



Appeal Decision

Hearing held on 8 and 9 April 2014

Site visit made on 9 April and 1 May 2014

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 3 June 2014

Appeal Ref: APP/F0114/A/13/2208178

Land at Greenlands Road, Peasedown St John, Bath

- 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 Edward Ware Homes Ltd against the decision of Bath & North East Somerset Council.
 - The application Ref 12/05477/OUT, dated 29 January 2013, was refused by notice dated 22 August 2013.
 - The development proposed is the erection of 89 dwellings (72 houses, 17 flats); provision of public open space and landscaping; 1 vehicular access from Greenlands Road; undergrounding of overhead lines.
-

Decision

1. The appeal is allowed and outline planning permission is granted for the erection of 89 dwellings (72 houses, 17 flats); provision of public open space and landscaping; 1 vehicular access from Greenlands Road; undergrounding of overhead lines at Land at Greenlands Road, Peasedown St John, Bath in accordance with the terms of the application, Ref 12/05477/OUT, dated 29 January 2013, subject to the conditions set out in Schedule 1 of this decision.

Preliminary Matters

2. The appeal relates to an application for outline planning permission with means of access to be determined at this stage. The application was refused by the Council for 3 reasons relating to; effects on the landscape; pressure on the local school; pressure on other local services. As a result of work on the case and the receipt of a Planning Undertaking, the Council has withdrawn the reasons relating to the effects on the school and local services.
3. The appellant has asked that I should consider revisions to the scheme originally determined by the Council, as part of the appeal proposals. There has been much correspondence relating to this and I took this into account in considering this matter. Firstly, I judge the revisions to be relatively minor in nature and taking account of the fact that this is an outline application with only access to be determined now, the revisions to the illustrative layout are just that, ie illustrative. The removal of the small business element is also minor. Therefore, I do not consider that the alterations are significant. The appellant has undertaken a consultation exercise and comments have been received from interested people. The Council has had the opportunity to make comments on the proposed revision. In the light of these matters, I consider that the alterations proposed would not conflict with any of the principles

established in the *Wheatcroft* case, and no-one's interests would be prejudiced if I were to consider the revised scheme at this appeal. Therefore, I shall consider the revised scheme and I have used the revised description of the proposed development above.

Main Issue

4. Taking account of the above matters, I consider that the main issue in this appeal is the effects of the proposal on the landscape and rural character of the area.

Reasons

5. The appeal site comprises sloping fields of rough grassland of around 3 hectares. The site sits close to the centre of the village of Peasedown St John and is bounded by built development on 3 sides. It sits on the south side of the broad Cam Brook valley and also on the west side of a tributary valley, such that the land slopes steeply down from the south west to the north east. The site is outside, but adjacent to the boundary of the Housing Development Boundary (HDB). The settlement of Peasedown St John straddles this ridge in the landscape.
6. Land to the west accommodates mainly semi-detached houses on Greenlands Road and Highfield Road, to the south is a mixture of development types on the main Bath Road and within the back-land of those properties, to the east is open land and to the north are the regular terraces of former miners' cottages on Hillside View. A public footpath runs for the length of the eastern boundary of the site.
7. The Council states that the proposal is contrary to Policy NE.1 of the Bath and North East Somerset Local Plan 2007 (LP), which states that development which does not conserve or enhance the landscape will not be permitted. The LP also defines the extent of the HDB and in Policy HG.4 states that, inter alia, that residential development will be permitted in such locations, within the HDB. However, it is common ground that the Council cannot demonstrate a 5 years supply of housing land and that there is a record of persistent under-delivery in this respect; it is agreed that the relevant policies for the supply of housing are not up-to-date.
8. The site lies outside the defined Green Belt, the boundary of which runs along the nearby Keel's Hill. The village and the site are within National Landscape Character Area 107: Cotswolds; and also Local Landscape Character Area 13: Paulton and Peasedown St John Ridge, as identified by the Council in '*Rural Landscapes of Bath and North East Somerset – A Landscape Character Assessment*'. The Council has also adopted (in 2001) as Supplementary Planning Guidance the '*Parish of Peasedown St John Parish Design Statement*'.
9. In relation to views from the north slope of the Cam Brook Valley, there is general agreement that the views from the roads here would only be affected in a minor way. In relation to the public rights of way here, the difference in the evidence of both main parties mainly stems from the assessment of the sensitivity of the receptor (ie the person using the footpath). I accept that a person using the footpaths for recreational purposes will be a more sensitive receptor than a motorist, but I tend to agree with the appellant that, as this is not an area specifically designated for its natural beauty, then a medium level

of sensitivity is more appropriate. Having specifically walked the sections of footpath referred to in the evidence I was able to take in the distant views of the appeal site. Whilst the proposed development would be visible, it would be seen as a very minor element within a broader landscape, and within the context of a settlement which occupies a more prominent ridge-top location; within this context I consider that the proposal would not have an effect that would harm the wider landscape.

10. From within the lower sections of the Cam Brook Valley some glimpsed views may be possible from certain points which it is agreed are not significant. However, the appellant refers to Viewpoints G and R, stating that these are at distances of 585m and 730m respectively from the appeal site; they conclude that due to the high sensitivity of the people walking on the footpaths there would be a short to medium term medium adverse significance of effect. It is added that this would reduce over time due to the maturing of the proposed landscaping. In my assessment and, as I attribute less sensitivity to the receptor (as set out above), I consider that the effects would be limited due to the minor nature of the site in the wider landscape at this distance, the visibility of other forms of development and the general form of the landscape and trees and hedges.
11. I was able to view the site and the surrounding landscape from closer quarters, along the footpath to the east and the roads to the west and north. I have noted that, in some viewpoints in these areas the appellant has stated that there would be some beneficial changes brought about by the proposal and that some views would not be adversely affected. However, they identify some medium and high adverse effects. Taking account of the fact that some viewpoints are at the edge of the site looking over it, it seems inevitable that such an assessment would identify an adverse effect of developing a green-field site with housing when looking primarily at the site itself. It seems to me that a proper application of Policy NE.1 must look at the overall effect on the landscape character, otherwise the application of it would be tantamount to an embargo on the development of green-field sites, which the Council acknowledge should not be the case.
12. In relation to the effects on the former miners' cottages on Hillside View, the specific allegation of harm relates to the effects on the setting and historic significance of these dwellings. There is no historic assessment submitted by the Council in which the contribution of the appeal site to the significance of the terraces is set out. Whilst I agree that the terraces form an attractive enclave with some individual characteristics, none of this can be said to derive from their relationship with the open land formed by the appeal site. The terraces are not completely separated from the rest of the village at the moment and I do not consider that any harm would result from them having one side bounded by the proposed development. In addition, I do not consider that the proposal would create a regular and ordered edge to the village where areas of green would not penetrate the village edge.
13. Taken as a whole, I find that the proposal would conserve the character and local distinctiveness of the landscape. Therefore, there is no conflict with the aims of Policy NE.1 of the LP.

Unilateral Undertaking

14. The appellant has provided a completed Undertaking with provisions relating to affordable housing, highways works, open space/allotments, education and surface water drainage. The Council has provided evidence to the Inquiry to support its requests for these matters to be included within an obligation and these are not challenged by the appellant. On the basis of the evidence before me I consider that the matters included within the Undertaking are all related in scale and kind to the development and are required as a result of it, in order to make it satisfactory. Therefore, the provisions are in accordance with Regulation 122 of the CIL Regulations and I shall take them into account in determining this appeal.

Other Matters

15. Although not raised by the Council, others at the Inquiry raised issues relating to highway safety, parking and the effects on youth services. In relation to highway safety, I was able to observe the surrounding area during school term-time, a few weeks after the close of the Inquiry. I note from the Statements of Common Ground agreed by the Council and the appellant that consideration has been given to this matter. However, it is concluded by the Council and the appellant that the likely number of vehicles generated by the proposal would not give rise to any safety or capacity concerns. Whilst I noted that on-street parking does increase in the area as a result of the opening and closing time of the school, there is no technical or expert evidence to contradict the view set out and agreed by the Council as Highways Authority.
16. In relation to youth services, there is nothing before me to suggest that the proposal would have a detrimental effect on this. To counter the point made, the appellant points out that there is no intention to have any effect on these services and the Undertaking would oblige them to make a financial contribution to them. Therefore, I find no harm in this respect.

Conditions

17. In considering the suggested conditions regard has been had to the advice in the National Planning Policy Framework and the national Planning Practice Guidance. Firstly, there are a number of conditions suggested which I consider relate to matters which would be addressed at the applications for approval of reserved matters, including building heights and levels, the layout of estate roads etc, provision of the internal road before houses are occupied, the provision of car parking, cycle storage, external materials, landscaping and an arboricultural method statement. All of these relate to the scale, layout, appearance and landscaping of the proposal, which would be determined at a later stage; therefore, I shall not include such conditions now.
18. It is necessary for the surface water drainage of the site to be undertaken to an agreed standard, including how any watercourses on site are treated during construction and a survey of the outfall culvert, including any measures for its remediation. It is also agreed that foul drainage should be provided to an agreed standard, as required by a suitable condition. I agree that conditions to require an archaeological investigations and any necessary subsequent work are necessary and reasonable.

19. In the interests of highway safety a condition requiring that the access to the site hereby approved shall be provided with suitable visibility splays is necessary. In order to provide a satisfactory pedestrian facility, a footway should be secured along the Greenlands Road frontage of the site. Taking account of the likely increased use of the footpath to the east of the site, a condition requiring its improvement is necessary and reasonable. In the interests of sustainable development a condition requiring the implementation of an agreed travel plan is justified. Taking account of the proximity of other dwellings and road junctions, I shall impose a condition to require that a Construction Method Statement is provided and adhered to.
20. Taking account of the fact that residential development is hereby approved, I shall include suitable conditions to investigate and deal with any contamination of the site. There are trees and hedgerows in and around the site which, no doubt, offer some value to wildlife; a condition which requires protection, mitigation and enhancement is justified in this case. The appellants have stated that allotments may be provided on the site; if that is the case, the Council would wish to agree a management plan and I shall include a suitable condition in this respect. In the interests of proper planning and for the avoidance of doubt, I shall include a condition requiring implementation in accordance with the approved plans (bearing in mind that the only matter of detail hereby approved is the access to the site). The Council has also requested a condition which would require the development to be carried out in substantial accordance with the indicative masterplan. Whilst I appreciate that some work has gone into the production of the illustrative scheme, it should be recognised that the access is determined herein and the open space is determined in the Undertaking. I consider that to set the development at this stage to that on the illustrative plan would not be necessary and would be over-prescriptive in this case.

Conclusions

21. I have taken account of all other matters raised at the Inquiry and those matters raised in the letters of objection from local residents and groups. However, I find nothing of sufficient weight to lead me to a different conclusion. Elements of the LP are out of date as the Council is unable to demonstrate a suitable supply of housing land and so development outside the HDB may be acceptable. In relation to Policy NE.1 (the only policy relied on by the Council) I find that the proposal would conserve the landscape character of the area. In relation to sustainable development, I am satisfied that the proposal fulfils the 3 roles as set out in paragraph 7 of the Framework. Therefore, the appeal is allowed.

S T Wood

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

M Edwards	Of Counsel
He called	
S Metcalf	Associate Director, WYG
J Mussett	Associate, Arthur Amos Associates

FOR THE APPELLANT:

S Ornsby	Queens Counsel
She called	
J Tarzey	Director, Pegasus Group
J Jarvis	Principal Landscape Architect, Cooper Partnership

INTERESTED PERSONS:

N Hartley	Local Councillor
T Clifford	Parish Councillor
C Clifford	Resident
M Price	Resident
J Fletcher	Representing 'Residents Protecting Peasedown'

DOCUMENTS

- 1 Council's letter of notification of the Inquiry and list of recipients
- 2 Unilateral Undertaking (completed version submitted after close of the Inquiry)
- 3 Updated appendix of J Tarzey relating to Housing Land Supply
- 4 Plans showing settlement of Engine Common
- 5 Corrected version of Parish Design Statement SPG
- 6 Corrected Appendix 5 of J Jarvis relating to Viewpoints 4 and 5
- 7 Bundle of correspondence relating to revised Masterplan and revised statement of case
- 8 Initial report and plans considering development of the site by the appellants 'Progress Report 3'
- 9 Appeal decision APP/F0114/A/13/2196478
- 10 Appeal decision APP/F0114/A/13/2199783
- 11 Appeal decision APP/F0114/A/13/2189953
- 12 Secretary of State decision APP/F0114/A/13/2195351

SCHEDULE 1, Conditions (23 in number)

- 1) Details of the 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 surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
- 5) Prior to construction commencing on site a condition survey and remediation strategy and program for the proposed outfall culvert from the site should be submitted to and approved in writing by the Local Planning Authority. Any defects to the outfall culvert should then be rectified in line with the agreed remediation strategy and program as approved.
- 6) Prior to the commencement of construction on site, an assessment of how existing watercourses and land drainage features within the proposed development will be managed during construction and retained post-development shall be submitted to and approved in writing by the local planning authority. The development shall be undertaken in accordance with the approved details.
- 7) Prior to the commencement of development a foul drainage strategy shall be submitted to and approved in writing by the Local Planning Authority. The foul drainage scheme shall be completed in accordance with the approved details and to a timetable agreed with the Local Planning Authority.
- 8) No development shall take place until the appellant, their agents or successors in title has secured the implementation of a program of archaeological work in accordance with a written scheme of investigation which has first been submitted to and approved in writing by the Local Planning Authority. The program of archaeological work should provide a field evaluation of the site to determine date, extent and significance of any archaeological deposits or features, and shall be carried out by a competent person and completed in accordance with the approved written scheme of investigation.
- 9) No development shall commence until the appellant, their agents or successors in title has presented the results of the archaeological field evaluation to the Local Planning Authority and has secured the implementation of a subsequent programme of archaeological work in

accordance with a written scheme of investigation which has first been approved in writing by the Local Planning Authority. The approved program of archaeological work shall be carried out by a competent person and completed in accordance with the approved written scheme of investigation.

- 10) The development shall not be used or occupied until the appellant, their agents or successors in title has secured the implementation of a programme of post-excavation archaeological analysis in accordance with a publication plan which has been submitted to and approved in writing by the Local Planning Authority. The programme of post-excavation analysis shall be carried out by a competent person and completed in accordance with the approved publication plan, or as otherwise agreed in writing by the Local Planning Authority.
- 11) The development hereby approved shall not be occupied until visibility splays at the junction of the proposed estate road with the public highway at Greenlands Road having co-ordinates of 2.4 meters 'X' distance and 43 meters 'Y' distance, or any alternative dimensions that may be agreed in writing by the Local Planning Authority, have been provided clear of obstruction to visibility at or above a height of 0.6 metres above the carriageway level of Greenlands Road. The visibility splays shall thereafter be maintained free of such obstruction at all times.
- 12) The development hereby approved shall not be occupied until a highway footway of a minimum width of 2.0 metres has been provided for the length of the application site frontage to the public highway, Greenlands Road, in accordance with details which have been previously submitted to and approved in writing by the Local Planning Authority.
- 13) The development hereby approved shall not be occupied until the existing public footpath No BA19/4, adjacent to the eastern boundary of the site, has been resurfaced with bound material and connections have been made to it from the approved development, in accordance with details which have been submitted to and agreed in writing by the Local Planning Authority beforehand.
- 14) Prior to the occupation of any part of the development a Travel Plan (including the provision of an agreed Residents' Welcome Pack for each new dwelling) shall have been submitted to and agreed in writing by the Local Planning Authority. The development shall thereafter be operated in accordance with the provisions of the approved Travel Plan.
- 15) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors
 - ii) loading and unloading of plant and materials
 - iii) storage of plant and materials used in constructing the development
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - v) wheel washing facilities

- vi) measures to control the emission of dust and dirt during construction
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works
 - viii) the routing and management of construction traffic
 - ix) the timing of deliveries
 - x) hours of work.
- 16) An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:
- i) a survey of the extent, scale and nature of contamination;
 - ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archeological sites and ancient monuments;
 - iii) an appraisal of remedial options, and proposal of the preferred option(s).
- This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.
- 17) A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
- 18) The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the

remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

- 19) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 16, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 17, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 18.
- 20) A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation to be agreed with the Local Planning Authority, and the provision of the reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's *'Model procedures for the Management of Land Contamination, CLR 11'*
- 21) No development shall take place until full details of a wildlife protection, mitigation and enhancement scheme have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
- i) Details of all habitat to be retained and protected with details of all necessary measures to avoid harm to retained habitats in particular hedgerows and trees
 - ii) Details of all new habitat provision, wildlife friendly planting and wildlife enhancements
 - iii) Details of proposed management methods and schedules
 - iv) Details of proposed wildlife friendly lighting including provision of lux level contour plans demonstrating provision of dark corridors along key linear habitat features to encourage maximum wildlife benefit
 - v) Details of any other necessary ecological mitigation measures as applicable.

All works within the scheme shall be carried out in accordance with the approved details, unless otherwise approved in writing by the Local Planning Authority. The works shall be carried out prior to the occupation of any part of the development.

- 22) The development shall not commence until an allotment management plan for any on-site allotments has been submitted to and approved in writing by the Local Planning Authority. This shall set out the overall management of the allotments including allocation, with residents within the Parish boundary being given priority. The allotments shall be managed in accordance with the agreed details.
- 23) In relation only to the principle of development and the access to the site, as established by this outline planning permission, the development hereby permitted shall be carried out in accordance with the following approved plans: PL 000 A, PL03 and PL01 REV G.

Richborough Estates