



Appeal Decision

Site visit made on 2 April 2019

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 May 2019

Appeal Ref: APP/R3325/W/18/3219408

Land to the rear of Splinters, Church Street, Keinton Mandeville, Somerton TA11 6ER

- 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 C Cross and Mrs M Pullen against the decision of South Somerset District Council.
 - The application Ref 18/01524/OUT, dated 11 May 2018, was refused by notice dated 27 July 2018.
 - The proposal is the erection of 2no. dwelling houses with associated garaging.
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of 2no. dwelling houses with associated garaging at Land to the rear of Splinters, Church Street, Keinton Mandeville, Somerton TA11 6ER in accordance with the terms of the application Ref 18/01524/OUT, dated 11 May 2018, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The planning application was submitted in outline with all matters reserved and I determined the appeal on this basis. Detailed matters relating to access, appearance, landscaping, layout and scale are not defined by this decision; they will be the subject of an application for the approval of reserved matters which will require formal advertisement through a period of statutory consultation.
3. An additional indicative site layout was submitted with the appeal. The plan did not change the nature of the proposal as all matters are reserved. Parties had the opportunity to comment on it during the appeal process. As such, I accepted it and had regard to it in my assessment without prejudice to any party.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area with particular regard to the significance of the setting of the Grade II Listed Church of St Mary Magdalene.

Reasons

5. The appeal site is a small paddock on the periphery of the village of Keinton Mandeville, surrounded by the gardens of dwellings to the north, east and west. The Grade II Listed Church of St Mary Magdalene is close by to the south east. Although the site abuts the countryside to the south, it is separated from it by walls, mature trees and vegetation. Despite some gaps, these features are part of a wider boundary edge which, together with the surrounding residential land, incorporates the paddock into the spatial confines of the village.

6. This leads the site to have no significant role as a buffer or transitional space between the village and adjacent countryside, which, despite evidence of a previous pattern of small fields, is now dominated by large modern equivalents. The gaps in the boundary could be filled and tree retention and planting ensured through a landscaping scheme controlled by way of planning condition.
7. Due to the close proximity and intervening open ground, the appeal site is within the setting of the Grade II Listed Church of St Mary Magdalene. I therefore have a statutory duty to consider the impact of the proposal on the special historic interest of the listed building. The significance of the setting of the church is principally derived from its open surroundings and detachment from the settlement. This is appreciated in close views around the building and churchyard and from surrounding footpaths.
8. The proposed dwellings would be closer to the church than the buildings to the north. However, when viewed from the churchyard and footpaths the proposal would be contained beyond the intervening boundary and when seen in filtered views would visually amalgamate with neighbouring buildings. As a result, the proposal would not perceptibly draw the village closer to the church, and its open and detached setting would be unharmed.
9. Looking more broadly, Keinton Mandeville has a prevailing linear form, with dwellings generally set in rows fronting the highway. The location of the site and likely orientation of dwellings would not conform to this characteristic. However, the linear frontage of dwellings is not universal within the village, and there are examples of properties set in behind primary frontages. Given these circumstances, this small and discrete proposal would not compromise the prevailing linear pattern of development within the village taken as a whole.
10. Limited reference has been made to an appeal decision west of the adjacent site Amberley. However, matters surrounding character and appearance are site specific and fact sensitive, relying upon the exercise of planning judgement. Therefore, that decision has carried limited weight in my assessment.
11. Overall, I find that the proposal would respect its rural and historic context and reinforce local distinctiveness through the augmentation of the village boundary and the consolidation of housing within the village envelope. I therefore conclude that the proposal would not have a harmful effect on the character and appearance of the area, with particular regard to the significance of the setting of the Grade II Listed Church of St Mary Magdalene. The proposal would accord with Policies SD1, SS2, EQ2 and EQ3 of the South Somerset Local Plan 2006-2028 (adopted 2015) which, amongst other things, require proposals to respect and safeguard the built and natural environment. There would be no conflict with the relevant sections of the National Planning Policy Framework.

Other Matters

12. I acknowledge the limited width of Church Lane. However, the vehicular access would meet design guidance and would provide adequate width to serve vehicles commonly accessing the site, within which turning would be available. The north visibility splay crosses third party land. However, although there are currently moments of heightened use during church services, the frequency and speed of vehicles using the lane is low overall, and additional traffic movements as a result of the proposal would be modest. As such, the scheme would not materially impair the safety of users of the highway. I note

references to the viability of the access for emergency services. However, the Council has confirmed that there are suitable alternatives to direct access, such as sprinklers, which could be provided pursuant to the Building Regulations.

13. The lane would likely pose a constraint during the construction phase, but there is nothing in the evidence to suggest that smaller vehicles could not be used. In any case, any damage to private property would be a civil matter for resolution between the individual parties and is not germane to my assessment of this S78 appeal, which is restricted to the planning merits of the proposal.
14. The evidence identifies a range of services within the village that lead me to conclude that, within the context of no five-year supply of deliverable housing sites, the location is suitable for housing in this regard. There is no substantive evidence that occupants would place undue pressure on these facilities. Although housing has been approved elsewhere within the village, I note that the housing target for this area is not a maximum, and the proposal would contribute to addressing the identified housing shortfall within South Somerset in any case.
15. The site is used for transit by badger, which is a protected species. Although I note the Council's comment relating to the potential for circumstances to change, there is no substantive evidence that badger setts have recently been created on site. I am therefore satisfied that the potential effects of the proposal on protected species would be compliantly managed pursuant to the Ecological Appraisal. Some of the shared boundaries are low and would allow some overlooking between neighbours. However, this could be resolved through appropriate planting or means of enclosure. Potential overlooking from the dwellings themselves can be addressed at the reserved matters stage.

Conditions

16. In the event that the appeal was allowed the Council requested conditions to be applied, which I have assessed with regard to the Framework and the advice of the Planning Practice Guidance. I have amended them where appropriate for the sake of clarity and precision. I have attached conditions relating to the submission of reserved matters and the time limits associated with this.
17. As the description of development specifies the maximum quantum of housing it is not necessary to do so with a condition. However, setting a maximum floor area is essential to conclude on the need or otherwise for planning obligations. As there is no evidence to contradict the findings of the Ecological Appraisal further surveys are not necessary. I note that the Council has not requested a condition regarding construction. As other regulations will govern this phase, I agree in this circumstance that there is no essential reason for construction to be managed by a planning condition. It is necessary to impose a condition ensuring that the safeguards and enhancements presented within the Ecological Appraisal are delivered. In addition, due to the evidence of land contamination, conditions relating to landfill gas and pollution are necessary and it is essential for relevant details to be provided prior to work commencing.

Conclusion

18. Taking all matters into account, I conclude that the appeal should be allowed.

Matthew Jones

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 2) Application for approval of the access, scale, layout, appearance and landscaping of the development, referred to in this permission as the reserved matters, shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
- 3) The development hereby permitted shall be carried out in accordance with the submitted site location plan, drawing number 001 Rev A.
- 4) The gross internal floor space of the development shall not exceed 1000 square metres in extent.
- 5) The development hereby permitted shall be constructed so as to provide a sealed system of foul water drainage, details of which shall be submitted to and agreed in writing by the Local Planning Authority. Such agreed foul water drainage shall thereafter be fully implemented prior to the first occupation of the new dwellings and retained in this fashion in perpetuity unless otherwise agreed in writing by the Local Planning Authority.
- 6) The development hereby permitted shall be carried out in accordance with the mitigation and compensation measures detailed in Table 5.1 of the submitted Ecological Appraisal by jh ecology Ltd dated May 2018, unless otherwise agreed in writing by the local planning authority.
- 7) Before the development hereby permitted commences there shall be either:
 - a. An investigation of the site for landfill gas carried out to the satisfaction of the Local Planning Authority, to ascertain whether gas protection measures are required. Where measures are required the details shall be submitted to and approved in writing by the Local Planning Authority. Or;
 - b. Details of precautionary gas protection measures submitted to and approved in writing by the Local Planning Authority.

For a. and b. all required measures shall be installed before the development is first occupied and retained and maintained in perpetuity thereafter unless otherwise agreed in writing by the Local Planning Authority.
- 8) In the event that any signs of pollution such as poor plant growth, odour, staining of the soil, unusual colouration or soil conditions, or remains from the past industrial use, are found in the soil at any time when carrying out the approved development it must be reported in writing within 14 days to the Local Planning Authority (LPA). The LPA will then consider if development must be halted on that part of the site. If the LPA considers it necessary then an assessment of the site must be undertaken in accordance with BS10175. Where remediation is deemed necessary by the LPA a remediation scheme must be submitted to and approved in writing by the LPA and then implemented in accordance with the submitted details before the development is first occupied.