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## Appeal Decision

Hearing held on 22 January 2019

Site visit made on 22 January 2019

**by Robert Parker BSc (Hons) Dip TP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 19<sup>th</sup> March 2019**

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**Appeal Ref: APP/R3325/W/18/3198725**

**Land to the southeast of Station Road, Station Road, Milborne Port**

- 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 & Mrs Hunt of Toft Hill Ltd c/o Walker and Sons (Hauliers) Ltd against the decision of South Somerset District Council.
  - The application Ref 17/003964/OUT, dated 21 September 2017, was refused by notice dated 16 February 2018.
  - The development proposed is residential development for up to 56 dwellings.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. The application is made in outline with details of access provided and all other matters reserved for future approval. An indicative site plan has been submitted, and this was revised during the Council's consideration of the planning application. I have treated these plans as being illustrative of how the site could be developed, albeit layout would be a reserved matter.

### Main Issues

3. The main issues in this appeal are:
  - a) whether or not the proposal accords with planning policies for the location of housing development;
  - b) whether access to the development can be achieved for vehicles and pedestrians, without detriment to highway safety on Station Road;
  - c) the effect of the proposed development on the character and appearance of the area; and
  - d) in light of my findings on the above matters and the housing land supply position of the Council, whether the proposal would constitute a sustainable form of development.

## Reasons

### *Location of housing development*

4. The appeal site comprises a parcel of agricultural land on the north-eastern edge of Milborne Port. Policy SS1 of the South Somerset Local Plan (2006-2028) (adopted 2015) (LP) sets out a development strategy which identifies Milborne Port as a Rural Centre. Settlements in this tier of the hierarchy have scope to accommodate some housing growth. LP Policy SS5 apportions housing numbers to each settlement, with Milborne Port having a residual requirement at the time of local plan adoption of 77 dwellings. The Council confirmed at the hearing that these figures are not maximums or ceilings, but are indicative of the level of growth proposed in each location. That Milborne Port has commitments that exceed its allocation by 27 dwellings is not automatically fatal to the appeal.
5. Although the appeal scheme would bring the number of dwellings for the plan period closer to that envisaged in Local Market Towns, the scale of the development would not be so significant as to disrupt the settlement strategy overall. It seems to me that until such time as the Council is able to demonstrate a five year supply of deliverable housing sites – and this is dependent upon the Yeovil urban extensions being unlocked – there will need to be some flexibility in the application of the development strategy to accommodate growth in lower tier settlements, where this can be achieved without material planning harm.
6. Notwithstanding concerns from residents regarding the capacity of the doctor's surgery and primary school, which I shall return to later, there is no compelling evidence to demonstrate that the overall level of services and facilities available within Milborne Port is incompatible with a modest level of additional growth over and above that identified under LP Policy SS5. Some facilities are located closer to the appeal site than others, but the compact size of the settlement means that the village centre and other key destinations are generally walkable using pedestrian footways.
7. For the above reasons, I conclude that there is no conflict with LP Policies SS1 and SS5 in terms of the location of the development or its impact on the settlement hierarchy.

### *Highway safety*

8. It has been suggested that the appeal scheme could provide a pedestrian connection to Station Road through the Memorial Recreation Ground. However, this would require the consent of a third party landowner; there is no firm proposal for a hard surfaced footpath along this route. Therefore, the principal means of pedestrian access into the site would be via the main entrance onto Station Road, where it bends sharply to the left heading out of the settlement towards Charlton Horethorne. The existing pavement stops immediately beyond the entrance to Henning Way, and consequently there would be a requirement for a new section of footway linking to the new development.
9. The appellant has submitted proposals for these works, with Revision B of the drawings arriving shortly before the application was determined. There remains some uncertainty as to which revision of the drawings formed the basis for the Council's decision. Nonetheless, the parties at the hearing were agreed that I should consider Drawing Nos 17/306/TR/001 Revision B and 17/306/TR/002

Revision B. No party would be prejudiced by my doing so and therefore I shall proceed to determine the appeal on that basis.

10. The access to the development would follow the route of an existing track serving a solar farm. The junction of this track onto Station Road is on the outer radius of a bend, which means that drivers leaving the site would have a clear view of traffic approaching from both directions. Those exiting the village would have adequate warning of a stationary vehicle waiting to turn right into the development. Furthermore, the driver of that waiting vehicle would have adequate visibility of oncoming traffic, and vice versa.
11. Although residents were sceptical regarding the accuracy of the information presented, the plans are based on a topographical survey and the speed data was collected in accordance with the relevant government advice<sup>1</sup>. On this basis, I am satisfied that the extent of visibility shown on the plans is realistic having regard to the measured traffic speeds.
12. At the hearing, the Highway Authority confirmed that its principal remaining concern is in relation to the narrowing of Station Road to create a footway. The limited extent of adopted highway land to the front of Everslea means that this would need to be constructed in what is presently the live carriageway. To compensate, the proposal is to widen the road on its north side by up to 900mm.
13. Station Road is enclosed on its north side by mature hedging which at the time of my visit had been recently cut. Even if the carriageway widening works could be undertaken to an adoptable standard without harm to root systems – and this is doubtful based on my observations – hedge regrowth is likely to overhang the new sections of tarmac. Drivers would therefore exhibit what the Highway Authority termed ‘kerb shyness’, in other words a tendency to steer clear of the edge of the road to avoid contact with branches and car damage.
14. Notwithstanding the plan annotations showing a 5.67m wide carriageway, the probability is that the effective width of the road for large periods of the year would be considerably less. Although the Highway Authority has powers under s154 of the Highways Act 1980 to require the hedge to be cut back, these powers are rarely used in practice and it would be unreasonable to grant planning permission in the knowledge that the powers are likely to be needed on a regular basis to address a road safety issue arising directly from the highway works undertaken as part of the appeal scheme.
15. This section of Station Road is essentially a blind bend with closing speeds of anywhere up to 60 mph. In my judgement, the proposed works would create a pinch point which would significantly increase the likelihood of head-on and side-swipe collisions on this corner. I therefore conclude that the proposal would be detrimental to highway safety, contrary to LP Policy TA5 and paragraph 109 of the National Planning Policy Framework (the Framework) insofar as they seek to resist development which would have an unacceptable impact on highway safety.

#### *Character and appearance*

16. The appeal site comprises a 2.4 ha parcel of farmland on the north-eastern edge of the village. The site bounds existing residential development in North Crescent to the west, but its southernmost extent also adjoins the Memorial Recreation Ground. Surrounding land to the north and east is agricultural in nature.

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<sup>1</sup> TA22/81 Vehicle Speed Measurement on All Purpose Roads

17. Notwithstanding the proximity of housing along part of its boundary, the appeal site is out on a limb in relation to the main body of the village. The proposed development would be a prominent feature on entering the village. The focus here is not upon built form, most of which is not yet visible, but the wooded scarp slope of East Hill. From this vantage point, the scheme would read as an incursion into open countryside.
18. The visual impact of the development would be most pronounced from the Millennium Viewpoint on East Hill. From this elevated public vantage point there is an attractive countryside vista with Milborne Port in the foreground. The appeal scheme would be read against a backdrop of the settlement and a solar farm at the base of the escarpment. However, it would be an arbitrary addition to the village, having a poor relationship to the existing pattern of field boundaries and urban form. Although it was put to me that the adjoining playing fields display urban characteristics, this area has a substantially open and undeveloped character, particularly when viewed from a distance. The proposed development would extend beyond the southernmost extent of North Crescent and this would appear visually incongruous.
19. I have taken into consideration the intention to provide a planting buffer along the eastern boundary of the site. Although this would provide some mitigation, it would not satisfactorily address my concerns regarding the adverse visual impacts of the development. In the absence of a detailed landscaping scheme and layout which demonstrates that the site can satisfactorily accommodate the landscape buffer together with the full number of dwellings proposed, the requisite open space and appropriately sized attenuation pond, I have given the mitigation measures limited weight.
20. I am aware that the site was part of a wider area of land identified as having 'moderate sensitivity' for development in the Peripheral Landscape Study for Milborne Port. The study noted that the area is open and has a close relationship to urban form, with the general openness allowing the urban character to pervade beyond the urban edge. This assessment neither weighs for nor against the proposal and I note that the Council discounted the appeal site on the grounds of there being more suitable land which is better related to the village.
21. Therefore, notwithstanding the permissive policy stance towards the development of greenfield sites on the edges of Rural Centres, I consider that housing on the scale proposed, and in the location proposed, would cause material harm to the character and appearance of the area, and the landscape setting of Milborne Port. The proposal would conflict with LP Policy EQ2 insofar as it seeks to ensure that development respects the character and context of the area.

### **Unilateral Undertaking**

22. The completed unilateral undertaking (UU) secures 35% of the proposed dwellings as affordable housing in line with the requirements of LP Policy HG3. This is a benefit to be weighed in the planning balance.
23. The UU also secures financial contributions towards various recreation facilities at the Memorial Recreation Ground. The Council has justified the sums sought by reference to evidence which demonstrates that there is a deficiency in leisure provision in the village. Although the monies are intended to cater for the needs of the development, the new or enhanced facilities would also

benefit current residents. This means that they carry some positive weight in the planning balance.

24. Having regard to the information presented, I consider that the above planning obligations are necessary, directly related to the development and fairly and reasonably related in scale and kind. As such they, would accord with the provisions of Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 and the tests for planning obligations set out in the Framework.
25. The UU also secures the payment of an Education Contribution. It is unclear as to whether these monies could be spent on an additional classroom, given that the Education Authority has advised that Milborne Port Primary School has no further opportunity to expand. Remaining pupil capacity will be taken up by a scheme at Wheathill Lane which has a resolution to grant planning permission. As it stands, children from the proposed development would need to be bussed to schools in other settlements, with some of the contribution being spent on transportation costs. To my mind, this is the antithesis of good planning and would be harmful to quality of life and community cohesion.
26. In the absence of proper justification as to where the monies would be spent, I cannot be satisfied that the Education Contribution would be necessary, or that the figure sought is reasonable. As such, the requirements of the CIL tests are not met and this obligation within the UU cannot be taken into account.
27. I am mindful that there has been no opportunity for the appellant to have a dialog with the Education Authority regarding its latest comments. This is clearly unsatisfactory, given that the Council had already signed up to the principle of the Education Contribution in the Statement of Common Ground. Had the appeal been acceptable in all other respects, I would have sought further written submissions from the parties on this matter. However, as it does not alter my overall findings I have not pursued it further.

### **Other Matters**

28. I note the concern that the use of a watercourse for the disposal of surface water runoff would exacerbate existing flooding issues further downstream. However, there is no objection from the Lead Local Flood Authority and no substantive evidence to demonstrate that the proposed solution of an attenuated drainage scheme with an output mimicking greenfield runoff rates would contribute significantly to the risk of flooding.
29. There is no objection from the Highway Authority in relation to the ability of the local highway network to accommodate the additional vehicle movements generated by the development. Whilst residents clearly disagree, there is insufficient evidence to show that Station Road has reached capacity. As such, traffic generation would not be grounds to dismiss the appeal.
30. Residents have voiced the concern that the village doctor's surgery is experiencing unprecedented demand and would be unable to accommodate patients from the development. The Council advised that it had consulted the relevant health authority but had received no response. Given this, and the lack of any information in relation to this matter from the service provider, I do not consider that it should weigh against the proposal.

31. I have taken into consideration all other matters raised by the parish council and local community, including the concern that housing growth in Milborne Port is not being matched by employment. However, no other matter is of sufficient strength or importance as to lead me to a different conclusion on the main issues.

### **Planning Balance and Conclusion**

32. The Council concedes that is unable to demonstrate a five year supply of deliverable housing sites, and I note that a recent appeal decision concludes that the supply is somewhere in the order of 4 years. On this basis, I consider that LP Policies SS1 and SS5 are out-of-date and the presumption in favour of sustainable development within paragraph 11 of the Framework is engaged.
33. Framework Paragraph 11 d) states that in circumstances such as this permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. As the proposal would not affect any of the protected areas or assets referred to under Footnote 6, it is the second limb of the policy which needs to be applied.
34. The proposal would have an unacceptable impact on highway safety. The increased risk to highway users is a matter of considerable importance and weight in the planning balance. There would also be material harm to the character and appearance of the area arising from the location and scale of the development. This matter also carries great weight. Overall, I find that the combined harms would significantly and demonstrably outweigh the benefits of market and affordable housing delivery, the improvements to leisure facilities and temporary benefits to the economy during the construction phase. As such, the proposal does not constitute sustainable development for which the Framework provides a presumption in favour.
35. I reach the above finding even without factoring in the deficiency of primary education infrastructure in the village. That would be an additional factor militating against a grant of planning permission, should the discussions between the parties conclude that the existing school is unable to expand any further.
36. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*Robert Parker*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

Robert Walker	Planning Consultant, AAH Planning
Martin Brown	Planning Consultant, AAH Planning
Martin Crabtree	Principal Highways Engineer, Bryan G Hall
Gemma Woodfall	Associate Landscape Architect, LUC

### **FOR THE LOCAL PLANNING AUTHORITY:**

Dominic Heath-Coleman	Area Lead Planner, South Somerset District Council
Adam Garland	Principal Planning Liaison Officer, Somerset County Council
Ben Sunderland	Planning Liaison Officer, Somerset County Council

### **INTERESTED PARTIES:**

Robin Bawtree	CPRE
David Bishton	Local resident
Tom Campbell	Milborne Port Parish Council
Tim Carty	Milborne Port Parish Council
Beryl Dakin	Local resident
Austin Fletcher	Local resident
Jacquie Hall	Local resident
Peter Kelly	Local resident
Robert Lockey	Local resident and Chair of Governors, MP Primary School
Jane Matthews	Local resident
Terry Mitchell	Local resident
John Oldham	Milborne Port Parish Council
Karen Page	Local resident
Jacqueline Stevens-Moulding	Local resident

### **Documents submitted at the hearing**

1. Appeal update regarding education contributions
2. Officer report on planning application 17/03985/OUT
3. Extract from letters page of local publication: 'Don't drive on village pavements'