



Appeal Decision

Site visit made on 18 February 2014

by Edward Gerry BA (Hons) MSc MRTPI

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

Decision date: 3 April 2014

Appeal Ref: APP/R3325/A/13/2205877

Wheathill Garden Centre, Wheathill Lane, Milborne Port, Sherborne, Dorset DT9 5EY

- 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 Wheathill Garden Centre Ltd against the decision of South Somerset District Council.
 - The application Ref 13/02559/OUT, dated 21 June 2013, was refused by notice dated 20 September 2013.
 - The development proposed is to demolish existing buildings, residential development of land and formation of new vehicular and pedestrian access.
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Decision

1. The appeal is allowed and outline planning permission is granted for the demolition of the existing buildings, residential development of land and formation of new vehicular and pedestrian access at Wheathill Garden Centre, Wheathill Lane, Milborne Port, Sherborne DT9 5EY in accordance with the terms of the application, Ref 13/02559/OUT, dated 21 June 2013, subject to the conditions in the schedule at the end of this decision.

Procedural Matters

2. The application was submitted in outline with all matters reserved. I have dealt with the appeal on that basis.
3. I have taken into account the Government's Planning Practice Guidance, issued on 6 March 2014, in reaching my decision.
4. The appellant has submitted a copy of a signed s106 Unilateral Undertaking in respect of financial contributions towards affordable housing and additional infrastructure provision. I return to this matter below.

Application for Costs

5. An application for costs was made by Wheathill Garden Centre Ltd against South Somerset District Council. This application will be the subject of a separate Decision.

Main Issue

6. The main issue is whether the proposal would result in a sustainable form of development.

Reasons

7. The appeal site is currently in use as a Garden Centre. The site, a large part of which is covered in greenhouses, polytunnels and hardstanding, is located just beyond the eastern edge of the development boundary of the village of Milborne Port. However, it is located within fairly close proximity of the centre of the village.
8. Policy ST3 of the South Somerset Local Plan (2006) (LP) strictly controls development outside defined development areas. However, the Council has not referred to Policy ST3 in its decision notice. In the Council's Officer's Report it is outlined that the Council does not currently have a five-year supply of deliverable housing sites and on this basis Policy ST3 of the LP cannot currently be considered up-to-date. Paragraph 14 of the National Planning Policy Framework (the Framework), sets out that at the heart of the Framework is a presumption in favour of sustainable development. For decision-taking this includes, unless material considerations indicate otherwise, granting planning permission where the development plan is out-of-date 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; or specific policies in this Framework indicate development should be restricted."¹
9. Whilst the appeal site is located beyond the development boundary of Milborne Port, it is adjacent to it and thus is not in an isolated location. Furthermore, on the basis of what I saw on my site visit I consider that all of the proposal would be located on previously developed land. As a result of the condition of the existing structures and hardstanding on the site, a well designed high quality residential development would be likely to bring about an improvement in the built environment. In addition, given the gardens that will be associated with the proposed dwellings and the landscaping that will take place, including possible tree planting, the proposal may also bring about an improvement in the natural environment on the site. Consequently, and as a result of the site's proximity to the centre of Milborne Port, including the services and facilities associated with it, the proposal would be an environmentally sustainable form of development in line with the Framework.
10. Further to the above, I acknowledge that the current use has not been marketed and it provides employment which would be lost, and not replaced, if the proposed residential development was to take place. Whilst this is unfortunate, and I give limited weight to the appellant's claims regarding home working, I note the Council's Officer's report states that the site currently has a sui-generis use and is thus not protected by saved Policy ME6 of the LP. Although the report also outlines that the proposal would result in the loss of 3 full-time equivalent jobs, the economic harm resulting from this modest loss would not be significant. Future residents of the proposed development are also likely to help sustain local services and businesses. On this basis I am satisfied the proposal would be economically sustainable in line with the Framework.

¹ For example, those policies relating to sites protected under the Birds and Habitats Directive (see paragraph 119) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, Heritage Coast or within a National park (or the Broads Authority); designated heritage assets; and locations at risk of flooding or coastal erosion.

11. Finally, the Framework places a high importance on the delivery of new residential development, particularly in circumstances where Councils do not have a 5 year housing land supply, which is the case in this instance. The provision of new housing clearly has social benefits as it helps to maintain vibrant communities and provides new homes for people who are in housing need. Therefore the proposal would be socially sustainably in line with the social sustainability principles set out in the Framework.
12. For these reasons the proposed development would be sustainable. It would contribute to protecting and enhancing our natural and built environment and would also support growth and provide housing required to meet the needs of present and future generations. In consequence there would be no conflict with the Framework, and in particular paragraph 7, which sets out the three dimensions of sustainable development, and paragraph 14 which sets out the presumption in favour of sustainable development.

S106 and Affordable Housing and Infrastructure

13. The Council considers that financial contributions are required towards the provision of affordable housing and off-site provision of play, recreation and leisure facilities. Saved Policy HG7, and its supporting text, in the LP set out the need for affordable housing and outline that the Council will seek to achieve 35% of the total number of dwellings as affordable housing on suitable sites. The Council confirms there is a need for affordable housing in the district. Saved Policies CR2, CR3, ST5 and ST10 of the LP set out requirements for contributions in relation to sports, leisure and art facilities. The Council has confirmed that there are existing infrastructure inadequacies and thus there is a requirement for additional infrastructure to meet the needs arising from the proposal.
14. A Unilateral Undertaking has been submitted in relation to the above contributions, which is to the satisfaction of the Council. I have considered the Unilateral Undertaking that has been submitted. In my view the measures in the obligation would meet all the tests in paragraph 204 of the Framework in terms of the contributions being necessary, related directly to the development and fairly related in scale and kind. I therefore give the Unilateral Undertaking substantial weight.

Other Matters

15. I have had regard to all the additional concerns raised by the Parish Council and local residents. These include the impact on local infrastructure, specifically transportation infrastructure in proximity of the site, traffic, highway safety, privacy, flooding, bats, light pollution and noise and disturbance. Concerns have also been raised in relation to the location of an underground spring beneath the surface of the site and the presence of radon on the site. However, I note the Council has not objected on any of these grounds and states that an advantage of the proposal would be the removal of a significant number of HGV movements along an unsuitable road network. Based upon the evidence before me I see no reason to come to a different view.
16. Further to the above, I have given consideration to issues relating to landscape harm, including the impact on Venn House (a Grade I listed building) and the Grade II listed Garden associated with it. Whilst the Council has not expressed

any concerns in this respect I have had regard to the statutory duty to pay special attention to the desirability of preserving the listed building and the listed Garden including their setting. Nevertheless, once again based upon the evidence before me I have no reason to disagree with the view the Council has reached. Therefore I am satisfied that it would preserve those interests.

Conditions

17. Having regard to the Framework, and in particular paragraph 206, I have considered the conditions suggested by the Council. The conditions I shall impose are based on those suggested by the Council but with some variation in the interests of clarity. In addition to the standard reserved matters and time limit conditions the Council has proposed a condition regarding limiting the development to no more than 35 dwellings. Given the need to ensure that the mitigation measures provided are commensurate with the development to be built I agree such a condition is required.
18. The Council has also proposed a number of conditions in the interests of highway safety. This includes conditions relating to widening Wheathill Lane, the provision of an access and parking for construction purposes, the phasing of development and the standard of construction of the roads. I consider that the proposed conditions are reasonable and necessary in the interests of highway safety. For clarity, the condition regarding widening Wheathill Lane should only apply to the area of land located to the north of where the development would take place. It should not apply to the area of land, in the appellant's ownership, to the east as this would be unreasonable.
19. In addition to the above, the Council has also proposed conditions regarding the design and layout of the site, including the level of parking provision, on highway safety and parking grounds. Given the planning application was submitted in outline with all matters, including layout, reserved I consider that it is unnecessary to apply such conditions at this stage. Furthermore, the Highways Authority has recommended further conditions in addition to those suggested by the local planning authority. I consider that such conditions are unnecessary on highways grounds as I am satisfied that the conditions I have applied would preserve highway safety.
20. The conditions associated with surface water drainage and contamination are necessary to prevent the risk of flooding and pollution and to protect and improve water quality. Finally, whilst a network of cycleway and footpath connections to the adjacent right of way would be desirable in the interests of sustainable development I consider that this again should be dealt with through submission of the reserved matters.

Conclusion

21. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be allowed subject to the conditions in the schedule overleaf.

Edward Gerry

INSPECTOR

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) No development shall take place until a scheme to widen Wheathill Lane (to a minimum width of 5 metres with a 2 metre minimum wide footway provided along the site's northern frontage), including a timetable for its implementation, has been submitted to and approved in writing by the local planning authority. The widening shall thereafter be carried out in accordance with the approved details and timetable.
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The Statement shall include details of the phasing of the construction of the development and shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) temporary highway and pedestrian routings
 - ii) the construction access and the parking of vehicles of site operatives and visitors
 - iii) loading and unloading of plant and materials
 - iv) storage of plant and materials used in constructing the development
- 6) No dwelling shall be occupied until the proposed roads and footpaths, including turning and parking spaces where applicable, have been constructed in such a manner as to ensure that the dwelling concerned is served by a properly consolidated and surfaced footpath and carriageway to at least base course level between the dwelling and the existing highway.
- 7) No development shall take place until a surface water drainage scheme for the site, including a timetable for its implementation and based on the hydrological and hydrogeological context of the development, showing details of gullies, connections, soakaways and means of attenuation on site has been submitted to and approved in writing by the local planning authority. The scheme shall thereafter be carried out in accordance with the approved details and timetable.
- 8) No dwelling shall be occupied until a scheme for the future responsibility and maintenance of the surface water drainage system has been submitted to and approved in writing by the local planning authority. The surface water drainage system shall thereafter be maintained in accordance with the approved details.

- 9) If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until a remediation strategy, including details of how the unsuspected contamination shall be dealt with, has been submitted to and approved in writing by the local planning authority. The remediation of the site shall thereafter be carried out in accordance with the approved details.
- 10) The development hereby permitted shall comprise no more than 35 dwellings.

Richborough Estates