



Appeal Decision

Site Visit made on 4 December 2020

by **T Gethin BA (Hons), MSc, MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 12 January 2021

Appeal Ref: APP/R3325/W/20/3257972

Land at Tail Mill, Tail Mill Lane, Merriott, Somerset TA16 5PF

- 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 Messrs Martin and Patrick Tharratt Quinn, Kingspan Timber Solutions Ltd, against the decision of South Somerset District Council.
 - The application Ref 19/00698/OUT, dated 23 March 2019, was refused by notice dated 27 February 2020.
 - The development proposed is described as The proposed development at Tail Mill consists of the erection of 9 No. residential dwellings designed around the Potton portfolio of house types, which will allow flexibility of design in terms of visual appearance, reflecting the local vernacular with a mix of material palette and form, reflecting some of the design attributes around the former sail cloth/textile factory buildings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal is made in outline with all matters except access reserved for future consideration. I have therefore assessed the submitted drawings as merely illustrative insofar as they relate to the reserved matters.
3. Although not included in the description of development, the creation of a commercial access road leading to the nearby industrial unit is referred to in several of the appellants' appeal documents. The submitted indicative plans also show the access road. Although such access was the subject of a recent, separate appeal decision, based on the submitted evidence and the indicative plans, I have determined this appeal on the basis that it includes the proposed provision of the residential units described in the description of development and an access road running through the site for the nearby industrial unit.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the surrounding area and the setting of designated heritage assets.

Reasons

5. The appeal site consists of an open, undeveloped field on the outskirts of the village of Merriott. The submitted Design and Access Statement sets out that the field, unfarmed more recently, was formerly used for flax production when Tail Mill was operating as a traditional mill and subsequently as summer

grazing land. The site is situated adjacent to the Merriott Conservation Area (CA) and near to the grade II listed Tail Mill which, as set out in the Heritage Statement, includes a number of historic industrial buildings associated with the former sailcloth textile factory. The surrounding area consists of fields and the relatively contained form of the Tail Mill complex which, due to the degree of separation and the presence of intervening open fields and countryside, appears as a reasonably distinct cluster of buildings and somewhat separate entity from the wider settlement of Merriott. The edge of the built environment in the vicinity of the site is also well defined by the row of housing (including 1-5 Tail Mill Lane and the new build house) and the boundary treatment that runs between the end of those properties' rear gardens and the site.

6. The site therefore reads as forming part of the open countryside and it positively contributes to the verdant appearance and rural character of the landscape surrounding the established built environment in the locality, including the Tail Mill complex. Due to its position, limited boundary treatment – including new planting and post and rail fencing – and being bounded by the highway and public footpath on two sides, the site is also a visible and notable feature in the locality. Although there is a modern, relatively large industrial unit located in the adjoining field, its set down nature, modest height and broadly agricultural appearance means that it does not appear out of keeping in relation to its rural setting. Despite it being visible in the surrounding area, including in near views and from the wider area to some extent, it is therefore not experienced as a dominant and harmful feature in the locality.
7. Given the site's position in relation to the CA and the Tail Mill listed building, it forms part of their settings. The settings of those designated heritage assets includes, amongst other aspects, the surrounding undeveloped rural landscape which, as shown on the 1886 OS map contained within the appellants' Landscape Appraisal, is long-established. As set out in the Landscape Appraisal, and although dissimilar in terms of appearance to other surrounding buildings, Nos 1-5 also form part of the historic Tail Mill complex and the OS map extract shows them within the grouping of the original Tail Mill buildings.
8. The significance of the listed building and the part of the CA encompassing Tail Mill stems from, in part, their architectural and historic value and the setting of their well-defined built form set within undeveloped rural surroundings, which the site positively contributes to. The South Somerset Local Plan 2006 – 2028 (SSLP) and the National Planning Policy Framework (Framework) seek to conserve the settings of designated heritage assets. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) also requires special regard to be had to, amongst other aspects, the desirability of preserving the setting of listed buildings.
9. Although it would be adjacent to it, the proposed development would significantly extend the built environment beyond the established and well-defined edge of Tail Mill and involve, in the words of the Heritage Statement, built form projecting into open countryside. Rather than forming a natural rounding off the built environment, as suggested in the appellants' appeal statement, it would incongruously branch out on a limb from the contained form of the adjoining Tail Mill complex and extend well beyond the end of the industrial unit. The proposed development would therefore erode the distinct cluster and development pattern of Tail Mill and read as a significant intrusion into its undeveloped countryside setting.

10. As set out in the Landscape Appraisal, the site is screened by existing built form, such as the buildings to the north west, and is not visible in longer distance public views due to, amongst other aspects, topography and its setting within a natural bowl. Existing and additional soft landscaping within the site – including the landscaped area shown in the submitted illustrative drawings to the south east of the proposed access road – and on its boundaries would also screen the proposed development to some extent and reduce its visibility in the locality. However, it seems to me that soft landscaping could not realistically screen the proposed development to such an extent that its protrusion into the rural landscape and erosion of the clear grouping of the Tail Mill built environment would go unnoticed. For example, it is likely that it would be visible from the adjoining highway and footpaths, through the site entrance and between the boundary planting and trees. I observed on my site visit that it would also be visible to some extent from the wider area, above the proposed boundary hedging and also when plants and trees are not in leaf, such as in the vicinity of the Landscape Appraisal viewpoints 6-8 and 12 where the land begins to rise to the south and south-west for example.
11. Accordingly, the proposed development would be experienced as significantly encroaching upon and eroding the open and rural landscape character of the surrounding area. In turn, this would significantly detract from the open ground approach and rural setting of the designated heritage assets, whose significance would thus be harmed.
12. In coming to this view, I have taken account that the surrounding landscape is not designated and that other developments – including the conversion of historic buildings and new build housing – have been allowed in the CA and within the Tail Mill complex. Containing a mixture of historic and some newer development, I recognise that Tail Mill exhibits a somewhat mixed character, is the subject of on-going re-development, and includes a variety of terraced, detached and larger standalone buildings with differing layouts, heights, designs and styles. With scale, appearance, layout and landscaping being reserved matters, I recognise that the development could, through the use of conditions, therefore be designed to sensitively respond to its local context and respect the established built environment of Tail Mill and its local vernacular and materials, similar to the recently constructed detached house adjoining No 5. It has been put to me that the design of each of the fully serviced custom/self-build plots would also be within the parameters – including outline design guide and vision – of the submitted Design Guide (Custom Build with Pottton). However, these matters do not lead me to a different conclusion.
13. Some appeal decisions have been drawn to my attention relating to proposals elsewhere. Those cases are noted, but the circumstances, including their location in different districts with different development plans, are sufficiently at variance that I have judged this appeal proposal on its own merits.
14. For the above reasons, I conclude that the proposed development would harm the character and appearance of the surrounding area and the setting of designated heritage assets. I therefore find that it conflicts with SSLP Policies EQ2 and EQ3. Amongst other aspects, these require development to promote and reinforce local distinctiveness, respect local context, conserve landscape character and safeguard the significance, character, setting and local distinctiveness of heritage assets.

15. Due to the site's situation in relation to the listed building and the Merriott CA as a whole, its relatively contained extent and the scale of the development proposed, the appeal proposal would, in the words of the Framework, result in less than substantial harm to the designated heritage assets. In such circumstances, the Framework indicates that the less than substantial harm should be weighed against the public benefits.
16. Given I have found that the industrial unit does not harm the character and appearance of the surrounding area, I give limited weight to the benefits put to me regarding the proposed development screening it from the south and Tail Mill Lane. There is limited evidence before me that indicates that there is significant conflict between commercial and construction traffic using the narrow Tail Mill lane and residential vehicles, local residents and pedestrians. Accordingly, I give limited weight to the suggested benefits in relation to commercial traffic utilising the proposed access road through the site and avoiding the CA and existing residential environment. The purported benefits relating to the appeal proposal allowing for future commercial development to the north of the site also attract limited weight given the limited details provided and that any such development would also likely need to be considered in its own right as part of a separate planning application process.
17. The proposal would however provide various public benefits. This includes the windfall development providing accessible dwellings adding to local housing stock, which is in short supply, and increasing the area's housing mix and availability of custom and self-build units, which are in demand. There would be some short-term construction employment and, being in an accessible location with good access to local services and facilities, the development would help to support the vitality of the rural community. Additionally, while it seems to me that any wildlife benefits would to some extent be offset by developing an undeveloped field, there may be some limited wildlife benefits from the proposed soft landscaping of the site, including from the planting of native trees. However, based on the development's scale, the totality of the benefits would be relatively limited and do not outweigh the great weight given to the conservation of designated heritage assets.

Other matters

18. After the appeal was submitted, the Council completed an assessment of housing land supply and submitted its *Five-Year Housing Land Supply Paper* (November 2020) with its appeal statement. The Council sets out that the report, covering housing supply over the period 2020-2025, demonstrates that it now has a supply equivalent to 6 years. However, on the basis that the document was not in the public domain when the appeal was submitted and that its contents have not been challenged, tested or scrutinised by any interested third parties, it has been put to me that the weight given to it in the overall decision making process should not be significant.
19. Paragraph 74 of the Framework sets out how authorities, through either a recently adopted plan or in a subsequent annual position statement produced through engagement with relevant parties and considered by the Secretary of State, can demonstrate a five year supply (with appropriate buffer) of deliverable housing sites. However, the Planning Practice Guidance indicates that there are also other ways in which authorities can demonstrate a five year housing land supply, including by using the latest available evidence – such as

- a Strategic Housing Land Availability Assessment, Housing and Economic Land Availability Assessment or an Authority Monitoring Report.
20. Amongst other aspects, I note that the Council's report refers to the Housing and Employment Land Availability Assessment and that the sites within it have been identified in conjunction with the development industry. Accordingly, and with limited evidence to indicate otherwise or which question the validity of the report's data and findings, I am satisfied that it provides an up-to-date picture of housing land supply in the district.
 21. However, even if the Council's planning policies were to continue to be considered out of date according to Framework paragraph 11d and footnote 7, the Framework is clear that in such circumstances, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development. Designated heritage assets are included within the list of policies that protect areas or assets of particular importance and which provide a clear reason for refusing the development. I have found that the appeal proposal would harm the settings of the Merriott CA and the Tail Mill listed building. There is therefore a clear reason for refusing the development proposed.
 22. Given the Council's latest position with respect to housing land supply, its appeal statement alleges that there is no identified need for additional housing in the rural area. The proposed development is therefore also alleged to be contrary to SSLP Policies SS2, SS4 and SS5, which set out amongst other aspects the Council's approach to delivering housing and development in rural settlements. However, whilst I take the main parties' representations on this matter seriously, they do not lead me to a different overall conclusion on the main issue. Given I am dismissing the appeal in relation to the main issue, with regards to the refusal reason and policies listed in the Council's Decision Notice, it is also not necessary to pursue this matter further because it could not lead me to a different overall decision.
 23. Following the Council's decision on the planning application, Natural England provided advice regarding the effect of development proposals in the district on designated nature conservation sites due to the potential for residential development, in particular, to lead to increases in phosphates and nitrates. This indicates that the appeal proposal may be likely, in combination with other plans and projects, to have a significant effect on the internationally important interest features of designated areas. However, as I am dismissing the appeal for other reasons, I am not pursuing this matter further because it could not lead me to a different decision.
 24. I note the appellants undertook pre-application discussions with the Council and subsequently amended the proposed development and submitted visual impact and heritage assessments. It has been put to me that the Council has also taken a different approach to the appeal proposal compared to other schemes in the locality, such as the nearby Zero C major development and a large solar farm in the open countryside. However, these matters are not determinative as to the acceptability of the appeal proposal. I have therefore considered it on its own merits, based on the submitted evidence.

Planning Balance

25. As the appeal is made in outline with all matters except access reserved for future consideration, I am satisfied that the proposed development could be designed to be suitable in relation to the matters of appearance, landscaping, layout and scale. Nevertheless, for the above reasons, I have found that it would harm the character and appearance of the surrounding area and the setting of designated heritage assets. Accordingly, it conflicts with SSLP Policies EQ2 and EQ3 and the provisions in the Framework in relation to conserving and enhancing the historic environment. Consequently, and irrespective of the extent of deliverable housing land supply in the district, the approach set out in paragraph 11d of the Framework is not applicable in this case. However, planning law still requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise.
26. On the basis that I have found that the existing industrial unit to the north of the site does not harm the character and appearance of the surrounding area, I give limited weight to the purported benefits regarding the appeal proposal screening that unit from the south and Tail Mill Lane. Given the limited evidence that there is significant conflict between commercial and construction traffic using the narrow Tail Mill lane and local residents and pedestrians, I also give limited weight to the benefits and planning gain that the appellants suggest would occur in relation to commercial traffic utilising the proposed access road through the site and avoiding the CA and residential uses.
27. Referring to the proposed development providing for a second phase to include a commercial development to the north of the site, the submitted Planning Statement sets out that this will bring employment opportunities to the area and support the local economy. Be that as it may, I place limited weight on this given the limited details provided in relation to this and on the basis that any such development would also likely need to be considered in its own right as part of a separate planning application process.
28. It has been put to me that the nine plots within the site would have sufficient parking and access arrangements and that there is no objection in relation to highway and parking issues. With layout a reserved matter, the units could also be designed and positioned to avoid harming the living conditions of surrounding residential uses. Be that as it may, these matters are neutral in the planning balance.
29. Secured through the appellants' Unilateral Undertaking, the appeal proposal would provide nine custom and self-build units. These are in demand, supported by the Framework, encouraged and promoted by government, and would provide additional supply and choice to people seeking a custom/self-build opportunity in the area.
30. I recognise that the number of single plot permissions is not relevant as to whether demand for custom/self-build is being met within the district because such permissions are not necessarily restricted or targeted for such purposes. However, and notwithstanding overall housing land supply in the district, the available evidence – including in relation to CIL monitoring data – does not indicate that the demand for custom and self-build plots in the district, as recorded on the Council's Self and Custom Build Register, is not being met.
31. It has been put to me that demand is likely to be higher than that recorded on the Register, which is said to be not well publicised, and that self-build CIL

exemptions exceeding recorded demand in recent years indicates that demand exceeds that shown on the Register. Be that as it may, I have little substantive evidence which indicates that there is an unmet latent demand and that the overall supply of custom/self-build plots in the district falls short of this. With legislation requiring local authorities to have regard to their local register when exercising their planning and other relevant functions, the Register is also the official method for custom-builders to indicate their interest to acquire suitable land to build their own home. Furthermore, I note that the Owners covenant in the Unilateral Undertaking to only market the nine proposed plots on the site to persons registered on the Council's self build register. Accordingly, I give the Register significant weight and, and on the evidence before me, find that the appeal proposal, although providing additional supply and choice, is not of itself needed to meet the demand for custom and self-build units in the area.

32. Notwithstanding this, the appeal proposal would provide additional windfall housing, which is in demand nationally and locally. Its supply, irrespective of the Council's ability to demonstrate a sufficient housing land supply, is also neither unlimited nor capped and I note that SSLP Policy EQ2 refers to considering development proposals against housing demand and need.
33. The provision of the generously proportioned and accessible dwellings, which would add to the housing stock in the locality and increase the area's housing mix and availability of custom and self-build units, therefore weighs in favour of the development. With the site being situated in an accessible location close to Merriott, occupiers of the appeal proposal would have sufficient access to local services, facilities and public transport, which would in turn help to support the vitality of the rural community. During the construction period, the proposed development would provide some local construction-related employment. The proposed landscaping of the site and its boundaries would also provide some albeit, as I have set out above, limited ecological benefit.
34. However, the contribution of the proposed development towards housing would, as per the appellants' appeal statement, be small. Given its scale, the overall benefits of the appeal proposal would also be relatively limited. Accordingly, the benefits of the appeal proposal and the demand for custom/self-build units in the area, even if it were not currently being met, do not outweigh the conflict with the development plan and the great weight given to the conservation of designated heritage assets.

Conclusion

35. For the above reasons, the appeal is dismissed.

T Gethin

INSPECTOR