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## Appeal Decision

Inquiry held between 15 and 23 January 2019

Site visit made on 16 January 2019

**by Mark Dakeyne BA (Hons) MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 4<sup>th</sup> March 2019**

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**Appeal Ref: APP/D3315/W/18/3205705**

**Land off Langaller Lane, Creech St Michael, Somerset TA3 5EB**

- 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 Gladman Developments Ltd against the decision of Taunton Deane Borough Council.
  - The application Ref 14/17/0033, dated 25 September 2017, was refused by notice dated 17 April 2018.
  - The development proposed is the erection of up to 200 dwellings with public open space, landscaping and sustainable drainage system and vehicular access point from Langaller Lane.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application is in outline with all matters except for means of access reserved for subsequent approval. Other than the location plan, the only drawing which formed part of the original application was the access arrangement contained within the Transport Assessment (Drawing No P16071-002B). I have treated the Development Framework Plan within the Design and Access Statement as an indication of how the site could be developed.
3. Before and during the inquiry, agreement was reached between the main parties that two of the reasons for refusal were no longer in dispute. Firstly, the completed Unilateral Undertaking under Section 106 of the Town and Country Planning Act 1990 (S106) would secure the affordable housing, infrastructure and contributions referred to in the fourth reason for refusal. Secondly, amendments to the access arrangement<sup>1</sup>, off-site highway works and obligations within the S106 would overcome the second reason for refusal relating to highway and transport impacts. The position of the main parties in these respects is set out in the Statements of Common Ground on (1) Planning and (2) Highways and Transportation Matters.
4. The additional information and changes to the access referred to above do not change the substance of the proposal and were discussed at the inquiry. No

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<sup>1</sup> Drawing No P16071-002G

party would be prejudiced by my decision to accept the information and plans.

5. The revised National Planning Policy Framework (the Framework) and the Housing Delivery Test measurement by local planning authority were published on 19 February 2019. The main parties have been given the opportunity to comment on these documents. I have taken into account the responses in this decision.

### **Main Issues**

6. Taking into account the above and the evidence before me, the main issues are:
  - (1) whether the proposal would be acceptable having regard to the development plan's strategy;
  - (2) the effect on the character and appearance of the area; and,
  - (3) whether any harm in relation to issues (1) and (2) above and any conflict with the development plan is outweighed by other material considerations.

### **Reasons**

#### *Development Plan Strategy*

7. The Taunton Deane Core Strategy 2012 (CS) through Policy SP1 sets out the most accessible and sustainable locations for development within the Borough. The Taunton urban area is the main focus of growth providing at least 13000 of the 17000 new homes proposed. Below Taunton lies the market town of Wellington providing at least 2500 homes, leaving a minimum of 1500 homes for the rural area as set out in Policy SP4 of the CS. Within the rural areas Major Rural Centres and Minor Rural Centres are identified. The bottom tier of settlements comprises smaller villages.
8. Allocations are made in the top four tiers with development in the smaller villages coming forward through small scale infill within settlement limits. Within the rural areas two Major Rural Centres, described as small market towns, would provide about 400 homes through allocations, with five Minor Rural Centres providing a total allocation of at least 250 new homes. Creech St Michael (CSM) is one of the Minor Rural Centres. Policy CP4 of the CS indicates that 'housing should be delivered consistent with the settlement hierarchy established in Policy SP1.'
9. As an overarching policy SP1 sets out the distribution of growth and the role and functions of settlements in each tier. The explanations to Policies SP1 and SP4 recognise that the Minor Rural Centres such as CSM have some services such as a primary school and shop but lack sufficient facilities to warrant recognition as Major Rural Centres. The scale of development commensurate with the function is given effect by Policy SP1 itself which for new housing in Minor Rural Centres will be through small scale allocations, sites within the development boundary and affordable housing exception sites.
10. The small-scale allocations required by Policy SP1 have been put into place by the Taunton Deane Site Allocations and Development Management Plan 2016 (SADMP). This plan allocated three sites in CSM for 139 dwellings out of total allocations of about 290 dwellings in the Minor Rural Centres. These allocations have been built-out. An additional development of over 70 homes off Hyde

Lane has also been constructed during the CS period.

11. The appeal proposal is not on an allocated site. Nor is it within the development boundary or an affordable housing exception site. The proposal should be treated as being in open countryside as referred to in Policy SP1. The development of up to 200 homes would distort the strategy by resulting in over 400 dwellings being developed in CSM since around 2012, or about 26% of the minimum amount of housing envisaged by the development plan for the rural areas. This would elevate the level of development in CSM to above that anticipated in the Major Rural Centres.
12. In conclusion the development would not be acceptable having regard to the development plan's strategy, being contrary to Policies CP4, SP1 and SP4 of the CS. These policies, when read together, seek to create balanced and sustainable mixed-use communities, with growth in the rural areas being more limited, reflecting rural character and sustainability considerations. The harm that would arise is that development would come forward outside this plan-led approach to addressing housing needs. Whether or not development is genuinely plan-led is an important facet of sustainability.

#### *Character and appearance*

##### *Landscape and visual impacts*

13. The appeal site is a single crop arable field located between the northern edge of CSM and Langaller Lane and the M5 motorway. The site has a domed landform. Hedgerows and trees mark its boundaries with the fields to the south-west and Langaller Lane. In addition, there is a group of trees on the wide highway verge close to the north-eastern boundary which is prominent on leaving and entering the village. Otherwise the site and its boundaries do not have any distinctive landscape features.
14. The site forms part of a wider area of open countryside to the north and north-west of the village. However, the character of the area is influenced by the nearby housing estates within the village and the proximity of the M5 and urban extensions to Monkton Heathfield (MH) to the west of the motorway.
15. The various landscape character assessments recognise that this part of the Vale of Taunton Deane is affected by primary traffic routes and other urban features. As a result, the area has moderate landscape character sensitivity and moderate visual sensitivity. In this context and taking into account its particular characteristics, I agree with the appellants' assessment of the site as being of medium landscape value.
16. The development would not be prominent in middle and longer distance views due to topography, vegetation and intervening built-form. When seen it would be in the context of the substantial existing development to the north-east of Taunton either side of the M5. Its wider landscape impacts would not be significant.
17. However, the development would be clearly seen from a number of closer viewpoints, particularly from local footpaths, Langaller Lane, the recreation ground off Hyde Lane and nearby housing, from where a residential development on the site would result in significant and irreversible change.

18. This change would be particularly noticeable for users of the public footpaths that run close to the site's southern edge and beyond the south-west boundary<sup>2</sup>. These are paths that are used regularly by villagers for dog walking and taking the air. Although T-10/23 comes to a dead-end at the motorway and for much of its length is on the opposite side of a hedge from the site, it is used as part of an informal footpath loop through the fields to the south of the appeal site and the development would change its character.
19. The countryside views from T-10/24 as it passes by the cottages at North End would be replaced by the sight of a housing estate. The vistas to the north from within the field would change from a predominantly rural scene to one that is dominated by a residential development, particularly as the predominantly two-storey housing would be on rising land above the footpath. A similar change would be seen by users of T-10/23. The path that crosses the site would be transformed from a field path to a tarmacked and lit footpath and cycleway and that change would also affect the path as it links to Hopkins Field.
20. The footpaths are not in tranquil open countryside as they are affected by the presence of existing housing and the site and sounds of the M5. Moreover, the indicative plans show that the path within the site would run through a green corridor which would also include a surface water attenuation basin and landscaping. However, users of the footpaths are sensitive receptors and the impacts would still be significantly adverse.
21. Langaller Lane crosses the M5 by a bridge sitting above the northern corner of the site. The road then loops around the long northern boundary of the site from where filtered views can be obtained through the hedges and trees which line the boundary and open views through the field gate. For motorists crossing the bridge from the west and driving into and out of the village the glimpsed views would change from that of a field with the village in the background to a substantial access with a housing estate behind. Those passing on foot along the pavement on the north side of Langaller Lane or cycling along the road would be receptors who would be more aware of, and sensitive to, the changes than motorists.
22. The character of Langaller Lane altered when it was realigned to cross the motorway. The motorway bridge and the road's width, markings and pavement reflect a highway that is close to the urban edge that links settlements, not a rural lane. Trees and hedges that would be lost on the site boundaries to either side of the widened access to allow adequate visibility would be replaced with new planting which would have similar screening effects to that which it replaces in the medium term. That said the village would encroach further along Langaller Lane towards the motorway, eroding the rural setting of CSM on its northern side. A chunk of the tree group that marks the transition between the village and the countryside would be lost. It would be difficult to replicate the feature because of visibility requirements. A more engineered road with traffic calming, a right-turn lane, pedestrian refuges, more signage and a much wider access would be the foreground to a suburban housing estate.

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<sup>2</sup> T-10/24 and T-10/23 respectively

23. Occupiers of housing backing onto the site and those using the estate roads and pavements of West View and Hopkins Field and the recreation ground to the south would also see a significant change when looking in the direction of the appeal site. As with the footpath users the rising ground would accentuate the visual impact even though the green corridor would offer some mitigation. Those affected would not be as sensitive to the changes as footpath users, but the impacts would still be highly adverse.
24. The Landscape and Visual Impact Assessment suggests that, after mitigation, the range of landscape and visual effects in terms of different features and viewpoints would be no greater than 'moderately adverse' and in most cases 'slight' or 'insignificant'. However, to my mind this analysis underplays some of the visual effects from localised viewpoints, in particular Langaller Lane, public footpaths T-10/24 and T-10/23, adjacent housing and some of the public vantage points to the south, where the visual effects would be substantially or highly adverse.

#### *Coalescence*

25. The site forms part of the open land between CSM and MH intersected by the M5. The significant expansion of MH facilitated by the CS will result in further development along its south-eastern edge. However, an open break would remain between the planned development and the motorway as this belt of land to the west of the M5 has been designated as a green wedge in the SADMP.
26. The CS or SADMP did not designate the appeal site or other open land to the east of the M5 as green wedge. However, the land still performs a role in separating CSM from MH, this being most apparent from the motorway bridge. That said the gap between the two settlements has already been eroded by development along Hyde Lane, particularly at Sweetings Close, where housing is some 90m from the M5 and some 230m from the planned outer limits of MH. The indicative proposals for the appeal site also show an open belt of 90m between built development and the M5 which would result in a larger gap of about 300m between the expanded outer limits of the two settlements.
27. Langaller Lane and Hyde Lane have different characteristics, the latter being narrower and more enclosed once it crosses the motorway leaving CSM. In this respect the gap is perceived as more significant in the vicinity of the appeal site. However, at the same time, the retention of open land either side of the M5 as facilitated by the proposed developments would also be more discernible than that in the vicinity of Hyde Lane.
28. The emerging CSM Parish Council Neighbourhood Plan 2018-2038 (NP) which is currently being examined proposes that the appeal site and land to the south-west and north-east is designated as a green wedge. However, the proposed green wedge is subject to objections which are before the Examiner. Until such time as the Examiner reports, the NP and the green wedge proposal can only be given limited weight.

#### *Conclusions on character and appearance*

29. The proposals would have some adverse effects on the character and appearance of the area. In terms of the wider landscape and the coalescence

of settlements these impacts would be limited. However, the more localised impacts would be substantial.

30. The site does not form part of a valued landscape and should not be protected for its own sake. The site has characteristics which are similar to those found in many edge of settlement locations reflected in its medium landscape value. However, the site contributes to the rural setting of the village and provides opportunities for relatively peaceful exercise on the doorstep before the effective barrier of the M5 is reached. These not uncommon attributes and the intrinsic character and beauty of the countryside should be recognised.
31. The proposal would be outside of the settlement boundary. It would not be appropriate in terms of scale; and would not protect, conserve or enhance landscape character. Therefore, there would be conflict with Policy CP8 of the CS and in particular two of the criteria at the end of the policy. Although the second criterion refers to terms that are 'reserved matters', scale is relevant in considering a proposal for 200 homes. The proposal would also conflict with Policy DM1 of the CS as the appearance and character of the landscape would be unacceptably harmed.
32. Policy CP8 also refers to not permitting development proposals that would harm the settings of rural centres; protecting or enhancing greenfield land outside a settlement boundary; and strictly controlling development in such areas. The appeal proposal would infringe these aspects of the policy. I note that the Inspector in the Rockwell Green appeal<sup>3</sup> did not refer to these elements of the policy. I do not know what evidence was before him. In any event I note that the Council accepted in that case that the development would comply with the criteria at the end of the policy which is different to the appeal before me. Even if the protection and strict control is only provided by these criteria, the proposal would still conflict with Policy CP8.
33. Because of a cross-reference to Policy CP8 within Policy SB1 of the SADMP, it follows that there would also be conflict with that policy. Policy SB1 indicates that proposals outside the boundaries of settlements will be treated as being within open countryside to maintain the quality of the rural environment and ensure a sustainable approach to development. The proposal would not minimise the impact on trees of value to the area's landscape and character because of the erosion of the tree group on the highway verge. Therefore, there would also be conflict with Policy ENV1 of the SADMP.
34. The fact that Policy DM2 of the CS, as a permissive policy, supports various categories of residential development in the countryside such as rural workers dwellings and affordable housing exception sites, but does not specifically preclude speculative housing, does not affect the proposal's conflict with Policies CP8, DM1, SB1 and ENV1.

#### *Other Considerations*

35. The proposal would provide up to 200 dwellings with 25% to be affordable homes in accordance with Policy CP4 of the CS, secured through the S106. Economic benefits would arise through construction jobs, indirect employment,

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<sup>3</sup> Appeal decision ref: APP/D3315/W/17/3179264 dated 25 September 2018

- significant local spend from economically active residents, New Homes Bonus and Community Infrastructure Levy payments, and Council tax contributions. Providing new homes in the context of the national objective of significantly boosting the supply of housing clearly has social benefits for those in need and would help to sustain village services. The payments and contributions would fund infrastructure and services primarily for new residents but the enhanced facilities would be likely to give rise to some benefits for existing residents.
36. The CS is more than five years old. Applying the Standard Methodology for calculating Local Housing Need (LHN) as required by paragraph 73 of the Framework, there is a five-year supply of land for housing. The supply is 6.8 years using the 2014-based household projections. Therefore, on this basis housing is being delivered to meet need.
37. The LHN figures are below the CS requirement which is based on a strategy of employment-led growth, albeit that the strategy is due for review. Therefore, against the Council's own vision as articulated by the CS there is less supply. Although the latest Annual Monitoring Report 2017-18 shows a supply of 5.7 years against the stepped requirement in the CS, these figures are based on the shortfall since the start of the Plan period being spread over the remaining years of the CS and a 5% buffer being applied. It is not clear whether these assumptions have been tested. The appellants' figures, which were not challenged, show a deficit in provision since 2008 of about 450 dwellings with the possibility of this deficit increasing in the next five years. Therefore, additional market housing would assist in getting delivery closer to the Council's aspirations.
38. Just under 40 affordable homes have been provided in CSM since the CS base date. The CSM Parish housing needs survey of August 2017 identified a low level of affordable housing need. The urban extensions at MH will provide a reasonable number of affordable homes nearby. However, the Council's Housing Officer points to a need for a range of affordable house types in the village. Moreover, whilst it is desirable to provide homes for those in need within their own communities, affordable housing need should be considered at a district level. Provision has been lagging behind the need identified in the CS such that there has been a shortfall of over 500 affordable dwellings since 2008.
39. The off-site highway works along North End and St Michael Road would not only mitigate the impact of additional vehicle movements and other journeys from the development but would also be of benefit to existing villagers. In particular the provision of additional traffic calming and a separate pavement to replace the virtual footway would have the potential to reduce vehicle speeds, improve pedestrian safety and deter rat-running. The improvements to the footpath through the site would make walking and cycling to the school, health centre and recreation ground safer and more convenient for existing residents of North End. There were concerns raised about some of the knock-on effects of the detailed changes but there would be scope for these to be resolved before a final scheme was agreed.
40. The S106 would secure a significant contribution to bus transport which would increase the frequency of services within the village and make travel for work

and to access services by this mode more convenient for existing and new residents. The obligation is necessary to secure compliance with CS Policy CP6.

41. The proposals include open space, ecological mitigation, surface water attenuation and measures to combat noise from the M5. Although these works may have some benefits for existing residents, they are primarily aimed at mitigating the impacts and ensuring that the development is acceptable in these respects.
42. The development would lead to the loss of 11 ha of Grade 2 agricultural land. However, most greenfield land in the area is best and most versatile so the harm needs to be assessed in that context.

#### *Planning Balance and Conclusions*

43. There would be conflict with the development plan strategy and in particular Policies CP4, SP1 and SP4 of the CS. I have also found harm to the character and appearance of the area and conflict with Policies CP8 and DM1 of the CS and Policies SB1 and ENV1 of the SADMP.
44. Policy CP8 refers to protection of unallocated greenfield land outside settlement boundaries and Policies SP1 and SB1 place limitations on the location of new housing development. Therefore, these policies could be read as being more restrictive than paragraph 170 of the Framework. However, the CS and SADMP were adopted after the publication of the 2012 Framework. There is nothing in the Framework which suggests that settlement boundaries are not a legitimate planning tool. Policies CP8, SP1 and SB1, when taken as a whole and in the context of a development plan that supports economic growth and the housing land supply position, are consistent with the Framework and are not out of date.
45. The proposal complies, or does not conflict, with some policies, but is not in accordance with the most important development plan policies for determining the appeal and conflicts with the development plan overall. Where a development conflicts with an up-to-date development plan, permission should not usually be granted.
46. The harm caused by the loss of agricultural land would be limited and is not a decisive factor in the planning balance. Other issues raised by the Parish Council, local residents and Councillors, taking into account the potential for mitigation, would not be reasons to dismiss the appeal.
47. Notwithstanding the existence of more than five-years supply of housing land and the amount of development that has taken place in CSM, the provision of market and affordable housing would result in significant economic and social benefits for the reasons given in paragraphs 35, 37 and 38. There would also be benefits for residents of the village as a whole from the highway works, improvements to the bus service and some of the on-site proposals. These benefits when taken together would be substantial.
48. The planning system should be plan-led. Land should generally be brought forward through the development plan to address housing needs and boost supply. Such a process allows options for sustainable growth to be considered, the relative merits of sites in terms of their various impacts and benefits to be



assessed and infrastructure requirements to be properly planned. Moreover, the plan-led approach provides certainty for communities. There are no overriding reasons such as the lack of a five-year supply of housing that suggest that the development plan should not be followed.

49. Overall, the conflict with the development plan would not be outweighed by other material considerations, even though the benefits of the scheme would be substantial. Therefore, the appeal should be dismissed.

*Mark Dakeyne*

INSPECTOR

## **APPEARANCES**

### FOR THE LOCAL PLANNING AUTHORITY:

Scott Stemp of Counsel He called	Instructed by the Council's Solicitor
Andrew Leithgoe Dip LA M Arbor A FLI	Principal, Inermis Environmental Solutions
Paul Smith BA (Hons) BSc (Hons) Dip BE MRTPI	Planning Consultant

### FOR THE APPELLANT:

Josef Cannon of Counsel He called	Instructed by Gladman Developments Ltd
Silke Gruner BA (Hons) Dip UD CMLI	Associate Landscape Architect CSA Environmental
David Schumacher Dip MS MSc MCILT MCIHT	Director, Prime Transport Planning
Jason M Tait BA (Hons) Dip TP MRTPI	Director, Planning Prospects Ltd

### INTERESTED PERSONS:

Steve Altria	Clerk to Creech St Michael Parish Council
Steve Greenhalgh	Parish Councillor
Peter Brown	Parish Councillor
David Boggon FRICS DMA	Local resident
David Fothergill	County Councillor
Fred A'Court	Local resident
Charlie Cudlip	Parish Councillor

Brenda Brighton	Local resident
David Durdan	Borough Councillor
Jon Side	Local resident
Mick Humphreys	Local resident

## **PLANS AND DOCUMENTS SUBMITTED AT THE INQUIRY**

- ID1 Highway Technical Note 03, submitted by the appellants
- ID2 Travel Plan Revision C, submitted by the appellants
- ID3 Arboricultural Impact Assessment and response to Council's evidence, submitted by the appellants
- ID4 Appellants' opening statement
- ID5 Map showing grades of agricultural land, submitted by the appellants
- ID6 Aerial photographs of appeal site, submitted by the Council
- ID7 Aerial photograph showing appeal site development, submitted by the Council
- ID8 Supplementary Proof from Mr Leithgoe, submitted by the Council
- ID9 Statement from Creech St Michael Parish Council
- ID10 Speaking notes from Parish, Borough and County Councillors and local residents
- ID11 North End Highways Mitigation Drawing No: P18119-112C, submitted by the appellants
- ID12 Public Right of Way Natural Surveillance Drawing No: P18119-111, submitted by the appellants
- ID13 Note on resolution of highway matters, submitted by the Council
- ID14 Highways and Transportation Statement of Common Ground
- ID15 Five Year Housing Land Supply Position at 1 April 2018 using LHN Standard Methodology and 2016 household projections, submitted by the appellants
- ID16 S106 Unilateral Undertaking dated 23 January 2019, submitted by the appellants
- ID17 List of planning conditions, submitted by the appellants
- ID18 Questions of Mr Schumacher, compiled by local residents
- ID19 CIL Compliance Statement, submitted by the Council
- ID20 Questions of Mr Tait, asked by Brenda Brighton
- ID21 Plan of Hyde Lane Footway Drawing No: MN004241-HW-003, submitted by the County Council
- ID22 Planning Obligation Summary, submitted by the appellants
- ID23 Council's Closing Statement
- ID24 Appellants' Closing Statement