



Appeal Decisions

Site visit made on 17 November 2020

by M Scriven BA (Hons) MSc CMgr MCIHT MCMI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2021

Appeal A Ref: APP/R3325/W/20/3256486

Land to the Southeast of Station Road, Station Road, Milborne Port, OS 367848, 119513

- 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 18/02859/OUT, dated 6 August 2018, was refused by notice dated 8 April 2020.
 - The development proposed is an outline application for residential development for up to 30 dwellings including access, with all other matters reserved, land to the south east of Station Road, Milborne Port.
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Appeal B Ref: APP/R3325/W/20/3256496

Land to the Southeast of Station Road, Station Road, Milborne Port, OS 367848, 119513

- 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 18/02409/OUT, dated 2 September, 2018, was refused by notice dated 8 April 2020.
 - The development proposed is an outline application for residential development for up to 10 dwellings including access, with all other matters reserved, land to the south east of Station Road, Milborne Port.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Application for costs

3. Applications for costs were made by Mr and Mrs Hunt against South Somerset Council. These applications are the subject of separate Decisions.

Procedural matters

4. Both appeals relate to outline applications with all matters, other than access, reserved for future consideration. I have considered both appeals on the plans submitted.
5. The Council referred to a letter dated 17 August, 2020, in their appeal statement from Natural England regarding the effect of development proposals

in the wider catchment area of the Somerset Levels and Moors Ramsar site. I have dealt with this below.

6. The Council issued a revised position on their 5-year housing land supply after the final comments stage of the appeals, showing a forward supply of approximately 6 years. It is critical that my decisions are based upon the most up to date and accurate information, therefore the appellant was provided opportunity to comment on the updated position.
7. At the point of providing an updated position on housing land supply the Council also stated that Policy SS1 of the South Somerset Local Plan (2006-2028), 2015 (LP) regarding the settlement strategy should additionally be afforded significant weight in the appeals. I have dealt with this below.

Main Issues

8. The main issues in both appeals are;
 - Whether the proposed location is suitable for housing development, particularly with regard proximity to necessary goods and services;
 - The effect of the proposed development on highway safety, specifically at the proposed junction with Station Road;
 - The effect of the proposed development on the character and appearance of the area;
 - The effect of the proposed development on the biodiversity of the area.

Additionally, a further main issue is considered regarding Appeal A, that of the effect of the proposed development on local education provision, in particular its role in community cohesion.

Reasons

Location of housing development

9. The appeal site is the same for both Appeals. The site is located on the edge of a compact village settlement and would be served by a dedicated footway, linking the proposed developments to the village centre and the services it offers. The village has also been identified as a Rural Centre for future housing growth by the Council.
10. A recent appeal Decision¹ at the same site concluded the site meets the requirements of Policy SS1 of the LP with regard its location for housing development. I have no reason to consider that the circumstances relating to the location of the site have changed in the time since that Decision, nor their proximity to key services.
11. The Council have stated in the delegated Officer's report that the proposals before me would be considered to be acceptably located in relation to key services. Likewise, Policy SS1 was not referred to in the Council's reasons for refusal or their appeal statement as being a point of objection. The fact that at the time of the Council's decisions and appeal statement submissions a 5-year housing land supply was not demonstrable, did not preclude the Council from

¹ APP/R3325/W/18/3198725

considering the proposed schemes against all extant policies of the Development Plan.

12. Therefore, I am of the view that the proposed development in both appeals would accord with Policy SS1 of the LP, which amongst other things, seeks to ensure development is located so as to allow for adequate access to goods and services.

Highway Safety

13. The proposed access arrangements for both appeals, located a short distance from the commencement of the 30mph speed limit and on the outside of the bend on Station Road, are the same for both appeals.
14. I have little detail regarding how the proposed highway works would be delivered or secured. However, the appellant intends to amend the existing access on to Station Road which currently serves the solar farm, realigning and widening it slightly to the north. The existing gated access to the appeal field would be blocked up and the track running adjacent to the site would be left unused. A new footway would also be created running along the outside of the bend, behind the main carriageway, albeit in front of existing hardstanding understood to be public highway, linking to an existing footway at Henning Way.
15. Although the existing access to Everslea would not be impeded, the existing informal parking arrangement at Meadowside, utilising the area of hardstanding would be affected by the creation of the proposed footway. The tracking information provided shows how two vehicles could continue to park subject to manoeuvring, entering and leaving in forward gear. However, the manoeuvre would appear to require reversing at a tight angle, back across the proposed footway, to achieve the desired positioning on the hardstanding. Such a manoeuvre would be harmful to highway safety as visibility of any pedestrians for the driver reversing would be constrained by the angle at which the vehicle would need to reverse.
16. Similarly, the driver of the reversing vehicle would appear to have minimal margin for error in terms of their positioning whilst attempting to manoeuvre across the footway, increasing the likelihood of overhanging the footway back into the carriageway and hitting a passing car. Given the tracking information shows a medium sized car this would be of greater risk for a larger vehicle. Furthermore, such a manoeuvre would likely be confusing for drivers approaching from the north who would be unclear if the reversing vehicle was intending to reverse on to the carriageway. Therefore, in my view the necessary manoeuvre would likely introduce significant harm to the safety of highway users.
17. I understand that the existing parking situation at Meadowside is currently an informal arrangement. However, the appellant's proposals would facilitate the arrangement's continuation. If this continued usage was not provided for, the occupants would have little alternative parking provision nearby and any parking on or near the bend, even if for short periods associated with loading and unloading, would itself result in harm to highway safety given the road layout. As such I do not consider it appropriate to impose a condition resulting in the current arrangement ceasing.

18. If not well maintained, the banked verge and current hedge arrangement on the inside of the bend would compromise the ability of drivers turning right into the proposed access from Station Road being able to see oncoming traffic from the north. However, the verge appears to be within the control of the highway authority, and as such this risk is of low likelihood. I noted at the time of my visit the hedge had recently been cut and the verge was not overgrown. The appellant has provided a topographical survey and sightline drawing demonstrating there would be sufficient forward visibility for drivers turning right and I have no substantive evidence from the Council or the highway authority to demonstrate the contrary.
19. Although the drawing demonstrating the forward visibility of vehicles waiting to turn right for drivers approaching from the south appears to be based on a previous design iteration, 17/306/TR/001, I concur with the appellant that adequate forward visibility of vehicles waiting to turn right can be achieved subject to the verge and hedge being adequately maintained. Likewise, visibility for vehicles turning out of the proposed access appears sufficient.
20. Any continued use of the track would require access to be maintained and it is unclear how this could be achieved with the proposed parking arrangement at Meadowside. However, the appellant has stated the track would be left unused and it is not a designated public right of way. If the proposal were otherwise acceptable this could be dealt with through the use of an appropriate condition.
21. I fully acknowledge that the Council's first reason for refusal in both appeals on highway grounds does not appear to relate to the proposal before me but rather a previous proposal for the site access, which incorporated carriageway changes to accommodate the footway. However, the matters of vehicle movements, visibility and parking, were raised by the Highway Authority in their appeal supporting statement and I have therefore given these comments full consideration. The appellant has had opportunity to address these concerns during the appeal and, although rebuttal has been provided, in the absence of any formal road safety audit view I cannot be satisfied, further to the information provided and my site observations, for the reasons above, that the safety of highway users would not be harmed as result of the proposal.
22. I accept that other transport impacts of the proposals would not be severe in terms of traffic generation and congestion. However, notwithstanding the appellant's view that the effect of the proposal on highway safety would be less than severe I consider it to be of significant harm. That the proposed footway arrangement would likely be used less in Appeal B by pedestrians does not in my view make it materially less harmful given the risk identified above.
23. Therefore, the proposed access in both appeals would not accord with Policy TA5 of the LP, which amongst other things seeks to ensure that development proposals do not adversely affect the safety of highway users. Likewise, the proposal would not accord with the National Planning Policy Framework, 2019 (the Framework), with regard to highway safety, particularly paragraph 109.

Character and appearance

24. The appeal site for both Appeals runs along the top section of two gradually sloping fields beneath the main settlement of the village, bound by established hedgerow. The fields albeit not part of any protected landscape, currently provide a valuable buffer between the established settlement boundary and a

- solar farm, ensuring the two developments do not appear as one sprawling form.
25. The site is clearly visible from public areas including the recreation ground, and as demonstrated by the comprehensive Landscape Appeal Statement, the site is clearly seen from East Hill, associated rights of way, Millennium Viewpoint and Wheathill Lane which runs along the escarpment. When approaching from the North, the site's western hedgerow and the track form a clear boundary of the associated development of the village, with views of open countryside and wooded slopes beyond. The appeal site is also clearly seen from housing areas situated above the site which look down on to it.
 26. The proposed development of Appeal A would introduce up to 30 dwellings into the undeveloped agricultural land. Appeal B would provide up to 10 dwellings. Both proposals are indicatively shown to follow a similar linear arrangement of development off a spine road, with the wider site broadly aligning with existing housing development to the West. Appeal B would incorporate larger plots and houses covering a similar area to Appeal A.
 27. The introduction of housing development into the existing fields would result in the separation of the village and the solar farm being harmfully eroded, albeit not entirely, giving the harmful appearance of a much larger and wider reaching settlement overall. I accept that the detailed layouts of the proposed developments would be for future consideration. However, given the sloping topography of the site, it would appear that any form of residential development would be seen at harmful odds with the existing agricultural landscape.
 28. The proposals would also appear as incongruous parcels of development on the edge of the village when seen from East Hill and Wheathill Lane, projecting outward from the existing compact settlement. The harmful visual effect would be more pronounced with respect to Appeal A given the increased density of homes compared to Appeal B. However, the Appeal B proposals would still result in harm given the site is on previously undeveloped land over the same area as Appeal A.
 29. I acknowledge that the issue of landscaping is for future consideration and that the proposals do include a mix of two-storey and chalet bungalows. However, the indicative landscaping proposals would be unlikely to adequately screen the proposals without compromising the character and appearance of the area or affecting existing outlook by virtue of the height of that which would be required. Similarly, any intended landscaping for the purposes of screening would likely have minimal effect when viewed from above to the east.
 30. The landscape appraisals do not argue that there would be no landscape or visual harm, as a result of the proposals, but rather minor adverse effect. Nonetheless this still constitutes a degree of harm. The appellant contends that the proposed developments would reflect the character of the existing residential development which sits nearby. I cannot be certain of this given the outline proposal before me. However, I accept that the proposals would likely be able to accommodate good size plots with adequate separation distances between dwellings, as well as space for landscaping and open space.
 31. Notwithstanding the appellant's view that the presence of the solar farm would partially offset the effect of the proposed developments, for the reasons above

I consider it would harmfully create the appearance of a much larger village overall given its close proximity to the appeal site, particularly from viewpoints to the north and east.

32. I note that the proposals before me have reduced the site coverage of that previously dismissed at appeal and that previous studies identified this part of Milborne Port had a moderate capacity for development. However, I understand alternative sites were selected for development and for the reasons above, the proposals before me would significantly harm the character and appearance of the area, irrespective of whether that harm is less than that associated with the previous appeal.
33. Therefore, the proposals of both Appeal A and B would not accord with Policy EQ2 of the LP which seeks to ensure development proposals do not adversely affect the character and appearance of the area and enhance landscape character. For the reasons above the proposed developments would also not accord with the Framework in this regard.

Biodiversity

34. The appellant has provided an ecology appraisal dated, May 2020. However, there is little detail regarding the site's existing habitats, including hedgerows and their suitability to support foraging or commuting bats and other species. Regulation 9 of the Conservation of Habitats and Species Regulations, 2017, imposes a duty on decision makers to consider whether there is a reasonable likelihood of protected species, including bats, being present and affected by proposed development. As such I do not consider that such matters should be dealt with in future by means of condition or dealt with at reserved matters stage. In the absence of satisfactory information to the contrary, a precautionary approach should be taken given the site's rural location and established hedgerows.
35. I note from the indicative proposals that some areas of hedgerow would appear to be retained or improved. However, I cannot be certain of this given the outline application before me reserves such matters for future consideration.
36. The Council have identified that the proposed site sits within the catchment area of the Somerset Levels and Moors Ramsar site, as defined by the Conservation of Habitats and Species Regulations, 2017. The Council and partners are understood to be currently considering how to ensure development proposals, along with other plans and projects would not cause harm to the special interest features of the sites of international nature conservation importance. In such instances a precautionary approach should be taken. I acknowledge that it would appear initial discussions have taken place between the appellant and Wessex Water regarding waste water. However, bearing in mind my findings on the main issues and that I have concluded that the appeals should be dismissed, I have not pursued this matter any further.
37. Therefore, in the absence of substantive evidence to the contrary, the proposed developments would not accord with policy EQ4 of the LP which seeks to ensure development proposals do not adversely affect existing biodiversity and protected species. For the reasons above the proposed developments would also not accord with the Framework and its requirements relating to protected species.

Education provision

38. Appeal A would result in significant additional pressure on the existing village primary school and early years provision. The Local Education Authority (LEA) state that they objected to the proposal at the application stage as the proposed development would create a situation whereby the school could not provide for all the children from the proposed development. Capacity at the school is intended to increase through additional classroom provision. However, it is understood that this increased capacity would be in order to at least partly serve other nearby new development proposals.
39. The LEA's appeal supporting statement does not appear to definitively state that capacity cannot be achieved through improvement or extension of existing accommodation but rather that an assessment and feasibility study would be required. The LEA have requested that if Appeal A were allowed that an associated financial contribution be made for either the creation of additional capacity or if necessary, transport provision to nearby schools, the appellant has provided a Unilateral Undertaking which satisfies their requirement.
40. In the event of it being necessary, irrespective of the number of children needing to be transported to other schools away from the village, such an arrangement would be far from desirable for community cohesion and sustainability. The previous Inspector described such arrangements as the antithesis of good planning as schools form an essential element of a community's social requirements. That there is a degree of parental choice in school selection does not in my view offset the harm that would result from children being transported away from their home village for education. Likewise, notwithstanding the view of the appellant, I have no reason to consider that parents would not want their children to attend the local school which would be within around half a mile walking distance as opposed to other schools three to five miles away from the proposed development.
41. Therefore, although with respect to Appeal A, the appellant would fund the necessary measures required to ensure no adverse effect to local education provision, which would be of neutral weight, I do not have sufficient detail to satisfy myself that the proposed development's effect on primary school provision, particularly with regard to wider social cohesion would not be harmful. As such the proposal would not satisfy the objectives of the Framework in promoting healthy and sustainable communities, ensuring that an integrated approach is taken to planning housing development and community facilities.
42. However, given my findings on the other main issues, this matter has not been determinative in my consideration of the appeal. I also accept that it is beyond the control of the appellant that the LEA would only undertake feasibility studies regarding school expansion once planning permission was granted.

Other matters

43. That there were no objections on other policy grounds to the appeals including drainage and environmental health, albeit associated conditions were proposed by the Council, are of neutral weight.
44. The appellant suggests that if necessary the proposals of Appeal A could be amended by use of an appropriate condition to provide for accommodation for

the over 55's to ensure no adverse effect on education provision. However, as stated above the matter has not been determinative in the appeal.

45. The appellant identifies that significant weight should be afforded to the provision of new housing as identified in a previous Appeal Decision, (ref APP/M1005/W/17/3198996), I have dealt with this below.

Appeal A planning balance

46. With respect to Appeal A, the proposed development would harm highway safety, the character and appearance of the area and I have insufficient detail to conclude that biodiversity, including protected species would not be harmed. A unilateral undertaking has been provided which would result in public benefit in the shape of affordable housing and recreation facilities. The proposal would result in moderate economic benefit as a result of its construction and add up to 30 homes to the local housing mix. However, the identified benefits do not outweigh the identified harm overall.
47. The appellant points out that the latest housing land supply position has not been the subject of examination or test. However, the appellant was given opportunity to comment on the Council's updated position. Even if there is a shortfall in 5-year housing supply of that previously submitted and that the most important policies for determining the proposal should be considered out-of-date, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits identified above.

Appeal B planning balance

48. With regard to Appeal B the proposed development would harm highway safety, the character and appearance of the area and biodiversity. The harm to the character and appearance of the area would only be likely to be marginally less than Appeal A as it would appear the same size site would effectively be the subject of development, albeit lower density. A unilateral undertaking has been provided which would likely result in public benefit in the shape of affordable housing. The proposal would result in minor economic benefit as a result of its construction and add 10 houses to the local housing mix. However, these benefits do not outweigh the identified harm.
49. The appellant points out that the latest housing land supply position has not been the subject of examination or test. However, the appellant was given opportunity to comment on the Council's updated position. Even if there is a shortfall in 5-year housing supply of that previously submitted and that the most important policies for determining the proposal should be considered out-of-date, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits identified above.

Conclusion

50. For the reasons above, having had regard to the Development Plan and Framework as a whole, both Appeal A and Appeal B are dismissed.

M Scriven

INSPECTOR