.
  - The appeal is made by Mr Gareth Davies (Elan Homes Ltd.) against the decision of South Somerset District Council.
  - The application Ref 15/03441/REM, dated 24 July 2015, sought approval of details pursuant to conditions Nos. 1, 2 and 19 of planning permission Ref 13/03593/OUT, granted on 13 February 2015 for residential development with associated vehicle access arrangements.
  - The application was refused by notice dated 22 January 2016.
  - The details for which approval is sought are: Condition 1, layout, scale, appearance, and landscaping; Condition 2, levels and external materials; and condition 19, enhancement of biodiversity.
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## Decision

1. The appeal is dismissed insofar as it relates to the details submitted pursuant to conditions Nos. 1 and 2 attached to planning permission Ref 13/03593/OUT, granted on 13 February 2015 and the appeal is allowed insofar as it relates to details submitted pursuant to condition No. 19 of the aforementioned outline planning permission in accordance with the terms of the application Ref 15/03441/REM, dated 24 July 2015, subject to the conditions on the attached list.

## Background

2. Under outline planning permission 13/03593/OUT permission was given for the proposed access but the reserved matters of layout, scale, appearance and landscaping were reserved for later consideration by condition No.1. Condition No. 2 says that "All reserved matters shall be submitted in the form of one application to show a comprehensive and coherent scheme with respect to appearance, landscaping, layout and scale to show internal ground floor levels and external materials".
3. Condition No. 19 requires "Details of measures for the enhancement of biodiversity shall be submitted to and approved in writing by the Local Planning Authority, as part of the application for reserved matters. The biodiversity enhancement measures shall be implemented in accordance with the approved details unless otherwise approved in writing by the local planning authority".

4. The Council refused to approve the application before me on 2 grounds. The first being that the density of development, its design and detailing would be out of accord with the local character and pattern of development and second that it had not been demonstrated that the proposed layout would facilitate the most appropriate drainage strategy by maximising the on-site soakaway of surface water.
5. Two matters arise from the above. First, although the application was refused in total the reasons for refusal make no reference to biodiversity and there is no suggestion in the Council's statement and Committee report that the ecological report submitted in accordance with condition 19 has been found unsatisfactory. I take it from this that the Council is satisfied with the ecological report and that consequently condition 19 could be discharged. Nothing that I have read or seen suggests that a contrary view should be taken. I shall have regard to this in my decision and the identification of the main issues below.
6. The second matter to take into account is the appellant's contention that the Council's concerns on surface water drainage are not for consideration at this stage as other Grampian conditions cover this matter. In my view as layout is a reserved matter, and the Council's concerns on drainage arise from the proposed layout, then it is a matter for consideration now. I expand more on why this is so below.

### **Main Issues**

7. In light of the above the main issues in this appeal are: **first**, whether the details on the layout, scale, appearance and landscaping of the site would provide a satisfactory development in terms of its effect on the character and appearance of the surrounding area; and **second**, whether the proposed scale and layout of the development would prevent the satisfactory surface water drainage of the site.

### **Reasons**

#### ***Character and appearance***

8. Castle Cary is an attractive small settlement with a tight-knit central core beyond which is more modern 20th-century estate development. The development permitted in outline will add to the later development and extend housing into the countryside. The outline permission did not specify the number of dwelling to be provided, though it seems likely that both parties had at outline stage envisaged between 38 – 40 dwellings. This reserved matters application is for 40 dwellings.
9. Turning to the layout of the proposed development in some respects I find the details submitted pursuant to condition No. 1 to be satisfactory. Sufficient space between the proposed houses and the substantial well wooded buffer on the southern boundary of the site would be retained. And sufficient space would exist to retain and reinforce landscaping on the Station Road frontage forward of a terrace of houses.
10. Moving into the site the proposed layout does have some of the good elements of design referred to by the appellant. However, it has a notably regimented appearance with straight roads and in many cases little variety in the terms of the setback of houses from them. This, along with an undue extent of hard

surfacing provided for external car parking, would result in an unduly harsh form of development in this location on the attractive rural edge of Castle Cary. This would especially be so given the substantial woodland belt to the south of site, and an extensive open area retained to the east. For this creates a degree of separation between existing development and the appeal site that gives an especially pleasing rural context to the appeal site. This would not be reflected by the development of the site in the manner proposed. And having seen the plans of a subsequent planning application I have no reason to suppose that a more acceptable layout could not be devised whilst providing a not dissimilar number of houses.

11. Turning to the detailed design of the proposed houses it has been said that they are bland and unimaginative. However, in the absence of a more detailed critique of their design, and given that the evidence submitted shows that in practice they may look better than shown on the application drawings, I consider that on balance they are of an acceptable design. There are clearly valid concerns on the choice of materials though. Around half of the proposed houses would have walls of stone render the other half would have walls of red brick. I accept that in some cases locally such materials are used quite extensively. However, in those cases, especially when red brick was used, this detracts from the character of Castle Cary where many of the buildings in the centre are of attractive stone. Where the 20th century housing elsewhere around the town has used materials more in keeping with those found in the town's historic core, a more satisfactory form of development has been achieved. Given its fairly prominent location on one of the roads into Castle Cary it is important that the proposed development builds upon this rather than, as would be the case with the use of the proposed materials, appear discordant and out of keeping.
12. It is concluded that the details on the layout, scale, and appearance of the site would not provide a satisfactory development in terms of its effect on the character and appearance of the surrounding area. As such approval of the details under conditions 1 and 2 would be contrary to Policy EQ2 of the South Somerset Local Plan (LP) 2006-2018 which seeks to ensure a high quality of design that preserves or enhances the character of appearance of the District.

### **Drainage**

13. The Council would prefer to see surface water drainage of the site to be by ground infiltration by soakaways. In this it is supported by Planning Practice Guidance–Flood Risk and Coastal Change. This says that generally the aim should be to discharge surface water run-off as high up the hierarchy of drainage options as is reasonably practicable. And this would be by infiltration into the ground if that was achievable. The Council is concerned that the proposed layout and density of development would make this impossible and that attenuation measures, further down the drainage hierarchy, would be required instead.
14. In my view this is a legitimate potential concern. Site layouts and densities could have an effect on the type of surface water drainage adopted. Thus, even with the presence of Grampian style drainage conditions it is wise, before allowing such matters to be approved, to look at whether the characteristics of the proposed development allow for the preferred form of surface water drainage.

15. The appellant is not suggesting that surface water drainage should be by infiltration. Rather it is his contention, supported by technical evidence, that the soil conditions would not allow satisfactory infiltration rates. No contrary technical evidence has been provided by the Council. The detail of the system to be used should, says the appellant, be left to being dealt with under the drainage conditions.
16. Given the above the weight of evidence strongly supports the appellant. With soil conditions not supporting soakaway drainage the layout and density of the proposed development would seem to have no bearing on whether or not the Council's preferred means of drainage could be adopted.
17. It is concluded that the proposed scale and layout of the development would not prevent the satisfactory surface water drainage of the site. Thus there would be no conflict with LP Policy EQ1 on flood risk.

### **Other matters**

18. Concerns over the proposed access were made by many locally. However, the access was approved at outline stage and thus is not before me. There is also some concern that having undeveloped land to the east of the site could lead to pressure for further development. However, that was a matter for consideration at outline stage.

### **Conditions**

19. As I am minded to allow the appeal in relation to the details submitted pursuant to condition No. 19 I have considered what conditions, if any, should be imposed. In light of the evidence to the Council's ecology officer I shall, in the interests of safeguarding legally protected species and enhancing biodiversity, impose the Council's suggested conditions on the protection of badgers and the provision of bat and bird boxes. I shall amend these conditions where necessary for greater clarity and to reflect Government Guidance.

### **Conclusion**

20. For the reasons given above I shall dismiss the appeal insofar as it relates to the details submitted pursuant to conditions Nos. 1 and 2 attached to planning permission Ref 13/03593/OUT and allow the appeal insofar as it relates to details submitted pursuant to condition No. 19 attached to the aforementioned outline planning permission.

*R J Marshall*

INSPECTOR

## **Conditions**

- 1) The development permitted under planning permission Ref 13/03593/OUT shall not commence until there has been submitted to and approved in writing by the Local Planning Authority an updated survey for badger setts, and a scheme for the protection of the badger setts and the ecological supervision of works. Development shall be undertaken in accordance with the approved updated survey and scheme.
- 2) The development permitted under planning permission Ref 13/03593/OUT shall not commence until there has been submitted to and approved in writing by the Local Planning Authority details of a scheme for the installation of bird and bat boxes. Development shall be undertaken in accordance with the approved scheme.