



Appeal Decision

Site visit made on 8 January 2019

by I Bowen BA(Hons) BTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th April 2019.

Appeal Ref: APP/R3325/W/18/3209790

Holly Tree Farm, Longstrings Lane, Crewkerne TA18 7EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr Brett Jacobs against South Somerset District Council.
 - The application Ref 18/00619/OUT, is dated 19 February 2018.
 - The development proposed is outline application for residential, custom build and/or affordable housing development.
-

Decision

1. The appeal is dismissed and planning permission is refused.

Application for costs

2. An application for costs was made by Mr Brett Jacobs against South Somerset District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The appeal was made following the Local Planning Authority's (LPA) failure to determine the planning application within the specified timescale. In its statement, the LPA indicated that it regards the application as a re-submission of a previous refusal of planning permission under ref 16/03209/OUT and that its concerns remain unchanged. I have had regard to that decision in framing the main issues below.
4. Furthermore, I note that planning application ref 16/03209/OUT was also the subject of an appeal¹ (the previous appeal) which was dismissed on 30 October 2017. I have had regard to that appeal decision in determining this appeal.
5. The application was made in outline, with all matters reserved except for access. The appellant submitted an illustrative plan which shows a possible layout for a development comprising starter and custom-build homes. I have used that plan as a guide as to how the development could take place. Whilst the description of the development did not specify a quantity of housing being proposed, the details in the application form and the appellant's appeal evidence indicates that the intention is for the scheme to deliver up four dwellings, of which a minimum of 25% is described as being for custom build/affordable housing. Whilst the appellant also indicates that options for

¹ APP/R3325/W/17/3176399

alternative schemes comprising one, two, three or four dwellings could be negotiated, I am mindful that I must consider the proposal for which planning permission was originally sought and upon which public consultation took place. If the appeal were allowed, the appellant would benefit from a planning permission for the construction of four dwellings and I have therefore determined the appeal on that basis.

6. A revision to the National Planning Policy Framework was published in February 2019 (the revised Framework) to which I have had regard in determining this appeal. No changes have been introduced, however, which are directly relevant to the subject matter of this appeal and I am therefore satisfied that that no party has been prejudiced as a result of my doing so.

Main Issues

7. The main issues are the suitability of the proposed site for housing having particular regard to the effect of the proposed development on (i) highway safety and (ii) the character and appearance of the area.

Reasons

Highway safety

8. Having regard to the previous appeal decision and the submitted evidence, two substantive areas of dispute between the parties arise in respect of the adequacy of (i) Longstrings Lane and (ii) the junction of Longstrings Lane with the main A356, to safely accommodate the likely traffic associated with the proposed development. I consider these matters in turn below.
9. Longstrings Lane is a public right of way which would be the means of access for future occupiers of the proposed development. The submitted evidence shows that the lane is also used by agricultural and equine vehicles as well as pedestrians and people using non-motorised forms of transport. The stretch of lane required to access the appeal site is fairly lengthy, around 60m according to the appellant's evidence.
10. When I visited the site I saw that maintenance work had been undertaken to the lane both in terms of compacting the road surface and in cutting vegetation back to the hedge banks to maximise its usable width. In this respect, according to the appellant's figures, a minimum width of 4.1m is available along the full 60m stretch from the A356 to the appeal site. As a result, the local highway authority (HA) now considers it capable of allowing two-way traffic flow and pedestrians to use the public right of way without conflict with vehicles.
11. Whilst the HA remains concerned over the standard of the road surface, I have seen no evidence that in its current form it presents unacceptable trip hazards to the extent that would make it unsuitable for safe use by a range of users.
12. Accordingly, to my mind, although the lane is a public right of way hosting a variety of pedestrian users, the condition of the lane is such that I am satisfied its width and surface material would allow safe access to the appeal site.
13. However, I am concerned that there is considerable scope for deterioration through neglect both in terms of encroachment of vegetation reducing the effective width and in terms of the integrity of the surface. Given the length of

this section of the lane, its restricted width and the mix of users, I consider it would be essential in the interests of highway safety for it to be routinely maintained to at least its current standard in perpetuity.

14. In this regard, whilst I note the appellant's sincere intentions to undertake such maintenance, it is not in dispute that the land is not exclusively within the control of the appellant. Furthermore, it is quite possible that the appellant may relinquish all interest in the land at some point in the future and/or be unable to secure the willingness of other landowners to undertake such works for the full length of that part of the lane. In this regard I am mindful that a planning permission for the construction and occupation of houses would endure in the long-term. I am not therefore persuaded that sufficient safeguards could be exercised through any planning conditions which I may attach to guarantee the maintenance of the lane in the long-term.
15. The appellant's transport evidence² notes that other consents have been permitted where access has relied upon an unadopted road/private way. However, my attention has not been brought to any specific examples and I cannot therefore be confident that the circumstances in those cases are reasonable comparable in terms of the importance of safeguarding the route against deterioration. In any event, I have considered this appeal on the basis of the particular site circumstances and evidence before me.
16. Similarly I am aware that an appeal³ Inspector in relation to an application for two dwellings on the site previously concluded that the access lane would be adequate to serve the development. However, in that case the proposal had sought prior approval for the change of use of buildings under permitted development rights. In this regard the Inspector had noted that the access would only serve two "very modestly sized dwellings" in contrast to the greater potential traffic movements that would be associated with four dwellings. I do not therefore regard that Inspector's decision as being determinative to the case before me. Similarly, whilst I note it has been suggested that the LPA has previously informally raised no objection to development on highway grounds in the area, no further evidence has been provided in that regard.
17. Turning to the junction of Longstrings Lane with the A356, the parties dispute whether adequate visibility splays can be achieved and whether the geometry of the junction permits safe vehicular movements. Whilst the HA remains concerned in both these respects, I note that this appears to be largely on the basis of the perceived inadequate precision of drawings on which the appellant's contentions are based.
18. Having carefully considered the appellant's transport evidence including that relating to actual traffic speeds, and visited the site and inspected the junction, it seems to me that adequate visibility is currently available. Similarly, the width of the bell junction is such that light vehicles approaching from the south are able to negotiate the junction without undue risk to highway safety, including when traffic is awaiting to emerge from that junction. Whilst it has not been shown that larger vehicles would be able to pass each other, I have no good reason to conclude that the geometry of the junction is such that undue highway risk would arise. Whilst noting the LPA's concern that the junction does not conform to guidance in Manual for Streets, my attention has

² Transport statement dated 21 February 2018, LvW Highways Ltd.

³ Appeal ref APP/R3325/W/17/3185851

not been drawn to any specific advice in that document which would demonstrate that the junction would be sub-standard to serve the proposed development. The appellant also drew my attention to an appeal decision at Station Road⁴. However, I am not familiar with the full background to that scheme which, in any event, was for a much larger scale of development. I have therefore attached little weight to it in favour of the current proposal.

19. A concern was raised by the HA over the risk posed by visibility being interrupted by vehicles parked on the grass verge immediately to the north of the junction. Similarly, the hedge bank to the south would require ongoing maintenance in order to retain southwards visibility. However, I have seen no indication that these areas are not highway land, and therefore these are matters which could be adequately addressed by the HA.
20. Some doubt has been cast by the LPA over the appellant's (and others') right to use Longstrings Lane for access to new development. However, that is not a matter which relates to the planning merits of the proposal. In the event that the appeal had been allowed, my decision would not in itself have conferred any right to use or access land which may not otherwise have existed.
21. In conclusion on this main issue, I find that the appellant's evidence has demonstrated that no unacceptable highway safety risk would result from the use of the main junction to access the proposed development. However, it would be essential that the condition and width of the section of Longstrings Lane from the A356 to the appeal site could be maintained in perpetuity for the proposal to be acceptable in highway safety terms. As there is no mechanism before me to secure such maintenance, the proposed development would conflict with Policy TA5 of the adopted South Somerset Local Plan (2006 – 2028) (March 2015) (the SSLP). That policy requires all new development to secure inclusive, safe and convenient access on foot, cycle and by public and private transport that addresses the needs of all. For the same reasons, the proposal would also not accord with the aims of paragraph 109 of the revised Framework which indicates that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety.

Character and appearance

22. The appeal site comprises a fairly narrow L-shaped parcel of land in a setting characterised by undulating fields and hedgerows on the outskirts of Crewkerne. Little built development is evident and, whilst not a formally designated landscape, the area has an attractive and rural character. The site is fairly contained within the landscape which limits the extent of public views although it is readily visible from the Longstrings Lane public right of way.
23. The LPA's evidence⁵ identifies the site as lying in an area of moderate visual sensitivity with a moderate–low capacity to accommodate development. In this regard, I saw that even with sensitive landscaping the development of up to four houses together with driveways, parking and the usual domestic paraphernalia would have an urbanising effect on this part of the countryside.
24. On the basis of the submitted evidence, I therefore consider the development would have a harmful effect on the landscape. Whilst the appellant has referred

⁴ APP/R3325/A/11/2150293

⁵ Peripheral Landscape Study – Crewkerne, South Somerset District Council (March 2008)

to land in the vicinity of the appeal site having been identified in the LPA's Strategic Housing Land Availability Assessment, I have been provided with no further evidence in this regard which would show that the location is suitable in landscape terms for residential development.

25. I note that in determining the previous appeal, my colleague judged that the proposal would give rise to limited landscape harm and I see no reason to disagree. I therefore conclude that the proposal would conflict with SSLP Policy EQ2 which requires development to promote local distinctiveness and preserve or enhance the character and appearance of the district.

Planning Balance

26. Planning law requires that applications for planning permission should be determined in accordance with the development plan unless material considerations indicate otherwise. In this regard, the appellant contends that the LPA is currently unable to demonstrate a five year supply of housing as required by Paragraph 73 of the Framework. This is not disputed by the LPA.
27. Consequently, the so-called 'tilted balance' is engaged in line with Paragraph 11 d) and footnote 7 of the revised Framework. This indicates that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the revised Framework as a whole.
28. In terms of the benefits of the proposal, the appellant has referred to an ongoing need for affordable housing in Crewkerne. I have no reason to dispute that need and I am also mindful that representations from Interested Parties have been submitted in support of the development. The revised Framework and Planning Practice Guidance also highlight the need for rural affordable housing and self/custom build opportunities. However, whilst the appellant has indicated that a minimum of 25% of the houses would be reserved for such accommodation, the appeal proposal before me includes no mechanism to ensure that the dwellings would be reserved as such in the event of the appeal being allowed. I therefore attach little weight to the benefits of the scheme in providing specialist housing in this case.
29. The scheme would, nevertheless, contribute up to four open market dwellings to local housing land supply in the area which would accord with the Government's objective of significantly boosting the supply of homes and promoting small to medium sized development sites. There would also be economic and social benefits arising from the development, both during construction and in supporting increased patronage of local facilities and services. There could also be environmental benefits through the provision of enhanced biodiversity through appropriate landscape planting. Whilst I have not been provided with precise details of the extent of the housing land shortfall, I consider in any event, having regard to the previous appeal Inspector's conclusion and the modest scale of the scheme, that the benefits would be moderate.
30. Overall, however, the unacceptable risk to highway safety and the harm to the character and appearance of the area I have identified would, in my judgement, significantly and demonstrably outweigh the benefits of the scheme.

Other Matters

31. A number of Interested Parties have expressed support for the proposal and commended the appellant as a longstanding member of the community. I have carefully considered all of the comments raised. However, expressions of support for a proposal do not in themselves indicate that permission should be granted.
32. It has further been suggested by an Interested Party that a failure to provide at least one dwelling on the site would run counter to the provisions of the Children Act 1989 which, it is contended, sets out that child welfare is the paramount consideration when determining any question with respect to the upbringing of a child. It appears to be suggested that the appellant's current home lacks adequate amenity space and access to services. However, I note the appellant has made no detailed submissions in this respect and, in any event, I have no evidence before me to indicate that development of the appeal site would be the sole means of the appellant being able to access suitable accommodation. Accordingly, dismissing the appeal would be a proportionate response in the public interest, given the identified harm.

Conclusions

33. For the reasons given, the appeal should be dismissed.

Ian Bowen

INSPECTOR