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## Appeal Decision

Site visit made on 8 January 2019

**by I Bowen BA(Hons) BTP(Dist) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 06 March 2019**

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**Appeal Ref: APP/R3325/W/18/3211834**

**Land OS 6730, Henley, Langport, Somerset (GR: 342677/132297)**

- 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 Bryan Bartlett against the decision of South Somerset District Council.
  - The application Ref 17/04870/OUT, dated 16 December 2017, was refused by notice dated 27 April 2018.
  - The development proposed is described as outline application for alterations to existing accesses and erection of 2 No. dwellings.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. For clarity, I have used the description of the proposed development as specified on the appeal form as this most accurately reflects the proposal. Similarly, I have also adopted the site address from the Council's refusal notice.
3. The application was made in outline with all matters reserved except for access. However, the appellant submitted a drawing indicating a possible area for car parking and cycle parking/bin store. It also shows the removal of hedgerows along Nythe Road together with the reinstatement of traditional railings. Whilst the plan is, in these respects, indicative, I have taken it into account as a guide to how the site might be developed.
4. A revision to the National Planning Policy Framework (the revised Framework) was published in February 2019. I have had regard to the revised Framework in determining this appeal. No changes have been introduced which are directly relevant to the subject matter of this appeal and I am therefore satisfied that that no party has been prejudiced as a result of my doing so.

### Main Issues

5. The main issues are:
  - whether the appeal site would be a suitable location for housing having regard to local planning policies on the location of housing and availability of services;

- the effect of the proposed development on the character and appearance of the area, including the setting of the Grade II listed Windsor Farm; and
- the effect of the proposed development on the living conditions of future occupiers with respect to odour and noise; and whether any harm arising would be likely to affect the operation of the adjoining agricultural business.

## **Reasons**

### *Location of development*

6. The appeal site lies on the western edge of Henley beyond a loose collection of dwellings and farm buildings which comprise this linear settlement. Whilst not therefore isolated for the purposes of Paragraph 79 of the revised Framework, the site nonetheless occupies a position in the open countryside on the edge of the village.
7. Policy SS1 of the South Somerset Local Plan (2006 – 2028) (2015) (the SSLP) sets out a hierarchy for steering housing development to the most sustainable locations prioritising primary market towns, local market towns and named Rural Centres. Henley lies outside all of those areas and as such is considered, under this policy, to be a Rural Settlement in the countryside. In line with this policy, SSLP Policy SS2 strictly controls development in such settlements with exceptions being limited to the provision of affordable housing and other types of development, which are not applicable to this appeal, in settlements which have at least 2 key services.
8. The appellant has cited local housing needs evidence indicating a requirement for up to 5 affordable dwellings in the Parish of High Ham. I see no reason to dispute that this reflects the up to date local housing needs position, and I am aware that elected member and other third party representations have been received supporting the application on the basis of a demand for accommodation for young people in particular. The revised Framework and Planning Practice Guidance also highlight the need for rural affordable housing. However, whilst the appellant describes the appeal development as being for discounted open market housing, there is no mechanism before me to ensure that the dwellings would be reserved as such in the event of the appeal being allowed. I therefore attach little weight to the benefits of the scheme in providing affordable housing in this case.
9. Turning to accessibility, whilst there are day-to-day facilities available in the village of High Ham, these are located some distance away, steeply uphill, along a busy rural road which lacks footways or lighting. There are very few facilities in Henley, these being restricted to a chapel and recreational wood. Given the nature of the road network and the distances involved, it is unlikely therefore that residents would walk or cycle to and from services, especially in poor weather or during the hours of darkness.
10. I appreciate that some facilities such as schools can expect to draw on a broad catchment including rural settlements and that paragraph 78 of the revised Framework advises that where there are small groups of settlements, development in one village may support services in a village nearby. However, I have been provided with no detailed evidence on a particular need for school rolls to be supported through development in this area. Furthermore, the additional two dwellings would provide very modest benefits in supporting

other services in High Ham and beyond. Given the likelihood that future occupiers of the dwellings would be largely reliant on the private car to access services and facilities, I find that the proposed development would in this respect be contrary to the aims of the Development Plan and, specifically, the requirements of SSLP Policy SS2.

11. Consequently, I conclude overall on this main issue that the proposed development would not be a suitable location for housing and would conflict, or not accord with, SSLP Policies SS1 and SS2. These policies seek to achieve sustainable development by focusing development in sustainable locations well served by facilities; and strictly controlling development in the countryside except in limited circumstances, none of which apply in this case. As such the proposed development would also not accord with SSLP Policy SD1 which, in line with Section 2 of the revised Framework, seeks to secure sustainable development and approve planning applications which accord with the development plan.

#### *Character and appearance*

12. Windsor Farm is a substantial detached Grade II listed building which stands apart at the edge of the village at the junction of Henley Road and Nythe Road broadly opposite the appeal site. I have not been provided with detailed information of its listing other than from the occupier of the building, but at its core is a 15<sup>th</sup> Century stone-built former farmhouse with thatched roof and other historic architectural details and attached outbuildings.
13. Although the building has seemingly ceased to be a farmhouse, its historic and solitary siting on the undeveloped edge of the village, facing towards the appeal site and other open fields, remains. This setting is important in framing the significance of the building as a heritage asset.
14. In this respect I saw that the building forms a particular visual focus when travelling southwards from some distance away towards Henley along Nythe Road in particular. Whilst the application was in outline with matters of siting, scale, layout, appearance and landscaping reserved for subsequent consideration, I consider it likely that the proposed houses would present a visual distraction to the setting of the listed building when viewing from this perspective. The combination of new dwellings, potential loss of hedgerow, parking, and likely domestic paraphernalia associated with garden areas would, however sensitively designed, be likely to diminish the sense of isolation of Windsor Farm and the way it is experienced in its rural context.
15. Given the scale of the proposal in respect of the setting of the listed building, I consider that the harm would, in the terminology of the revised Framework, be "less than substantial". Nevertheless, being mindful of the statutory duty in Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, great weight should be given to its conservation. Any harm to, or loss of, its significance as a designated heritage asset should require clear and convincing justification.
16. As I have found that the proposed development would cause less than substantial harm, this should be weighed against any public benefits. The provision of two additional dwellings would only make a limited contribution to local housing supply in the area. The appellant's Design and Access Statement also refers to highway safety benefits as a result of the proposed removal of

hedgerows. However, I have seen no firm evidence to show the extent of any pre-existing problems in this regard and I therefore attach limited weight to any such public benefits.

17. Overall, the public benefits would not therefore outweigh the great weight that I am required to attach to the conservation of the setting of Windsor Farm.
18. My attention has been drawn to other examples of development which the Council has allowed within the setting of listed building, at Henley Farm to the east of the appeal site and Beer Farm some 2 miles to west. On the basis of the evidence provided, it is clear that both those developments involved the re-use/conversion or replacement of existing buildings. I do not therefore regard them as comparable to the proposal before me. Whilst the revised Framework indicates that the setting of a heritage asset may change as its surroundings evolve, I have nonetheless considered the merits of the appeal proposal on the basis of the particular circumstances of this case.
19. In terms of the effect of the proposal on the character and appearance of the area more generally, the appeal site is formed of a fairly small field immediately adjoining Balls Farm to the east. It occupies a prominent location at the edge of the linear built-up form of the village at the junction of Henley Lane and Nythe Road. Apart from the listed Windsor Farm opposite, this location is characterised by open countryside with sweeping views of fields enclosed by hedgerows as Hythe Road descends steeply down from the south to meet the level moorlands. Given the site's prominence, its development would, to my mind, represent a harmful intrusion into the open countryside.
20. I recognise that historically the roadside boundaries were demarcated by metal railings and I saw the remains of these on my site visit. Nevertheless, it does not follow that their repair and reinstatement would now be appropriate and although the appellant characterises the proposed removal of hedgerow as much needed maintenance, it would in my judgement have a deleterious effect on the character and appearance of the area.
21. Drawing this main issue to a conclusion, I find that the proposed development would fail to preserve the setting of the listed building and would cause less than substantial harm to its significance as a heritage asset. In the absence of any public benefits to outweigh his harm, it would conflict with SSLP Policy EQ3 which seeks to safeguard or where appropriate enhance the significance, character, setting and local distinctiveness of heritage assets. For the same reasons, it would conflict with Section 16 of the revised Framework.
22. Furthermore, the location of the appeal site on the edge of the village and removal of hedgerows would represent an unacceptable intrusion into the countryside contrary to SSLP Policy EQ2 which requires development proposals to conserve and enhance the landscape character of the area and reinforce local distinctiveness.

*Living conditions and disruption to adjoining agricultural business*

23. The appeal site immediately adjoins a large agricultural barn which I was able to inspect on my site visit. This building is currently used, albeit mainly in the winter months, for housing between 50 – 70 cattle. It is also used for the storage of hay. Given the very close proximity to the appeal site, concerns have been raised in relation to the potential for harm in terms of noise, dust

and odour to future occupiers of the dwellings. Equally, the risk of startling livestock and causing injury to farm workers has been raised, as well as the prospect of future complaints from occupiers of the new dwellings. This could lead to pressures for the curtailment of the farm business, thereby threatening its viability.

24. Whilst not necessarily representative, when I visited the site I saw that the barn and adjoining farmyard and other buildings were in active use with significant numbers of cattle and frequent farm vehicle movements taking place.
25. On the basis of the planning application, the proposed dwellings would be likely to be sited away from the immediate boundary with the barn given the position of the proposed access. Recognising that the cattle are already exposed to the noise of passing traffic on Henley Lane, it seems unlikely to me that there is a material risk of direct disturbance to the livestock. However, given the proximity of the proposed dwellings and in the absence of any technical evidence having been provided, I cannot be certain that a scheme could be devised such that no unacceptable harm would arise for future occupiers in terms of noise and odour. In turn, there would be an unacceptable risk that any such harm could lead to future pressure for the curtailment of livestock farming activities on the adjoining site which could affect the operation of that business.
26. Consequently, the proposed development would conflict with SSLP Policy EQ2 which seeks to protect the residential amenity of neighbouring properties. For the same reasons, the proposed development would not accord with the revised Framework which requires planning decisions to promote health and well-being with a high standard of amenity for existing and future occupiers.
27. The appellant has provided examples in Henley, at land to the east of Orchard Home and at The Hall, where new residential uses have been permitted in close proximity to working farms. However, I do not have full details as to the basis on which those developments were permitted and I note the permissions were granted in 2008 and 2012 respectively, during which time circumstances may have changed considerably. Moreover, whilst the Council may not have raised concerns in relation to residential amenity at the time, the limited evidence on the extent to which the farming activities were or are comparable to those at Balls Farm does not conclusively demonstrate that they are a direct parallel to the appeal before me. I have therefore considered this appeal on its merits and the examples of previous developments in this regard has not been determinative in my decision.

### **Other matters**

28. The appellant contends that the Council is currently unable to demonstrate a 5-year housing land supply as required by Paragraph 73 of the Framework. However, Paragraph 11 d) and footnote 6 of the Framework clarify that the presumption in favour of sustainable development is not engaged where the application of its policies that protect designated heritage assets provides a clear reason for refusing the development proposed. I have found in this case that such harm would arise and the 'tilted balance' is therefore not engaged.

## **Conclusion**

29. In conclusion, the proposed dwellings would not be in an accessible location where new residential development is promoted in the SSLP in the interests of sustainable development. The proposal would also give rise to less than substantial harm to the setting of a Grade II listed building which would not be outweighed by public benefits and would be harmful to the character and appearance of the wider area. In the absence of substantive evidence confirming otherwise, there would also be an unacceptable risk that future occupiers would be exposed to unacceptable noise and/or odour which could, in turn, indirectly affect the adjoining farming business. I am mindful of the benefits and comments raised in support of the proposal. However, these matters would not outweigh the harm I have identified.
30. For the reasons given, and having regard to all other matters raised, the appeal should be dismissed.

*Ian Bowen*

INSPECTOR