



Appeal Decisions

Site visit made on 5 December 2022

by **James Blackwell LLB (Hons) PgDip**

an Inspector appointed by the Secretary of State

Decision date: 18 January 2023

Appeal A Ref: APP/R3325/W/22/3295951

Land opposite Fox & Hounds, Broadway Road, Charlton Adam, Somerton

- 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 a condition of a planning permission.
- The appeal is made by Mr D Reed against the decision of South Somerset District Council.
- The application Ref 21/02759/DOC1, dated 6 September 2021, sought approval of details pursuant to conditions nos 5, 10 and 11 of planning permission Ref 20/00871/REM, granted on 29 September 2020.
- The application was refused by notice dated 1 October 2021.
- The details for which approval is sought are conditions 5, 10 and 11 which say:
Condition 5: Before the dwellings hereby permitted are first occupied, the new accesses, drives and parking spaces shall be completed (or completed to a stage previously agreed in writing by the Local Planning Authority) and properly consolidated, surfaced, constructed, laid out and drained in accordance with details previously submitted to and approved in writing by the Local Planning Authority. Thereafter, such approved details shall be maintained and retained in the agreed form at all times for such purposes of access, parking and turning of vehicles (including motorcycles and bicycles) incidental to the occupation and enjoyment of the dwelling hereby permitted to which they serve, and kept permanently free from any other forms of obstruction. Reason: In the interests of highway safety and public convenience in accordance with Policies EQ2, TA5 and TA6 of the South Somerset Local Plan and relevant guidance within the NPPF.
Condition 10: The dwellings hereby permitted shall not be occupied until an electric vehicle charging point (EVCP) rated at a minimum of 16 amps has been provided for each dwelling within its associated parking space. Such provision shall be in accordance with details indicating the siting, design, rating and appearance of the EVCP which shall be previously submitted to and approved in writing by the Local Planning Authority. Reason: To ensure provision of an EVCP for low emission vehicles as part of the transition to a low carbon economy, having regard to Policy TA1 of the South Somerset Local Plan and relevant guidance within the NPPF.
Condition 11: Prior to first occupation of any of the dwellings hereby permitted, a scheme of soft landscaping, which shall include details of the location, number, species, density, form and size of proposed tree, hedge and shrub planting (this should include native species which occur locally and chosen to provide food for insects on which bats feed), as well as details of any changes in existing ground levels, shall be submitted to and approved in writing by the Local Planning Authority. The approved soft landscaping scheme shall be completely carried out within the first available dormant planting season (November to February inclusively) from the date of completion of the development or following occupation of the building, whichever is the sooner. Any trees or plants which within a period of ten years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To safeguard the character and appearance of the area, and to accord with Policy EQ2 of the South Somerset Local Plan and relevant guidance within the NPPF.

Appeal B Ref: APP/R3325/W/22/3295950

Land opposite Fox and Hounds, Broadway Road, Charlton Adam, Somerton

- 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 a condition of a planning permission.
 - The appeal is made by Mr D Reed against the decision of South Somerset District Council.
 - The application Ref 21/02741/DOC1, dated 1 September 2021, sought approval of details pursuant to condition no 3 of planning permission Ref 20/00690/S73, granted on 7 April 2020.
 - The application was refused by notice dated 13 October 2021.
 - The details for which approval is sought is condition 3, which says:
Condition 3: Before the dwellings hereby permitted are first occupied, properly consolidated and surfaced accesses shall be constructed (not loose stone or gravel) details of which shall have been submitted to and approved in writing by the Local Planning Authority. The accesses shall be constructed in accordance with the agreed design and shall be maintained in the agreed form thereafter at all times.
Reason: In the interests of highway safety further to Policies TA5 and EQ2 of the South Somerset Local Plan 2006 – 2028.
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. Both Appeal A and Appeal B concern a refusal by the Council to discharge a number of conditions in connection with outline permission Ref 20/00690/S73 (Outline Permission) and reserved matters consent Ref 20/00871/REM (RM Approval), which together granted permission for the construction of eight dwellings and associated works.
4. Appeal B concerns the discharge of condition 3 of the Outline Permission, and relates to the approval and construction of the accesses to serve the dwellings. These same details also require discharge under condition 5 of the RM Approval, which forms part of Appeal A. Given that the issues relating to both conditions are essentially the same, the reasoning relating to Appeal B and the same element Appeal A have been addressed together.
5. The application for discharge of conditions under Appeal A also sought discharge of condition no 7, which required approval of entrance gates to serve the new dwellings, and their subsequent implementation. This condition was discharged pursuant to application 21/02759/DOC1, and is therefore not addressed further in this decision.

Main Issues

6. In this context, the main issues are:
 - the importance of the proposed accesses to the development, with regard to highway safety;

- the importance of electric vehicle charging points to the ongoing sustainability of the development; and
- the importance of the landscaping scheme, with regard to the character and appearance of the development and the wider area.

Reasons

Access (Condition 3 of Outline Permission and Condition 5 of RM Approval)

7. Together, condition 3 of the Outline Permission and condition 5 of the RM Approval require details of the accesses, drives and parking spaces to serve the properties to be approved by the Council, before being laid out in accordance with those approved details. Provision of these components is essential to ensure that drivers, cyclists and pedestrians have appropriate levels of visibility along the highway that fronts on to the dwelling, thereby allowing them to safely manoeuvre when accessing and egressing the properties.
8. Provision of this infrastructure also reflects the objectives of Policies EQ2, TA5 and TA6 of the South Somerset Local Plan (2006 – 2028) (Local Plan), which together seek to ensure new development promotes a safe means of access, as well as an acceptable level of parking provision. Similarly, the conditions are consistent with the aims of the National Planning Policy Framework (2021) (Framework), which again seek to safeguard highway safety as part of new development.
9. The informative to both the Outline Permission and the RM Approval highlight the potential need for a legal agreement to be entered into to secure appropriate access arrangements. Indeed, technical approval, and where necessary, an agreement under s38 or s278 of the Highways Act 1980 (as amended) is a typical part of such process. These formalities are in place to ensure that the proposed works can be scrutinised in sufficient detail, to ensure they will adequately safeguard highway safety. They also help procure the long-term maintenance and use of such arrangements, thereby securing longevity of the works. It is therefore entirely reasonable (and commonplace) for technical details consent and an associated legal agreement to be required, before such conditions can be properly discharged.
10. The appellant suggests that the access works do not encroach on to the highway, and on that basis, should not necessitate a legal agreement. However, without appropriate technical drawings to show the necessary detail of the works, I am unable to determine whether or not this is the case.
11. Based on the information submitted, I am therefore unable to confirm whether the details submitted are sufficient to procure safe access and egress from the property, in perpetuity. In turn, I am not persuaded that condition 3 of the Outline Permission or condition 5 of the RM Approval can be discharged at this stage.

Electric Vehicle Charging Points (Condition 10, RM Approval)

12. Condition 10 of the RM Approval required details of electric vehicle charging points (EVCPs) to be approved, prior to their installation. Submission of these details is consistent with Policy TA1 of the Council's Local Plan, which requires new residential development to be equipped with EVCPs, to help promote low

carbon travel. It also reflects the overarching sustainability objectives of the Framework.

13. Whilst some headline information relating to the installed EVCPs has been submitted as part of this appeal, this information remains scant on detail. In particular, the manufacturer's specification is absent, which makes it difficult to determine the quality and longevity of the installed EVCPs. On this basis, I am not satisfied that sufficient detail has been submitted to enable condition 10 of the RM Approval to be discharged.

Landscaping Scheme (Condition 11, RM Approval)

14. Condition 11 of the RM Approval requires approval of a landscaping scheme to be submitted and approved by the Council prior to occupation of the development. Pursuant to the condition, the scheme should include details of the location, number, species, density, form and size of the proposed trees, hedges and shrub planting. The purpose of the condition is to ensure that landscaping is properly factored into the proposal, thereby procuring an attractive development which assimilates well with its wider setting. This objective reflects the requirements of Policy EQ2 of the Council's Local Plan, which seeks to ensure new development helps shape quality places, and which conserves and enhances the landscape character of the area. It also reflects the overarching design objectives of the Framework.
15. Whilst some details have of the planting scheme have been included on drawing S5738/200 H, the plan lacks detail of specific planting numbers, density and sizes. It therefore falls short of the scheme requirements pursuant to the condition. Moreover, the Council's specialist tree officer has advised that a mono-culture of any species, as has been proposed within parts of the site, is generally considered to be poor practice. This is because such planting arrangement increases vulnerability to pests and diseases, which in turn can undermine the health and longevity of the scheme.
16. On this basis, there are notable shortcomings with the submitted landscaping scheme, which could adversely affect the long-term character and appearance of the development. In turn, the scheme (as submitted) currently undermines the policy objectives outlined above. The condition should therefore not be discharged until more comprehensive details have been submitted and approved.

Conclusion

17. Insufficient details have been submitted to the Council to procure the discharge of conditions 5, 10 and 11 of the RM Approval (Appeal A) and condition 3 of the Outline Permission (Appeal B). There are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, Appeal A and Appeal B should both be dismissed.

James Blackwell

INSPECTOR

Appendix 1
List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/R3325/W/22/3295951	Mr D Reed
Appeal B	APP/R3325/W/22/3295950	Mr D Reed