
Appeal Decisions

Site visit made on 9 December 2014

by **A D Poulter B Arch RIBA**

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

Decision date: 2 February 2015

Appeal A: APP/V3310/A/14/2226206

Appeal B: APP/V3310/E/14/2227363

Land at Holdenhurst, Wedmore.

- Appeal A is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - Appeal B is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeals are made by Blue Cedar Homes Limited against the decisions of Sedgemoor District Council.
 - The applications, Refs 50/14/00042 and 50/14/00043, respectively, both dated 14 May, were refused by notices dated 11 August 2014.
 - The development / works proposed are: *A development comprising specialist adaptable dwellings for the elderly, affordable housing, open market housing, and the removal of a section of Grade II listed wall in order to allow a footpath link to the existing pavement on Cheddar Road.*
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Decisions

1. I dismiss both appeals.

Main Issues

2. In Appeal A, this is the extent to which the proposed development would be compliant with the thrust and detailed criteria of Policy P4 of the Sedgemoor Local Development Framework Core Strategy (CS)(September 2011), and other development plan policies. In Appeal B, this is whether the proposed works would be justified, having special regard to the desirability of preserving listed buildings.

Reasons

Preliminary and Background Matters

3. The proposed development would include 8 units of affordable housing, 9 specialist adaptable units for the elderly (3 of which would be bungalows), and 3 non-specialist open market houses. Access would be via a new junction with Cheddar Road and an internal access road branching out into the site.
4. A completed Section 106 Unilateral Undertaking (UU) has been submitted, which I have taken into account. Its main provisions are:
 - (a) to set out the arrangements whereby the affordable units would remain affordable in perpetuity;

(b) to set out the arrangements whereby the occupancy of the specialist units for the elderly would be restricted by age (Age Restricted Dwellings, or 'ARDs'), and restrictions that would be placed on the promotion and sale of the ARDs for a period following commencement of the development; and,

(c) to make contributions towards the cost of outdoor play facilities, outdoor sports facilities, and converting land to a grassed recreation space.

5. The site has been the subject of several planning applications in the past. The most recent and relevant of these was a proposal for a development comprising specialist older persons housing, affordable housing, and associated infrastructure. This was also made by Blue Cedar Homes, in June 2012¹. This was refused by the Council and a subsequent appeal² was dismissed in 2013.

Planning Policy

6. Like the Inspector who considered the 2013 appeal, I consider the most relevant of the development plan policies to be CS Policies S1 and P4. CS Policy D2 is a general policy, promoting high quality and inclusive design, and is therefore also relevant. CS Policy D17 is relevant as it relates to the historic environment.
7. Policy S1 sets out the Council's spatial strategy for accommodating sustainable growth. It provides that Bridgewater will be the focus for the District's housing, employment and retail growth. For the remainder of the District development will be accommodated in those places, after Bridgewater, offering the greatest opportunity for appropriate sustainable development. These places include Wedmore, which is identified in the CS as a Key Rural Settlement.
8. The Council's place-making policies for Key Rural Settlements are set out in Section 6 of the CS. Paragraph 6.82 recognises that the overall levels of growth required by the spatial strategy do not justify comprehensively reviewing the extent of existing boundaries. However, as noted in paragraph 6.84, to assist in delivering housing growth that meets the needs and priorities of the local community, provision is made for the release of sites outside settlement boundaries for a mix of market and affordable housing, where this brings clear and demonstrable benefits. Such benefits are described as including high standards of design and sustainable construction, environmental enhancement, improved accessibility to local services, local employment, and contributions to local infrastructure.
9. CS Policy P4 relates to Key Rural Settlements. As the appeal site comprises land outside the settlement boundary, the second part of the Policy relating to Local Priority Housing Sites is relevant to the proposal. The thrust of the Policy, as described in the accompanying text, is that there should be clear and demonstrable benefits sufficient to outweigh the normal strict control over new residential development outside the settlement boundary.
10. As noted in the 2013 appeal decision, Policies S1 and P4 are generally consistent with the National Planning Policy Framework's advice on how future housing development, including affordable housing, should be appropriately

¹ Application ref 50/12/00056

² Ref APP/V3310/A/12/2186875

planned and accommodated. Accordingly, they attract full weight in the context of the Framework's provision at paragraph 215, Annex 1.

11. CS Policy P4 provides that housing proposals outside the settlement boundaries of identified Key Rural Settlements will only be supported where it is demonstrated that all of a list of 8 criteria are met. It is generally expected that schemes promoted under this Policy would demonstrably accord with relevant parish plans and have the support of the appropriate Town/Parish Council.
12. In this instance the aspirations of the local community were most recently formally set out in the Isle of Wedmore Parish Plan (2004). It indicates a desire for sheltered and adapted housing for the elderly, and more affordable housing for young and local people. However, it is now over a decade old. The weight I give to it is therefore reduced.
13. The delivery strategy set out at paragraph 6.90 of the CS envisages that the Council, working with local communities and developers, will facilitate local planning exercises to identify key local priorities for individual communities and potential development sites. Other than the preparation of a Local Housing Needs Survey (LHNS) which was published in 2013 and updated in 2014, this has not yet been done. The LHNA is more up-to-date and therefore carries greater weight than earlier studies.

Assessment

14. The proposal has evolved from an earlier scheme designed before the LHNA was conducted. Despite substantial efforts by the appellant to engage and consult with local stakeholders the proposal does not have the support of the Wedmore Parish Council (WPC). It is essentially a scheme promoted by the developer, rather than a collaborative effort. As the proposal must be assessed on its planning merits in accordance with the development plan and other material considerations, and as shown by other applications³, this does not necessarily mean that the proposal is unacceptable. Nevertheless, whilst inertia should not delay or frustrate developments that ought to be permitted, the thrust of the CS is that proposals to establish Local Priority Housing Sites should genuinely meet the needs and priorities of the local community. The views of the WPC are therefore an important material consideration in this appeal. Whilst the Council's reasons for refusing the application are limited in extent, it is also necessary that I consider all other representations that have been made.
15. Turning then to consider the detailed criteria set out in Policy P4, for convenience I shall refer to these as criteria 1 – 8, though they are not numbered as such in the Policy.

Criterion 1

16. This requires that the proposal should fulfil an identified local housing need for affordable and market housing. The need for about 14 - 20 units of affordable housing in Wedmore is evidenced by the recent LHNA and update. It is accepted by all parties, including the WPC. The proposed development would therefore make an important contribution towards the local need for affordable housing.

³ Eg Chapel Road Paulett Ref 41/13/00010

17. With regard to general and specialist market housing, the LHNA elicited a very low response in proportion to the population of the Parish. The reasons for this are not clear, but this reduces the reliability of conclusions that may be drawn from the data. In my view the response was so small that evidence provided by the 2012 LHNA and 2014 update is inconclusive with regard to the local need for market housing in general, and specialist units for the elderly in particular.
18. A report dated October 2014 prepared for a group of Wedmore residents, which concludes that there is a need for 20 or so specialist housing units for older people in Wedmore, has been redacted and is therefore not attributable. I therefore place little reliance on it. There are letters of support for the proposal from local residents. However, many are from people who do not yet need specialist housing but would wish it to be available when the time comes. The Appellant has also provided copies of expressions of interest from local people. However, whilst these letters and expressions of interest indicate a likely demand for the proposed ARDs, they are not in my view amount to a clear demonstration of a current need that cannot be met within the existing settlement.
19. The terms of the S106 UU are such that upon commencement of development (defined as the date on which any material operation begins), for a period of eight weeks the developer would be required to carry out promotional activity in relation to the ARDs solely within the Parish. For a period of 4 - 12 weeks the number of reservations or exchanges that could be accepted would be limited, unless they were from persons with a local connection. However, for such persons to take advantage of the priority thus afforded they would have to reserve or exchange on a unit 'off plan' within 12 weeks of development commencing. This would require a substantial commitment at a very early stage in the project. After 12 weeks from commencement there would be no restriction on the sale of any remaining units. The desire of the developer to have complete control over marketing and sales after a set period is understandable, given the commercial imperatives involved. However, the terms of the UU, taken together with the inconclusive outcome of the LHNA and that the scheme has been promoted on a similar basis before the LHNA was undertaken, indicates to me that the ARD element of the proposal is not principally or wholly aimed at fulfilling an identified local market housing need, and in practice would be largely open to persons with no local connection.
20. That is not to say that there would be no demand for the proposed ARDs. As noted by the appellant, homes specifically designed for older people are needed across the country and the construction of a wide range of types of housing is supported by the National Planning Policy Framework and other appeal decisions⁴. However, I have no evidence that the general need for additional specialist housing for the elderly has not been allowed for in the settlement strategy for the District. For the reasons given above I consider it likely that the demand for the units would be from a wide area and that the ARDs would largely fulfil a general need, rather than a specific local need that could not be met elsewhere.

⁴ Appeal Ref APP/P2935/A/14/2213611 has been quoted.

21. In addition to the affordable houses and ARDs, three other units are proposed. There would be no sales or marketing restriction on these, and they would be freely available to persons from outside the area.
22. I consider for these reasons that the first criterion of Policy P4 would be partly met, in that the proposed development would go a long way to fulfilling an identified local housing need for affordable housing. However, it is far from clear that the other elements of the proposed scheme would provide for local housing needs. As advised at paragraph 6.85 of the accompanying text to Policy P4, the demonstrable need for affordable housing is the key driver for local priority housing sites, and the approach of delivering a mix of affordable and market housing assists the viability of the delivery of the affordable housing through cross-subsidy. This is therefore not a consideration that would necessarily mean that the proposal is unacceptable. It is, however, a consideration that reduces the weight that I give to the benefits of the proposed ARD units as a special form of market housing.

Criterion 2

23. It is not clear to what extent a Sedgemoor District Council (SDC) guidance note on Policy P4 has been subject to public consultation, and it does not appear to have been formally adopted as supplementary planning guidance. I therefore give limited weight to it. Nevertheless, the second criterion of Policy P4 is that the affordable housing provision will *normally* be at least 40% of the total number of housing units on the site (my emphasis). There is therefore some flexibility in the percentage of affordable housing that would be appropriate in particular circumstances.
24. There do not appear to be any abnormal costs associated with the proposed development, such as particularly expensive infrastructure. Whilst there is therefore no justification for a lower proportion of affordable housing, on the other hand, the proposed scheme does not go beyond the percentage that would normally be expected under Policy P4.
25. Neither the Policy nor the guidance refers to the type of affordable housing that should be provided. In this instance, all of the proposed affordable units would be transferred to an affordable housing provider, who would let them, with preference being given to persons with a local connection. However, whilst the Council does not object to the proposal on the basis of this criterion, a draft statement to the effect that this would exceed the minimum expectation has not been signed by the Council. In my view there is no policy basis for giving greater weight to the proposed type of social housing, rather than any other type.
26. I consider for these reasons that the proposed development would meet the normal expectation of criterion 2, but would not go beyond it.

Criterion 3

27. This relates to the scale of the proposed development, and requires it to be appropriate to the size, accessibility, character and physical identity of the settlement.
28. The proposed development would be close to the main facilities in Wedmore, which would be safely and conveniently accessible on foot. No party has seriously objected to the proposal on the basis that its scale would be

inappropriate to Wedmore's character and physical identity, and as similar areas exist outside the historic core I see no fundamental conflict with criterion 3 in this respect. However, this criterion does not fully address general design or heritage considerations which are covered by other CS Policies, and to which I shall return.

Criterion 4

29. This requires the open-market and affordable elements of schemes promoted under Policy P4 to be well integrated. It also requires development to be well related to and complement the existing built form of the settlement, and to provide opportunities for walking and cycling to local services and facilities. The degree to which the proposal would integrate the affordable and market elements of the proposed scheme is the primary concern for the Council and the basis of its reason for its refusal of the application. It is also the basis for many local objections to the proposed scheme.
30. The proposed scheme has been substantially redesigned from the scheme considered and refused at appeal in 2013. It no longer includes a gated and enclosed area of ARDs. The proposed affordable units would be located towards the front of the site; the ARDs would be within a distinct 'close' towards the rear; and the non-specialist open-market units would be centrally located. By grouping the smaller affordable units together into larger buildings and using similar materials and detailing, their appearance would be similar to the market units. There would be little difference in the street layout, spaciousness or materials between the three types of housing.
31. The Council's Officers considered that the present scheme is a significant improvement on previous schemes, and would be as integrated as one could expect for a development such as this. Nevertheless, as they would form a distinct close there would be a significant lack of integration between the ARDs and other units. I accept that the proposed scheme is a significant improvement, and understand that the remaining lack of integration is in part due to the affordable units and managed specialist housing for the elderly having different management requirements. However, it could be avoided or further reduced, given a different mix, more flexible management arrangements or a more 'permeable' layout. I have noted above that it is far from clear that the ARD part of the scheme would provide for local housing needs. The lack of integration I have noted is therefore a consideration which carries some weight against the proposal, to be taken into the overall planning balance.

Criterion 5

32. This seeks improved access to local job opportunities, including on-site provision where appropriate.
33. The appellant company would offer support to the occupants of the ARDs and would undertake the on-going management of common areas. This element of the proposed scheme would therefore provide some local job opportunities, albeit indirect and on a small scale. The market units would be close to local job opportunities in the village centre. No party seriously argues that it would be appropriate to include compatible on-site employment opportunities in the mix of proposed development, though this is perhaps surprising, given the proximity of the site to the Village centre where employment opportunities co-

exist happily with residential use. I consider for these reasons that the requirements of Criterion 5 would be met, but that the benefit in terms of job opportunities would be small, and largely limited to the construction phase.

Criterion 6

34. This supports high design standards and requires development to achieve a minimum Code for Sustainable Homes Level 4 or equivalent.
35. An obligation to achieve a minimum of code level 4 of the Code for Sustainable Homes is built into the submitted UU. The proposed development would be compliant with criterion 6 in this respect. To the extent that design relates to sustainable construction, a high standard would be achieved. However, the proposed units would be conventional, rather than following an imaginative approach to orientation, passive design, or materials. I shall return to other aspects of the quality of the design in relation to other policies.

Criterion 7

36. This requires that developments contribute to local infrastructure including education, service provision, accessible open space, and community facilities.
37. There is no dispute that the proposed development would make an appropriate level of contribution, primarily to local play facilities. I have no reason to disagree. The proposed scheme would not include a public play area and existing areas are too distant to be convenient to children living at the appeal site. However, part of the proposed contribution would be dedicated to converting land nearby to provide a grassed recreation space and an equipped play area for children. There would be no clear safe route for children from the proposed development to this play area, but this is a defect in the proposed layout, which would provide poor connectivity, rather than an indicator that the type or level of contribution would be inappropriate.

Criterion 8

38. This requires local environmental and landscape enhancement to be incorporated, including (where appropriate) habitat creation and community woodland.
39. The proposal would require the removal of two tree groups, planted around 1992 as a replacement for trees that were protected by a Tree Preservation Order. According to an Arboricultural Impact Assessment Report⁵ they have suffered from a lack of management in their early stages of growth. Two large ash trees that are said to have irremediable structural defects would also be removed. However, unlike the previous proposal the proposed scheme would include the retention of a hedgerow on much of the Cheddar Road frontage. A separate hedgerow on the northern corner of the site would be protected and enhanced as a corridor for bats.
40. The arboricultural report contains a mitigation strategy, which would include compensatory tree planting in an area of open space. This is supported by the SDC Landscape Officer. Conditions could be imposed, where none exist at present, to ensure the implementation of long-term landscape management arrangements that would cover new tree planting in communal areas and the

⁵ Aspect Tree Consultancy, 5 March 2014.

retention and management of existing and new hedgerows. To this extent the future of features of local environmental and landscape value would be better assured than at present. Nevertheless, whilst I see this as a form of enhancement the benefit would be small. The proposed development would not incorporate of substantial new habitat creation (other than within domestic garden areas) or community woodland, even though the site is a substantial area of greenfield land.

Other Policies

41. CS Policy D2 also contains a list of criteria. The first of these is that development should demonstrate high quality, sustainable and inclusive design that responds positively to and reflects the particular local characteristics of the site and the identity of the surrounding area, as well as taking into account climate change. The accompanying text also encourages local distinctiveness, and points to how this may be determined by matters such as plot size and arrangement, position, orientation, massing and density, as well as the design and detailing of individual buildings.
42. Wedmore is a settlement that has grown from a historic core of largely two-storey, relatively dense development fronting onto the main roads through the village, and now includes newer areas that are less dense and of more suburban layout and character. The best and most distinctive aspects of its character and physical identity are however found in its historic core, the special architectural qualities and interest of which are reflected in its designation as a conservation area.
43. Some traditional features have been adopted in the proposed house types, but the external materials and architectural details would be typical of many modern housing developments. I do not consider that they would closely accord with the traditional local materials, detailing or diversity of the older buildings that are characteristic of Wedmore's historic core⁶. Moreover, although the site fronts onto one of the main roads through the village and is close to its centre, the density and layout of the site would accord with the suburban character of some of Wedmore's more recently developed areas, rather than the traditional layout of the streets at its core. I consider for these reasons that the proposed development would not accord with the best aspects of Wedmore's character and physical identity and would not be locally distinctive.
44. As noted by the inspector in the 2013 appeal, the site currently has overwhelmingly rural characteristics. In my view this is remarkable in such close proximity to the village's historic core, and forms a backdrop which emphasises the rural origins of the village. The hedgerow on the Cheddar Road boundary would have a substantial gap at the site entrance and therefore could not fully screen the proposed development, even if retained and kept in good condition. I consider that the proposed scheme would be seen from important public viewpoints as a modern and undistinguished development at odds with Wedmore's historic core, and would therefore be harmful to its setting.
45. I have noted above that the proposed site layout would result in poor connectivity to a proposed play area. As there would be no through route connectivity to other housing areas and open spaces to the south and east

⁶ As seen at my inspection and described in the 2005 Village Design Statement

would also be poor. There would be conflict in this respect with the penultimate criterion of CS Policy D2. Although not of itself a determining factor, this is a further indication that the quality of the design does not reach the high standards sought by the development plan in general, and policies P4 and D2 in particular.

Historic Environment

46. I have noted above that the site abuts the Wedmore Conservation Area. It would also adjoin the grounds of Holdenhurst, which is a listed building. There is no dispute that a low stone boundary wall abutting the Cheddar Road is a listed building by virtue of it being a curtilage structure. The role of the site as a setting for listed buildings and structures and the north-eastern edge of the conservation area is recognised in the heritage appraisal and impact assessment carried out for the appellant⁷.
47. CS Policy D17 requires development proposals to contribute to enhancing and maintaining the historic environment, thus ensuring its role in distinguishing the District's unique sense of identity and place. It supports development only where it proposes appropriate design, including contemporary solutions, which positively enhances the character and quality of conservation areas. It emphasises the importance of the setting of listed buildings and other historic assets, and thus reflects the statutory requirement to give special regard to the desirability of preserving the setting of listed buildings⁸.
48. I have concluded above that for reasons relating to its design (rather than the principle of its development) the proposed development would not be in keeping with the character or quality of the adjacent conservation area, and would be harmful to its setting. There would be conflict in this respect with CS Policy D17.
49. The Heritage Appraisal I have referred to notes that the village is characterised by enclosed urban streets with old orchards behind. Records show that much of the appeal site was formerly an orchard or meadow owned in the 19th century by the occupier of a nearby cottage then known as Greystones (now Orchard Cottage). By the late 19th century, however, an OS Map shows an orchard extending across much of the site into close proximity to Holdenhurst and its then coach house. Other boundary and ownership changes have occurred since, and most of the orchard trees have gone. Nevertheless, it is apparent that the site has served Holdenhurst as an open orchard or meadow for many years. Its openness is therefore an aspect of its historic interest.
50. On the evidence before me, the development of the site would not necessarily amount to substantial harm to Holdenhurst's historic significance, in the terms set out in section 12 of the Framework. The harm to its setting that would arise from the development of the site should therefore be weighed against the public benefits of the proposal. Nevertheless, in view of the special regard to be given to the desirability of preserving the setting of listed buildings, this is a conclusion that carries considerable weight against the proposal.
51. The proposed development would entail the removal of a short section of the stone wall on the Cheddar Road frontage to facilitate a pedestrian link to the village centre. The gap would be small, and the harm to the significance of the

⁷ Heritage Vision Ltd, May 2011, paragraph 2.4.

⁸ Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

historic heritage asset would also be small. Nevertheless, the removal of this section would only be justified if the proposed scheme as a whole should go ahead.

Other Considerations

52. I have been referred to another proposal for affordable and other housing that has been put forward by WPC on another site in Wedmore⁹. I have not been provided with full details of that scheme. However, I could not comment on its acceptability or otherwise, as that is a matter for the local planning authority in the first instance. Nor could I comment on the appellant's suggestion that this may be a motivator behind WPC's objections to the appeal. It is, however, far from clear at this stage that the WPC proposal will be accepted. It therefore does not affect my consideration of the proposed scheme, the merits of which I have considered on its individual basis.
53. The Council has commented on the submitted UU in its Statement of Case. It does not accept a clause which provides for the Owner and Council to be able to agree an alternative form of tenure for the affordable units. However, whilst similar provisions appear in another S106 undertaking agreed by the Council, it would appear to be a mechanism whereby statutory procedures for varying the terms of S106 obligations could be circumvented, without the need for publicity or public consultation. In my view the disputed clause should not therefore be included. Nevertheless, as the proper procedure would be to invite comments on this observation, and if necessary to invite the UU to be modified, this is not a determining factor in this appeal.
54. Some local residents have objected to the proposal on the basis of flood risk or highway safety. I am, however, satisfied that the proposal would be acceptable in these respects.

Conclusions

55. The proposed development would make an important contribution towards an identified local need for affordable housing. This is a public benefit of substantial weight. However, whilst it would meet the normal expectations of Policy P4 in this respect, it would not go further. The weight that I give to benefit of the proposed ARD units is however reduced, as it is far from clear that they would meet a local need.
56. The proposed development would make an appropriate contribution towards local play and recreational facilities, but again would not go beyond normal expectations. There would be a slight improvement in access to local job opportunities, but the public benefit would be small.
57. The future of features of local environmental and landscape value would be better assured than they are at present, but the benefit would be small, and the proposed development would not incorporate substantial new habitat creation or community woodland. The standard of sustainable construction expected by Policy P4 would be met, but by conventional means rather than by an imaginative approach to orientation, passive design, or materials. The scale of the proposed development would not be excessive.

⁹ Ref 41/13/00010

58. I consider that in the above respects, the proposed development would be beneficial to matters of public interest, or broadly neutral.
59. On the other hand, I have concluded that as the proposed ARD units would form a distinct close there would be a significant lack of integration in the proposal, which could be avoided given a different mix, more flexible management arrangements, or a more 'permeable' layout. As it has not been clearly demonstrated that the ARDs would meet a local need this is a consideration which carries significant weight against the proposal, to be taken into the overall planning balance.
60. I have also concluded that the proposed development would not accord with the best aspects of Wedmore's character and physical identity and would not be locally distinctive. In this respect, and in terms of connectivity to other areas, it would not reach the high standards of design sought by the development plan in general, and policies P4 and D2 in particular. Moreover, there would be harm to the setting of the Wedmore Conservation Area, and to the setting of Holdenhurst, which is a listed building.
61. Whilst I consider for the above reasons that many of the criteria set by CS Policy P4 would be met, at least in part, I consider that the design quality of the proposed scheme would fall below the standards required by the thrust of that policy (as described at paragraph 6.84 of the accompanying text) and, more generally, by CS Policy D2. For this reason, and as the public benefits of the scheme would not go beyond normal expectations, I do not consider that there would be clear and demonstrable benefits sufficient to outweigh the normal strict control over new residential development outside the settlement boundary. Nor would the benefits outweigh the considerable weight to be given to the harm to the setting of the conservation area and listed buildings that I have identified. The proposed scheme would therefore not be compliant with the thrust of CS Policy P4, with CS Policy D2, or with CS Policy D17.
62. I conclude for these reasons that the proposed development would conflict with the development plan. No other material considerations that have been raised that would indicate that the appeal should be determined other than in accordance with that plan. I conclude that Appeal A should be dismissed.
63. In the absence of planning permission for the proposed development the proposed works to the listed boundary wall are not justified. I conclude that Appeal B should also be dismissed.

A D Poulter

INSPECTOR