



Appeal Decision

Hearing held on 14 February 2017

Site visit made on 14 February 2017

by JP Roberts BSc(Hons), LLB(Hons), MRTPI

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

Decision date: 11 August 2017

Appeal Ref: APP/F1230/W/16/3156531

Land off Cattistock Road, Maiden Newton, Dorset

- 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 Ian Sargent against the decision of West Dorset District Council.
 - The application Ref WD/D/15/000832, dated 31 March 2015, was refused by notice dated 16 February 2016.
 - The development proposed is residential development for up to 20 dwellings, together with access, associated infrastructure and public open space.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application was made in outline with all matters reserved for subsequent approval other than access into the site. The application was amended during its consideration by the Council to omit a footpath along the Cattistock Road frontage. I have taken the amended plan into account in my decision.
3. A planning obligation under Section 106 of the Town and Country Planning Act 1990 was submitted after the close of the Hearing, which deals with affordable housing and public open space. I shall refer to this in more detail below.
4. Local residents argued that the proposal contained insufficient detail to enable its implications to be adequately assessed. The Council was content to deal with the application as submitted. Although the proposal is in outline, it was accompanied by an indicative layout and visualisations. I consider that I have sufficient material before me to enable me to reach a reasoned and informed decision.

Main Issues

5. The main issues are:
 - i) the effect of the proposal on the character and appearance of the surrounding area, which lies within an Area of Outstanding Natural Beauty (AONB);
 - ii) the effect of the proposal on heritage assets which includes St Mary's Church, a Grade I listed building, the Maiden Newton Conservation Area and archaeological interests on the site; and
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- iii) the overall planning balance.

Background

6. Since the making of the appeal, the Council has resolved to approve a development of 9 dwellings on the same site. That proposal would see the houses located towards the eastern side of the site, with access taken from a spur of Church Road, leaving the Cattistock Road boundary intact. I shall refer to this in more detail below.

Reasons

Character and appearance

7. The site is on the northern edge of the village, and forms an irregularly shaped sloping grassy field stretching from Cattistock Road down to the River Frome, bordering onto the grounds of St Mary's Church, a Grade I listed building, which lies on the south, and to dwellings on Manor Farm Close.
8. The site falls outside of the defined settlement boundary, and is treated in policy terms as being in the open countryside. Development in this location would conflict with Policy SUS2 of the West Dorset, Weymouth & Portland Local Plan 2015 (LP), which, amongst other things, sets out the housing supply targets for the area and aims to restrict development outside of defined settlement boundaries, other than for specific forms of development which do not apply here. One of the aims of the policy is to safeguard the area's special environment. The proposal would clearly conflict with this policy, albeit that the policy is out of date, a matter to which I shall refer below.
9. The change from an open field to a small housing estate would result in some small harm to the rural character and appearance of the area, but having regard to the relatively small scale of the proposal, its relationship to existing built development and the visually contained nature of the site (to which I refer in more detail under landscape considerations), I consider that the extent of harm to the rural character of the area would be small.
10. There is no dispute that the proposal does not constitute major development in the AONB to which paragraph 116 of the National Planning Policy Framework (the Framework) applies. Accordingly, the proposal needs to be assessed in the light of paragraph 115, which says that weight should be given to conserving landscape and scenic beauty in AONBs, which along with National Parks and the Broads, have the highest status of protection in relation to landscape and scenic beauty.
11. The site lies within the Upper Frome Valley landscape character area as defined in the West Dorset Design Guidelines – Landscape Character Assessment February 2009. It describes a number of landscape characteristics of the area, few of which apply to the appeal site. I consider that the proposal would have a very limited and localised impact. The site is well contained, being flanked by built development to the south and much of the eastern boundary, and is well screened by topography and planting from other views. It would be barely glimpsed from Dorchester Road to the south or from Chilfrome Road to the west. The access from Cattistock Road would open up views which are currently impeded by the roadside bank, but these views would be limited. The

- loss of hedgerow to create the access would be of negligible significance in landscape terms.
12. A public footpath crosses the site from where there would be major adverse change, but this change would be very localised and the new houses would be seen against a background of existing dwellings to the south and east. I note that the Council's Landscape Officer and the AONB Team had no landscape objections and I agree that the proposal would have a very limited impact, and would not harm the wider scenic beauty of the AONB or conflict with LP Policy ENV1 which aims to protect important landscapes, seascapes and sites of geological interest.
 13. Although not referred to in the reasons for refusal, local residents alleged a conflict with LP Policy ENV3, which deals with the green infrastructure network. It aims to protect spaces and linkages that are generally valued for their wildlife, geological, landscape or historic importance and which may also have recreational value and help reduce flood risk. It says that development that would cause harm to the green infrastructure network will not be permitted unless clearly outweighed by other considerations. The supporting text to the policy makes it clear that it is intended to designate land as part of the green infrastructure network in future development plans, but it has not done so to date. The policy says that, in the interim, it is to apply to specified categories of land identified in other plans, which do not apply here, and to historically important spaces identified in adopted Conservation Appraisals.
 14. The Council adopted the Evershot, Maiden Newton, Frampton, Cattistock, Frome St Quinton and Bradford Peverell Conservation Area Appraisal in January 2007. In the section entitled "Spatial Analysis" it mentions that an "earlier settlement in Maiden Newton possibly occupied The Quarr, adjacent to which is the church and former Manor Farm." In discussing the Church Road and its water meadows sub-area, it says that the water meadows are an extensive green wedge with waterside scrub along the watercourses and larger trees towards the south, near the Mill and bridge, which like the adjoining Quarr, an extensive green space stretching from Cattistock Road to Manor Farm, provide the sub-Area with a countryside character. The appraisal also refers to the large area of attractive water meadow along the Frome and mill stream as forming one of the particularly important characteristics of the conservation area.
 15. Whilst the water meadows and the Quarr are noted for their scenic qualities, and their possible historical connotation is mentioned, I consider that this is not the same as specifically identifying the site as forming part of an "historically important space". As the requirements of the policy are onerous, I consider that the clear identification referred to in the supporting text to the policy is not achieved here and thus I consider that the site does not form part of the green infrastructure network to which Policy ENV3 applies.
 16. I therefore conclude on the first main issue that the proposal would result in small harm to the character and appearance of the area, and would conflict with LP Policy SUS2. There would no substantive conflict with Policies ENV1 or ENV3.

Effect on heritage assets

17. The Maiden Newton Conservation Area is focussed on a historic market place and embraces historic buildings lining the main routes through the village as well as a wide area of water meadow and open space alongside the River Frome.
18. Cattistock Road has a mixed character; the part of the road nearest the village has dwellings lining both sides of the road, but further along the road, adjacent the appeal site, the west side of the road is marked by a high bank topped with planting. The bank, hedging and the narrow width of the road, and lack of a footpath, give the lane a semi-rural character, before linking to a further line of dwellings to the north, and then into the open countryside. Whilst the hedge has not been subject of any recent maintenance, I do not feel that it is in such a poor condition as to have a negative impact on the conservation area; rather it reinforces its semi-rural character. There are also a number of modern developments along this part of Cattistock Road which do not contribute to its character or appearance.
19. The amended plan submitted during the consideration of the application omitted the provision of a footpath along the road frontage. The opening up of the bank would provide views across the site and beyond, but it would be a narrow vista which would not have a significant impact on the wider conservation area. However, the opening up of the access into this roadside bank, and the provision of a necessary visibility splay and the siting of houses fairly close to the road would be damaging to the semi-rural character which I have described.
20. Although matters of layout and appearance are reserved for subsequent approval, the illustrative layout indicates that houses would be sited close to the road frontage. There is a significant change in levels between the road and the land behind the bank, and it is therefore likely that the houses would occupy an elevated position which would be both dominant and out of keeping with the position of the other houses relative to the road in the adjacent parts of Cattistock Road. The dwellings would also extend in some depth into the site, which would be discerned from the access point on Cattistock Road. Such in-depth development would not be characteristic of the ribbon development along the road. This adds to my concern about the erosion of the semi-rural character.
21. Towards the northern part of the site where it abuts the road, the Council's Conservation Area appraisal indicates that there are views "into (the) settlement; out to landscape & of townscape elements". However, from what I saw on my visit, whether the roadside hedge was better maintained or not, the difference in levels between the site and road and the existence of the hedge curtails public views across the site towards the village and the river. Thus no key views would be lost or impaired.
22. The water meadows (together with the adjacent pasture known as The Quarr) along the River Frome are identified in the Council's Conservation Area appraisal as forming a key feature of the conservation area. Whilst the northern part of the site has been used as a quarry in the past, other than some subtle changes in topography, it has now been assimilated into the pastoral scene, and I agree that it provides a valuable extension of green space into the heart of the village.

23. The submitted illustrative layout shows that the area adjacent the river would remain as open space, and that the footpath link across the site would be retained. However, built development would be sited fairly close to the water meadows and the green space which is valued in the conservation area appraisal would be significantly reduced. I consider that this would result in some small harm to the overall significance of the conservation area.
24. Of more importance is the view from The Quarr towards St Mary's Church. The appeal site forms a large part of the verdant and open rural setting to the church. The church comes into view when walking southbound along the footpath which leads north from the churchyard, where it is seen in the context of open grassed space on either side of the path. Although it is proposed that the area to the west of the footpath would remain as open space, built development would be sited close to the path and would significantly alter the rural and tranquil setting to the church, and would compete with it. I consider that this would be harmful to the character and appearance of the conservation area.
25. A related matter is the effect on the setting of St Mary's Church, which dates from the 12th century. It is a Grade I listed building, the highest grade of listing, and it is afforded the highest level of protection. There is no dispute between the parties that the site forms part of the setting to the church. The site abuts the churchyard to the south and the church and its tower are clear landmarks. Whilst there may be no clear historical link between the church and The Quarr, Historic England notes that many medieval churches are sited on the boundary between the village and its rural hinterland, and in my view, the rural qualities of an open, grassed and tranquil field and its relationship to the river are important to the way in which the church is seen and to understand its relationship to the rest of the village.
26. Just as the historic buildings in Church Road form an important part of the setting to the church, and contribute to its significance as a notable building in the village, the rural edge is of similar importance. Since the construction of the church, the northern part of the setting has seen change through the erection of farm buildings in Manor Farm Close and their subsequent re-development for residential use. Despite that, the appeal site closely resembles this part of the setting of the church when it was constructed and its open rural appearance and tranquillity contributes to the significance of the church as a heritage asset.
27. As a statutory consultee Historic England raised concerns about this proposal, but it reiterated those concerns in the respect of the subsequent application for 16 dwellings. The initial application response was provided without a site visit, whereas the later application response was informed by a site inspection, and thus, whilst acknowledging that they apply to the smaller scheme, I attach greater weight to the later comments, and as the view of a statutory consultee, it generally carries significant weight.
28. Historic England advised that the 16 dwelling proposal would substantially alter the view towards the church which would create a "hard, almost urban-looking, edge to the settlement" which would considerably diminish the visual primacy of the church". In respect of the impact on the church, the 20 dwelling scheme is similar to the 16 dwelling scheme, and thus these comments are of equal force to the appeal scheme.

29. The Council has resolved to approve a 9 dwelling scheme, and that is a material consideration as a realistic fallback. The appellant argues that the building lines of the 9 dwelling scheme and the current scheme are similar so as to have no appreciable difference on the impact on the setting of the church, and that no harm would result.
30. Taking into account that both schemes are merely illustrative, it seems to me that the current appeal scheme would be likely to have a significantly greater impact on the setting to the church by bringing both a number of buildings and the access road further to the west. Whilst the dwellings would not impede sightlines towards the church from the footpath, I consider that the appeal proposal would have a clearly negative impact on the setting of the church, competing with the church in views from the north, changing the setting from a much more rural one to one where modern dwellings would be prominent, and reducing the tranquillity of the setting. I find that the combined effect of these impacts over and above the 9 dwelling scheme would harm the significance of the church.
31. I have had regard to the potential of the proposal to enhance the significance of the church by providing access to the western part of the site which would become formal open space, allowing a greater appreciation of the church than just from the footpath. I have also taken into account the scope for mitigating the effect of the proposal on the church through design and landscaping. However, neither of these matters would outweigh the harm that I find would be caused to the significance of the church.
32. The Council had no objections to the proposal on archaeological grounds, subject to the imposition of conditions. However, there is a clear difference in professional opinion as to the adequacy of the archaeological investigation carried out between archaeologists acting on behalf of local residents and those acting for the appellant and the County Council as consultee. The investigatory work carried out on behalf of the appellant found pottery and animal remains mainly from the medieval period but also some from the British-Romano and post-medieval periods, and suggest that there may have been a medieval settlement in the area. The County Archaeologist concluded that the findings are likely to be only of local interest and do not warrant preservation in situ. As a statutory consultee with extensive local experience I attach significant weight to this view.
33. The resolution to approve the 9 dwelling scheme is a fallback position, and whilst there are differences in scale between the two schemes, there is sufficient overlap for me to conclude that the additional impact of this scheme on archaeological interests is unlikely to be substantial. Having said that, I accept that there is the potential to lose or damage remains of heritage value that may not be adequately recorded, and this residual harm, albeit small, must be taken into the balance of considerations.
34. To conclude on this issue, I consider that the proposal would result in some moderate, and less than substantial harm to the character and appearance of the conservation area over and above that which would be caused by the 9 dwelling scheme. It would fail to preserve the character or appearance of the area. I also find some small residual harm over and above the 9 dwelling fallback scheme in respect of archaeological interests. However, I find that more substantial harm would arise in respect of the setting of St Mary's Church

which would damage the significance of the listed building. The cumulative harm would be less than substantial and would conflict with LP Policy ENV4 which deals with heritage assets.

Other matters

35. LP Policy COM5 and paragraph 74 of the Framework aim to protect existing open spaces. The Framework defines such spaces as all open space of public value, including not just land, but also areas of water which offer important opportunities for sport and recreation and can act as a visual amenity.
36. Local residents told me of current and historic use of the site for dog walking and playing. Such usage has not been undertaken as of right, and public rights are limited to the use of the footpath to pass and re-pass. Whilst the site has clearly had some use for recreational purposes, and is no doubt valued by those living close by, I consider that it does not offer important opportunities for sport and recreation. In my view, the policies referred to above do not apply.
37. I have had regard to local concerns about increased flood risk, but consider that this could be adequately addressed through the imposition of conditions to ensure that run-off is attenuated, and that there would be no greater degree of run-off than now exists.

Obligation

38. The planning obligation offered by the appellant makes provision for 35% of the dwellings to be affordable and sets out a mechanism under which their occupation would be determined, and for them to remain affordable in perpetuity. It also makes provision for formal and informal open space to be provided and for the land to be handed over to the parish council or other body.
39. I consider that the obligation is necessary and meets the tests set out in the Framework and the Community Infrastructure Levy Regulations 2010, and I afford it considerable weight.

Planning balance

40. Paragraph 134 of the Framework requires 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 of the proposal, including securing its optimum viable use. In this case there are several clear planning benefits. The Framework aims to boost significantly the supply of housing and requires planning authorities to identify a 5 year supply of housing (and appropriate buffer) to meet the identified needs of their area.
41. The Council concedes that it cannot show a 5 year supply, and that a recent appeal decision identified a 4.63 year supply. I was told at the hearing of two large schemes coming forward, and it is clear that the Council is now applying the "tilted balance" in favour of housing schemes, as evidenced by the decision to approve the 9 dwelling scheme on this site. Even so, the need for additional housing is clear, and this carries significant weight. This proposal also brings with it the provision of 35% affordable housing, for which there is considerable demand, and I afford this substantial weight.

42. The need to consider alternative sites was canvassed at the Hearing. The decision in *The Forge Field Society & Ors, R (On the Application Of) v Sevenoaks District Council* [2014] EWHC 1895 (Admin) reinforces the law that where there are both benefits and objections to a proposal, there should be consideration of whether there are more appropriate sites to meet identified needs. In this case, however, the evidence of the ability for alternative sites to come forward is not strong; moreover, they would not meet the need for local affordable housing. The Council identifies 28 households in need of affordable housing, and so even if this and other schemes come forward, the need would not be met. I therefore attach limited weight to existence of alternative sites.
43. The proposal would also have benefits through the allocation of land on the west side of the site as public open space, which would be open to the public to use, and this would provide both social and environmental benefits. There is also some scope for improving biodiversity, which carries with it modest benefits.
44. Weighed against these benefits is the harm that I have found that would result from the proposal. There would be some harm arising to the character and appearance of the area generally, and modest harm to that of the conservation area. There would be small harm to archaeological heritage. However, there would be greater harm to the significance of St Mary's Church; paragraph 132 of the Framework says 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, and that the more important the asset, the greater the weight should be.
45. Here, the church is a Grade I listed building, which benefits from the highest degree of protection. In my view, the cumulative harm, but more particularly, the harm to the significance of the church, is not outweighed by the clear planning benefits of the proposal.
46. The combined effects of paragraphs 14 and 49 of the Framework provide that, where policies for the supply of housing are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or where specific policies in the Framework indicate development should be restricted.
47. Footnote 9 to paragraph 14 gives examples of policies which indicate that development should be restricted, and those pertaining to designated heritage assets are amongst them. In such circumstances, the "tilted balance" required by paragraph 14 in favour of development does not apply here. Thus, the harm that I have found is a compelling reason to dismiss the appeal.

Conclusion

48. I therefore conclude that, for the reasons given above, the appeal should be dismissed.

JP Roberts

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Lionel Flynn, Solicitor	Laceys Solicitors
Oliver Burton-Taylor MSc (Dev Plan) MRICS MRTPI	Simply Planning
Charles Mylchreest BA(Hons) Dip LA CMLI AIEMA	Environmental Dimension Partnership
Stuart Choak CMILT MCIHT TPP	Calibro Consultants
Jo Vallender MA ACIFA	Environmental Dimension Partnership

FOR THE LOCAL PLANNING AUTHORITY:

Clare McCarthy	West Dorset District Council
Catherine Williams	West Dorset District council

INTERESTED PERSONS:

Simon Colcutt MA(Hons) DEA DPhil FSA	Oxford Archaeological Associates Ltd
Terry Dyke	Local resident
Pam Simpson	Local resident
Maddy Duke	Local resident
Mrs Perceval	Local resident
Paul Valinski	Vice chair, Maiden Newton Parish Council
Malcolm Lofts	Local resident
Chris Tripp	Local resident

DOCUMENTS

1. Draft planning obligation submitted by the appellants
2. Statement from Ms Vallender
3. Copy of an email from Mr Lofts
4. Photomontages submitted by the appellants