



Appeal Decision

Site visit made on 9 October 2017

by **C J Ball** DArch DCons RIBA IHBC

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

Decision date: 25th October 2017

Appeal Ref: APP/R3325/W/17/3176815 Land north of Head Street, Tintinhull BA228QH

- 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 Abbey Manor Homes Ltd against the decision of South Somerset District Council.
- The application Ref 16/04608/OUT, dated 21 October 2016, was refused by notice dated 26 April 2017.
- The development proposed is the erection of 28 dwellings (incorporating details of access and layout) and associated works including open space, drainage infrastructure and highway works.

Decision

1. The appeal is allowed and planning permission is granted for the erection of 28 dwellings (incorporating details of access and layout) and associated works including open space, drainage infrastructure and highway works on land north of Head Street, Tintinhull BA228QH in accordance with the terms of the application, Ref 16/04608/OUT, dated 21 October 2016, subject to the conditions attached at Annex A.

Preliminary matters

2. The application was made in outline with access and layout to be considered. The matters of scale, appearance and landscape are reserved for future consideration (the reserved matters).
3. The highway authority has no objection to the proposals, subject to appropriate conditions. The Council's objections centre on the impact of the proposal on local landscape character and on the settings of 4 heritage assets - the grade I listed Tintinhull Court and St Margaret's Church; the grade II listed Old Dairy; and the Tintinhull Conservation Area.

Planning obligation

4. The appellants submitted a unilateral undertaking as a s106 planning obligation. This commits them to providing 10 affordable dwellings on the site and to making financial contributions towards offsite youth facilities and local playing pitches. The Council confirms that these provisions meet its policy requirements.

Main issue

5. From all this, the main issue in this appeal is the effect the proposed development would have on the character and appearance of the area, including the settings of heritage assets, and whether any harm would be outweighed by other material considerations.

Policy background

6. The local development plan is the South Somerset Local Plan (LP), adopted in 2015. Tintinhull is a rural settlement with a range of facilities where LP policy S22 applies. This allows development that meets identified housing need, particularly for affordable housing, and indicates that development should be commensurate with the scale and character of the settlement and be consistent with relevant community-led plans.
7. In this respect, while policy S22 sets no limit, the Tintinhull Community Plan 2012 (TCP) indicates a preference for small scale development of 5 houses or less. I note that, unlike a Neighbourhood Plan, which has to go through a series of consultations to ensure it complies with the Council's housing policies and reflects the evidence base, the TCP forms no part of the local development plan. It can therefore carry only limited weight.
8. LP policy EQ2 requires development to be designed to achieve a high quality which promotes local distinctiveness and at least preserves the character and appearance of the district. Policy EQ3 expects all new development to safeguard the significance, character, setting and local distinctiveness of heritage assets.
9. The National Planning Policy Framework sets out government planning policies and the procedures to be followed in balancing conflicting planning considerations.

Reasons

10. The site is an open field on the western side of the village, adjacent to the built-up area. The site lies on the north side of Head Street, with development to the south extending to the western extent of the site. A public footpath on the western boundary of the site gives access to the church and the village centre.
11. Framework 47 requires the Council to identify and update annually a supply of specific deliverable sites sufficient to provide 5 years' worth of housing against its housing requirements. The Council confirms that it cannot currently demonstrate any more than 4.2 years supply of deliverable housing land. The local housing requirement is such that the Council needs to deliver 1,136 houses every year, significantly more than it has been able to deliver in every year since 2006. It recognises that meeting the 5 year target will become increasingly difficult. There is therefore a pressing need for more housing in the district.
12. In these circumstances, the shortfall in housing provision triggers the operation of Framework 14, which means that planning permission should be granted for this proposal 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 specific policies in the Framework indicate development should be restricted. In this case, that refers to the policies relating to designated heritage assets set out in Section 12 of the Framework. I shall therefore go on to first consider the proposal against these policies.
13. The significance of a heritage asset derives not only from its physical presence but also from its setting – the surroundings in which it is experienced. It is the impact of the proposed development on the settings of the identified heritage assets which is in question here. While s66.1 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the setting of the listed buildings, there is no such legal requirement in relation to the

setting of the conservation area. Nonetheless Framework 132 confirms that the significance of any heritage asset can be harmed by development within its setting and I shall consider the impact on the significance of the conservation area on that basis.

Tintinhull Court and St Margaret's Church

14. These neighbouring grade I listed buildings lie about 200 m to the north of the site. The significance of Tintinhull Court lies primarily in its architectural and historic value as a high quality medieval parsonage house with later alterations. Like the church, Tintinhull Court is a key part of the historic village centre. It is set in within high boundary walls, restricting public views, and thus the ability to appreciate the building, to within the churchyard, from Church Street and to glimpses from St Margaret's Road. Its gardens and its local context, as an early building on St Margaret's Road, provide a setting that contributes to the significance of the building. To a lesser extent the agricultural land to the west, including the restored avenue of trees, provides an open setting where the particular values of the building can be appreciated. However, Tintinhull Court is not really appreciable from the site to the south, being screened by intervening buildings, walls and landscape features. Views of the building group from the public footpath would be relatively unaffected. While development of the site would alter the local landscape, I consider that there would be no real change to the setting of Tintinhull Court and no impact on its significance as a heritage asset.
15. The significance of St Margaret's Church derives mainly from its survival as a largely unaltered medieval building. It has high architectural and historic values, supplemented by high communal value and artistic interest. Its setting within the village centre contributes much to its significance. Unlike many churches St Margaret's, with its low bell tower, does not dominate the village or the surrounding landscape. Long distance views are not therefore important to the setting or significance of the church. The church and churchyard can be approached from the footpath to the west of the site, but the ability to appreciate the church building in its setting from here would not be undermined by the proposed development. While there are some views from the west, the church is not particularly visible from the surrounding local landscape. The top of the tower can be glimpsed from the site but there is very limited intervisibility. The site makes no real contribution to the setting of the church and I consider that, although there would be some minor visual change to the local landscape, there would be no noticeable impact on the setting and significance of the church.

The Old Dairy House

16. The significance of the grade II listed Old Dairy lies in its architectural and historic interest, although its original agricultural setting is much depleted. Nonetheless it looks over open farmland, including the site, and this provides a residual agricultural setting which contributes to the significance of the building. Substantial boundary planting limits views across the site. The nearest dwelling, some distance from the boundary, would be single storey and there would be a substantial landscape buffer between, screening the new houses. I consider that the built development on the site would be barely discernible, and then only in winter. Nonetheless, there would be some loss of the open setting of the Old Dairy and in my view the development would have a slight impact on its significance.

Tintinhull Conservation Area

17. The conservation area is centred on the historic core of the village and its significance lies in the arrangement and group value of historic buildings sited along long established routes. The open fields to the west of the village, including the site, provide a rural setting for the village, contributing to its character and significance as a rural settlement. However, the conservation area does not abut the open fields, and there is limited intervisibility between the site and the historic street scenery, so that the significance of the conservation area is not readily apparent from the site. I therefore consider that the site itself makes a relatively limited contribution to the quality and significance of the conservation area. I note that the recent construction of new houses at Hallet's Orchard, close to the site, has diminished the quality of the conservation area such that the boundary may be reviewed, probably taking it much further away from the site. To the extent that there would be development within the open setting of the village, I consider that the proposal would have a very minor impact on the significance of the conservation area.

Overall heritage assessment

18. I consider that the proposal would cause no harm to the settings of Tintinhull Court and St Margaret's Church. However, I have identified some limited harm to the settings and significance of the Old Dairy House and the Tintinhull Conservation Area, in conflict with LP policy EQ3. In the terms of Framework 134 I consider that, cumulatively, this amounts to less than substantial harm.

Local landscape

19. The site is part of the attractive agricultural landscape of small fields, bounded by hedgerows and trees, which provide a rural setting for the village and defines its built-up edge. However, the site adjoins existing residential development to the east, along St Margaret's Road, and to the south, across Head Street. These more recent houses are laid out in groups and clusters, unlike the more linear character of the historic streets within the conservation area. The new houses would be arranged to reflect the low-key massing, scale and nature of the surrounding village buildings, with an area of open space to the north and west.
20. While the development would lead to the loss of an open field, and thus an alteration to the rural setting of the village, the layout plan shows that the existing hedgerows and trees would remain, supplemented by new planting, so that the development would be seen within a strong landscape structure. There would be a new edge to the village but it would reflect the existing rural characteristics. I consider that, while there would be some local loss of landscape, the proposed development would be readily integrated into the existing village without undue damage to its wider rural setting. In my view, the proposed development would reflect local distinctiveness and essentially preserve the character and appearance of the district, in line with policy EQ2.

Other material considerations

21. The key consideration here is the delivery of 28 houses, including 10 affordable dwellings, making a significant contribution towards the Council's housing shortfall. Delivery of all 28 within 5 years is eminently achievable. This is a very substantial benefit of the scheme. Other benefits would include construction jobs, a wider choice of market housing and increased support for local facilities.

22. I note that the application site is included in the Council's recent 5 year Housing Land Supply (HLS) Paper, which covers 2017-2018 to 2021-2022. The HLS Paper anticipates delivery of 10 dwellings in year 5 and 20 more in the next 5 year period, 2022-2027. I take this as an indication of its acceptability in principle to the Council as a housing site. Development of the site thus would essentially meet LP policy S22, despite the preference of the TCP. Its exclusion would reduce the anticipated housing land supply, compounding the difficulty of meeting the 5 year target, whereas this proposal could provide 28 houses within 5 years, boosting the supply of housing in accordance with Framework 47.

Overall planning balance

23. I have found that, while there would be no real harm in landscape terms to the distinctive character of the village or to the settings of the grade I listed buildings, there would be harm, albeit less than substantial, to the significance of the grade II listed Old Dairy House and the conservation area, in conflict with LP policy EQ3. As Framework 134 explains, 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.
24. Giving appropriate importance and weight to that harm, which I judge to be very limited, I consider that it would not result in such an adverse impact that it would significantly and demonstrably outweigh the clear public benefits of providing much needed new housing, when assessed against the policies in the Framework taken as a whole. In circumstances where the Council has itself identified the site as a future contributor to housing provision, I consider that the advantages of the proposal are more than sufficient to outweigh the limited policy conflict. Planning permission should therefore be granted in accordance with Framework 14. I have had regard to the case law and other appeal decisions referred to by the Council but the similarities in those cases are limited and I find nothing to alter my reasoning above.
25. The appellants' planning obligation will ensure that affordable dwellings are provided in line with LP policy SS6 and that financial contributions will be made in accordance with policy HW1 towards mitigating the impact of the additional population on local recreational facilities through improvements to offsite youth facilities at Tintinhull sports ground and playing pitches at Martock recreation ground. These provisions are necessary to make the development acceptable in planning terms; they are directly related to it and are fairly and reasonably related in scale and kind. The obligation meets the tests of CIL Regulation 122 and Framework 204.
26. The conditions suggested by the Council relate to the reserved matters, an updated badger sett survey, soil contamination, surface water drainage, floor levels, access and visibility, submission of a Construction Management Plan, highway safety matters including the new footpath, and submission of a Travel Plan. I consider all these conditions to be reasonable and necessary to the proposed development for the reasons given.
27. On that basis, for the reasons given above, I conclude that the appeal should be allowed.

Colin Ball

Inspector

ANNEX A

Conditions to be attached to the planning permission granted for the erection of 28 dwellings (incorporating details of access and layout) and associated works including open space, drainage infrastructure and highway works on land north of Head Street, Tintinhull BA228QH in accordance with the terms of the application, Ref 16/04608/OUT, dated 21 October 2016:

- 1) Details of the appearance, landscaping and scale (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place 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 3 years from the date of this permission. The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: 3698/PL/01 rev B, 04374-HYD-XX-XX-DR-TP-0203 rev P4, 04374-HYD-XX-XX-DR-TP-0202 rev P4, 04374-HYD-XX-XX-DRTP-0201 rev P4, 04374-HYD-XX-XX-DR-TP-0200 rev P4, 04374-HYD-XX-XXDR-TP-0101 rev P3, 04374-HYD-XX-XX-DR-TP-0100 rev P4 and 04374-HYDXX-XX-DR-TP-0200 rev P4.
- 4) The development hereby permitted shall comprise no more than 28 dwellings.
- 5) The reserved matters application shall include full details of proposals for the incorporation of features to enable the enhancement of biodiversity.
- 6) Prior to, (and within 2 months of), commencement of each significant stage of ground works, an update survey for badger setts will be undertaken by a competent person, and if any are present within 30 metres (including on adjoining land) of the area of activity, the works shall not commence until a method statement for the protection of badgers has been produced and any necessary Natural England licences have been obtained. The method statement shall be implemented in full.
- 7) In the event that any signs of pollution such as poor plant growth, odour, staining of the soil, unusual colouration or soil conditions, or remains from the past industrial use, are found in the soil at any time when carrying out the approved development it must be reported in writing within 14 days to the Local Planning Authority (LPA). The LPA will then consider if the findings have any impact upon the development and development must be halted on that part of the site. If the LPA considers it necessary then an assessment of the site must be undertaken in accordance with BS10175. Where remediation is deemed necessary by the LPA a remediation scheme must be submitted to and approved in writing by the LPA and then implemented in accordance with the submitted details.
- 8) No development shall be commenced until details of the surface water drainage scheme based on sustainable drainage principles together with a programme of implementation and maintenance for the lifetime of the development have been submitted to and approved in writing by the local planning authority. The drainage strategy shall ensure that surface water

- runoff post development is attenuated on site and discharged at a rate and volume no greater than greenfield runoff rates and volumes. Such works shall be carried out in accordance with the approved details and shall permanently retained and maintained in that fashion thereafter unless otherwise agreed in writing by the local planning authority.
- 9) Before any of the development hereby permitted is commenced details of the internal ground floor levels of the dwellings hereby permitted shall be submitted to and approved in writing by the Local Planning Authority.
 - 10) The area allocated for parking and turning shall be kept clear of obstruction and shall not be used other than for parking and turning of vehicles in connection with the development hereby permitted.
 - 11) At the proposed access there shall be no obstruction to visibility greater than 300 millimetres above adjoining road level within the visibility splays shown on the submitted plan 3698/PL/01 Revision B. Such visibility splays shall be constructed prior to the commencement of the development hereby permitted and shall thereafter be maintained at all times.
 - 12) The proposed estate roads, footways, footpaths, tactile paving, cycleways, 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 cycle parking, and street furniture shall be constructed and laid out in accordance with details to be approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.
 - 13) The development hereby permitted shall not commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority (in consultation with Somerset County Council). The plan shall include construction vehicle movements, construction operation hours, construction vehicular routes to and from site, construction delivery hours, expected number of construction vehicles per day, car parking for contractors, specific measures to be adopted to mitigate construction impacts in pursuance of the Environmental Code of Construction Practice and a scheme to encourage the use of public transport amongst contractors. The development shall be carried out strictly in accordance with the approved Construction Traffic Management Plan.
 - 14) Any entrance gates erected shall be hung to open inwards, shall be set back a minimum distance of 5 metres from the carriageway edge and shall thereafter be maintained in that condition at all times.
 - 15) The proposed roads, including footpaths and turning spaces where applicable, shall be constructed in such a manner as to ensure that each dwelling before it is occupied shall be served by a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and existing highway.
 - 16) A Condition Survey of the existing public highway shall be carried out and agreed with the Highway Authority prior to any works commencing on site, and any damage to the highway occurring as a result of this development is

to be remedied by the developer to the satisfaction of the Highway Authority once all works have been completed on site.

- 17) No work shall commence on the development site until the developer has submitted to and had approved in writing by the Local Planning Authority details of the footway to be provided joining Head Street to St Margaret's Road. No part of the development hereby permitted shall be occupied until the approved footway has been constructed.
- 18) All the recommendations of the Approved Travel Plan shall be implemented in accordance with the timetable therein. Thereafter the development shall operate the Approved Travel Plan or any variation of the Travel Plan agreed in writing by the Local Planning Authority.

Richborough Estates