



Appeal Decision

Site visit made on 16 August 2018

by M Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 October 2018

Appeal Ref: APP/R3325/W/18/3202052

Cotton House, Castle Street, Keinton Mandeville, Somerton TA11 6DX

- 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 Mrs Mary-Jane Ellinas against the decision of South Somerset District Council.
 - The application Ref 17/04728/OUT, dated 4 December 2017, was refused by notice dated 2 February 2018.
 - The development proposed is the erection of 7 bungalows to the North of Cotton House, including formation of new access road to the West of Cotton House and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 7 bungalows to the North of Cotton House, including formation of new access road to the West of Cotton House and associated works at Cotton House, Castle Street, Keinton Mandeville, Somerton TA11 6DX in accordance with the terms of the application, Ref 17/04728/OUT, dated 4 December 2017, subject to the conditions set out in the attached Schedule.

Procedural Matters

2. The application was submitted in outline. The application form indicates that approval was sought only for access, layout and scale. I have determined the appeal on this basis.
3. Since the appeal was submitted the Government has published a new National Planning Policy Framework (the Framework). Comments were sought from the Council and the Appellant and I have had regard to any comments received. As the main parties have had the opportunity to provide comments no injustice has been caused. I have considered the appeal on the basis of the revised Framework.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

5. Cotton House lies to the north of the B3153 and is accessed directly off the highway. A garden area lies to the side and rear of this property. The appeal

site lies beyond and to the north of the rear garden area and appears to have been utilised previously as an extended garden area. The appeal site currently has a somewhat domesticated appearance with domestic paraphernalia present, such as a trampoline and wooden garden structures. At the southern extremity of the site is a building which appears to formerly have been utilised for domestic purposes ancillary to the dwelling.

6. The appeal site is enclosed by mature hedging to its boundary with Cotton's Lane to the east and by trees to the west and north boundaries, which are also demarcated by walls. As a consequence of the well-established boundary features, the site shares little affinity with the surrounding countryside. Furthermore there are limited views from within the site of the countryside beyond; and vice versa. The existing domesticated appearance of the site serves to reinforce its character as being distinctly different from that of open countryside. Consequently, given the presence of strong, well-defined boundaries the proposal would not intrude into the rural landscape.
7. The proposed scheme would result in residential development extending northwards from existing dwellings which front the highway. However such departures from the linear arrangement along the B3153 highway are also evident to the west of the appeal site along Coombe Hill, where development extends north along a secondary highway. Reference has been made to the historic 'T' shape of the village, however this arrangement of development has over time been changed and additions have been made to the form of the village. There appears to have been significant development to the south of the B3153 such that the linear form of the settlement around the principal roads of the village is no longer so distinct.
8. As such, whilst the appeal proposal would be accessed from the B3153 and would be to the rear of an existing dwelling, it would comprise a linear layout which whilst not following a principal highway would in my view be reflective of the existing built form of the settlement. Consequently the scheme in terms of its form would not be at odds with the existing form of the settlement and would be well-related to it.
9. An additional concern is that once the proposed dwellings are constructed there would be pressure to remove the existing boundary hedge along Cotton's Lane, particularly to create secondary access points. In this regard I note that the application site excludes this boundary hedge and as such the removal of the hedge is not part of the proposed scheme. Moreover, the matter of the layout of the development is for consideration at this stage and the details provided show each dwelling having vehicular access from the estate road with parking, together with in some cases garages, being served from the estate road. I therefore consider it highly unlikely that there would be a desire to create further, secondary accesses from Cotton's Lane.
10. Furthermore, there is sufficient separation between the proposed dwellings and the boundary hedge so that the living conditions of occupiers would not be adversely affected by loss of light, overshadowing or restricted outlook. Therefore there is unlikely to be pressure to remove the hedge for this reason. Consequently I have no substantive reason to find that there would be any future harm to the character and appearance of the area in this regard.
11. I acknowledge that another Inspector dismissed an appeal for a residential scheme in the village, albeit it was found that its effect on the character and

appearance of the area would be acceptable. I am also aware that the Council granted planning permission for new houses along Coombe Hill in 2015. To my mind these show that small residential schemes are acceptable in the village, but I have determined this appeal on the basis of the particular site circumstances. Comment has been made that the design of the dwellings is unattractive, whilst the Council raise no objection to bungalows, the detailed design of the dwellings will be determined under a subsequent reserved matters application.

12. In light of the above, the proposed development would have an acceptable effect on the character and appearance of the area and would comply with the landscape conservation aims of policy EQ2 of the South Somerset Local Plan (SSLP) and the Framework. There would also be no conflict with policy EQ5 of the SSLP, which seeks to protect green infrastructure.

Other Matters

13. Concern has been raised by interested parties in respect of highway safety, including concerns over the location of the proposed vehicular access adjacent to the existing access to playing fields, access by refuse vehicles and refuse storage, possible conflict with vehicles accessing the playing fields and using the layby, volume of traffic when events take place at playing fields, congestion along the highway, availability of visibility and the safety of children accessing the school bus. Whilst I note these concerns there is no substantive evidence before me demonstrating that the proposal would result in a risk to highway safety, for vehicular traffic or pedestrians. Furthermore I am mindful that the Council and the Highways Authority has considered the proposed scheme and raised no objections. I therefore have no strong reason to conclude that the proposed scheme would have a detrimental effect on highway safety.
14. Additional concerns have been raised in respect of the ability of the sewerage system to accommodate flows from the development, the ability to cater for adequate surface water drainage, pressure on existing services within the village, possible effect on playing fields and the effect on wildlife. However no significant evidence of any adverse existing pressures on these services and facilities has been provided to show that there is a problem and given the relatively small scale nature of the scheme, these concerns do not justify the dismissal of the appeal.
15. Comment has been made in respect of whether there is a need for further development within the village. However I have found the scheme to be acceptable on its merits. Therefore, while local concern about this aspect of the proposal is noted, it has very little bearing on the outcome of the appeal. Reference has been made to the backland nature of the proposal. However, the positioning of the access is such that there is separation between the estate road serving the proposed scheme and the existing dwelling. As such the scheme would not result in the adverse effects of vehicles manoeuvring in close proximity to dwellings, sometimes associated with backland arrangements.

Conditions

16. I have imposed standard conditions relating to the submission and timing of reserved matter applications and the commencement of development. A condition is also required to ensure compliance with the submitted plans, but only in respect of layout, scale and access as these are not reserved matters. I

- note that should the floorspace of the development exceed 1000 square metres, a requirement for affordable housing would be triggered. As such a condition limiting the floorspace to below this figure is necessary.
17. The Council has recommended a condition in respect of the provision of footway works along the highway linking the site to the existing footways within the village. This would eliminate the need for pedestrians to cross the road to join a footway, would allow safe movement for pedestrians into the village and is necessary in this instance. In the interests of highway safety I have also imposed a condition requiring the submission of details preventing the discharge of surface water onto the highway.
 18. Also suggested by the Council is a condition requiring construction details of highways elements within the scheme, which is necessary in the interests of highway safety. Additionally, whilst the existing accesses on Cotton's Lane lie outside of the application site, landscaping details showing the closure of these accesses within the site could be satisfactorily secured at reserved matters stage and I have included a condition in this respect in the interests of safeguarding the character and appearance of the area.
 19. A condition requiring the construction of the turning areas, as well as the provision of parking spaces is necessary in the interests of highway safety; as is a condition requiring the visibility splays to be provided and retained free from obstruction. In order to prevent any risk to highway safety during the construction period I have also imposed a condition requiring the submission of a Construction Method Statement. A condition has been recommended in respect of investigating the potential for pollution to be present within the site, in the interests of health and safety a condition is required in this respect.
 20. A condition requiring electric charging points to be installed has been recommended. Little justification has been given for this and a copy of the policy referred to has not been provided and therefore I cannot conclude this condition would be necessary.
 21. The Council has recommended a condition requiring the dwellings not to exceed one storey in height. However, scale is for determination at this stage and is not a reserved matter. A condition is also recommended in respect of materials, however as appearance is a reserved matter the materials to be utilised will be determined under a subsequent application. As such these conditions are not necessary.
 22. The recommended condition preventing any other use of the garages is not necessary as a use not ancillary to the dwelling would require separate planning permission and no evidence has been put forward to demonstrate why additional ancillary accommodation would be unacceptable. A condition is recommended requiring that a biodiversity survey and mitigation proposals be submitted with a subsequent reserved matters application. However the Council has not provided any evidence to demonstrate any likelihood that biodiversity would be adversely affected. As such the recommended condition in this regard would not meet the test of necessity.
 23. Garages are only indicated to Plots 5 -7 and sufficient space is shown in front to allow for the safe manoeuvring of vehicles, levels of the access road are shown on the plans and no exceptional justification has been provided for

removing permitted development rights for works to the dwellings or other works; as such conditions in these respects are also not necessary.

Conclusion

24. For the reasons given above I conclude that the appeal should be allowed.

Martin Allen

INSPECTOR

Schedule of conditions

- 1) Details of the appearance and landscaping, (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 be carried out in accordance with the following approved plans: Drawing number 2017/MJELLINAS/03
- 5) The gross combined floorspace of the dwellings shall be less than 1000 square metres.
- 6) No dwelling shall be occupied before a footway has been provided, linking to the existing footway to the west of the site, in accordance with details that have been previously submitted to and approved by the local planning authority in writing.
- 7) No dwelling shall be occupied until measures to prevent the discharge of surface water onto the public highway have been implemented in accordance with details that have been previously submitted to and approved by the local planning authority in writing. The measures shall be retained as approved at all times thereafter.
- 8) No dwelling shall be occupied until the estate road, footways, verges and driveways have been constructed in accordance with details that have been previously submitted to and approved by the local planning authority in writing. Such details shall include plans and sections showing the design, gradients, surfacing materials and method of construction.
- 9) The reserved matters application in respect of landscaping shall include details showing measures preventing the future use of the existing access points along Cotton Lane's. These approved measures shall be implemented prior to the occupation of any dwelling.

- 10) No dwelling shall be occupied until the turning areas and parking spaces for that dwelling have been provided, in accordance with drawing number 2017/MJELLINAS/03. The turning areas and parking spaces shall thereafter be retained and kept available for that purpose.
- 11) The visibility splays as shown on Drawing Number 2017/MJELLINAS/03 shall be provided prior to the occupation of any dwelling. No obstruction shall be placed, and no shrubs, trees or other vegetation shall be allowed to grow, above 0.6 metres in height within the approved visibility splays.
- 12) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) wheel washing facilities; and
 - v) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 13) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the report being completed and approved in writing by the local planning authority.