



## Appeal Decision

Site visit made on 10 June 2014

by **Roger Pritchard MA PhD MRTPI**

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

Decision date: 11 July 2014

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**Appeal Ref: APP/R3325/A/14/2217950**

**Land to the East of Manor Park, Keinton Mandeville, Somerset, TA11 6EP**

- 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 H & S Developments against the decision of South Somerset District Council.
  - The application Ref 13/05130/OUT, dated 20 December 2013, was refused by notice dated 18 March 2014.
  - The development proposed is residential development, a new vehicular access, open space and associated works.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

#### *The site visit*

2. At the site visit, no representative of the Council attended at the appointed time. I asked the appellants' agent to contact the Council who appeared unaware of the date and time of my visit. Rather than disrupt my programme for the rest of the day, I suggested to both parties that I conduct an unaccompanied site visit. They agreed to this – the Council confirming its agreement later in writing – and I carried out the visit unaccompanied.

#### *Description of development*

3. The description of the proposal on the application was, "Residential development for a maximum of 30 dwellings, new vehicular access, open space and associated works". The application was in outline with only details of access for approval at this stage; all other matters being reserved. However, following discussions with Council officers, the appellants submitted a revised indicative site layout, the consequence of which would be to reduce the developable area. In these circumstances, where a maximum of 30 dwellings was no longer feasible, the appellants asked for that reference to be removed from the description of development and for the proposal to be considered on the basis of the revised indicative site layout, which illustrates a development of 20 dwellings. This I have done.

#### *Agricultural land quality*

4. In refusing the application, the Council referred to insufficient information being provided as to the economic and other benefits of using the best and most versatile agricultural land. However, after lodging the appeal, the appellants

commissioned and submitted an agricultural land assessment by Soil Environmental Services. The assessment demonstrated that, based on soil typology, the classification of the appeal site was overwhelmingly 3b, i.e. land of moderate quality, capable of producing moderate yields of a narrow range of crops and lower yields of a wider range of crops. The Council accepted the assessment and thereby withdrew this reason for refusal. I concur with the Council and have not considered agricultural land quality as a reason for dismissing the appeal.

### **Main Issues**

5. I consider the main issues to be -
- i) The effect of the proposed development on the character and appearance of the surrounding area, particularly the existing built form of the village of Keinton Mandeville; and
  - ii) The effect of the proposed development on the setting of the listed building known as the Tithe Barn.

### **Reasons**

#### *Background*

6. The appeal site is on the eastern side of the village, to the rear of Manor Park, a modern residential cul-de-sac of eight detached dwellings. It comprises an enclosed agricultural field laid to rough pasture. Vehicular access would be through the south west corner, linking to the turning head of the Manor Park development. The levels of the appeal site are relatively flat though with a slight fall from north to south. Two overhead power lines run across the site, which would be relocated underground as part of the development. The appeal site is bounded to the north, east and south by agricultural land and would represent a significant eastward extension of the village envelope well beyond its current development limits. 35% of the proposed dwellings would be affordable in accordance with both Policy HG7 of the South Somerset Local Plan 2006 and Policy HG3 of the emerging Local Plan.

#### *Housing land availability*

7. At the time that the application was considered, the Council accepted that South Somerset could not demonstrate a five year supply of available housing land. That position had been confirmed by colleagues in considering appeals at Wincanton (Council Ref. 11/02385/OUT) and, more recently in October 2013, at Templecombe (Council Ref. 12/03277/OUT). In these circumstances, the Council had conceded that its housing policies were out-of-date and, as advised by the National Planning Policy Framework ('the Framework'), applications for residential development should be considered in the context of the Framework's presumption in favour of sustainable development.
8. However, a review of recent evidence caused the Council to revise its position on housing land supply. A report to Council on 5 June 2014 concluded that even taking account of a 20% buffer and the need to address a backlog in the first five years of the emerging Local Plan, South Somerset had an available housing land supply of five years and one month.
9. The change of circumstances is material. However, the appellant has challenged the Council's position in respect of three elements of the revised

calculations. These are that the Council has incorrectly applied the 20% buffer by ignoring the backlog that must form part of the supply calculations, has overestimated the contribution of windfall sites which do not yet have the benefit of planning permission, and has included sites at Yeovil and Ilminster that lie within areas for future expansion that are subject to objections. These matters are likely to be considered as part of the reconvened Examination into the emerging Local Plan that opened on 10 June 2014.

10. I have no means of knowing what conclusions my colleague may draw in respect of the scale and distribution of housing land supply when examining the emerging Local Plan. However, I consider that, at present, there remains a degree of uncertainty as to whether or not the Council's proposals to meet that issue will be found to be sound. In these circumstances, it would be premature for me to confirm or reject the Council's claims to have now achieved a five year supply of available housing land as advised by the Framework.

*The sustainability of the appeal site*

11. The Council accepts that Keinton Mandeville is a suitable location for 'modest' development that could help sustain its community – 'modest' is not defined. That view reflects Policy SS2 of the emerging Local Plan which supports limited development in rural settlements such as Keinton Mandeville, which have at least a basic ranges of services - primary school, shops, public house, village hall, church, recreation ground, bus service etc. - and where development would be, '*...commensurate with the scale and character of the settlement.... and increase the sustainability of [the] settlement in general.*'
12. The Council points out that Policy SS2 has not been questioned by the Local Plan Inspector's preliminary findings and was not debated at the reopened examination in June 2014. I therefore conclude that emerging Policy SS2 can be given substantial weight. The Council's also concedes that the proposed development cannot '*...be dismissed out of hand...*' as 'unsustainable' because it is outside the present settlement boundary of Keinton Mandeville. Such development could be appropriate even were a five year housing land supply now to be in place, as weight should still be given to the contribution it would make to the provision and choice of housing in South Somerset.
13. Nevertheless, as the Framework emphasises, sustainability has multiple dimensions and economic and social benefits in terms of additional housing have also to be considered against an environmental role – as, for example, in contributing to protecting and enhancing '*...our natural, built and historic environment.*'
14. I conclude that the proposed development must therefore be considered against paragraph 14 of the Framework, i.e. permission should only be refused if significant and demonstrable adverse impacts outweigh a presumption in favour. The Council advances two arguments which seek to demonstrate that the proposed development would generate such significant and demonstrable adverse impacts.

*The effect of the proposed development on the character and appearance of the surrounding area*

15. The first is that the proposed development, by extending the village substantially to the east, would disrupt the historic form of Keinton Mandeville

in a manner that would substantially and adversely impact on its character. The historic layout of the village is a rough 'T' with Queen Street forming the upright. Development has been traditionally limited in depth. However, the late 20<sup>th</sup> century saw some breaches in that pattern, predominantly on the western side, but also to the east where some new housing, of which Manor Park is an obvious example, has been constructed to the rear of the traditional street frontage.

16. The proposed development would substantially extend that trend, creating a large body of new development beyond the current building line that would intrude into the open countryside. The block of new development would bear no relationship to the existing form of the village and would be surrounded on three sides by agricultural land. The overall impact, of what would be a large development for a settlement of this size, would be to alter fundamentally the character and appearance of the eastern side of the village and its relationship to the adjoining landscape.
17. That landscape comprises a network of relatively small, hedge-bound fields and provides the setting for the village. By projecting into the open countryside, the proposed development would radically alter the visual impression of this side of the village when seen from neighbouring footpaths and other viewpoints in its containing, wider landscape. The outcome would be severely discordant in my view. Furthermore, I accept that the buffer formed by planting an orchard along the eastern side of the proposed development, as now suggested in the context of the revised, indicative site layout, would provide only marginal mitigation for the material harm created by the proposed development's impact.
18. The built-up area of Keinton Mandeville adjoining the proposed development is not a Conservation Area, nor does the adjacent landscape carry any special designation as might warrant its receiving special protection. Nevertheless, the recently published Planning Practice Guidance emphasises the need for development not to sacrifice local character and distinctiveness. In terms of its scale and relationship to the existing settlement, I conclude that the proposed development would be significantly and demonstrably unsympathetic to that character and distinctiveness.
19. I therefore conclude that the proposed development would be contrary to Policies EC3, ST5 and ST6 of the South Somerset Local Plan 2006 in that it would fail to respect the form, character, setting and distinctiveness of the locality and result in unacceptable material harm to the character and quality of the local landscape. I draw that conclusion taking account of the degree to which the proposed development could meet the terms of Policy SS2 of the emerging Local Plan and provide a contribution to both the scale and diversity of housing provision. I also conclude that the proposed development would not be sustainable in the wider terms set out by Paragraph 7 of the Framework.

*The effects on the setting of the listed building known as the Tithe Barn*

20. The second argument that the proposed development would result in significant and demonstrable adverse impacts arises from its suggested effects on the setting of the neighbouring listed Tithe Barn. The Barn is constructed of local stone and with a hipped roof with clay pantiles. Thought possibly to be of 15<sup>th</sup> century origin, the Barn sits immediately to the north of the existing residential

development, between it and Manor House Farm and would be around 30 metres from the nearest corner of the appeal site.

21. Although the Council contends that the existing development has had only a limited impact on the setting of the Tithe Barn, this was not the impression I formed at my site visit. The proximity of the nearest Manor Park houses to the Barn – well under 10 metres – and the extension of the estate to the east have created a setting for the listed building that is already dominated by modern residential development. The permission to construct a garage within the Barn's curtilage (Council Ref. 10/0118/FUL) has added to the sense that the Barn is no longer within a 'rural setting', as the Council argue, but is now dominated by a domestic environment alien to its original agricultural purpose.
22. Furthermore, I agree with the appellants that, such is the prevalent visual impact of the existing development that views to and from the Barn towards the proposed development would be seen in that context. The proposed development would result in some limited increase in the context of neighbouring residential development. However, I conclude that it is at sufficient distance and could be sufficiently screened that its presence would not fundamentally alter the setting of the listed building and, therefore, its significance.
23. I therefore conclude that the proposed development would not have a significant adverse impact on the setting of the listed building and would not be contrary to national policy or to Policy EH5 of the South Somerset Local Plan.

### **Other matters**

#### *Unilateral Undertaking*

24. Although the absence of a Unilateral Undertaking made under section 106 of the Town & Country & Planning Act 1990 was not a reason for refusing the original application, the appellants sent a signed and dated Undertaking to me after I had carried out my site visit. The purposes of the Undertaking are to commit the appellants to the provision of affordable housing in the appeal scheme and to make a contribution to offsite play, recreation and leisure facilities. The Council subsequently made a number of adverse comments on the detailed wording of the Undertaking. However, I conclude that the Undertaking was properly made and met the tests set out in Community Infrastructure Levy Regulations 2010, and I conclude that the Council's comments are of a minor nature and should not cause the wording of the Undertaking to weigh against the proposed development.

#### *Land ownership*

25. There is a dispute between the appellants and the owners of 7 Manor Park over the ownership of a strip of land which would be required to gain vehicular access to the site. Such matters are not for the planning system and, if permission was granted, any such dispute would have to be resolved by other means including, if necessary, the Courts.

#### *Drainage*

26. Both Keinton Mandeville Parish Council and neighbouring landowners have argued that local drainage and sewerage systems are overloaded, as demonstrated by regular incidence of flooding in and around the appeal site.

Further development would exacerbate this problem. However, neither the Environment Agency nor Wessex Water have objected to the proposed development and the latter disputes local claims of sewer flooding. In these circumstances, and given the possibility of the imposition of conditions requiring the provision of foul and surface water drainage incorporating sustainable urban drainage principles, I conclude that this is an issue that should not weigh against the proposed development.

### **Conclusion**

27. I have accepted that the proposed development would be in a settlement where modest development would be sustainable and that the proposed development's effects on the setting of the listed Tithe Barn would be minimal given the impact of other, modern development. Nevertheless, I also conclude that the scale and siting of the proposed development would produce sufficient material harm to the character of Keinton Mandeville and its setting within the landscape to outweigh, demonstrably and significantly, those benefits. That impact is sufficient to weigh against the development even where a five year supply of available housing land in South Somerset has not yet been conclusively demonstrated.
28. For the reasons given above, and taking account of all the representations I have received, I conclude that the appeal should be dismissed.

*Roger Pritchard*

INSPECTOR