



Appeal Decision

Site visit made on 28 February 2019

by Benjamin Webb BA(Hons) MA MA MSc PGDip(UD) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 20 March 2019

Appeal Ref: APP/R3325/W/18/3210037

Land to the north of Moorlands Farm, Merriott, Chard TA16 5NF

- 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 D Foot against the decision of South Somerset District Council.
 - The application Ref 18/01352/OUT, dated 27 April 2018, was refused by notice dated 25 June 2018.
 - The development proposed is described as: erect 2 dwellings and construct vehicular access thereto.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application was made in outline with all matters reserved. Where details of the access, layout, landscaping, scale and appearance of the development have been shown on the submitted plans, or described in the supporting information, I have therefore treated them as indicative.
3. A revised version of the National Planning Policy Framework (the Framework) was published during the course of the appeal. However as no changes have been made to the content directly relevant to the subject matter of this appeal I consider that no prejudice would occur to any party as a result of me taking the revised Framework into account in making my decision.

Main Issues

4. The main issues are the effects of the development on:
 - drainage and flooding; and
 - the character and appearance of the area, including the setting of listed buildings, the setting of Merriott Conservation Area (the Conservation Area), and protected trees.

Reasons

Drainage and flooding

5. A culverted stream runs across the north side of the field within which the site is located. Parts of the field along and close to the line of the culvert are at risk of fluvial and surface water flooding, falling within Flood Zones 2 and 3. The

site boundary has been specifically drawn in order to place the proposed development within Flood Zone 1. Whilst the Council nonetheless notes an apparent minor encroachment of the site boundary into Flood Zone 2, the maps provided are unclear, as is the claimed point of encroachment.

6. Housing has previously been proposed within the field, reference: 17/03487/OUT (the previous scheme). The site boundary of the previous scheme was greater than that currently proposed, incorporating land within Flood Zones 1, 2 and 3. In this regard the Environment Agency (EA) was previously satisfied that the aim of the sequential test in steering development to areas with the lowest risk of flooding would be met by locating buildings and infrastructure within the part of the site contained in Flood Zone 1. It is reasonable to consider that the same would be true of a site wholly contained within Flood Zone 1, and that consequently no flood risk assessment would be required.
7. Nonetheless, given the increase in impermeable surface area of the site that would result from the development, some run-off would occur. Run-off currently flows north toward the line of the culvert, so it is reasonable to consider that this could have the potential to create or exacerbate surface and/or fluvial flooding both immediately adjacent to the site and elsewhere.
8. In this context a Surface Water Drainage Strategy (the Strategy) has been submitted with the appeal. This incorporates the Flood Risk Screening Appraisal (the Appraisal) submitted in relation to the previous scheme. The purpose of the Strategy is to provide an indicative illustration of how surface water could be managed.
9. The Strategy however confirms that no infiltration testing has been undertaken on site. Therefore the potential to use soakaways within the site to manage run-off has not been ascertained.
10. The Strategy proposes a range of alternative measures including a swale that would discharge at 'greenfield rates' into the stream to the north. The swale however appears to fall outside the site boundary, as does the associated drain, and each would require works within Flood Zones 2 and 3. The scheme diagram also assumes the de-culverting of the stream, which is likewise located off-site and would require separate consent. Neither was considered in detail within the Appraisal, and no comments on these matters by either the EA or Lead Local Flood Authority have been set before me.
11. The appellant has suggested that works outside the site could be secured by a Grampian condition. However I have been provided with no clear indication that consent would be forthcoming for de-culverting, that it is certain that off-site works would be undertaken in the event that the site was developed following a change in ownership, or of how ongoing management of off-site drainage would be secured. Such a condition would therefore be ineffective.
12. Furthermore, whilst there is no apparent necessity for de-culverting of the stream in relation to the development, a positive outcome of on-site infiltration testing would render other off-site drainage works similarly unnecessary. In the absence of evidence to the contrary, a condition requiring off-site drainage works and de-culverting would therefore additionally fail the test of necessity. As such, the scheme as presented fails to demonstrate that run-off generated by the development could be managed.

13. I have had regard to paragraph 163 of the Framework which indicates that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere. As increased flood risk off-site cannot be ruled out in this case, paragraph 163 lends weight to the case for refusal.
14. For the reasons outlined above I conclude that the development would present unacceptable risks with regard to drainage and flooding. It would therefore conflict with Policy EQ1 of the South Somerset Local Plan 2006–2028 (2015) (the Local Plan), which requires development to demonstrate how climate change mitigation and adaptation will be delivered, including through reducing and managing the impact of flood risk by incorporating Sustainable Drainage Systems.

Character and Appearance

15. The site is located on the south-western edge of Merriot. Whilst a cluster of buildings exists on the opposite side of Moorlands Road to the east and south-east of the site, on its other sides the site, and indeed the field of which it forms part, is directly neighboured by further open 'green' space. To the north and north-east some of this space appears to be in use as gardens or allotments, which together provide a soft edge to the built-up area of the settlement. Towards the west lie similar fields. Upon both entering and leaving the settlement the site, and field of which it forms part, therefore appreciably merge with the open landscape setting of the settlement.
16. Though the layout is indicative, the tight boundaries and constraints placed by the presence of trees provide limited scope for alternative positioning of the 2 proposed dwellings and access point. The dwellings would therefore be positioned at the western end of the site. Viewed within the context of existing development on the north side of Moorlands Road, this would leave a considerable gap between the dwellings and the edge of the built-up area of the settlement. This gap would be appreciable both from the road, and from land to the north and north-east, including the adjacent public footpath. In the proposed location the development would appear both poorly related to the existing built form of the settlement, and as an encroachment into its landscape setting.
17. The fact that development occurs on the opposite side of Moorlands Road would not alleviate the adverse effect given the more continuous nature of built form along the south side of the road. Nor would the belt of trees on the west side of the site, which would not be readily perceived as forming a new settlement edge on account of the fact that the development itself would be somewhat detached from the established built-up area on the north side of the road. Landscaping would otherwise provide limited scope for mitigation through screening.
18. Development opposite the site includes a group of Grade II listed buildings. It is as such necessary to have special regard to the desirability of preserving the setting of these listed buildings. The group consists of the country house referred to within the statutory list as both 'Moorlands' and 'Glen House', its entrance gates and walling, and Milcote and Little Moorlands (hereafter collectively referred to as the Moorlands group). All are historically associated parts of a single complex, hence listing of some components for 'group value'. The relationship between the component parts of the group remains apparent,

is readily perceived both spatially and visually, and is critical to an understanding of the significance of the buildings within the group as a whole. Significance otherwise resides most particularly in the design of Moorlands/Glen House by Sir George Gilbert Scott, the interesting architectural style and composition of the group, and its continuing prominence within the townscape of the settlement.

19. In the absence of foliage extensive views of the group, including of the main house, are possible from Moorlands Road. Milcote itself faces across the appeal site and can be clearly seen from within it, whilst the entrance gateway is located roughly opposite the location within which the proposed units are indicated. Upon approaching Merriott from the south-west, the visual prominence and historically high status of the Moorlands group is emphasised by the openness of the surrounding land. In this regard the openness of the site makes a notable contribution to perception of the historically distinct character and status of the Moorlands Group relative to the adjoining townscape.
20. The proposed development would erode these qualities by both reducing openness within the setting of the Moorlands group and by introducing an element of visual competition, each appreciable from the road. Landscaping would again have limited potential to mitigate the effect. The development would therefore harm the ability appreciate of the significance of the Moorlands group, thereby failing to preserve its setting.
21. The boundary of the Conservation Area runs along the southern edge of the site, and is drawn to include historic development on either side of the linear route formed by Moorlands Road and Lower Street. Historic development forms an often more or less continuous built-up frontage along much of this route, though becomes more broken towards the peripheries. On both the north and south sides of Moorlands Road historic buildings, including the Moorlands group, currently define the edge of the built-up area of both the settlement and the Conservation Area. Both this historic pattern of development, and the continuing ability of public to appreciate it, form important components of the significance of the Conservation Area.
22. For much the same reasons as previously discussed, the detached location of the proposed dwellings would be appreciably at odds with the historic development pattern, and would undermine the important role played by historic buildings in defining the south-western entry into the settlement. Consequently, the development would cause harm to the setting and significance of the Conservation Area.
23. The site also contains a number of trees protected as part of a wide-ranging Tree Preservation Order (TPO). These trees are located along the boundary with Moorlands Road. A further belt of trees covered by the TPO lies along the western boundary of the site. Based on the submitted plans however, the extent of their inclusion within the site itself is unclear. Indeed this belt of trees appears to fall either partly or wholly outside the site boundary.
24. The trees are of varied type and none of those along Moorlands Road are particularly prominent viewed relative to other vegetation. The tree belt is a more prominent and attractive feature appreciable from both the settlement and footpath to the north. Though all the trees in question are also visible within the settings of the Conservation Area and the Moorlands group, none of

the trees in question makes an obvious contribution to the significance of these heritage assets.

25. Trees within the belt along the western edge of the site appear to be relatively young, but are already of considerable height. The trees are therefore likely to have strong potential to grow both taller and broader. Based on the indicative layout, it is likely that the tree belt would appear overbearing viewed from within the 2 proposed dwellings and their gardens. Overhang would be likely, as would dense shading late in the day. It is therefore reasonable to consider that the trees would have an adverse impact on the living conditions of occupants, that this would worsen with time given future potential for growth. It is therefore likely that some pressure for pruning or felling of trees would be generated, even if some or all of the trees fell outside the site.
26. The protected status of the trees would provide strong grounds for the Council to resist such pressure, however the existence of unreasonable living conditions would nonetheless be likely to weigh against retention of the tree belt in its current form.
27. The appellant has submitted an arboricultural opinion which highlights both the need for management of the tree belt, and the lack of any agreed scheme. Given the inevitably reactive nature of a scheme generated in response to development, combined with the additional probability that some or all of the trees fall outside the site, in my view the development would not provide a context within which appropriate ongoing management measures could be secured. Uncertainty would therefore exist in relation to the future of the tree belt if the development took place. Reasonable potential would therefore also exist for harm to be caused to the contribution the tree belt makes to the character and appearance of the area.
28. With regard to other arboricultural matters, sufficient space appears to be available within the site, and between trees along Moorlands Road, to enable construction of the dwellings and an access in the indicative locations without adverse impact on root protection areas. For the same reason I see no reason to consider that construction would cause harm to protected trees on or adjacent to the site, provided this was carried out in accordance with an arboricultural method statement. This could be secured by condition.
29. The development would also require removal of elements of the existing roadside hedge in order to provide visibility splays. The hedge is fragmentary and in replanting could therefore achieve some enhancement despite the altered alignment. Enhancement of the hedge could however also be more sensitively achieved in the absence of development. As such I give the potential for enhancement of the hedge little weight.
30. I have had regard to paragraph 193 of the Framework which indicates that great weight should be given to the conservation of heritage assets, I find that the development would not conserve the setting of the Conservation Area or preserve the settings of buildings within the Moorlands group. With reference to paragraph 196 of the Framework, and my reasons above, the development would therefore cause less than substantial harm to the significance of these designated heritage assets. Having additional regard to the considerable importance and weight to be given to the statutory objective of preservation of the setting of listed buildings, I find that the modest public benefit of providing 2 additional dwellings, would not outweigh the harm caused.

31. For the reasons outlined above I conclude that the development would cause unacceptable harm to the character and appearance of the area including the setting of buildings within the Moorland Group, the setting of the Conservation Area, and protected trees. The development would therefore conflict with Policy EQ2 of the Local Plan which expects development to promote South Somerset's local distinctiveness and preserve or enhance the character and appearance of the district; Policy EQ3 of the Local Plan which expects development to safeguard or where appropriate enhance the significance, character, setting and local distinctiveness of heritage assets; and Policy EQ5 of the Local Plan which expects development to enhance and/or maintain the character and local distinctiveness of the landscape.

Other Matters

32. The appellant notes a package of public benefits that would be provided by the development in association with de-culverting of the stream. These include de-culverting itself, a permissive footpath and creation of a wildlife zone. All would however fall outside the site, would not form part of the development for which planning permission has been sought, would not be demonstrably necessary in order to make the development acceptable, and could not therefore be secured. None can therefore be considered to form public benefits arising from the development.
33. I note the appellant's further points that occupants of the development would have direct access to facilities within Merriott, that use of such facilities could make a contribution to local vitality, that the development could make use of materials which reflect those used in the Moorlands group, and that construction could incorporate energy efficiency measures and generate employment. However these points would do little or nothing to alter the unacceptably adverse effects of the development identified above. Therefore these points at best attract very little weight.
34. Both parties agree that the Council cannot demonstrate that it has a 5-year supply of deliverable housing sites, therefore policies most important for determining the application are out-of-date. Under paragraph 11 of the Framework planning permission should therefore be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, or if specific policies within the Framework that protect areas or assets of particular importance provide clear reasons for refusal. With regard to my reasons above, in this case combined weight of the harm caused by the scheme with regard to drainage and flooding, and the character and appearance of the area, including the setting of listed buildings, the setting of the Conservation Area, and protected trees would significantly and demonstrably outweigh the public benefits related to and generated by provision of 2 dwellings. Furthermore paragraphs 163 and 196 of the Framework provide clear reasons for refusing the development proposed. Paragraph 11 does not therefore support the granting of planning permission in this instance.

Conclusion

35. Exercising my duty under section 38(6) of the Planning and Compulsory Purchase Act 2004 as amended, I find that in this case material considerations do not indicate that my decision should be made other than in accordance with

the development plan. For the reasons set out above, and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

Benjamin Webb

INSPECTOR