



Appeal Decision

Hearing held on 25 September 2013

Site visit made on 25 September 2013

by John Wilde C.Eng M.I.C.E.

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 October 2013

Appeal Ref: APP/Q3305/A/13/2196402

Land north of Church Lane, Baltonsborough, Glastonbury, Somerset, BA6 8RP

- 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 SA, RWA, RGC Clapp against the decision of Mendip District Council.
 - The application Ref 2012/2611, dated 31 October 2012, was refused by notice dated 22 April 2013.
 - The development proposed is a residential development for up to 41 houses (about 33% affordable) open space, allotments, site for village shop, car park, enlarged churchyard for St Dunstan's Church and footpath improvements thereto.
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Decision

1. The appeal is allowed and planning permission is granted for a residential development for up to 41 houses (about 40% affordable) open space, allotments, site for village shop, car park, and footpath improvements to St Dunstan's Church at Land north of Church Lane, Baltonsborough, Glastonbury, Somerset, BA6 8RP in accordance with the terms of the application, Ref 2012/2611, dated 31 October 2012, subject to the conditions contained within the attached schedule.

Procedural matters

2. The application has been made in outline, with details of access to be considered at this stage. Layout, scale, appearance and landscaping have been reserved for later determination. The submitted drawings did include a proposed site plan but made clear that this was for illustrative purposes only.
3. The planning application was originally described as *a residential development for up to 41 houses (about 33% affordable) open space, allotments, site for village shop, car park, enlarged churchyard for St Dunstan's Church and footpath improvements thereto*. During the application process however the offer to enlarge the churchyard was declined by the Parochial Church Council. Furthermore it became clear during the application process that a contribution for education provision was not warranted due to falling pupil numbers. The appellants consequently increased their affordable housing offer from 33% to 40% (up to 25 open market and 16 affordable dwellings). I have therefore revised the description of the proposed development as shown in the decision above.

4. The Council's second reason for refusal related to the provision of public open space and affordable housing. A Unilateral Undertaking (UU) was supplied by the appellants prior to the Hearing. This document would guarantee the provision of, amongst other things, affordable housing and public open space within the site. It also provided for the provision of a new village shop should the existing one permanently cease trading within three years of the grant of planning permission. There was however discussion at the Hearing regarding the fact that with the wording of the UU, should the reserved matters application for the detailed design of the proposed shop be refused by the Council then no further applications could be considered. A revised UU was therefore submitted by the appellants following the closure of the Hearing. This UU overcomes the second reason for refusal and this matter will not be referred to further in this decision.

Application for costs

5. At the Hearing an application for costs was made by Messrs SA, RWA, RGC Clapp against Mendip District Council. This application is the subject of a separate Decision.

Main Issues

6. The main issues are:-
 - (a) The effect of the proposed development on the character and appearance of the area.
 - (b) Whether or not the proposed development would be sustainable in transport terms.
 - (c) Whether or not the proposed development would benefit economic activity.

Reasons

7. At the Hearing it was confirmed that the Council cannot demonstrate a five year supply of deliverable housing sites. This means that the starting point for the consideration of this appeal is paragraph 49 of the National Planning Policy Framework (the Framework). This makes clear that *housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered to be up to date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.*
8. The Council's decision letter referred to policy S1 of the Mendip District Local Plan 2002-2011. This policy makes clear that Baltonsborough is defined as a village and that outside its development limits development will be strictly controlled and will only be permitted where it benefits economic activity and maintains or enhances the environment and does not foster growth in the need to travel.
9. The policy does however belong to a development plan that is dated and where the development boundaries were set a considerable time ago. Furthermore, policy S1 can be construed to be predominantly a housing supply policy, and in the absence of a five year housing land supply should, according to the Framework, be considered to be not up to date.

10. The other two policies referred to by the Council relate to the replacement Part 1 Mendip District Local Plan (RMDLP). This is an emerging plan that is yet to be subject to examination and consequently these policies attract very little weight.
11. Paragraph 14 of the Framework indicates that the presumption in favour of sustainable development means that *for decision taking, where the development plan is absent, silent or the relevant policies are out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole*. This is therefore the basis upon which I must proceed.

Character and appearance

12. The appeal site is a relatively flat rural field enclosed by high hedgerows and laid to grass. There is a public right of way (PROW) running across it from south to north.
13. The proposed development would change the nature of the appeal site from that of a rural field to a residential estate. There would therefore be a marked change to its character and appearance and this would be most readily noticeable to users of the PROW. Views of the proposed development from its access off Church Lane would also be available, and the extent of the further views from Church Lane would be dependent on the amount of existing hedgerow that would be removed. At the Hearing it was made clear that this hedgerow could remain except where removal would be necessary for vehicular sight lines. On the assumption that the majority of the hedgerow would remain there would also be views of the upper sections of the proposed dwellings from a popular walk by the side of the mill stream to the south of the site. There would therefore be some harm to the character and appearance of the area.

Transport accessibility

14. In terms of transport sustainability, Baltonsborough is a reasonably sized village and benefits from a pub, a village shop and post office, a primary school and a village hall. All of these facilities would be a short walk from the proposed development. A limited bus service connects Baltonsborough with Wincanton and Street and this service also connects to Castle Cary Station on the Paddington main line. Car journeys to the towns of Street, Glastonbury and Wells would also be relatively short.
15. I also note that in the emerging draft Part I Mendip District Local Plan (DMDLP) Baltonsborough is deemed to be a primary village and is ranked 6th out of 95 settlements in Mendip in a sustainability assessment for access to services in the Council's evidence base used for the DMDLP. I also note that the highway authority (HA) have not objected to the proposed development on highway or sustainability grounds. Overall, whilst not as accessible as a town centre location, I consider that the proposed development would be reasonably accessible and sustainable in transport terms, and this is not therefore a factor that can weigh against the proposal.

Economic activity

16. The proposed development includes a potential replacement shop. The appellants made clear during the Hearing that the shop is included within the

proposal because they were aware that the owners of the current shop in the village are trying to sell. The shop included within the proposed development would only be built if the existing shop were to cease trading within three years of the proposed development's planning permission. The Council and local people had concerns that the potential provision of a new shop within the proposed development could have a detrimental impact on the existing shop, making it difficult for the owners of that shop to sell. If the proposed shop then turned out to be unviable, the Council could foresee a situation where the village had no shop.

17. This to me seems to be a hypothetical and unlikely scenario, and whilst I give little weight to the provision of the shop in support of the proposed development I do not consider that it should be seen as a negative factor.
18. In the broader economic sense the proposed development would sustain jobs during the construction phase, would increase local spending power and result in a significant contribution to the area through the Government's New Homes Bonus Scheme. I cannot therefore accept the Council's conclusion in their decision letter that the proposed development would fail to benefit economic activity.
19. I also note that the local primary school support the application as school numbers have fallen and additional pupil numbers would support the viability of the school.

Conclusion on the three main issues

20. The proposed development would provide up to 41 new dwellings of which 40% would be affordable. In light of the government's intention to *boost significantly the supply of housing*¹ this carries significant weight. Against this I have found that the development would cause some harm to the character and appearance of the area. This would not however be to a greater degree than any similar Greenfield development, and the Council confirmed at the Hearing that many of the future rural housing schemes will be on Greenfield sites. I have also found that the issues of transport sustainability and economic activity do not weigh against the proposed development. It follows that there are no adverse impacts that significantly and demonstrably outweigh the benefits of the new market and affordable homes.

Other matters

21. Various matters of concern were raised by local residents attending the Hearing. The scale of the development was a concern for several people, and my attention was drawn to various other sites in the village either under construction or going through the planning process. The Baltonsborough Community Led Plan (April 2012) made clear that 86% of villagers wanted to see smaller scale developments up to a maximum size of ten houses. This plan does not however form part of the development plan and can be afforded only very limited weight in my determination. I am also conscious that the RMDLP proposed only 27 houses in the village up to 2028. As previously stated however, this plan has yet to undergo examination in public and therefore carries very little weight.

¹ Framework Paragraph 47

22. The existence of the Community Led Plan and its content does impinge upon the question of localism and to what extent local communities should influence planning matters in their area. The Government has however made very clear that community involvement carries with it the responsibility to ensure that local plans are prepared expeditiously to make provision for the future needs of their areas, and that at least until such plans are at a reasonable advanced stage of preparation it will remain appropriate to consider development proposals through the planning application process, applying long standing principles and policies, even though this may result in the grant of permission in the face of local opposition.
23. Comments were also made that the amount of affordable housing contained within the proposed development was not justified in respect of local need. The Council however confirmed that there was a district wide need for affordable housing which this development would go some way to fulfilling.
24. Flooding was also a concern for several villagers, and I was shown photographs of water ponding on the appeal site. A Flood Risk Assessment was however provided at application stage. The conclusions of this report were accepted by both the Environment Agency and the local Drainage Board and whilst the site may flood at the present time, I have not been provided with significant evidence to persuade me that a suitable sustainable drainage scheme could not be implemented as part of the development.
25. As stated previously the HA did not object to the proposed scheme and whilst some of the roads into the village are relatively narrow I have been provided with no significant evidence that would lead me to a different conclusion to that of the HA. I also note that the proposed development would provide two parking spaces per dwelling, which would comply with the HA parking standards, and a further 12 in front of the proposed village shop.

Conditions

26. The conditions set out in the accompanying schedule are based on those suggested by the Council and discussed at the Hearing. Where necessary I have amended the wording of these in the interests of precision and clarity in order to comply with advice in Circular 11/95.
27. In accordance with the flood prevention recommendations I have imposed conditions requiring further details of ground levels and finished floor levels and also for the details of a sustainable drainage scheme to be submitted and approved. In the interests of the health of future occupiers I have imposed a condition requiring the submission and approval of a suitable sewerage scheme. I have also imposed a condition to ensure the provision of formal and informal recreation areas and one to ensure that no more than 41 dwelling are erected, in line with the outline planning permission.
28. In the interest of highway safety I have imposed a condition that requires further details of the on-site road network to be submitted and approved and also one that prevents development within the site until the access from Church Lane has been constructed up to base course level. In order to prevent excessive journeys to the proposed shop from outside the village I have imposed conditions relating to its size and use.

29. Otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning. I have therefore imposed a condition to this effect.

Overall conclusion

30. In light of my above reasoning and having regard to all other matters raised, I conclude that the appeal should be allowed.

John Wilde

Inspector

Richborough Estates

Schedule of conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The reserved matters submissions required by condition 1 shall include details of the existing and proposed ground levels and the principles of establishing that the finished floor levels of all buildings shall be a minimum of 300mm above the final ground levels on the site. The development shall be carried out in accordance with the approved details and retained thereafter.
- 5) The reserved matters referred to in condition 1 shall include details of the siting, design, external appearance, landscaping, means of access and play equipment and a programme of implementation for all formal and informal recreation areas. These areas shall then be provided in strict accordance with the approved details and programme of implementation and retained thereafter.
- 6) The outline planning permission hereby approved relates to the erection of up to 41 residential units. The application(s) for reserved matters shall not exceed 41 residential units.
- 7) The development hereby permitted shall be carried out in accordance with the following approved plans: 919/6483/2, S4996/001A, S4996/SK01E, S4996/101A validated on 31st October 2012.
- 8) No development shall take place until a surface water drainage scheme, based on sustainable drainage principles, together with a management and maintenance plan for the lifetime of the scheme, has been first submitted to and approved in writing by the Local Planning Authority. The details shall be based on the Flood Risk Assessment by Craddy Pitchers Davidson dated 2/10/12 (document reference 9481w0002). No building hereby permitted shall be occupied until the sustainable drainage scheme has been completed in accordance with the approved details. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan.
- 9) No development shall take place until details of a scheme for the disposal of sewage has been submitted to and approved in writing by the local planning authority. No building shall be occupied until the disposal scheme for the development has been constructed in accordance with the approved details.
- 10) No development other than that required by this condition shall take place until the proposed site access as shown on drawing S4996/101A

has been first laid out and completed to at least base course level in accordance with the approved plan.

- 11) No development shall be take place until full details of the proposed estate roads, footways, footpaths, tactile paving, cycle ways, bus stops/bus lay-bys, verges, junctions, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car, motorcycle and bicycle parking, street furniture, a highway drainage scheme showing details of the gullies, connections, soakaways and means of attenuation; and a timetable for provision of such works, have been submitted to and approved in writing by the LPA. No dwellings, or the shop, shall be occupied until the items so approved have been provided in accordance with the approved details, unless an alternative timetable is agreed in writing with the LPA.
- 12) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order (or any order revoking and re-enacting that Order with or without modification) the retail shop and cafe hereby approved shall not be used other than as a convenience store with ancillary comparison sales and cafe and for no other purpose in Class A1 of the schedule to that Order, without the prior written approval of the Local Planning Authority. No more than 10% of the net retail sales area of the convenience store hereby approved shall be used for the sale of ancillary comparison goods.
- 13) The village shop/cafe hereby approved shall not exceed 200sqm gross floor area.

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APPEARANCES

FOR THE APPELLANT:

Mr Bill Lowe
Mr Hugh Webster
Mr Robert Clapp
Mr Simon Clapp

Bill Lowe Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Mr Oliver Marigold

INTERESTED PERSONS:

Mr Kevin Sherrard
Mr John Rawlings
Mr Steve Everitt
Mrs Ali Blackburn
Mrs Liz Payne
Mrs Sylvia Godfrey
Mr John Godfrey
Mrs J Buckle

All local residents

DOCUMENTS

- 1 Copy of letter of notification of the Hearing dated 22 August 2013 with attached circulation list.
- 2 Council's response to the appellants costs application.

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