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## Appeal Decision

Site visit made on 27 May 2020

**by Rory Cridland LLB(Hons), Solicitor**

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

**Decision date: 10 July 2020**

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**Appeal Ref: APP/R3325/W/20/3246302**  
**Land off Shiremoor Hill, Merriott TA16 5PH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Stonewater Ltd against the decision of South Somerset District Council.
  - The application Ref 18/01917/FUL, dated 15 June 2018, was refused by notice dated 22 October 2019.
  - The development proposed is the erection of 39 no. dwellings and associated works including access, open space, parking, landscaping and drainage infrastructure.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of 39 no. dwellings and associated works including access, open space, parking, landscaping and drainage infrastructure at Land off Shiremoor Hill, Merriott, TA16 5PH in accordance with the terms of the application, Ref 18/01917/FUL, dated 15 June 2018, subject to the conditions set out in the attached Schedule.

### Application for Costs

2. An application for costs was made by Stonewater Ltd against South Somerset District Council. This application is the subject of a separate Decision.

### Main Issues

3. The main issues are:
  - (i) the effect of the proposed development on highway safety, with particular regard to parking;
  - (ii) the effect of the proposed development on biodiversity;
  - (iii) the effect of the proposed development on heritage assets;
  - (iv) whether the proposal meets the aims and objectives of Policy EQ1 of the South Somerset Local Plan; and
  - (v) whether the proposal makes adequate provision for affordable housing.

### Reasons

#### *Parking*

4. Policy TA5 of the South Somerset Local Plan 2006 – 2028<sup>1</sup> (LP) seeks to ensure, amongst other things, that the parking needs generated by new development

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<sup>1</sup> Adopted 2015.

does not have a detrimental impact on the character or amenity of the area and does not compromise the safety of the local or strategic road network. In addition, LP Policy TA6 requires parking provision to be design-led and based upon site characteristics, location and accessibility. Furthermore, it applies the parking standards set out in the Somerset County Council Parking Strategy ("the Parking Standards").

5. The proposal would provide 104 parking spaces against the optimum level set out in the Parking Standards of 125, a shortfall of 21. The Council is concerned that this shortfall would result in illegal or inconsiderate parking on the highway which would be detrimental to highway safety, hinder access for emergency vehicles and negatively impact on the character and appearance of the area.
6. I do not agree. While the Parking Standards are intended to provide an indication of what the Council considers to be the optimum levels of parking generally, they make clear that provision above or below those levels can be justified by specific local circumstances. This accords with the guidance set out in the National Planning Policy Framework (2019) ("the Framework") which advises that when setting local parking standards for residential development a number of matters should be taken into account. These include the accessibility of the development, the availability of and opportunities for public transport as well as local car ownership levels.
7. No robust evidence has been provided as part of this appeal of local car ownership levels. Nevertheless, the proposed development would be located within easy walking distance of Merriott, a village with a good range of local facilities. Furthermore, the site itself already benefits from extant planning permission for up to 30 dwellings which provides a further indication that it is both sustainably located and future occupiers would have reasonable access to local facilities and services.
8. Moreover, I note the Highway Authority has acknowledged that the appellant's Transport Statement demonstrates that there would be no severe impact on the highway network, and it has not raised any issues in relation to highway safety. In addition, there is no evidence that the shortfall in parking provision identified would result in high levels of illegal or inconsiderate parking either within the development site itself or the surrounding road network. I have no reason to conclude otherwise.
9. Accordingly, I am satisfied that the parking provision proposed would not compromise highway safety or have a detrimental impact on the character or amenity of the area. As such, I find no conflict with LP Policies TA5 or TA6. Similarly, I find no conflict with LP Policy EQ2 which, amongst other things, seeks to ensure that development proposals preserve or enhance the character and appearance of the district.

### *Biodiversity*

10. The Council contend that the creation of the culvert and bridge would enclose part of the stream altering its ecology detrimentally and reducing its biodiversity value. Similar concerns have been raised by the Parish Council and local residents.
11. However, I consider these concerns somewhat overstated. While I note the site is located in close proximity to a Local Wildlife Site, no robust evidence has been

provided which would indicate that the proposed culvert and bridge would materially impact on biodiversity or ecological networks. Indeed, the ecological assessments carried out indicate that the impact on nearby ecological receptors would be generally of low significance. This was accepted by the Council's ecological consultee who broadly agreed with the assessments' conclusions and recommendations.

12. Furthermore, the appellant has identified a number of enhancement and mitigation measures including the maintenance of a buffer between the stream and the built development, areas of open space, and measures to mitigate or reduce impacts to ecology during construction. These provide some additional protection to nearby ecological receptors and help ensure that any impacts are minimised.
13. Accordingly, I do not consider the proposed development would negatively impact on ecology or biodiversity. As such, I find no conflict with LP Policy EQ4 which aims to protect the biodiversity value of land and buildings, minimise fragmentation of habitats and promote coherent ecological networks.

#### *Heritage Assets*

14. The appeal site is situated outside but adjacent to the Merriott Conservation Area ("the CA"). The Council has raised concerns that the proposed bridge and culvert would create an alien feature within the setting of the CA resulting in harm to its significance.
15. However, both the bridge and culvert would be outside the CA and neither would be particularly visible from within it. Furthermore, I noted during my site visit there is little intervisibility between this part of the site and the CA itself. As such, I consider any effect would be marginal and have little impact on the CA's character or appearance.
16. Moreover, I note that the site already benefits from planning permission for up to 30 dwellings under planning permission reference 16/00865/OUT ("the Extant Permission"). No detailed explanation has been provided as to why the Council considers the bridge and culvert would have a materially greater impact on the CA than the Extant Permission. I am not therefore persuaded that the impact of these elements of the scheme on nearby heritage assets provides sufficient reason for withholding permission.
17. Likewise, while I note the concerns raised by both the Council and other interested parties in relation to the impact on the public right of way known as Holwell Lane, the grant of planning permission does not authorise the interference with the public's rights or negate the appellant's obligations in respect of them. Furthermore, any proposed diversion would be considered as part of a separate application.
18. Nevertheless, the application includes a heritage statement which considers the effects of the proposed development on nearby heritage assets. This concludes that the proposal would result in less than substantial harm to the CA particularly around the access. In addition, the assessment identifies additional harm to the setting of Shiremoor House and St Katherine's Lodge, both Grade II listed buildings. This is not disputed by the Council and I have no reason to conclude otherwise.

19. Accordingly, although I do not consider the proposed bridge and culvert would result in harm to the CA, I nevertheless find that the proposal as a whole would result in less than substantial harm to the setting of the CA, Shiremoor House and St Katherine's Lodge. This would be in conflict with LP Policy EQ3 which, amongst other things, seeks to ensure that heritage assets are conserved or enhanced.

#### *Sustainability*

20. The Council is concerned that the proposed development does not accord with the aims of LP Policy EQ1 by failing to consider the use of renewable technologies such as solar panels, air source heat pumps or the positioning of the dwellings to achieve maximum solar gain.
21. However, while LP Policy EQ1 encourages the use of energy efficiency measures, renewable and low carbon energy, neither the LP nor the Framework imposes any specific requirement for new development to include the provision of air source heat pumps or solar panels.
22. In the present case, while I accept that there are opportunities to incorporate sustainable construction and energy efficiency measures into the scheme which will help reduce the impact of climate change, I do not consider that a failure to include air source heat pumps or solar panels as part of the development is in conflict with LP Policy EQ1 or the Framework.

#### *Affordable Housing*

23. LP Policy HG3 permits the erection of new dwellings subject to them providing affordable housing in accordance with defined targets and thresholds. The proposed scheme meets the 35% requirement set out in LP Policy HG3. However, the Council has raised concerns with the lack of 1-bedroom dwellings, arguing that the mix proposed does not meet the local need and fails to meet the requirements of the LP.
24. I do not agree. Policy HG3 does not impose any requirement for a particular mix or type of affordable dwellings. Instead, it leaves it to the parties to negotiate on a site-specific basis taking into account the contemporary information from the housing register and any local imbalances.
25. In the present case, the proposal includes a mixture of 2, 3 and 4-bedroom affordable dwellings which accords with that requested by the Council's Strategic Housing Officer. These are secured by means of a Unilateral Undertaking. While I note the Council's housing register indicates a small preference for 1-bedroom properties in Merriott, it does not demonstrate that there is a particularly greater unmet need for 1-bedroom dwellings than elsewhere in the district.
26. In the absence of evidence which would demonstrate a particular need for 1-bedroom properties in Merriott or the wider district, I am satisfied that the proposal meets the affordable housing requirements of LP Policy HG3.

#### **Other Matters**

27. In reaching my decision I have noted the concerns raised by Merriott Parish Council, the Merriott Heritage Trust, local residents and others. However, there is no robust evidence which would lead me to conclude that the proposed development could not be adequately drained or would result in an increased risk

of flooding elsewhere. As such, I see no reason that these matters cannot be adequately addressed by means of a suitably worded condition requiring the submission and approval of a surface water drainage scheme.

### **Planning Obligations**

28. The appellant has provided an executed unilateral undertaking ("the UU") which provides for 35% of the dwellings to be affordable. This is in response to identified needs and is supported by LP Policies SS6 and HG3 which, amongst other things, aim to secure 35% affordable housing to be delivered on sites of 6 dwellings or more. I consider these to be a considerable public benefit.
29. The UU also provides for the provision, management and maintenance of public open space as well as financial contributions towards community and health facilities and education. These are supported by LP Policies SS6 and HW1 which seek to secure the provision of, or contributions to, additional open space, community and cultural facilities and education to accommodate the additional needs generated by new housing development.
30. While I note that the contributions included in the UU are lower than the contributions sought by the Council in its written evidence, they nevertheless accord with the amounts included by the district valuer when considering the viability of the overall scheme.
31. In view of the above, I consider the obligations in the UU meet the tests set out in CIL Regulation 122 of the Community Infrastructure Levy Regulations 2010 and those set out in paragraph 56 of the Framework. As such, I have taken them into account in reaching my decision.

### **Planning Balance**

32. I have found above that the proposal would accord with the Council's policies on parking, ecology and biodiversity. I have also found that the proposal would accord with the Council's policies on affordable homes and climate change. However, I have also found that the proposal would result in less than substantial harm to heritage assets and, as such would be in conflict with LP Policy EQ3.
33. Paragraph 196 of the Framework advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits. However, it also makes clear that heritage assets are an irreplaceable resource and that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Furthermore, Paragraph 194 indicates that any harm to the significance of a designated heritage asset should require clear and convincing justification
34. The proposal would result in a number of public benefits not least of which is its contribution towards meeting identified affordable housing need locally. I afford this considerable weight. Likewise, it would result in some modest economic benefits to the local economy during construction which would help support local businesses and services. However, while this provides some additional public benefit, it is limited, and I afford it only a moderate amount of weight.

35. Nevertheless, in the present case, while I am mindful of the need to have special regard to the desirability of preserving the setting of heritage assets and to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA, I consider the public benefits identified would provide a clear and convincing justification for the limited harm which would result

### **Conditions**

36. I have had regard to the various planning conditions suggested. In addition to the standard condition in relation to commencement, I consider a condition requiring the development to be carried out in accordance with the approved plans is necessary in order to provide certainty.
37. A condition requiring the development to be carried out in accordance with the recommendations set out in the appellant's Ecological Assessment is necessary in the interest of biodiversity as is a condition in respect of trees.
38. I consider a condition requiring the submission of a Construction Environment Management Plan to be necessary in the interests of highway safety and to ensure that the development is carried out in a manner that is sensitive to the local environment. Conditions in respect of materials and parking layout are necessary in the interests of the character and appearance of the surrounding area. Furthermore, I consider conditions in relation to the disposal of surface water and sewage are necessary to ensure the site is suitably drained.
39. A condition restricting occupation until the part of the service road providing access to the dwelling has been constructed is necessary in the interests of highway safety and to ensure adequate access for future residents.
40. However, the grant of planning permission does not obviate the appellant's obligations in respect of public rights of way which are dealt with as part of a separate process. Similarly, the highway authority has other powers available to address any damage to the public highway. I do not therefore consider the proposed conditions in respect of these matters are necessary.
41. Likewise, I do not consider separate conditions in relation to access and visibility are necessary as these matters are already set out on the approved plans. I note that the application is accompanied by a Travel Plan Statement (TPS) which aims to promote alternative modes of transport. I do not therefore consider a condition requiring the submission and approval of a further TPS is necessary.
42. A number of the above conditions need to be discharged before work commences on site as they relate to matters which need to be resolved on a fully coordinated basis.

### **Conclusion**

43. For the reasons set out above, and having had regard to all other matters raised, I find the proposed scheme would be in accordance with the development plan as a whole, and as such, conclude that the appeal should be allowed.

*Rory Cridland*

INSPECTOR



## **SCHEDULE**

### Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

#### Drawing Nos:

3808-BB -SP-00-DR-A-001 (Location Plan)  
3808-BB -SP-00-DR-A-PL/100 (Plot 1 & 2 Floor Plans)  
3808-BB -SP-00-DR-A-PL/101 (Plot 1 & 2 Elevations)  
3808-BB -SP-00-DR-A-PL/102 (Plots 3 to 6 Floor Plans)  
3808-BB -SP-00-DR-A-PL/103 (Plots 3 to 6 Elevations)  
3808-BB -SP-00-DR-A-PL/104 (Plots 7 Floor Plans)  
3808-BB -SP-00-DR-A-PL/105 (Plots 7 Elevations)  
3808-BB -SP-00-DR-A-PL/106 (Plots 8 & 12 Floor Plans)  
3808-BB -SP-00-DR-A-PL/107 (Plots 8 & 12 Elevations)  
3808-BB -SP-00-DR-A-PL/110 (Plots 13 to 16 Floor plans)  
3808-BB -SP-00-DR-A-PL/112 (Plots 13 to 16 Elevations (2 of 2))  
3808-BB -SP-00-DR-A-PL/113 (Plots 17 to 19 Floor Plans)  
3808-BB -SP-00-DR-A-PL/115 (Plots 20 & 21 Floor Plans)  
3808-BB -SP-00-DR-A-PL/116 (Plots 20 & 21 Elevations)  
3808-BB -SP-00-DR-A-PL/117 (Plots 22 to 23 Floor Plans)  
3808-BB -SP-00-DR-A-PL/118 (Plots 22 to 23 Elevations)  
3808-BB -SP-00-DR-A-PL/121 (Plots 30 & 31 Floor Plans)  
3808-BB -SP-00-DR-A-PL/122 (Plots 30 & 31 Elevations)  
3808-BB -SP-00-DR-A-PL/123 (Plots 32 & 33 Floor Plans)  
3808-BB -SP-00-DR-A-PL/124 (Plots 32 & 33 Elevations)  
3808-BB -SP-00-DR-A-PL/125 (Plots 34 to 37 Floor Plans)  
3808-BB -SP-00-DR-A-PL/126 (Plots 34 to 37 Elevations)  
3808-BB -SP-00-DR-A-PL/127 (Plots 38 & 39 Floor Plans)  
3808-BB -SP-00-DR-A-PL/128 (Plots 38 & 39 Elevations)  
3808-BB -SP-00-DR-A-PL/129 (Garage for Plots 38 & 39)  
3808-BB -SP-00-DR-A-PL/111 Rev A (Plots 13 to 16 Elevations (1 of 2))  
3808-BB -SP-00-DR-A-PL/114 Rev A (Plots 17 to 19 Elevations)  
3808-BB -SP-00-DR-A-PL/108 Rev A (Plots 9 to 11 Floor Plans)  
3808-BB -SP-00-DR-A-PL/109 Rev A (Plots 9 to 11 Elevations)  
3808-BB -SP-00-DR-A-PL/119 Rev A (Plots 24, 26, 28, 28 & 29 Floor plans)

3808-BB -SP-00-DR-A-PL/120 Rev A (Plots 24, 26, 28, 25 & 29 Elevations)  
3808-BB -SP-00-DR-A-PL/130 Rev A (Proposed Site Section)  
3808-BB -SP-00-DR-A-PL/131 Rev C (Site Section C & D)  
3808-BB -SP-00-DR-A-PL/132 (Plot 27 Floor Plans)  
3808-BB -SP-00-DR-A-PL/133 (Plot 27 Elevations)  
3808 -BB-SP-00-DR-A-PL/134 (Sections EE & FF)  
3808-BB -SP-00-DR-A-PL/002 Rev E (Site Plan)  
3808-BBA-SP -XX -DR-L – 210 Rev A (Site Wide Planting Plan)  
C13884-D001sh2  
00737-YHYD-XX-XX-DR-TP-0103

- 3) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) has been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.

- 4) No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall provide for:
- (a) the parking of vehicles of site operatives and visitors;
  - (b) loading and unloading of plant and materials;
  - (c) storage of plant and materials used in constructing the development;
  - (d) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - (e) wheel washing facilities;
  - (f) measures to control the emission of dust and dirt during construction;
  - (g) construction vehicle routes to and from the site;
  - (h) a scheme for recycling/disposing of waste resulting from construction works;
  - (i) delivery and construction working hours;
  - (j) proposed phasing/timescales of construction; and
  - (k) proposed monitoring and timing of submission of monitoring reports.

The approved CEMP shall be adhered to at all times during all phases of development.

- 5) No development shall take place until a scheme for the disposal of surface water has been carried out in accordance with details which shall first have been submitted to and approved in writing by the local planning authority.



- 6) Prior to the commencement of above ground works, details of the external materials to be used on the development shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 7) Prior to the commencement of above ground works, details of the car and motorcycle parking layout, including details of cycle parking and facilities for the charging of electric vehicles, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and the areas identified for parking shall thereafter be kept available for those purposes.
- 8) No dwelling shall be occupied until works for the disposal of sewage shall have been provided on the site to serve the development hereby permitted, in accordance with details that have first been submitted to and approved in writing by the local planning authority.
- 9) No dwelling shall be occupied until that part of the service road which provides access to it has been constructed in accordance with details which have first been submitted to and approved in writing by the local planning authority. The service road as constructed shall be retained thereafter.
- 10) The Development shall be carried out in accordance with the recommendations set out in Section 5 of the Ecological Assessment Report dated 14 June 2018.

END OF SCHEDULE