



Appeal Decision

Site visit made on 17 October 2017

by M Aqbal BA (Hons) DipTP MRTPI

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

Decision date: 20th December 2017

Appeal Ref: APP/R3325/W/17/3177440

Land at Baker Street, Babcary, Somerton TA11 7DU

- 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 Luke Jeffery against the decision of South Somerset District Council.
 - The application Ref 17/00593/OUT, dated 6 February 2017, was refused by notice dated 2 May 2017.
 - The development proposed is outline application for two 2-storey dwellings with all matters reserved.
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Decision

1. The appeal is allowed and planning permission is granted for outline application for two 2-storey dwellings with all matters reserved at Land at Baker Street, Babcary, Somerton TA11 7DU in accordance with the terms of the application, Ref 17/00593/OUT, dated 6 February 2017, and the plans submitted with it, subject to the following conditions:
 - 1) Details of the access, appearance, landscaping, layout, and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
 - 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
 - 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
 - 4) The development hereby permitted shall comprise of no more than 2 dwellings.
 - 5) The details pursuant to the reserved matters shall include updated badger surveys of the development site. Based on such surveys, details of measures for badger mitigation (including any appropriate avoidance and compensation measures) shall be submitted to and agreed in writing with the local planning authority. Thereafter the development shall be undertaken in accordance with the approved details.

Preliminary Matters

2. The application was submitted in outline with all matters reserved for future consideration. I have taken the 'Site Plan' on Drawing 1295/001 to be indicative of the appellant's intentions insofar as it relates to access and layout and 'Floor Plans and Elevations' Drawing 1295/002 in respect of scale.

Main Issues

3. These are the effect of the proposed development on the character and appearance of the surrounding area and, if harm arises, whether this is outweighed by other material considerations.

Reasons

Character and appearance

4. The appeal site comprises a relatively small paddock with a broadly rectangular footprint, located to the rear of three dwellings along Baker Street within the settlement of Babcary. Baker Street is situated off Main Street and is a short, no through road, serving a small number of dwellings and Riverside Farm, which is located at the head of the road.
5. The site is accessed via a track, which runs between properties 7 and 8 Baker Street. A public right of way (PRoW) passes along the access and then traverses the appeal site along its western boundary. The appeal site is bounded by hedges along all its sides, with the exception of the western boundary, which is contiguous with neighbours' gardens and includes the access. Beyond the southern and eastern boundaries of the appeal site is open countryside comprising a patchwork of larger fields.
6. With a few exceptions, Babcary is predominantly defined by a linear pattern of development adjacent to roads with countryside beyond, which gives the settlement a distinctive character. However, along Baker Street the pattern of development is varied in respect of the layout of buildings relative to the road. Whilst the majority of dwellings are close to the road, in contrast the large detached bungalow at 6 Baker Street (No 6) is set significantly deep within its plot and Riverside Farm also includes two sizeable detached out-buildings located to the rear, broadly in-line with No 6.
7. Based on the indicative layout, which the appellant states has addressed concerns raised by the Council's Ecologist, and is therefore a good indicator of how successful development could be achieved; the new dwellings would broadly align with No 6 and the two out-buildings associated with Riverside Farm. This would result in tandem development, which would fail to preserve and reinforce local distinctiveness to the detriment of the wider character of Babcary. However, the siting of the proposed dwellings would take advantage of the varied building line and in doing so would also relate to existing built development along and off Baker Street. As such, the proposal would not be totally out of kilter with the existing pattern of development along Baker Street. Consequently, the impact on the character of Babcary would also be limited.
8. The location of the appeal site is fairly discrete and largely obscured by existing development along Baker Street and perimeter landscaping. Nonetheless, the site is currently free of any development and the introduction of two 2-storey

dwelling would alter its appearance. However, from along Baker Street the proposed dwellings would be glimpsed and seen in the context of existing development and therefore would not appear incongruous. From other parts of the village the proposed dwellings would be seen in distant views which would be softened by existing intervening landscaping. I also note that the appellant is proposing to undertake additional landscaping, which could be secured at reserved matters, if the appeal were to succeed. This would further assist the development to settle with the surrounding environment.

9. The proposed development would be visible from a section of the PRoW. However, whilst this would change the context and experience of the route, this in itself would not be unacceptable given that the proposed dwellings would only be seen in respect of a limited section of the PRoW, which is already in part flanked by existing buildings along its route.
10. Taking into account all of the above, the proposed development would result in some albeit limited harm to the character of the surrounding area. The proposal would therefore be in conflict with design aims of Policy EQ2 of the South Somerset Local Plan (LP) which seeks development that is designed to achieve high quality and preserve the character and appearance of the district. The proposal would also conflict with Policy SS2 of the LP, which amongst other matters requires that development in rural settlements is commensurate with the character of the settlement.
11. For the above reasons there would also be some conflict with the design aims of the National Planning Policy Framework (the Framework).

Other considerations

12. The main parties are in agreement that the Council cannot demonstrate a 5 year supply of housing land as required by paragraph 47 of the Framework. Where a local planning authority is unable to demonstrate a five-year supply of deliverable housing land, paragraph 49 of the Framework, which is a significant material consideration, indicates that relevant policies for the supply of housing should not be considered up-to-date.
13. Furthermore, paragraph 49 of the Framework also states that all housing applications should be considered in the context of the presumption in favour of sustainable development. For decision taking purposes this means, as set out at paragraph 14 of the Framework that where relevant policies are out of date planning 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 Framework taken as a whole; or where specific policies in the Framework indicate that development should be restricted.
14. In this particular case the appellant has advanced a number of benefits arising from the proposal, which include the provision of up to two additional dwellings. I note from the Council's officer report that Bab Cary benefits from a number of local facilities and is considered an acceptable location for a modest level of growth. Therefore, although the scheme would not deliver affordable housing, bearing in mind the objective (paragraph 47 of the Framework) to boost significantly the supply of housing. The proposal would provide up to two new dwellings in an area where there is a recognised shortfall.

15. There would also be economic benefits associated with the proposal including the provision of construction jobs. Additionally, housing albeit limited to two dwellings would support and help to maintain the viability of existing facilities in the settlement and nearby. This is also the general thrust of paragraph 55 of the Framework which states that housing should be located where it will enhance or maintain the vitality of rural communities.
16. The appellant also suggests some biodiversity benefits arising from additional landscaping. However, as I have little information in respect of these, I attach limited weight to this.

Other Matters

17. A number of other concerns have been raised locally about the proposal and its potential effects on the local environment. These include potential impacts on flooding, highway safety and capacity.
18. In respect of flooding the Council has advised that the appeal site falls within Flood Zone 1 and therefore is of low risk to flooding. I note concerns that the proposed development may exacerbate existing flooding incidents along Baker Street. However, in this case there is no technical evidence to support such concerns.
19. With regards to highway safety and capacity there is nothing before me to indicate that the relevant consultees have raised objections in principle to the proposal. I note the Council's assessment of these matters within its officer report and am also mindful that the current proposal has been made in outline and some of these concerns relate to matters that would normally be resolved at a later stage of the planning process. As a result, on the balance of the evidence before me and subject to the application of appropriate conditions on any permission granted, I am satisfied that none of these concerns are significant enough to find against the proposal in this particular case.
20. A neighbour has expressed concern over potential damage to their property as a consequence of works associated with the development should this appeal succeed. However, such matters relating to the construction process would be the responsibility of the developer.
21. The main parties and others have referred me to examples of developments approved in Babcary to demonstrate support for the proposal or conversely refused proposals to support dismissal of this appeal. Irrespective of such examples, I have determined this appeal having particular regard to this proposal, the appeal site, its context and other considerations.
22. The PRoW officer has requested improved surfacing of the existing public right of way through the appeal site and also suggests that other associated infrastructure may be required. However, I have no evidence or justification that such works are necessary to make the proposed development acceptable.

Planning Balance

23. I have found conflict with design aims of Policies EQ2 and SS2 of the LP. However, whilst these policies are broadly consistent with the Framework, in this particular case their strict application would prevent improvements to the existing shortfall in the supply of housing. Because of this I attribute limited weight to the conflict with them.

24. Set against the above harm, I have identified the social and economic benefits of addressing the under supply of housing in the District. I attach significant weight to the provision of up to two dwellings.
25. In this case there are no specific policies in the Framework which indicate that development should be restricted. I have found that the development would cause only limited harm to the character of the area. In my judgement, the adverse impact would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. The proposal would therefore constitute sustainable development. I consider this to be a significant material consideration sufficient to outweigh the development plan conflict.

Conditions

26. I have had regard to the planning conditions that have been suggested by the Council and considered them against the tests in the Framework and the advice in the Planning Practice Guidance and have made such amendments as necessary to comply with those documents.
27. I have attached conditions limiting the lifetime of the planning permission and setting out the requirements for the reserved matters in accordance with the requirements of the Act. A condition limiting the quantum of development is imposed to ensure that the number of dwellings is appropriate to the location, having regard to highway considerations and the character of the area. A further condition is attached for the protection of badgers.
28. The Council has also suggested a condition referring to the approved plans. However, as the planning application is in outline with all matters reserved, this condition is not required.

Conclusion

29. For the reasons given above, and having regard to all other matters raised I conclude that the appeal should be allowed.

M Aqbal

INSPECTOR